

Rosenberg Corey

From: Lynelle Benit <lbenit1@ttsd.k12.or.us>
Sent: Thursday, February 08, 2018 1:10 AM
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Subject: Please consider amending HB 4067



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February 8, 2018

Dear Representative John Lively (Chair of House Committee on Early Childhood and Family Supports), Representative Daniel Bonham (Vice Chair), Representative Carla Piluso (Vice Chair), Representative Denyc Boles, Representative Janelle Bynum, Representative Cedric Hayden, Representative Alissa Keny-Guyer, Representative Sheri Malstrom, Representative David Brock, Christopher Reinhart, and Corey Rosenberg,

Re: HB 4067, from the House Committee on Early Childhood and Family Supports, which Expands definition of term "child with a disability" for purposes of special education to include children who have developmental delays and who are under 10 years of age.

I am a school psychologist fortunate enough to serve children and families for twenty-nine years. I have served people from the ages of birth to twenty-one years of age. Given the unique variety of experiences, I am able to view the potential impact of HB 4067 from both the lens of Early Childhood Special Education and School-Age Special Education.

I see the desire to ensure children who have benefitted from Early Childhood Special Education services, are able to continue to be found eligible for services as they enter Kindergarten. **The target of the bill is to continue services for the children who need them in order to make adequate yearly progress in learning as they move from Early Childhood Special Education to School-Age Special Education. Unfortunately the result of the bill changes the evaluation and identification process for ALL children, under the age of 10.** The bulk of the students who receive special education services are found eligible before their 10th birthday. This bill impacts the identification process of the majority of students who participate in special education services.

I suggest that the bill be amended in three ways. One, to include children who have developmental delays through the end of their first grade year or until their 7th birthday. Additionally, please consider an amendment that addresses specific changes so that the bill is consistent with the Oregon Administrative Rules. **More specifically, there is a need to change line 27 of the first page of the House Bill 4067.** Where it states, "State Board of Education, in one or more of the following developmental areas;" it should read, "State Board of Education, in *two* or more of the following developmental areas:." This change is

consistent with the Oregon Administrative Rules 581-0125-2795. Please see the copy of the section of the OAR's (4A) that notes that a developmental delay requires *two* of the developmental areas to be delayed.

581-015-2795

ECSE Eligibility

- (1) Upon completing the administration of tests and other evaluation materials, the designated referral and evaluation agency must determine, through a team, whether a child is eligible for ECSE services by following the procedures in this rule.
- (2) The team must include the parents, in accordance with OAR 581-015-2750, and two or more professionals, at least one of whom is knowledgeable and experienced in the evaluation and education of children with the suspected disability. The team may be the child's IFSP team.
- (3) In determining eligibility for a child suspected of having a specific learning disability, the team must also include:
 - (a) The child's preschool teacher or, if the child does not have a preschool teacher, a preschool teacher qualified to teach a child of his or her age; and
 - (b) A person qualified to conduct individual diagnostic examinations of children, such as a psychologist, speech-language pathologist, or other qualified personnel.
- (4) To be eligible for ECSE services, the child must meet the following minimum criteria:
 - (a) Categorical. The child meets the minimum criteria for one of the disability categories in OAR 581-015-2130 through 581-015-2180; or
 - (b) Developmental delay.
 - (A) The child has a developmental delay of 1.5 standard deviations or more below the mean in two or more of the developmental areas listed under OAR 581-015-2780(3)(c);
 - (B) The child's disability has an adverse impact on the child's developmental progress; and
 - (C) The child needs ECSE services.

The third proposed amendment includes altering the eligibility to be contingent on educational progress rather than developmental progress so that it is consistent with the categorical eligibility requirements. Please see the below statement that is included on all categorical eligibility statements for school-age special education.

1. The student's disability has an adverse impact on the student's educational performance when the student is at the age of eligibility for kindergarten through age 21, or has an adverse impact on the child's developmental progress when the child is age three through kindergarten; and

If HB 4067 is passed without an amendment there will be detrimental impact on school-age special education services. The impact is wide and complex. I will attempt to highlight the most essential features.

1. If we begin to identify students with lagging skills, as eligible for special education, **we are changing the original purpose of special education.** School-age special education operates on finding students with disabilities who need specially designed instruction. Students with a developmental delay have lagging skills in two or more areas of development. Some of those students may have a handicapping condition, but others simply have lagging skills for a variety of reasons. Students with handicapping conditions will be found eligible under the categories that are already available to all children ages 3 to 21. General education provides appropriate education to our widely diverse population, some of whom demonstrate lagging skills.
2. If we include students who have lagging skills in special education, we will **likely increase our problematic over-representation of certain populations (id est students of color, and/or, low socio-economic status).**
3. **Removing students with lagging skills from general education settings to provide them with special education, with students with handicapping conditions, may infringe upon the students' rights to be educated in the least restrictive setting.**
4. If special education services are used to provide specially designed instruction to students with lagging skills, **we are increasing the number of students who will be found eligible for services.** The structure of funding is such that we will have essentially the same funding to serve more students, which reduces the effectiveness for the students as there would be more students to serve, reducing the capacity for individualizing instruction.

5. The manner in which Evaluation Teams determine if a child meets the criteria for a developmental disability is based on measures that are constructed for the birth to five populations. Many of these measures are not currently available for the older age group. **The lack of psychoeducational measures which provide accurate information for this identification process results in more errors in identification.**

6. It will take school-age special education time and money to determine an appropriate way to identify students with a developmental delay. It is likely school psychologists and learning specialists will be conducting more time-consuming evaluations in order to determine eligibilities as they will be using tools that are not presently required for a number of the most common categories of eligibility. **If schools spend more money on assessment, there is less money for the services that we are hoping to provide to the identified vulnerable children who have been eligible for early childhood special education.**

7. Identifying students with lagging skills as a student who needs special education, may change the way parents and educators view the student such that expectations are reduced and the student has less educational success. **It is important for people to have the growth mind-set in their interactions with young students who present with lagging skills.**

8. **Spending more money on evaluation procedures, to determine eligibility for a developmental delay, reduces the funding for the Response to Intervention model** that is becoming well established in more Oregon schools. Response to Intervention includes direct instruction to students who are identified as needing extra instruction, starting by the second month of the student's Kindergarten year. The RTI model is consistent with the early identification model of Early Childhood Special Education.

It should be noted that Early Childhood Special Education Evaluation Teams are increasing their efforts to find children who are three to five years old eligible under the categories of handicapping conditions that already exist in our laws. This accurate identification increases the number of students who move from Early Childhood Special Education to School-Age Special Education without a discontinuation in service. This practice also ensures that children who present with lagging developmental skills are not treated as students who are considered handicapped.

In summary, **If HB 4067 is amended to include the possibility of a student being found eligible for special education under a developmental delay up until the end of their first grade year, or their seventh birthday, the intended purpose of the bill will be achieved while reducing the possible negative outcomes.**

In order for the bill to be consistent with the present Oregon Administrative Rules, the other two proposed changes will need to be made. More specifically, that line 27 will be changed to read "two" rather than "one" in reference to developmental areas and will be based on the developmental delays having an adverse impact on educational performance.

I appreciate your consideration.

Respectfully Submitted,



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Best Regards,
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