

SB 819-A16
(LC 2652)
5/15/23 (HRL/ps)

Requested by HOUSE COMMITTEE ON EDUCATION (at the request of Senator Sara Gelser Blouin, Representative Zach Hudson)

**PROPOSED AMENDMENTS TO
A-ENGROSSED SENATE BILL 819
(INCLUDING AMENDMENTS TO RESOLVE CONFLICTS)**

1 On page 1 of the printed A-engrossed bill, delete lines 5 through 25 and
2 delete pages 2 through 8 and insert:

3 **“SECTION 1. As used in sections 1 to 6 of this 2023 Act:**

4 **“(1) ‘Abbreviated school day’ means any school day during which a**
5 **student with a disability receives instruction or educational services**
6 **for fewer hours than the majority of other students who are in the**
7 **same grade within the student’s resident school district.**

8 **“(2) ‘Abbreviated school day program’ means an education program:**

9 **“(a) In which a school district restricts access for a student with a**
10 **disability to hours of instruction or educational services to less than**
11 **the number of hours of instruction or educational services that are**
12 **provided to the majority of other students who are in the same grade**
13 **within the student’s resident school district; and**

14 **“(b) That results in a student with a disability having an abbrevi-**
15 **ated school day for more than 10 school days per school year.**

16 **“(3)(a) ‘Educational services’ includes any social, learning,**
17 **enrichment, community or support opportunity or benefit that is of-**
18 **fered to the majority of other students who are in the same grade**
19 **within the student’s resident school district and is offered during the**
20 **time the majority of schools, school programs and school facilities are**

1 open and accessible to the majority of students during the school day,
2 including:

3 “(A) Passing time between classes;

4 “(B) Recess;

5 “(C) Nonacademic assemblies and field trips;

6 “(D) Job shadows, internships and community service activities ar-
7 ranged by the school or school district;

8 “(E) Optional school programs held during the school day, including
9 study periods and advisory periods that are open to the majority of
10 students in the school;

11 “(F) Lunch periods or other meal or snack periods provided to the
12 majority of students of the school; and

13 “(G) Reasonable access to school facilities during noninstructional
14 time that is equal to the access available to the majority of other
15 students who are in the same grade within the student’s resident
16 school district.

17 “(b) ‘Educational services’ does not include time being transported
18 to or from school or time traveling between a classroom and trans-
19 portation before or after the school day.

20 “(4) ‘504 Plan’ means an education plan developed for a student with
21 a disability in accordance with section 504 of the Rehabilitation Act
22 of 1973, 29 U.S.C. 794.

23 “(5) ‘Foster parent’ means the foster parent of a child or ward who
24 is in the legal custody of the Department of Human Services as pro-
25 vided in ORS 418.015 or 419B.337 and who has been placed in substitute
26 care.

27 “(6) ‘Hours’ includes any fraction of an hour.

28 “(7) ‘Individualized education program team’ includes, when appli-
29 cable, a team that develops a 504 Plan.

30 “(8) ‘Informed and written consent’ means that a student’s parent

1 or foster parent has signed and dated a written consent form affirming
2 that:

3 “(a) The parent or foster parent received the information described
4 in section 3 (2) and (3) of this 2023 Act;

5 “(b) The parent or foster parent was not asked to provide consent
6 for an abbreviated school day program placement before having an
7 opportunity to meaningfully participate in a meeting of the individ-
8 ualized education program team;

9 “(c) The school district offered, and the individualized education
10 program team considered, at least one reasonable alternative place-
11 ment, as described in section 3 (1)(c) of this 2023 Act, prior to re-
12 questing that the parent or foster parent provide consent for an
13 abbreviated school day program placement;

14 “(d) The parent or foster parent was informed that the individual-
15 ized education program team will meet at least once every 30 calendar
16 days during the school year unless the parent or foster parent provides
17 signed consent to meet less frequently as provided in section 4 (2)(b)(B)
18 of this 2023 Act;

19 “(e) The parent or foster parent was informed that if, during the
20 school year, the individualized education program team is scheduled
21 to convene less frequently than once every 30 calendar days during the
22 abbreviated school day program, the school district must convene an
23 individualized education program team meeting within 14 calendar
24 days of receiving a written request from the parent or foster parent
25 for the meeting;

26 “(f) The parent or foster parent voluntarily signed the consent form
27 for the abbreviated school day program placement; and

28 “(g) The parent or foster parent was informed of the right to revoke
29 consent, in writing, to an abbreviated school day program placement
30 at any time and informed that the parent or foster parent is not re-

1 **quired to request or attend an individualized education program team**
2 **meeting prior to revoking consent to an abbreviated school day pro-**
3 **gram placement.**

4 **“(9)(a) ‘Instruction’ means the time during which a student is:**

5 **“(A) Engaged in regularly scheduled instruction, learning activities**
6 **or learning assessments that are designed to meet Common Curric-**
7 **ulum Goals or grade level academic content standards or engaged in**
8 **specially designed instruction that is individualized to support a stu-**
9 **dent to make meaningful progress in the general curriculum.**

10 **“(B) Working under the direction and supervision of a licensed or**
11 **registered teacher, a licensed career and technical education instruc-**
12 **tor, a licensed practitioner or an instructional assistant who is as-**
13 **signed instructionally related activities and is working under the**
14 **direct supervision of a licensed or registered teacher.**

15 **“(b) ‘Instruction’ does not include time spent:**

16 **“(A) Passing between class, at recess, in nonacademic assemblies,**
17 **on nonacademic field trips, traveling to or from school, loading or**
18 **unloading from a school bus at the start or end of the student’s school**
19 **day, participation in optional programs or participation in study peri-**
20 **ods or advisory periods when attendance is not required and no in-**
21 **structional assistance is provided.**

22 **“(B) In an online learning program during which the student is**
23 **unable to access the materials or benefit from instruction because the**
24 **school district has not provided the student with the supports neces-**
25 **sary to access the materials or instruction, including the support of**
26 **an instructional assistant, nursing services, adapted materials or other**
27 **related services identified in the student’s individualized education**
28 **program or 504 Plan as being necessary for a free appropriate public**
29 **education.**

30 **“(10) ‘Meaningful access’ means access to full-time, quality in-**

1 **struction or educational services that is:**

2 **“(a) Delivered by:**

3 **“(A) A qualified licensed teacher; or**

4 **“(B) Qualified classified staff who are under the direct supervision**
5 **of a qualified licensed teacher; and**

6 **“(b) Synchronous, unless the instruction or educational services are**
7 **provided by a virtual public charter school in compliance with ORS**
8 **chapter 338.**

9 **“(11) ‘Parent’ includes:**

10 **“(a) A parent or a legal guardian, other than a state agency.**

11 **“(b) The student, if the student is 18 years of age or older or is**
12 **emancipated pursuant to ORS 419B.550 to 419B.558.**

13 **“(c) The student’s surrogate, if the student has a surrogate, as de-**
14 **finied in ORS 419A.004.**

15 **“(12) ‘Resident school district’ means the school district in which a**
16 **student is a resident under ORS 339.133.**

17 **“(13) ‘School district’ includes an education service district.**

18 **“(14) ‘Student with a disability’ means a student who:**

19 **“(a) Is eligible for special education and related services, as pro-**
20 **vided by ORS chapter 343;**

21 **“(b) Has a disability under section 504 of the Rehabilitation Act of**
22 **1973, 29 U.S.C. 794, and is eligible for a 504 Plan; or**

23 **“(c) Has not been determined to be eligible for special education and**
24 **related services, as provided by ORS chapter 343, or to be eligible for**
25 **a 504 Plan, but for whom a request or referral for evaluation for el-**
26 **igibility determination has been made but not yet completed.**

27 **“(15) ‘Unilaterally place’ means a placement by a school district**
28 **without the informed and written consent of the student’s parent or**
29 **foster parent.**

30 **“SECTION 2. (1) The Legislative Assembly finds that:**

1 **“(a) Students with disabilities have a right to meaningful access to**
2 **the same number of hours of instruction and educational services as**
3 **the majority of students without disabilities who are in the same grade**
4 **within the student’s resident school district.**

5 **“(b) Removal from school is neither a service nor support for stu-**
6 **dents with disabilities.**

7 **“(c) Use of an abbreviated school day program for students with**
8 **disabilities should be infrequent and, under most circumstances,**
9 **should be used for a limited duration.**

10 **“(2) Before considering or recommending a student with a disability**
11 **for an abbreviated school day program, a school district must docu-**
12 **ment reasonable efforts to provide meaningful access to the same**
13 **number of hours of instruction and educational services that are pro-**
14 **vided to the majority of other students who are in the same grade**
15 **within the student’s resident school district.**

16 **“(3) A school district may not consider, recommend or implement**
17 **an abbreviated school day program due to the school district, or a**
18 **contractor with the school district, having inadequate staffing avail-**
19 **able for instruction or educational services.**

20 **“(4) For the purpose of determining if an abbreviated school day**
21 **program has been implemented, or of determining if a student with a**
22 **disability has received an abbreviated school day for more than 10**
23 **school days, the following are considered examples of an abbreviated**
24 **school day:**

25 **“(a) The school district implementing policies or taking actions that**
26 **are not applied to the majority of other students who are in the same**
27 **grade within the student’s resident school district and that cause the**
28 **student to start school late, to leave school early or to not come to**
29 **school due to:**

30 **“(A) Lack of school district personnel, including instructional as-**

1 **sistants, nursing staff and transportation providers;**

2 **“(B) Convenience of school district staff; or**

3 **“(C) Behaviors related to the student’s disability, unless the sched-**
4 **ule is provided pursuant to ORS 339.250 or 339.252.**

5 **“(b) The school district releasing the student early from school or**
6 **requesting or requiring the student not to come to school due to any**
7 **illness that would not typically have the same effect for the majority**
8 **of other students who are in the same grade within the student’s res-**
9 **ident school district.**

10 **“(c) The school district requesting the student to not attend, pro-**
11 **hibiting the student from attending or otherwise making attendance**
12 **inaccessible for a planned activity, including a field trip, a special**
13 **event or an outdoor school program.**

14 **“(d) The school district imposing temporary lack of access to edu-**
15 **cation facilities due to construction, special events or weather when**
16 **that lack of access does not apply to the majority of other students**
17 **who are in the same grade within the student’s resident school dis-**
18 **trict.**

19 **“(e) The school district providing transportation that arrives at the**
20 **student’s school after the start of the school day or leaves from the**
21 **student’s school before the end of the school day and that causes the**
22 **student to receive fewer hours of instruction or educational services**
23 **than the number of hours provided to the majority of other students**
24 **who are in the same grade within the student’s resident school dis-**
25 **trict.**

26 **“(f) The school district failing to provide transportation identified**
27 **in the student’s individualized education program or 504 Plan.**

28 **“(g) The student being placed in a program or school when:**

29 **“(A) The program or school offers all students attending the pro-**
30 **gram or school fewer hours of instruction and educational services**

1 than are provided to the majority of other students who are in the
2 same grade within the student’s resident school district; and

3 “(B) The student’s resident school district does not provide the
4 student with an additional placement that ensures that the student
5 has meaningful access to the same number of hours of instruction and
6 educational services that are provided to the majority of other stu-
7 dents who are in the same grade within the student’s resident school
8 district.

9 “(5) If an individualized education program team recommends that
10 a student with a disability be placed in a program or school that offers
11 fewer hours of instruction and educational services than are provided
12 to the majority of other students who are in the same grade within the
13 student’s resident school district, the school district must inform the
14 parent or foster parent in a language and format accessible to the
15 parent or foster parent of the following:

16 “(a) That placement in the program or school would be an abbre-
17 viated school day program placement unless a sufficient number of
18 additional hours of instruction or educational services are provided to
19 the student to ensure that the student has meaningful access to at
20 least the same total number of hours of instruction and educational
21 services that are provided to the majority of other students who are
22 in the same grade within the student’s resident school district; and

23 “(b) The number of hours of instruction and educational services
24 that, over the course of two ordinary full school weeks, the student
25 will not be able to access while placed on the abbreviated school day
26 program if the student is not provided additional hours of instruction
27 or educational services as described in paragraph (a) of this sub-
28 section.

29 “(6)(a) When a school district places a student with a disability in
30 a school or program, the student’s resident school district shall ensure

1 that the student has meaningful access to the same number of hours
2 of instruction and educational services that are provided to the ma-
3 jority of other students who are in the same grade within the student’s
4 resident school district unless the student’s parent or foster parent
5 has provided informed and written consent for an abbreviated school
6 day program placement.

7 “(b) Prior to the placement of a student with a disability in a school
8 or program, the student’s resident school district shall ensure that the
9 student has meaningful access to the same number of hours of in-
10 struction and educational services that are provided to the majority
11 of other students who are in the same grade within the student’s res-
12 ident school district.

13 “(c) When calculating the number of hours of instruction and edu-
14 cational services that are provided by a school or program that oper-
15 ates on a different schedule than the schedule of the resident school
16 district of a student with a disability, the resident school district must
17 compare the total number of hours of instruction and educational
18 services offered over the course of two ordinary full school weeks to
19 determine whether the student will have meaningful access to the
20 same number of hours of instruction and educational services that are
21 provided to the majority of other students who are in the same grade
22 in the student’s resident school district.

23 “(d) The requirements of this subsection apply regardless of
24 whether the resident school district has control over the school or
25 program that the school district is considering placing the student
26 with a disability in, including schools and programs that provide ser-
27 vices under a contract with a school district or that serve students
28 from multiple school districts.

29 “(7) A school district may not unilaterally place a student with a
30 disability on an abbreviated school day program, regardless of the age

1 of the student.

2 **“SECTION 3. A school district may not provide an abbreviated**
3 **school day program to a student with a disability unless all of the**
4 **following are satisfied:**

5 **“(1) The student’s individualized education program team:**

6 **“(a) Recommends that the student should be placed on an abbrevi-**
7 **ated school day program:**

8 **“(A) Based on the student’s individual needs, which may not in-**
9 **clude consideration of a lack of school district resources, including:**

10 **“(i) Licensed or classified staff;**

11 **“(ii) Availability of training;**

12 **“(iii) Accessible facilities; and**

13 **“(iv) Related services, including nursing services and transportation**
14 **services; and**

15 **“(B) After the opportunity for the student’s parent or foster parent**
16 **to meaningfully participate in a meeting of the individualized educa-**
17 **tion program team to discuss an abbreviated school day program**
18 **placement, including the reasonable opportunity to physically attend**
19 **the meeting of the individualized education program team at which**
20 **the abbreviated school day program placement is discussed.**

21 **“(b) Makes determinations about the instruction and educational**
22 **services to be offered to the student based on the student’s individual**
23 **needs.**

24 **“(c) Documents that the school district offered at least one rea-**
25 **sonable alternative placement that included appropriate supports for**
26 **the student and that could enable the student to have meaningful ac-**
27 **cess to the same number of hours of instruction and educational ser-**
28 **vices that are provided to the majority of other students who are in**
29 **the same grade within the student’s resident school district.**

30 **“(d) Documents the specific provisions of the abbreviated school day**

1 **program, including:**

2 **“(A) How the abbreviated school day program will be designed to:**

3 **“(i) Support the student’s return to a school day program that is**
4 **not an abbreviated school day program; and**

5 **“(ii) Make progress toward the student’s individualized learning**
6 **goals and progress in the general curriculum;**

7 **“(B) The number of hours of instruction and educational services**
8 **to be provided to the student while the student is placed on the ab-**
9 **breviated school day program;**

10 **“(C) How the student’s progress toward the student’s individualized**
11 **learning goals and progress in the general curriculum will be meas-**
12 **ured; and**

13 **“(D) The date by which the student is expected to return to a school**
14 **day program that is not an abbreviated school day program.**

15 **“(2) Prior to the discussion of the abbreviated school day program**
16 **placement, the school district provides a written statement to the**
17 **student’s parent or foster parent in a language and format accessible**
18 **to the parent or foster parent informing the parent or foster parent**
19 **of:**

20 **“(a) The student’s right to have meaningful access to the same**
21 **number of hours of instruction and educational services as the ma-**
22 **ajority of other students who are in the same grade within the student’s**
23 **resident school district;**

24 **“(b) The prohibition on the school district to unilaterally place a**
25 **student with a disability on an abbreviated school day program; and**

26 **“(c) The parent’s or foster parent’s right, at any time, to withdraw**
27 **consent for an abbreviated school day program placement or to re-**
28 **quest a meeting of the student’s individualized education program**
29 **team to discuss whether the student should no longer be placed on an**
30 **abbreviated school day program.**

1 **“(3) The school district provides a written statement summarizing**
2 **the documentation described in subsection (1)(c) and (d) of this section**
3 **in a language and format accessible to the parent or foster parent.**

4 **“(4) The school district receives a signed acknowledgment from the**
5 **parent or foster parent acknowledging receipt of the written statement**
6 **described in subsection (2) of this section.**

7 **“(5) The parent or foster parent provides informed and written**
8 **consent for the abbreviated school day program placement.**

9 **“SECTION 4. (1) When a student with a disability is placed on an**
10 **abbreviated school day program, the provisions of this section apply.**

11 **“(2) For each student with a disability placed on an abbreviated**
12 **school day program, the school district shall:**

13 **“(a) At least once every 30 calendar days during the school year:**

14 **“(A) Provide the following information in writing to the parent or**
15 **foster parent of the student in a language and format accessible to the**
16 **parent or foster parent:**

17 **“(i) The school district’s duty to comply with the requirements of**
18 **sections 1 to 6 of this 2023 Act;**

19 **“(ii) The prohibition against a school district unilaterally placing a**
20 **student with a disability on an abbreviated school day program;**

21 **“(iii) The student’s right to have meaningful access to the same**
22 **number of hours of instruction and educational services as the ma-**
23 **jority of other students who are in the same grade within the student’s**
24 **resident school district; and**

25 **“(iv) The parent’s or foster parent’s right, at any time, to withdraw**
26 **consent for an abbreviated school day program placement or to re-**
27 **quest a meeting of the student’s individualized education program**
28 **team to discuss whether the student should no longer be placed on an**
29 **abbreviated school day program.**

30 **“(B) Obtain from the parent or foster parent a signed acknowledg-**

1 **ment that the parent or foster parent received the information de-**
2 **scribed in subparagraph (A) of this paragraph and does not choose to**
3 **withdraw consent for an abbreviated school day program placement.**

4 **“(b) Hold a meeting of the student’s individualized education pro-**
5 **gram team to review the student’s abbreviated school day program and**
6 **discuss whether to continue the abbreviated school day program**
7 **placement. During the school year, a meeting must be held:**

8 **“(A) No fewer than 25 calendar days and no more than 35 calendar**
9 **days after the initial placement on the abbreviated school day pro-**
10 **gram.**

11 **“(B) No less frequently than once every 30 calendar days, starting**
12 **after the meeting described in subparagraph (A) of this paragraph,**
13 **unless the parent or foster parent provides written consent to meet**
14 **less frequently than once every 30 calendar days. Notwithstanding**
15 **written consent provided under this subparagraph:**

16 **“(i) In no event may a meeting be held less frequently than:**

17 **“(I) Once every 90 calendar days for a student with an individualized**
18 **education program, starting after the meeting described in subpara-**
19 **graph (A) of this paragraph;**

20 **“(II) Once every year for a student with a 504 Plan, starting after**
21 **the meeting described in subparagraph (A) of this paragraph;**

22 **“(III) Once every year for a student who is enrolled in a virtual**
23 **public charter school that operates in compliance with ORS chapter**
24 **338 and who has meaningful access to the same number of hours of**
25 **instruction and educational services as the majority of other students**
26 **who are not disabled students and who are in the same grade within**
27 **the school, starting after the meeting described in subparagraph (A)**
28 **of this paragraph; or**

29 **“(IV) Once every year for a student receiving educational services**
30 **in a pediatric nursing facility as provided in ORS 343.941, starting after**

1 the meeting described in subparagraph (A) of this paragraph; and

2 “(ii) A meeting must be held within 14 calendar days of a parent
3 or foster parent requesting a meeting.

4 “(c) If the parent or foster parent provides a signed acknowledg-
5 ment under paragraph (a)(B) of this subsection and the abbreviated
6 school day program placement continues, include in the student’s in-
7 dividualized education program or 504 Plan a written statement that:

8 “(A) Explains the reasons the student was placed on the abbreviated
9 school day program; and

10 “(B) Describes in detail other reasonable options that were consid-
11 ered and documents why each option considered was not implemented.

12 “(d) Inform the Department of Education about the student’s ab-
13 breviated school day program placement, including:

14 “(A) The grade level of the student;

15 “(B) The number of hours of instruction and educational services
16 the school district is scheduled to provide to the student each week;

17 “(C) The date the student began the abbreviated school day pro-
18 gram; and

19 “(D) The date by which the student is expected to receive mean-
20 ingful access to the same number of hours of instruction and educa-
21 tional services that are provided to the majority of other students who
22 are in the same grade within the student’s resident school district.

23 “(3)(a) The school district superintendent must review a student’s
24 abbreviated school day program placement if the student is placed on
25 an abbreviated school day program for:

26 “(A) Ninety or more cumulative calendar days during a school year;
27 or

28 “(B) Ninety or more cumulative calendar days, excluding summer
29 break, when the student is placed on an abbreviated school day pro-
30 gram during two or more consecutive school years.

1 **“(b) The school district superintendent must review the student’s**
2 **abbreviated school day program placement when required under para-**
3 **graph (a) of this subsection and:**

4 **“(A) Find that the abbreviated school day program placement is**
5 **compliant with state and federal law and document in writing:**

6 **“(i) The efforts of the school district to facilitate the student’s**
7 **meaningful access to the same number of hours of instruction and**
8 **educational services that are provided to the majority of other stu-**
9 **dents who are in the same grade within the student’s resident school**
10 **district; and**

11 **“(ii) The specific barriers that prevent that meaningful access; or**

12 **“(B) Find that the abbreviated school day program placement is not**
13 **compliant with state and federal law and ensure that, within five**
14 **school days of making the finding, the student has meaningful access**
15 **to the same number of hours of instruction and educational services**
16 **that are provided to the majority of other students who are in the**
17 **same grade within the student’s resident school district unless an ex-**
18 **ension has been allowed as provided by section 5 (1)(d) of this 2023**
19 **Act.**

20 **“(c) In addition to a finding made under paragraph (b) of this sub-**
21 **section, for any student in grades 9 through 12 not expected to grad-**
22 **uate on time with a high school diploma, a modified diploma or an**
23 **extended diploma, the school district superintendent must document**
24 **in writing:**

25 **“(A) The plan for credit recovery and comprehensive services, in-**
26 **cluding compensatory services, that is being implemented to ensure**
27 **the student’s on-time graduation with a high school diploma, a modi-**
28 **fied diploma or an extended diploma; and**

29 **“(B) The student’s progress toward on-time graduation with a high**
30 **school diploma, a modified diploma or an extended diploma.**

1 “(d) If the student is served by an education program through an
2 education service district, the requirements of paragraphs (a) to (c)
3 of this subsection apply to the superintendent of the resident school
4 district.

5 “(e) Any findings or documentation required under paragraphs (b)
6 and (c) of this subsection must be provided, within five school days
7 of making the finding, to the student’s parent or foster parent in a
8 language and format accessible to the parent or foster parent.

9 “SECTION 4a. Section 4 of this 2023 Act becomes operative July 1,
10 2023.

11 “SECTION 5. (1)(a) A parent or a foster parent may, at any time,
12 revoke consent for the placement of a student with a disability on an
13 abbreviated school day program.

14 “(b) Consent for the abbreviated school day program placement
15 shall be considered revoked if, at any time, the parent or the foster
16 parent revokes the consent, in writing, to an abbreviated school day
17 program placement or makes a written objection to the abbreviated
18 school day program placement.

19 “(c) Upon receipt of a written revocation or objection to the abbre-
20 viated school day program placement, the school district superinten-
21 dent shall ensure that, within five school days, the student has
22 meaningful access to the same number of hours of instruction and
23 educational services that are provided to the majority of other stu-
24 dents who are in the same grade within the student’s resident school
25 district.

26 “(d) Notwithstanding paragraph (c) of this subsection, a parent or
27 foster parent of a student may allow the school district superintendent
28 to have an extension of an additional five school days to ensure that
29 the student has meaningful access to the same number of hours of
30 instruction and educational services that are provided to the majority

1 of other students who are in the same grade within the student’s res-
2 ident school district if:

3 “(A) The parent or foster parent provides written consent for the
4 extension;

5 “(B) The parent or foster parent has not previously provided written
6 consent for an extension for the student during the school year;

7 “(C) The written consent states that the parent or foster parent
8 understands that the parent or foster parent is not required to give
9 consent for the extension and that the refusal to give consent for the
10 extension will not result in adverse actions being taken against the
11 student; and

12 “(D) The school district provides to the parent or foster parent, in
13 writing and in a language and format access to the parent or foster
14 parent, the specific reasons why the extension is needed.

15 “(e) If a school district fails to provide meaningful access before the
16 expiration of an extension allowed under paragraph (d) of this sub-
17 section, any calculations of compensatory education that must be
18 provided by the school district will be made as though an extension
19 had not been allowed.

20 “(f) If a student is on an abbreviated school day program on the last
21 day of the school year and the student’s parent or foster parent makes
22 a written objection to the abbreviated school day program placement
23 or revokes consent for the abbreviated school day program placement
24 at least 14 calendar days prior to the beginning of the next school year,
25 the student shall, beginning on the first day of the new school year,
26 be provided with meaningful access to the same number of hours of
27 instruction and educational services that are provided to the majority
28 of other students who are in the same grade within the student’s res-
29 ident school district.

30 “(2)(a) When the Department of Education receives a complaint or

1 otherwise has cause to believe a school district is not in compliance
2 with sections 2 (7) and 3 (5) of this 2023 Act, the department must in-
3 itiate an investigation and inform the school district of any noncom-
4 pliance within 30 calendar days of receiving the complaint or having
5 cause to believe the school district is not in compliance.

6 “(b) If a complaint described in paragraph (a) of this subsection
7 relates to a specific student and is submitted by the student’s parent
8 or foster parent, the Superintendent of Public Instruction shall:

9 “(A) Presume that consent for the abbreviated school day program
10 placement has been revoked.

11 “(B) Immediately, and in no case no more than two business days
12 after receipt of the complaint, order the school district to provide to
13 the student, within five school days, meaningful access to the same
14 number of hours of instruction and educational services that are pro-
15 vided to the majority of other students who are in the same grade
16 within the student’s resident school district. For the purpose of this
17 subparagraph, ‘business day’ has the meaning given that term in ORS
18 192.311.

19 “(C) Find the school district is not in compliance with sections 2 (7)
20 and 3 (5) of this 2023 Act if the school district fails to comply with the
21 order described in subparagraph (B) of this paragraph.

22 “(c) If the superintendent finds that a school district is not in
23 compliance with sections 2 (7) and 3 (5) of this 2023 Act, either after
24 an investigation or as provided by paragraph (b) of this subsection, the
25 superintendent shall:

26 “(A) Enter an order that any students named in the complaint or
27 identified in the course of an investigation initiated under paragraph
28 (a) of this subsection who are placed on an abbreviated school day
29 program in violation of sections 2 (7) and 3 (5) of this 2023 Act be
30 provided, within five school days of the final order, with meaningful

1 access to the same number of hours of instruction and educational
2 services that are provided to the majority of other students who are
3 in the same grade within the student’s resident school district.

4 “(B) If the school district fails to comply with the order described
5 in subparagraph (A) of this paragraph within five school days, find the
6 school district nonstandard under ORS 327.103 or 334.217 until all stu-
7 dents subject to the order and placed on an abbreviated school day
8 program in violation of sections 2 (7) and 3 (5) of this 2023 Act are
9 provided with meaningful access to the same number of hours of in-
10 struction and educational services that are provided to the majority
11 of other students who are in the same grade within the student’s res-
12 ident school district.

13 “(C) If the school district fails to comply with the order described
14 in subparagraph (A) of this paragraph within 10 school days and not-
15 withstanding any timelines or process requirements of ORS 327.103 or
16 334.217, immediately withhold State School Fund moneys that other-
17 wise would be distributed to the school district. Amounts withheld
18 must be calculated based on the weighted average daily membership
19 attributable to the students subject to the order, as calculated under
20 ORS 327.013, and the percentage of the school year that the students
21 were placed on an abbreviated school day program in violation of
22 sections 2 (7) and 3 (5) of this 2023 Act.

23 “(D) Require the school district to provide compensatory education
24 to the students subject to the order that is equivalent to at least one
25 hour of direct instruction for every two hours of instruction that were
26 lost due to an abbreviated school day program placement in violation
27 of sections 2 (7) and 3 (5) of this 2023 Act.

28 “(3) The failure of a school district superintendent to restore
29 meaningful access to a student within the time required by section 4
30 (3)(b)(B) of this 2023 Act or subsection (1)(c) or (d) of this section or

1 to comply with an order issued under subsection (2)(c) of this section
2 to restore meaningful access to all students subject to the order may
3 be grounds for discipline by the Teacher Standards and Practices
4 Commission under ORS 342.175. If the commission receives a complaint
5 concerning a failure described in this subsection, the commission shall
6 take into consideration the responsive efforts and actions of the su-
7 perintendent to restore meaningful access to the student or students.

8 **“SECTION 6. Sections 2, 3, 4 and 5 of this 2023 Act do not apply to**
9 **any of the following:**

10 **“(1) Any abbreviated school days that are a component of discipline**
11 **imposed in compliance with ORS 339.250 or 339.252.**

12 **“(2) A student’s exclusion from schools due to the student’s im-**
13 **munization status or due to the student’s exposure to a restrictable**
14 **disease, as provided by ORS 433.235 to 433.284.**

15 **“(3) The exclusion of a student from schools or the closure or re-**
16 **striction of access to schools due to actions taken under a public**
17 **health emergency authorized under ORS 433.441 to 433.452.**

18 **“(4) A student who has fulfilled all state requirements for gradu-**
19 **ation with a high school diploma, as described in ORS 329.451 (2), when**
20 **the parent or foster parent has agreed to the abbreviated school day**
21 **program.**

22 **“(5) A student enrolled in a program described in ORS 336.585,**
23 **336.590, 339.129, 343.261, 343.961 (1)(c)(A)(i) or 346.010, if the student has**
24 **meaningful access to the same number of hours of instruction and**
25 **educational services as the majority of other students enrolled in the**
26 **same program as the student.**

27 **“(6) A student whose parent or foster parent has notified an edu-**
28 **cation service district that the student is being taught by a parent,**
29 **legal guardian or private teacher under ORS 339.035.**

30 **“(7) A student who is excluded from, or limited access to, school**

1 due to a court order.

2 “(8) A high school student who is voluntarily enrolled in an alter-
3 native education program in compliance with ORS 336.635, the Ex-
4 panded Options Program under ORS 340.005 to 340.090 or an accelerated
5 college credit program as defined in ORS 340.300, when:

6 “(a) The majority of the students of the program are not students
7 with disabilities;

8 “(b) The student is not restricted to attending fewer hours of in-
9 struction and educational services than the number of hours of in-
10 struction and educational services attended by the majority of
11 students without disabilities who are in the same grade and who at-
12 tend the same program; and

13 “(c) For an alternative education program in which the student is
14 enrolled under ORS 336.635, the school district informs the parent or
15 foster parent, in writing and in a language and format accessible to
16 the parent or foster parent, that upon written request of the parent
17 or foster parent, the student will be immediately restored to a school
18 that allows the student to access the same number of hours of in-
19 struction and educational services that are provided to the majority
20 of other students who are in the same grade within the student’s res-
21 ident school district.

22 “SECTION 7. Nothing in sections 1 to 6 of this 2023 Act is intended
23 to limit or operate as a prerequisite to pursuing any rights or remedies
24 provided under other state or federal statutes or common law.

25 “SECTION 8. ORS 343.161 is repealed.

26 “SECTION 8a. Notwithstanding section 8, chapter ___, Oregon Laws
27 2023 (Enrolled Senate Bill 992) (amending ORS 343.161), if Senate Bill
28 992 becomes law, ORS 343.161 is repealed by section 8 of this 2023 Act.

29 “SECTION 9. (1) Sections 1 to 3 of this 2023 Act apply to a student
30 with a disability who is placed on an abbreviated school day program

1 on or after the effective date of this 2023 Act.

2 “(2) Nothing in this section prevents a parent or foster parent from
3 revoking consent for or making a written objection to an abbreviated
4 school day program placement, or the Department of Education or the
5 Superintendent of Public Instruction from taking any action related
6 to the placement of a student with a disability on an abbreviated
7 school day program, if the abbreviated school day program placement
8 occurred before the effective date of this 2023 Act and the abbreviated
9 school day program placement is ongoing on the effective date of this
10 2023 Act.

11 “SECTION 10. Section 11 is added to and made a part of sections 1
12 to 6 of this 2023 Act.

13 “SECTION 11. (1) No later than 14 calendar days after the effective
14 date of this 2023 Act, each school district shall provide the notice de-
15 scribed in subsection (2) of this section to the parents or foster parents
16 of every student with a disability who:

17 “(a) Was on an abbreviated school day program at the end of the
18 2022-2023 school year; or

19 “(b) Had an abbreviated school day for 30 or more school days dur-
20 ing the 2022-2023 school year.

21 “(2) The notice required under this section must be in a language
22 and format accessible to the parent or foster parent and must inform
23 parents and foster parents of:

24 “(a) The enactment of this 2023 Act;

25 “(b) The notice and disclosure requirements of section 4 (2)(a) of
26 this 2023 Act;

27 “(c) The parent’s or foster parent’s right to revoke, in writing,
28 consent for an abbreviated school day program placement or to make
29 a written objection to a student’s abbreviated school day program
30 placement;

1 “(d) The name, electronic mail address, mailing address and other
2 contact information of the person to whom a revocation or objection
3 described in paragraph (c) of this subsection may be sent;

4 “(e) The obligation of the school district, within five school days
5 of receiving a revocation or objection described in paragraph (c) of this
6 subsection, to provide a student with a disability with meaningful ac-
7 cess to the same number of hours of instruction and educational ser-
8 vices that are provided to the majority of other students who are in
9 the same grade within the student’s resident school district;

10 “(f) The student’s right to meaningful access to the same number
11 of hours of instruction and educational services that are provided to
12 the majority of other students who are in the same grade within the
13 student’s resident school district beginning on the first day of the
14 2023-2024 school year if the parent or foster parent provides the revo-
15 cation or objection described in paragraph (c) of this subsection at
16 least 14 calendar days prior to the start of the 2023-2024 school year,
17 as identified by the school district; and

18 “(g) The contact information for:

19 “(A) The Department of Education;

20 “(B) The parent information and training center for families with
21 children with disabilities, or FACT Oregon; and

22 “(C) The system designated to protect and advocate for the rights
23 of individuals with disabilities, or Disability Rights Oregon.

24 “(3) Notwithstanding section 5 (1)(d) of this 2023 Act, an extension
25 may not be allowed if a parent or foster parent revokes consent for
26 an abbreviated school day program placement or makes a written ob-
27 jection to a student’s abbreviated school day program placement at
28 least 14 calendar days prior to the start of the 2023-2024 school year
29 as described in subsection (2)(f) of this section.

30 “SECTION 12. This 2023 Act being necessary for the immediate

1 **preservation of the public peace, health and safety, an emergency is**
2 **declared to exist, and this 2023 Act takes effect on its passage.”.**

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