

House Bill 4067

Introduced and printed pursuant to House Rule 12.00. Presession filed (at the request of House Interim Committee on Early Childhood and Family Supports)

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**.

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.

Takes effect July 1, 2018.

A BILL FOR AN ACT

1
2 Relating to developmental delays; amending ORS 343.035; and prescribing an effective date.

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

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

5 343.035. As used in this chapter unless the context requires otherwise:

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

10 (a) Intellectual disability;

11 (b) Hearing impairment, including difficulty in hearing and deafness;

12 (c) Speech or language impairment;

13 (d) Visual impairment, including blindness;

14 (e) Deaf-blindness;

15 (f) Emotional disturbance;

16 (g) Orthopedic or other health impairment;

17 (h) Autism;

18 (i) Traumatic brain injury; [*or*]

19 (j) Specific learning disabilities[.]; **or**

20 **(k) Developmental delay, if the child is under 10 years of age.**

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

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

25 (4) "Developmental delay" means:

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

28 (A) Cognitive development;

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

30 (C) Communication development;

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 (D) Social or emotional development; or

2 (E) Adaptive development; or

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

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

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

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

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

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

13 (B) A preschool; or

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

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

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

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

20 (c) Provided:

21 (A) Under public supervision;

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

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

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

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

33 (9) "Instruction" means providing children and families with information and skills that support
34 the achievement of the goals and outcomes in the child's individualized family service plan and
35 working with preschool children with disabilities in one or more of the following developmental
36 areas:

37 (a) Communication development;

38 (b) Social or emotional development;

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

40 (d) Adaptive development; and

41 (e) Cognitive development.

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

- 1 (11) "Order" has the meaning given that term in ORS chapter 183.
- 2 (12) "Other services" means those services which may be provided to preschool children with
3 disabilities and to their families that are not early childhood special education or early intervention
4 services and are not paid for with early childhood special education or early intervention funds.
- 5 (13) "Parent" means the parent, person acting as a parent or a legal guardian, other than a state
6 agency, of the child or the surrogate parent. "Parent" may be further defined by rules adopted by
7 the State Board of Education.
- 8 (14) "Preschool child with a disability" means a child from:
- 9 (a) Birth until three years of age who is eligible for early intervention services because the child
10 is experiencing developmental delay or has a diagnosed mental or physical condition that will result
11 in developmental delay; or
- 12 (b) Three years of age to eligibility for entry into kindergarten who needs early childhood spe-
13 cial education services [*because the child is experiencing developmental delay or*] because the child
14 has been evaluated as having one of the conditions listed [*for a school-age child*] under subsection
15 (1) of this section.
- 16 (15)(a) "Related services" means transportation and such developmental, corrective and other
17 supportive services as are required to assist a child with a disability to benefit from special educa-
18 tion, including:
- 19 (A) Speech-language and audiology services;
- 20 (B) Interpreting services;
- 21 (C) Psychological services;
- 22 (D) Physical and occupational therapy;
- 23 (E) Recreation, including therapeutic recreation;
- 24 (F) Social work services;
- 25 (G) School nurse services designed to enable a child with a disability to receive a free appro-
26 priate public education as described in the individualized education program of the child;
- 27 (H) Early identification and assessment of disabilities in children;
- 28 (I) Counseling services, including rehabilitation counseling;
- 29 (J) Orientation and mobility services;
- 30 (K) Medical services for diagnostic or evaluation purposes;
- 31 (L) Parent counseling and training; and
- 32 (M) Assistive technology.
- 33 (b) "Related services" does not include a medical device that is surgically implanted or the re-
34 placement of a medical device that is surgically implanted.
- 35 (16) "School district" means a common or union high school district that is charged with the
36 duty or contracted with by a public agency to educate children eligible for special education.
- 37 (17) "Service coordination" means the activities carried out by a service coordinator to assist
38 and enable a preschool child with a disability and the child's family to receive the rights, procedural
39 safeguards and services that are authorized under the state's early intervention and early childhood
40 special education programs and to coordinate access to other services designated on the individ-
41 ualized family service plan.
- 42 (18) "Special education" means specially designed instruction that is provided at no cost to
43 parents to meet the unique needs of a child with a disability. "Special education" includes instruc-
44 tion that:
- 45 (a) May be conducted in the classroom, the home, a hospital, an institution, a special school or

1 another setting; and

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

5 (19) "Transition services" means a coordinated set of activities for a child with a disability that:

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

7 (b) Is focused on improving the academic and functional achievement of the child to facilitate
8 the child's transition from school to post-school activities, including post-secondary education, com-
9 petitive employment, independent living and community inclusion;

10 (c) Is based on the individual child's needs, taking into account the child's preferences and in-
11 terests; and

12 (d) May be special education, or related services, and may include earning credit at a commu-
13 nity college or public university listed in ORS 352.002.

14 (20) "Unaccompanied homeless youth" has the meaning given that term in the McKinney-Vento
15 Homeless Assistance Act, 42 U.S.C. 11434a(6).

16 (21) "Ward of the state" means a child who is temporarily or permanently in the custody of, or
17 committed to, a public or private agency through the action of the juvenile court. "Ward of the
18 state" may be further defined by rules adopted by the State Board of Education.

19 **SECTION 2. This 2018 Act takes effect on July 1, 2018.**

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