



Special Education Department

PORTLAND PUBLIC SCHOOLS
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Legislative Testimony on SB 135 (intro and amendments 1 and 2)

Hon. Laurie Monnes Anderson and Senate Health Committee Members:

My name is Mary Mertz. I am the Senior Director for Special Education for Portland Public Schools. I have been a special education administrator for 30 years. I am here to express my significant concerns about SB 135 and its proposed amendments. First, SB 135 will have significant fiscal impacts on school district budgets state-wide, forcing districts to hire OHA licensed staff in addition to or at a loss of existing special education staff, when many districts are currently under significant deficit going into the next biennium. SB 135 also creates significant civil penalties that could be levied against school districts and school district staff, and lead to significant district litigation and expense. SB 135 may also force school districts to curtail the use of **Applied Behavior Analysis (ABA)** education strategies, distinct from ABA therapeutic services under a medical service model, because the bill requires OHA licensed providers for ABA service provision across all settings under a medical therapy service model. ABA as a medical therapy service, for therapeutic services provided in the home and community, is regulated under ORS Chapter 676 by the Oregon Health Authority. ABA as an education strategy under state and federal disabilities laws is regulated by the Oregon Department of Education. As written, SB 135 creates significant conflict between the OHA and ODE on ABA regulation within schools.

By way of background, ABA therapy focuses on changing behaviors of social importance by incorporating behavioral techniques such as prompting students. Prompts are cues that encourage the student to provide the desired response, rather than continue a maladaptive, non-productive behavior. ABA education strategies assists with the generalization and expansion of acquired skills, alleviates skills deficits, and helps students be more successful in the school environment.

One of our biggest concerns is SB 135 severely restricts school-based service arrays for children with disabilities. The use of ABA strategies in schools is very new and school districts are exploring service models that include direct services, training and consultation to district staff. School districts want to maximize service delivery and the scope of services to students with disabilities. As written, SB 135 perhaps unintentionally, limits how school districts provide ABA strategies to students with autism and behavioral-based disabilities through a very narrow medical definition of ABA therapy provided solely through direct intervention by those individuals licensed under the Oregon Health Authority, Behavior Analysis Regulatory Board. If passed, SB 135 will curtail existing school district models that employ ABA strategies and techniques implemented by non-BARB licensed staff, such as teachers, autism coaches, and para educator staff, many of whom have ABA expertise through their collegiate teaching education programs and use of evidenced-based curricula created with an ABA lens.

The Portland Public School district suggests two possible alternatives to SB 135 for Committee consideration: 1.) fully exempt school districts and all education entities from the bill, thus permitting school districts to continue to provide ABA-based interventions and techniques with non-BARB licensed staff; or, 2.) create an inter-session workgroup to examine ABA services within education settings, to include representation from OHA and ODE, school districts, families, ABA services providers and other interested parties, to report back to the legislature on possible legislative changes on how ABA services should be provided and licensed within school districts.

Thank you for the opportunity to provide the Committee with testimony today and I am available to answer questions the Chair or members of the Committee may have regarding my testimony.

Sincerely,

Mary Mertz,
Senior Director-Special Education
Portland Public Schools