

# D R A F T

## SUMMARY

Allows student with disability to earn credit at community college or public university as part of transition services.

Prohibits denying financial aid to student for sole reason that student did not receive regular high school diploma.

## A BILL FOR AN ACT

Relating to education; creating new provisions; and amending ORS 343.035.

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

**SECTION 1.** ORS 343.035 is amended to read:

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

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

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

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

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

6 (4) "Developmental delay" means:

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

10 (A) Cognitive development;

11 (B) Physical development, including vision and hearing;

12 (C) Communication development;

13 (D) Social or emotional development; or

14 (E) Adaptive development; or

15 (b) A disability, in accordance with criteria established by rules of the  
16 State Board of Education, that can be expected to continue indefinitely and  
17 is likely to cause a substantial delay in a child's development and ability to  
18 function **independently** in society.

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

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

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

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

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

27 (B) A preschool; or

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

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

1 (a) Designed to meet the developmental needs of children with disabilities  
2 and the needs of the family related to enhancing the child’s development;

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

4 (c) Provided:

5 (A) Under public supervision;

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

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

9 (7) “Individualized education program” means a written statement of an  
10 educational program for a child with a disability that is developed, reviewed  
11 and revised in a meeting in accordance with criteria established by rules of  
12 the State Board of Education for each child eligible for special education and  
13 related services under this chapter.

14 (8) “Individualized family service plan” means a written plan of early  
15 childhood special education, related services, early intervention services and  
16 other services developed in accordance with criteria established by rules of  
17 the State Board of Education for each child eligible for services under this  
18 chapter.

19 (9) “Instruction” means providing **children and** families with information  
20 and skills that support the achievement of the goals and outcomes in the  
21 child’s individualized family service plan and working with preschool chil-  
22 dren with disabilities in one or more of the following developmental areas:

23 (a) Communication development;

24 (b) Social or emotional development;

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

26 (d) Adaptive development; and

27 (e) Cognitive development.

28 (10) “Mediation” means a voluntary process in which an impartial  
29 mediator assists and facilitates two or more parties to a controversy in  
30 reaching a mutually acceptable resolution of the controversy and includes  
31 all contacts between a mediator and any party or agent of a party, until such

1 time as a resolution is agreed to by the parties or the mediation process is  
2 terminated.

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

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

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

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

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

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

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

25 (A) Speech-language and audiology services;

26 (B) Interpreting services;

27 (C) Psychological services;

28 (D) Physical and occupational therapy;

29 (E) Recreation, including therapeutic recreation;

30 (F) Social work services;

31 (G) School nurse services designed to enable a child with a disability to

1 receive a free appropriate public education as described in the individualized  
2 education program of the child;

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

4 (I) Counseling services, including rehabilitation counseling;

5 (J) Orientation and mobility services;

6 (K) Medical services for diagnostic or evaluation purposes; [*and*]

7 (L) Parent counseling and training[.]; **and**

8 **(M) Assistive technology.**

9 (b) “Related services” does not include a medical device that is surgically  
10 implanted or the replacement of a medical device that is surgically im-  
11 planted.

12 (16) “School district” means a common or union high school district that  
13 is charged with the duty or contracted with by a public agency to educate  
14 children eligible for special education.

15 (17) “Service coordination” means the activities carried out by a service  
16 coordinator to assist and enable a preschool child with a disability and the  
17 child’s family to receive the rights, procedural safeguards and services that  
18 are authorized under the state’s early intervention and early childhood spe-  
19 cial education programs and to coordinate access to other services desig-  
20 nated on the individualized family service plan.

21 (18) “Special education” means specially designed instruction that is pro-  
22 vided at no cost to parents to meet the unique needs of a child with a disa-  
23 bility. “Special education” includes instruction that:

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

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

29 **(19) “Transition services” means a coordinated set of activities for**  
30 **a child with a disability that:**

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

1       **(b) Is focused on improving the academic and functional achieve-**  
2 **ment of the child to facilitate the child’s transition from school to**  
3 **post-school activities, including post-secondary education, competitive**  
4 **employment, independent living and community inclusion;**

5       **(c) Is based on the individual child’s needs, taking into account the**  
6 **child’s preferences and interests; and**

7       **(d) May be special education, or related services, and may include**  
8 **earning credit at a community college or public university listed in**  
9 **ORS 352.002.**

10       [(19)] **(20)** “Unaccompanied homeless youth” has the meaning given that  
11 term in the McKinney-Vento Homeless Assistance Act, 42 U.S.C. 11434a(6).

12       [(20)] **(21)** “Ward of the state” means a child who is temporarily or per-  
13 manently in the custody of, or committed to, a public or private agency  
14 through the action of the juvenile court. “Ward of the state” may be further  
15 defined by rules adopted by the State Board of Education.

16       **SECTION 2.** **A student who receives a modified diploma or extended**  
17 **diploma under ORS 329.451 may not be denied eligibility for financial**  
18 **aid to obtain post-secondary education in a public university listed in**  
19 **ORS 352.002, community college or independent not-for-profit institu-**  
20 **tion of higher education that operates in this state for the sole reason**  
21 **that the student did not receive a high school diploma.**

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