

House Bill 2751

Sponsored by COMMITTEE ON EDUCATION

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

- 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; amending ORS 343.035;
3 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 of ORS chapter 343.**

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

- 8 (a) **Is segregated from individuals who do not have disabilities; and**
- 9 (b) **May be authorized to pay subminimum wage.**

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

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

13 (b) **Use placement of a child with a disability in segregated employment for the purpose**
14 **of determining progress made in accomplishing state goals for individuals with disabilities.**

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

16 343.035. As used in this chapter unless the context requires otherwise:

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

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

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

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

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

5 (4) "Developmental delay" means:

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

8 (A) Cognitive development;

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

10 (C) Communication development;

11 (D) Social or emotional development; or

12 (E) Adaptive development; or

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

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

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

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

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

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

23 (B) A preschool; or

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

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

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

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

30 (c) Provided:

31 (A) Under public supervision;

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

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

35 (7) "Individualized education program" means a written statement of an educational program for
36 a child with a disability that is developed, reviewed and revised in a meeting in accordance with
37 criteria established by rules of the State Board of Education for each child eligible for special edu-
38 cation and related services under this chapter.

39 (8) "Individualized family service plan" means a written plan of early childhood special educa-
40 tion, related services, early intervention services and other services developed in accordance with
41 criteria established by rules of the State Board of Education for each child eligible for services un-
42 der this chapter.

43 (9) "Instruction" means providing families with information and skills that support the achieve-
44 ment of the goals and outcomes in the child's individualized family service plan and working with
45 preschool children with disabilities in one or more of the following developmental areas:

- 1 (a) Communication development;
- 2 (b) Social or emotional development;
- 3 (c) Physical development, including vision and hearing;
- 4 (d) Adaptive development; and
- 5 (e) Cognitive development.

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

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

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

14 (13) "Parent" means the parent, person acting as a parent or a legal guardian, other than a state agency, of the child or the surrogate parent. "Parent" may be further defined by rules adopted by the State Board of Education.

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

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

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

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

- 28 (A) Speech-language and audiology services;
- 29 (B) Interpreting services;
- 30 (C) Psychological services;
- 31 (D) Physical and occupational therapy;
- 32 (E) Recreation, including therapeutic recreation;
- 33 (F) Social work services;
- 34 (G) School nurse services designed to enable a child with a disability to receive a free appropriate public education as described in the individualized education program of the child;
- 35 (H) Early identification and assessment of disabilities in children;
- 36 (I) Counseling services, including rehabilitation counseling;
- 37 (J) Orientation and mobility services;
- 38 (K) Medical services for diagnostic or evaluation purposes; and
- 39 (L) Parent counseling and training.

41 (b) "Related services" does not include a medical device that is surgically implanted or the replacement of a medical device that is surgically implanted.

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

45 (17) "Service coordination" means the activities carried out by a service coordinator to assist

1 and enable a preschool child with a disability and the child's family to receive the rights, procedural
2 safeguards and services that are authorized under the state's early intervention and early childhood
3 special education programs and to coordinate access to other services designated on the individ-
4 ualized family service plan.

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

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

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

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

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

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

16 **(B) Is focused on improving the academic and functional achievement of the child to fa-
17 cilitate the child's transition from school to post-school activities;**

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

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

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

23 [(19)] **(20)** "Unaccompanied homeless youth" has the meaning given that term in the
24 McKinney-Vento Homeless Assistance Act, 42 U.S.C. 11434a(6).

25 [(20)] **(21)** "Ward of the state" means a child who is temporarily or permanently in the custody
26 of, or committed to, a public or private agency through the action of the juvenile court. "Ward of
27 the state" may be further defined by rules adopted by the State Board of Education.

28 **SECTION 4. This 2013 Act being necessary for the immediate preservation of the public
29 peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect
30 July 1, 2013.**

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