

DRAFT

SUMMARY

Prohibits placement of child with disability in segregated employment for specified purposes.

Clarifies meaning of term “transition services” and specifies that term does not include placement in segregated employment.

Declares emergency, effective July 1, 2013.

A BILL FOR AN ACT

1
2 Relating to placements for a child with a disability; creating new provisions;
3 amending ORS 343.035; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Section 2 of this 2013 Act is added to and made a part**
6 **of ORS chapter 343.**

7 **SECTION 2. (1) As used in this section, “segregated employment”**
8 **means the employment of an individual with a disability in a work**
9 **environment that:**

10 (a) **Is segregated from individuals who do not have disabilities; and**

11 (b) **May be authorized to pay subminimum wage.**

12 (2) **A school district or education service district may not:**

13 (a) **Place a child with a disability in segregated employment for the**
14 **purpose of assessing employment goals or satisfying any educational**
15 **or vocational requirements for the child.**

16 (b) **Use placement of a child with a disability in segregated em-**
17 **ployment for the purpose of determining progress made in accom-**
18 **plishing state goals for individuals with disabilities.**

19 **SECTION 3. ORS 343.035 is amended to read:**

1 343.035. As used in this chapter unless the context requires otherwise:

2 (1) "Child with a disability" means a school-age child who is entitled to
3 a free appropriate public education as specified by ORS 339.115 and who re-
4 quires special education because the child has been evaluated as having one
5 of the following conditions as defined by rules established by the State Board
6 of Education:

- 7 (a) Intellectual disability;
- 8 (b) Hearing impairment, including difficulty in hearing and deafness;
- 9 (c) Speech or language impairment;
- 10 (d) Visual impairment, including blindness;
- 11 (e) Deaf-blindness;
- 12 (f) Emotional disturbance;
- 13 (g) Orthopedic or other health impairment;
- 14 (h) Autism;
- 15 (i) Traumatic brain injury; or
- 16 (j) Specific learning disabilities.

17 (2) "Decision" means the decision of the hearing officer.

18 (3) "Determination" means the determination by the school district con-
19 cerning the identification, evaluation or educational placement of a child
20 with a disability or the provision of a free appropriate public education to
21 the child in a program paid for by the district.

22 (4) "Developmental delay" means:

23 (a) Delay, at a level of functioning and in accordance with criteria es-
24 tablished by rules of the State Board of Education, in one or more of the
25 following developmental areas:

- 26 (A) Cognitive development;
- 27 (B) Physical development, including vision and hearing;
- 28 (C) Communication development;
- 29 (D) Social or emotional development; or
- 30 (E) Adaptive development; or

31 (b) A disability, in accordance with criteria established by rules of the

1 State Board of Education, that can be expected to continue indefinitely and
2 is likely to cause a substantial delay in a child's development and ability to
3 function in society.

4 (5) "Early childhood special education" means instruction that is:

5 (a) Free, appropriate and specially designed to meet the unique needs of
6 a preschool child with a disability;

7 (b) Provided from three years of age until the age of eligibility for
8 kindergarten; and

9 (c) Provided in any of the following settings:

10 (A) The home, a hospital, an institution, a special school, a classroom or
11 a community child care setting;

12 (B) A preschool; or

13 (C) A combination of a setting described in subparagraph (A) of this
14 paragraph and a preschool.

15 (6) "Early intervention services" means services for preschool children
16 with disabilities from birth until three years of age that are:

17 (a) Designed to meet the developmental needs of children with disabilities
18 and the needs of the family related to enhancing the child's development;

19 (b) Selected in collaboration with the parents; and

20 (c) Provided:

21 (A) Under public supervision;

22 (B) By personnel qualified in accordance with criteria established by rules
23 of the State Board of Education; and

24 (C) In conformity with an individualized family service plan.

25 (7) "Individualized education program" means a written statement of an
26 educational program for a child with a disability that is developed, reviewed
27 and revised in a meeting in accordance with criteria established by rules of
28 the State Board of Education for each child eligible for special education and
29 related services under this chapter.

30 (8) "Individualized family service plan" means a written plan of early
31 childhood special education, related services, early intervention services and

1 other services developed in accordance with criteria established by rules of
2 the State Board of Education for each child eligible for services under this
3 chapter.

4 (9) "Instruction" means providing families with information and skills
5 that support the achievement of the goals and outcomes in the child's indi-
6 vidualized family service plan and working with preschool children with
7 disabilities in one or more of the following developmental areas:

8 (a) Communication development;

9 (b) Social or emotional development;

10 (c) Physical development, including vision and hearing;

11 (d) Adaptive development; and

12 (e) Cognitive development.

13 (10) "Mediation" means a voluntary process in which an impartial
14 mediator assists and facilitates two or more parties to a controversy in
15 reaching a mutually acceptable resolution of the controversy and includes
16 all contacts between a mediator and any party or agent of a party, until such
17 time as a resolution is agreed to by the parties or the mediation process is
18 terminated.

19 (11) "Order" has the meaning given that term in ORS chapter 183.

20 (12) "Other services" means those services which may be provided to
21 preschool children with disabilities and to their families that are not early
22 childhood special education or early intervention services and are not paid
23 for with early childhood special education or early intervention funds.

24 (13) "Parent" means the parent, person acting as a parent or a legal
25 guardian, other than a state agency, of the child or the surrogate parent.
26 "Parent" may be further defined by rules adopted by the State Board of Ed-
27 ucation.

28 (14) "Preschool child with a disability" means a child from:

29 (a) Birth until three years of age who is eligible for early intervention
30 services because the child is experiencing developmental delay or has a di-
31 agnosed mental or physical condition that will result in developmental delay;

1 or

2 (b) Three years of age to eligibility for entry into kindergarten who needs
3 early childhood special education services because the child is experiencing
4 developmental delay or because the child has been evaluated as having one
5 of the conditions listed for a school-age child under subsection (1) of this
6 section.

7 (15)(a) "Related services" means transportation and such developmental,
8 corrective and other supportive services as are required to assist a child with
9 a disability to benefit from special education, including:

10 (A) Speech-language and audiology services;

11 (B) Interpreting services;

12 (C) Psychological services;

13 (D) Physical and occupational therapy;

14 (E) Recreation, including therapeutic recreation;

15 (F) Social work services;

16 (G) School nurse services designed to enable a child with a disability to
17 receive a free appropriate public education as described in the individualized
18 education program of the child;

19 (H) Early identification and assessment of disabilities in children;

20 (I) Counseling services, including rehabilitation counseling;

21 (J) Orientation and mobility services;

22 (K) Medical services for diagnostic or evaluation purposes; and

23 (L) Parent counseling and training.

24 (b) "Related services" does not include a medical device that is surgically
25 implanted or the replacement of a medical device that is surgically im-
26 planted.

27 (16) "School district" means a common or union high school district that
28 is charged with the duty or contracted with by a public agency to educate
29 children eligible for special education.

30 (17) "Service coordination" means the activities carried out by a service
31 coordinator to assist and enable a preschool child with a disability and the

1 child's family to receive the rights, procedural safeguards and services that
2 are authorized under the state's early intervention and early childhood spe-
3 cial education programs and to coordinate access to other services desig-
4 nated on the individualized family service plan.

5 (18) "Special education" means specially designed instruction that is pro-
6 vided at no cost to parents to meet the unique needs of a child with a disa-
7 bility. "Special education" includes instruction that:

8 (a) May be conducted in the classroom, the home, a hospital, an institu-
9 tion, a special school or another setting; and

10 (b) May involve physical education services, speech-language services,
11 transition services or other related services designated by rule to be services
12 to meet the unique needs of a child with a disability.

13 **(19) "Transition services":**

14 **(a) Means a coordinated set of activities for a child with a disability**
15 **that:**

16 **(A) Is designed to be within a results-oriented process;**

17 **(B) Is focused on improving the academic and functional achieve-**
18 **ment of the child to facilitate the child's transition from school to**
19 **post-school activities;**

20 **(C) Is based on the individual child's needs, taking into account the**
21 **child's preferences and interests; and**

22 **(D) May be special education or related services.**

23 **(b) Does not include placement in segregated employment, as that**
24 **term is defined in section 1 of this 2013 Act.**

25 ~~[(19)]~~ **(20)** "Unaccompanied homeless youth" has the meaning given that
26 term in the McKinney-Vento Homeless Assistance Act, 42 U.S.C. 11434a(6).

27 ~~[(20)]~~ **(21)** "Ward of the state" means a child who is temporarily or per-
28 manently in the custody of, or committed to, a public or private agency
29 through the action of the juvenile court. "Ward of the state" may be further
30 defined by rules adopted by the State Board of Education.

31 **SECTION 4. This 2013 Act being necessary for the immediate pres-**

1 **ervation of the public peace, health and safety, an emergency is de-**
2 **clared to exist, and this 2013 Act takes effect July 1, 2013.**

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