

Testimony in Opposition to HB 2670 (Changing the definition of Traumatic Brain Injury)

5 May 2025

Dear Chair Frederick and Senate Committee on Education members:

As a public-school administrator of special education services, and a career-long school psychologist, I have serious concerns about the proposed change to the Oregon educational definition of Traumatic Brain Injury, which currently mirrors the definition in the Individuals with Disabilities Education Act (IDEA). While I can understand the appeal of broadening to definition to align with “acquired brain injury,” it is unnecessary and may result in complications for students.

Allow me to illustrate why there is no sound reason to change the definition. The definition of Traumatic Brain Injury (TBI), in IDEA and in the OARs, was designed and intended for use only in the educational system to identify a student’s eligibility for special education services. School districts do not *diagnose* disabilities. Rather, they evaluate students to determine if they meet the three prongs of special education eligibility: meeting criteria in one of the federally-defined educational disability categories, demonstrating an adverse impact on educational progress, and requiring specially-designed instruction as a result. Very few medical or community services providers rely on a special education identification to determine if a client qualifies for non-educational services. Instead, they use diagnostic criteria and/or documentation from the medical field. Changing the educational definition of TBI would not impact the ability to receive non-educational human services.

Currently, even without changing the TBI definition, a student with an *acquired* brain injury can qualify for special education under a different IDEA/OAR eligibility category. In written testimony, a few supporters have referenced the special education category of Other Health Impairment (OHI). However, they have inaccurately portrayed the use of this category. For example, testimony has included statements that a child with a non-traumatic brain injury does not meet the criteria for OHI, because OHI “is specific to limited strength, vitality or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that is chronic or acute health problems.” While that is an accurate definition of OHI criteria, those who submitted such testimony have not spent the last 30 years evaluating students for various potential educational disabilities, as I have. I can assure the Committee that a OHI is commonly used for any *medical condition* that impacts strength, vitality, and alertness. Therefore, a student who experienced an stroke in-utero, or a near-drowning that deprived their brain of oxygen, or other brain injuries that were not caused by blunt-force trauma—and who significantly struggle to learn as a result of that injury—will have limitations on their physical strength, their physical or cognitive endurance, and/or their mental ability to effectively focus in school. As such, those students are often found eligible for special education under OHI.

In other testimony supporting this bill, a teacher stated that OHI “creates a lot more paperwork and a lot more navigating to be able to get the same services that are already existing for students with TBI.” Again, from my decades of experience evaluating students for special education eligibility in Oregon, I can attest that an OHI evaluation has many fewer requirements for assessment procedures, evaluation time, and documentation: at minimum, all that is necessary is a medical statement and any assessments needed to determine the impact of that medical condition on learning or the need for special education. Conversely, in addition to the assessments to determine impact on learning, a TBI evaluation requires assessments in multiple areas of ability and functioning, which adds time to the evaluation process. Other than Autism Spectrum Disorder, TBI eligibility is one of the most involved and lengthy evaluations in the special education realm.

Similarly, a supporter testified that this bill is necessary because it will allow a student to “be able to access intervention services and support services” that the student would not receive under other special education eligibility categories, like OHI. This is patently false. Both IDEA and Oregon’s statutes and regulations make it clear that a student who is eligible for special education must receive the individualized services that they need *regardless of whether or not that need is directly related to their disability*. For instance, a student who is identified with a Specific Learning Disability in reading who also demonstrates a need for support from a behavior specialist will have those supports written into their Individualized Education Program (IEP), even though behavioral concerns are not commonly associated with a reading disability. In short, once a student is eligible for special education, their services are based solely on demonstration of need. Services are not tied to the identified disability.

Finally, I am concerned about a particular unintended consequence of passing this bill: the potential for students to *lose* their special education services. When a student moves from state to state, their continued eligibility for special education is usually based on the resident state’s regulations and criteria. As such, if a student with a non-traumatic brain injury is found eligible for special education under TBI in Oregon, then moves to a state that uses the current IDEA definition, as most states do, the student may lose their special education eligibility and services. By maintaining the current definition of TBI in Oregon, while also recognizing that acquired brain injuries can be addressed through the OHI category, we prevent these students from losing services if they move out-of-state.

In closing, I urge you to reject this unnecessary bill. Thank you for your consideration. I am happy to provide additional information or clarification at your request.

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