

Senate Bill 263

Sponsored by Senator GELSER (Pre-session filed.)

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**.

Limits school district's ability to require students to participate in abbreviated school day program. Prescribes requirements when students do participate in abbreviated school day program.

A BILL FOR AN ACT

1
2 Relating to abbreviated school days; creating new provisions; and amending ORS 338.025 and
3 338.115.

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

5 **SECTION 1. As used in sections 1 to 6 of this 2017 Act:**

6 (1) **"Abbreviated school day" means any school day during which a student receives in-**
7 **struction or educational services for fewer hours than other students who are in the same**
8 **grade within the same school.**

9 (2) **"Abbreviated school day program" means an education program that results in a**
10 **student receiving an abbreviated school day for more than 10 school days per school year.**

11 (3) **"Behavior intervention plan" means an individualized plan based on a current func-**
12 **tional behavioral analysis that includes positive interventions and that is designed to assist**
13 **a student in decreasing inappropriate behaviors and increasing alternative appropriate be-**
14 **haviors.**

15 (4) **"Evaluating team" means a team that:**

16 (a) **Conducts an evaluation to determine whether to require a student to participate in**
17 **an abbreviated school day program; and**

18 (b) **Includes a school administrator, a teacher, the special education director and the**
19 **parent or guardian of the student.**

20 (5) **"Full school day" means a school day during which students in the same grade within**
21 **the same school are scheduled to receive the same number of hours of instruction or edu-**
22 **cational services.**

23 (6) **"Full school day program" means an education program that is composed of full**
24 **school days.**

25 (7) **"Functional behavioral analysis" means an individualized assessment of a student that**
26 **produces a hypothesis about the function of the student's behavior and that is used to make**
27 **recommendations for a behavior intervention plan.**

28 (8) **"Individualized education program team" means the team that has been formed to**
29 **develop, review and revise the individualized education program of a student who is a child**
30 **with a disability as provided under ORS chapter 343.**

31 **SECTION 2. (1) Except as provided by subsection (2) of this section, a school district may**

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 not require a student to participate in an abbreviated school day program.

2 (2) A school district may require a student to participate in an abbreviated school day
3 program:

4 (a) When a student cannot safely participate in a full school day program, as provided
5 by section 3 of this 2017 Act; or

6 (b) For medical reasons, as provided by section 4 of this 2017 Act.

7 (3) When a student is participating in an abbreviated school day program, a school dis-
8 trict may not:

9 (a) Condition the student's return to a full school day program on the student meeting
10 specified behavior standards; or

11 (b) Alter the length of a school day based on a formula and without consideration of the
12 student's needs.

13 (4) When a student is participating in an abbreviated school day program in the form of
14 home instruction or tutorial services provided outside of the presence of other students:

15 (a) The amount and nature of the instruction and related services must be based solely
16 on the student's needs; and

17 (b) Instruction must be provided by a licensed special education teacher or, when neces-
18 sary to meet the student's needs, a teacher licensed to teach a particular subject required
19 by those needs.

20 **SECTION 3.** (1) A student may participate in an abbreviated school day program for
21 safety reasons only as provided by this section.

22 (2) A school district may require a student to participate in an abbreviated school day
23 program for safety reasons if:

24 (a) The student cannot safely participate in a full school day program, even if provided
25 with fully implemented supports and services designed to allow regular attendance; and

26 (b)(A) Subject to subsection (3) of this section, the student's parent or legal guardian
27 requests the abbreviated school day program; or

28 (B) Subject to subsection (4) or (5) of this section, the school district provides to the
29 parent or legal guardian of the student written notice of the school district's determination
30 that the student may not safely participate in a full school day program without placing the
31 student, other students or staff at imminent risk of bodily harm.

32 (3) If a parent or legal guardian requests the abbreviated school day program, the re-
33 quest:

34 (a) Must be in writing and must be limited to one school year; and

35 (b) May be renewed in writing for additional school years, one school year at a time.

36 (4) A student who is not receiving special education and related services may not be re-
37 quired to participate in an abbreviated school day program without a written request from
38 the parent or legal guardian of the student until the school district makes a determination
39 that the student may not safely participate in a full school day program and does all of the
40 following:

41 (a) Completes an expedited evaluation for eligibility for special education and related
42 services, unless the student already has been determined to be eligible;

43 (b) Completes a functional behavioral analysis and develops a behavior intervention plan;

44 (c) Addresses how the student will receive full access to the general curriculum and
45 general educational services while participating in an abbreviated school day program, as

1 **determined by the student’s needs;**

2 **(d) Addresses how the student will participate in assessments administered by the school,**
 3 **school district or state; and**

4 **(e) Develops a reentry plan for the student to return to a full school day program within**
 5 **a reasonable period of time, which may not exceed 60 calendar days.**

6 **(5) A student who is receiving special education and related services may not be required**
 7 **to participate in an abbreviated school day program without a written request from the**
 8 **parent or legal guardian of the student until the school district makes a determination that**
 9 **the student may not safely participate in a full school day program based on recommen-**
 10 **dations of the individualized education program team and after the team addresses all of the**
 11 **following:**

12 **(a) Any additional supports and services necessary to support the student while partic-**
 13 **ipating in the abbreviated school day program;**

14 **(b) The justification for the abbreviated school day program and how the abbreviated**
 15 **school day program is based on the student’s needs;**

16 **(c) How the student will receive full access to the general curriculum and general edu-**
 17 **cational services while participating in an abbreviated school day program, as determined by**
 18 **the student’s needs;**

19 **(d) How the student will participate in assessments administered by the school, school**
 20 **district and state; and**

21 **(e) How the student may return to a full school day program within a reasonable period**
 22 **of time, which may not exceed 60 calendar days, and how the student’s individualized edu-**
 23 **cation program may need to be revised to include additional supports and services when the**
 24 **student returns.**

25 **(6) Any actions taken under this section for a student with a disability who is receiving**
 26 **special education and related services are subject to:**

27 **(a) The requirements prescribed by section 5 of this 2017 Act; and**

28 **(b) The written notice requirements prescribed by ORS 343.159.**

29 **SECTION 4. (1) A student may participate in an abbreviated school day program for**
 30 **medical reasons only as provided by this section.**

31 **(2) Any determinations about whether a school district may require a student to partic-**
 32 **ipate in an abbreviated school day program for medical reasons may not be made until the**
 33 **requirements described in subsection (3) of this section are made by:**

34 **(a) The student’s individualized education program team, if the student is receiving spe-**
 35 **cial education and related services; or**

36 **(b) An evaluating team, if the student is not receiving special education and related ser-**
 37 **vices.**

38 **(3) A student may not be required to participate in an abbreviated school day program**
 39 **for medical reasons until the individualized education program team or evaluating team ad-**
 40 **dressses all of the following:**

41 **(a) The medical needs of the student, as identified by a qualified medical professional;**

42 **(b) How the student will receive full access to the general curriculum and general edu-**
 43 **cational services while participating in the abbreviated school day program, as determined**
 44 **by the student’s medical needs;**

45 **(c) How the student will participate in assessments administered by the school, school**

1 district or state, in a manner that is consistent with the student’s medical needs; and

2 (d) The medical basis for the determination of an abbreviated school day program.

3 (4) Any actions taken under this section for a student who is receiving special education
4 and related services are subject to:

5 (a) The requirements prescribed by section 5 of this 2017 Act; and

6 (b) The written notice requirements prescribed by ORS 343.159.

7 **SECTION 5.** (1) Any abbreviated school day program provided as described in section 3
8 or 4 of this 2017 Act to a student who is receiving special education and related services is
9 subject to this section.

10 (2) The decision to place a student in an abbreviated school day program is considered a
11 change of placement for purposes of the student’s individualized education program and must
12 be documented in the student’s individualized education program.

13 (3) If a student is provided an abbreviated school day program for safety reasons as de-
14 scribed in section 3 of this 2017 Act and has not returned to a full school day program within
15 60 calendar days of first being provided the abbreviated school day program, the individual-
16 ized education program team must convene every 20 school days to:

17 (a) Review the student’s progress toward returning to a full school day program;

18 (b) Review behavioral data and other indicators of progress in the educational setting;

19 (c) Review strategies and supports that have been implemented and assess their efficacy
20 and appropriateness; and

21 (d) Determine what regular or alternative education setting would allow the student to
22 be safely provided a full school day program if there is not significant progress toward the
23 goal of returning the student to a full school day program.

24 (4) If a student is provided an abbreviated school day program for medical reasons as
25 described in section 4 of this 2017 Act and is medically unable to return to a full school day
26 program, the individualized education program team shall:

27 (a) Meet no less frequently than every 90 calendar days, unless:

28 (A) The team extends the timeline when an extension is considered necessary by the
29 team or is consistent with medical recommendations; or

30 (B) The student becomes medically able to increase the number of hours in the school
31 day or to return to a full school day program; and

32 (b) Review the student’s progress toward returning to a full school day program and
33 modify the abbreviated school day program, as appropriate.

34 **SECTION 6.** (1) Each school district that is providing an abbreviated school day program
35 under sections 1 to 6 of this 2017 Act shall annually collect and report data to the Depart-
36 ment of Education. The data must include the following information for students who are
37 provided an abbreviated school day:

38 (a) The number of students who are provided an abbreviated school day program;

39 (b) The number of students who receive an abbreviated school day program of five or
40 fewer hours per week for more than 60 school days; and

41 (c) The number of students who are provided an abbreviated school day program of five
42 to 20 hours per week for more than 60 school days.

43 (2) The information provided under subsection (1) of this section must be disaggregated
44 by:

45 (a) Whether the student is receiving an abbreviated school day program based on safety

1 reasons or based on medical needs;

2 (b) The ethnicity of the student;

3 (c) The specific eligibility of the student for special education and related services, if
4 applicable; and

5 (d) Whether the student is in the care of a foster parent or is a ward of the state.

6 **SECTION 7.** ORS 338.115 is amended to read:

7 338.115. (1) Statutes and rules that apply only to school district boards, school districts or other
8 public schools do not apply to public charter schools. However, the following laws do apply to public
9 charter schools:

10 (a) Federal law;

11 (b) ORS 30.260 to 30.300 (tort claims);

12 (c) ORS 192.410 to 192.505 (public records law);

13 (d) ORS 192.610 to 192.690 (public meetings law);

14 (e) ORS chapters 279A, 279B and 279C (Public Contracting Code);

15 (f) ORS 297.405 to 297.555 and 297.990 (Municipal Audit Law);

16 (g) ORS 326.565, 326.575 and 326.580 (student records);

17 (h) ORS 181A.195, 326.603, 326.607 and 342.223 (criminal records checks);

18 (i) ORS 329.045 (academic content standards and instruction);

19 (j) ORS 329.451 (high school diploma, modified diploma, extended diploma and alternative cer-
20 tificate);

21 (k) The statewide assessment system developed by the Department of Education for mathematics,
22 science and English under ORS 329.485 (2);

23 (L) ORS 336.840 (use of personal electronic devices);

24 (m) ORS 337.150 (textbooks);

25 (n) ORS 339.119 (consideration for educational services);

26 (o) ORS 339.141, 339.147 and 339.155 (tuition and fees);

27 (p) ORS 339.250 (9) (prohibition on infliction of corporal punishment);

28 (q) ORS 339.326 (notice concerning students subject to juvenile court petitions);

29 (r) ORS 339.370, 339.372, 339.388 and 339.400 (reporting of abuse and sexual conduct and training
30 on prevention and identification of abuse and sexual conduct);

31 (s) ORS 342.856 (core teaching standards);

32 (t) **Sections 1 to 6 of this 2017 Act (abbreviated school day programs);**

33 [(t)] (u) ORS chapter 657 (Employment Department Law);

34 [(u)] (v) ORS 659.850, 659.855 and 659.860 (discrimination);

35 [(v)] (w) Any statute or rule that establishes requirements for instructional time provided by a
36 school during each day or during a year;

37 [(w)] (x) Statutes and rules that expressly apply to public charter schools;

38 [(x)] (y) Statutes and rules that apply to a special government body, as defined in ORS 174.117,
39 or a public body, as defined in ORS 174.109;

40 [(y)] (z) Health and safety statutes and rules;

41 [(z)] (aa) Any statute or rule that is listed in the charter; and

42 [(aa)] (bb) This chapter.

43 (2) Notwithstanding subsection (1) of this section, a charter may specify that statutes and rules
44 that apply only to school district boards, school districts and other public schools may apply to a
45 public charter school.

1 (3) If a statute or rule applies to a public charter school, then the terms “school district” and
2 “public school” include public charter school as those terms are used in that statute or rule.

3 (4) A public charter school may not violate the Establishment Clause of the First Amendment
4 to the United States Constitution or section 5, Article I of the Oregon Constitution, or be religion
5 based.

6 (5)(a) A public charter school shall maintain an active enrollment of at least 25 students.

7 (b) For a public charter school that provides educational services under a cooperative agree-
8 ment described in ORS 338.080, the public charter school is in compliance with the requirements of
9 this subsection if the public charter school provides educational services under the cooperative
10 agreement to at least 25 students, without regard to the school districts in which the students are
11 residents.

12 (6) A public charter school may sue or be sued as a separate legal entity.

13 (7) The sponsor, members of the governing board of the sponsor acting in their official capacities
14 and employees of a sponsor acting in their official capacities are immune from civil liability with
15 respect to all activities related to a public charter school within the scope of their duties or em-
16 ployment.

17 (8) A public charter school may enter into contracts and may lease facilities and services from
18 a school district, education service district, public university listed in ORS 352.002, other govern-
19 mental unit or any person or legal entity.

20 (9) A public charter school may not levy taxes or issue bonds under which the public incurs li-
21 ability.

22 (10) A public charter school may receive and accept gifts, grants and donations from any source
23 for expenditure to carry out the lawful functions of the school.

24 (11) The school district in which the public charter school is located shall offer a high school
25 diploma, a modified diploma, an extended diploma or an alternative certificate to any public charter
26 school student who meets the district’s and state’s standards for a high school diploma, a modified
27 diploma, an extended diploma or an alternative certificate.

28 (12) A high school diploma, a modified diploma, an extended diploma or an alternative certificate
29 issued by a public charter school grants to the holder the same rights and privileges as a high
30 school diploma, a modified diploma, an extended diploma or an alternative certificate issued by a
31 nonchartered public school.

32 (13) Prior to beginning operation, the public charter school shall show proof of insurance to the
33 sponsor as specified in the charter.

34 (14) A public charter school may receive services from an education service district in the same
35 manner as a nonchartered public school in the school district in which the public charter school is
36 located.

37 **SECTION 8.** ORS 338.115, as amended by section 7, chapter 839, Oregon Laws 2007, section 12,
38 chapter 50, Oregon Laws 2008, section 4, chapter 618, Oregon Laws 2009, section 3, chapter 53,
39 Oregon Laws 2010, section 3, chapter 94, Oregon Laws 2011, section 118, chapter 637, Oregon Laws
40 2011, section 5, chapter 682, Oregon Laws 2011, section 10, chapter 92, Oregon Laws 2012, section
41 7, chapter 98, Oregon Laws 2013, section 14, chapter 265, Oregon Laws 2013, section 9, chapter 267,
42 Oregon Laws 2013, section 2, chapter 67, Oregon Laws 2015, and section 48, chapter 245, Oregon
43 Laws 2015, is amended to read:

44 338.115. (1) Statutes and rules that apply only to school district boards, school districts or other
45 public schools do not apply to public charter schools. However, the following laws do apply to public

- 1 charter schools:
- 2 (a) Federal law;
- 3 (b) ORS 30.260 to 30.300 (tort claims);
- 4 (c) ORS 192.410 to 192.505 (public records law);
- 5 (d) ORS 192.610 to 192.690 (public meetings law);
- 6 (e) ORS chapters 279A, 279B and 279C (Public Contracting Code);
- 7 (f) ORS 297.405 to 297.555 and 297.990 (Municipal Audit Law);
- 8 (g) ORS 326.565, 326.575 and 326.580 (student records);
- 9 (h) ORS 181A.195, 326.603, 326.607 and 342.223 (criminal records checks);
- 10 (i) ORS 329.045 (academic content standards and instruction);
- 11 (j) ORS 329.451 (high school diploma, modified diploma, extended diploma and alternative cer-
- 12 tificate);
- 13 (k) ORS 329.496 (physical education);
- 14 (L) The statewide assessment system developed by the Department of Education for mathemat-
- 15 ics, science and English under ORS 329.485 (2);
- 16 (m) ORS 336.840 (use of personal electronic devices);
- 17 (n) ORS 337.150 (textbooks);
- 18 (o) ORS 339.119 (consideration for educational services);
- 19 (p) ORS 339.141, 339.147 and 339.155 (tuition and fees);
- 20 (q) ORS 339.250 (9) (prohibition on infliction of corporal punishment);
- 21 (r) ORS 339.326 (notice concerning students subject to juvenile court petitions);
- 22 (s) ORS 339.370, 339.372, 339.388 and 339.400 (reporting of abuse and sexual conduct and training
- 23 on prevention and identification of abuse and sexual conduct);
- 24 (t) ORS 342.856 (core teaching standards);
- 25 **(u) Sections 1 to 6 of this 2017 Act (abbreviated school day programs);**
- 26 [(u)] (v) ORS chapter 657 (Employment Department Law);
- 27 [(v)] (w) ORS 659.850, 659.855 and 659.860 (discrimination);
- 28 [(w)] (x) Any statute or rule that establishes requirements for instructional time provided by a
- 29 school during each day or during a year;
- 30 [(x)] (y) Statutes and rules that expressly apply to public charter schools;
- 31 [(y)] (z) Statutes and rules that apply to a special government body, as defined in ORS 174.117,
- 32 or a public body, as defined in ORS 174.109;
- 33 [(z)] (aa) Health and safety statutes and rules;
- 34 [(aa)] (bb) Any statute or rule that is listed in the charter; and
- 35 [(bb)] (cc) This chapter.
- 36 (2) Notwithstanding subsection (1) of this section, a charter may specify that statutes and rules
- 37 that apply only to school district boards, school districts and other public schools may apply to a
- 38 public charter school.
- 39 (3) If a statute or rule applies to a public charter school, then the terms “school district” and
- 40 “public school” include public charter school as those terms are used in that statute or rule.
- 41 (4) A public charter school may not violate the Establishment Clause of the First Amendment
- 42 to the United States Constitution or section 5, Article I of the Oregon Constitution, or be religion
- 43 based.
- 44 (5)(a) A public charter school shall maintain an active enrollment of at least 25 students.
- 45 (b) For a public charter school that provides educational services under a cooperative agree-

1 ment described in ORS 338.080, the public charter school is in compliance with the requirements of
2 this subsection if the public charter school provides educational services under the cooperative
3 agreement to at least 25 students, without regard to the school districts in which the students are
4 residents.

5 (6) A public charter school may sue or be sued as a separate legal entity.

6 (7) The sponsor, members of the governing board of the sponsor acting in their official capacities
7 and employees of a sponsor acting in their official capacities are immune from civil liability with
8 respect to all activities related to a public charter school within the scope of their duties or em-
9 ployment.

10 (8) A public charter school may enter into contracts and may lease facilities and services from
11 a school district, education service district, public university listed in ORS 352.002, other govern-
12 mental unit or any person or legal entity.

13 (9) A public charter school may not levy taxes or issue bonds under which the public incurs li-
14 ability.

15 (10) A public charter school may receive and accept gifts, grants and donations from any source
16 for expenditure to carry out the lawful functions of the school.

17 (11) The school district in which the public charter school is located shall offer a high school
18 diploma, a modified diploma, an extended diploma or an alternative certificate to any public charter
19 school student who meets the district's and state's standards for a high school diploma, a modified
20 diploma, an extended diploma or an alternative certificate.

21 (12) A high school diploma, a modified diploma, an extended diploma or an alternative certificate
22 issued by a public charter school grants to the holder the same rights and privileges as a high
23 school diploma, a modified diploma, an extended diploma or an alternative certificate issued by a
24 nonchartered public school.

25 (13) Prior to beginning operation, the public charter school shall show proof of insurance to the
26 sponsor as specified in the charter.

27 (14) A public charter school may receive services from an education service district in the same
28 manner as a nonchartered public school in the school district in which the public charter school is
29 located.

30 **SECTION 9.** ORS 338.025 is amended to read:

31 338.025. (1) The State Board of Education may adopt any rules necessary for the implementation
32 of this chapter. The rules shall follow the intent of this chapter.

33 (2) Upon application by a public charter school, the State Board of Education may grant a
34 waiver of any provision of this chapter if the waiver promotes the development of programs by
35 providers, enhances the equitable access by underserved families to the public education of their
36 choice, extends the equitable access to public support by all students or permits high quality pro-
37 grams of unusual cost. The State Board of Education may not waive any appeal provision in this
38 chapter or any provision under ORS 338.115 (1)(a) to [(z)] **(aa)**, 338.120, 338.125 (4), 338.135 (2)(b) or
39 339.122.

40 **SECTION 10.** ORS 338.025, as amended by section 8, chapter 839, Oregon Laws 2007, section
41 14, chapter 50, Oregon Laws 2008, section 5, chapter 53, Oregon Laws 2010, section 4, chapter 72,
42 Oregon Laws 2010, section 5, chapter 94, Oregon Laws 2011, section 4, chapter 649, Oregon Laws
43 2011, section 27, chapter 718, Oregon Laws 2011, section 9, chapter 98, Oregon Laws 2013, section
44 16, chapter 265, Oregon Laws 2013, and section 4, chapter 67, Oregon Laws 2015, is amended to
45 read:

1 338.025. (1) The State Board of Education may adopt any rules necessary for the implementation
2 of this chapter. The rules shall follow the intent of this chapter.

3 (2) Upon application by a public charter school, the State Board of Education may grant a
4 waiver of any provision of this chapter if the waiver promotes the development of programs by
5 providers, enhances the equitable access by underserved families to the public education of their
6 choice, extends the equitable access to public support by all students or permits high quality pro-
7 grams of unusual cost. The State Board of Education may not waive any appeal provision in this
8 chapter or any provision under ORS 338.115 (1)(a) to ~~[(aa)]~~ **(bb)**, 338.120, 338.125 (4), 338.135 (2)(b)
9 or 339.122.

10