

Senate Committee on Human Services: Dear Senator Gelsler, et.al.,

I am a licensed School Psychologist in Oregon, former president of the Oregon School Psychologists Association and have worked in Oregon schools for over 20 years. I care deeply about students and the important work of our public schools.

Senate Bill 263 limits a school district's ability to provide students with a partial or "abbreviated school day" as referred to in the text. While most educators and my colleagues would agree that students should have full access to a school day consistent with their peers, this bill has some critical flaws and will have significant unintended consequences.

First, it requires that any time a student who is not disabled (i.e. not currently eligible for Special Education) is considered for an abbreviated school day by the district, the school must conduct an "expedited evaluation" for Special Education. This would have the effect of increasing inappropriate Special Education referrals with the already limited evaluation resources for students. Comprehensive evaluations for Special Education require multiple meetings and between 10 and 20 hours of records review, evaluation, documentation and meeting time with multiple team members. The accompanying requirement to also conduct a Functional Behavioral Assessment and develop a Behavior Intervention Plan would require an additional 5 to 7 hours of team time. The 2015 truancy bill (HB 2597) had similar language and created a deleterious impact in my own experience, prompting SPED evaluations every time truancy was considered for a student.

Special Education evaluations are normally only conducted when a team of professionals, including the parents, determine that there is a reason to suspect a disability that would qualify for Special Education. This bill overrides that team determination potentially violating procedural requirements under the Individuals with Disabilities Education Act, or IDEA.

Second, for students already in Special Education, it mandates that the student return to a full school day program within 60 calendar days. This could end up superseding decisions on appropriate services and supports for a student made by IEP teams under existing federal and state regulations.

For example, consider a student who is on a truancy plan and the district would like to slowly build success for that student in order to return by doing a partial day. That student would then be subject to a comprehensive and expedited Special Education evaluation, whether or not the student was even suspected of having a disability. For a student who has a disability impacting fatigue or engagement during a full day, it would only allow an abbreviated day on a temporary basis.

It also mandates that the Special Education Director for the district participate in a team along with the school administrator, teacher, and parent/guardian any time an abbreviated school day is being considered. This would be highly untenable for larger districts, and simply inappropriate in most circumstances.

I would urge you to carefully review this proposed legislation and any future legislation that takes a punitive stance towards public schools and hard-working educators rather than advocating for resources and supports that allow us to pursue quality outcomes for all students.

Thank you in advance for your time and consideration.

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Senate Committee on Human Services: Dear Senator Gelser, et.al.,

I am a Nationally Certified School Psychologist who has lived and worked in Oregon for over 20 years. The proposed amendments to Senate Bill 263 do not fix a fundamentally flawed bill in both content and construction. It is important to provide districts with resources, training and supports to provide a quality and full educational program for students with disabilities. It is inappropriate to duplicate existing regulations or create rules that treat schools and educators punitively who are trying to make the best of very complex student individual situations with limited resources.

Please consider my comments below:

7 **“(a) ‘Abbreviated school day’ means any school day during which**
8 **a student receives instruction or educational services for fewer hours**
9 **than other students who are in the same grade within the same school.**

10 **“(b) ‘Abbreviated school day program’ means an education program**
11 **that results in a student’s having an abbreviated school day for more**
12 **than 10 school days per school year.**

This section will create a requirement that schools engage in district-level data tracking of any “abbreviated” program. As a longtime member of the Oregon SIS consortium, representing districts who use an online student management system with roughly 2/3rds of the students in this state, I can confirm this change could come at significant financial cost to districts in development and vendor coordination.

13 **“(2) A school district may not unilaterally place a student on an**
14 **abbreviated school day program, regardless of the age of the student.**

This statement is already true under existing regulation governing services to students with disabilities (IDEA). Districts must meet students’ needs in the “least restrictive environment” which includes access to the regular curriculum and peers, “to the maximum extent possible” (OAR 581-015-2240). This must always be done as part of an IEP team that includes the parents and cannot be done unilaterally.

15 **“(3) A school district may provide an abbreviated school day pro-**
16 **gram to a student only if the student’s individualized education pro-**
17 **gram team:**

18 **“(a) Determines that the student should be placed on an abbreviated**
19 **school day program:**

20 **“(A) Based on the student’s needs; and**

21 **“(B) After the opportunity for the student’s parents to meaningfully**

1 **participate in a meeting to discuss the placement; and**

2 **“(b) Documents that the team considered at least one option that**
3 **included appropriate supports for the student and that could enable**
4 **the student to access the same number of hours of instruction or ed-**
5 **ucational services that are provided to students who are in the same**
6 **grade within the same school.**

The line 18 language confuses service configuration with placement determination made by IEP teams. Special Education placement is not a “location” or specific “program”, but rather a description of the intensity of service and access to regular education curriculum and peers needed to allow the student to benefit from their education and make progress on their IEP.

Regardless, the apparent intent here is redundant with the existing rules around provision of services to students in Special Education. The requirement to consider potential harmful effects and ensure that students aren’t, “removed from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum” (OAR 581-015-2250) is already in place.

7 **“(4) If a student is placed on an abbreviated school day program,**
8 **the school district shall, at least once each term:**

9 **“(a) Provide the following information in writing to the parent of**
10 **the student:**

Any time a district proposes or refuses to initiate or change any aspect of a student’s Special Education program, OAR 581-015-2310 requires the district provide “prior written notice” to the parent. This again is redundant to existing Special Education law and Oregon regulation.

11 **“(A) The school district’s duty to comply with the requirements of**
12 **this section;**

13 **“(B) The prohibition against a school district unilaterally placing a**
14 **student on an abbreviated school day program; and**

15 **“(C) The student’s presumptive right to receive the same number**
16 **of hours of instruction or educational services as other students who**
17 **are in the same grade within the same school and the parent’s right**
18 **to request, at any time, a meeting of the individualized education**
19 **program team to determine whether the student should no longer be**
20 **placed on an abbreviated school day program.**

21 **“(b) Obtain a signed acknowledgment from the parent of the stu-**
22 **dent that the parent received the information described in paragraph**
23 **(a) of this subsection.**

24 **“(c) Include in the student’s individualized education program a**
25 **written statement that explains the reasons the student was placed**
26 **on an abbreviated school day program.**

The information in lines 15-20 creates a circumstance that potentially supersedes IEP team decisions and appears to create a “property right” out of the use of the term “presumptive” right to receive the same number of hours. This does not account for changes in intensity of services provided in small group or individual settings historically recognized by the Oregon Department of Education. A student who receives an hour of intensive 1:1 or small group instruction presumably has received more “instruction” than a student who receives an hour of instruction in our current class sizes exceeding 35.

Lines 24-26 conflicts with the existing rules under OAR 581-015-2200 governing the content of the Oregon IEP. Since parents must always be provided prior written notice, requiring this content in the IEP suggests that the author of this statement is not familiar with the rules governing IEP content. The IEP is also not required to duplicate information contained elsewhere, as described under OAR 581-015-2205(5).

27 **“(5) This section does not apply to:**
28 **“(a) Any abbreviated school days that are a component of discipline**
29 **imposed in compliance with ORS 339.250; or**
30 **“(b) A student who will be eligible to complete the requirements for**
1 **a diploma or certificate under ORS 329.451 during the school year if**
2 **the student, and the parent of the student, agree to the abbreviated**
3 **school day program.**

The final section illustrates another problem with this bill. It fails to address the reality that adult students who are in charge of their own IEPs would be considered under this rule. Students 18-21 may still be on IEPs and their parents do not have rights to make agreements unless they have been granted so by the courts.

In summary, this bill creates additional procedural hurdles for districts while not addressing the fundamental issue of availability of resources and alternatives for schools to use instead of an abbreviated day. In my experience, no Special Education team uses a reduced schedule as a first, second or even third option. Instead of applying the proverbial “stick” to districts to limit the use of reduced days for Special Education students, perhaps the legislature would adopt an incentive-driven or “carrot” approach in the future.

Respectfully submitted,

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