

House Bill 3350

Sponsored by Representative WITT

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**.

Prescribes requirements for providing education to student with disability during COVID-19 emergency.

Directs Department of Education to convene advisory group for purpose of assisting students with disability to meet their individual educational needs during COVID-19 emergency.

Directs department to establish process to provide compensatory or recovery educational services and for parents to resolve related claims.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to education services provided to students with a disability; and declaring an emergency.

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

SECTION 1. (1) As used in this section:

4
5 (a) **“Comprehensive distance learning” means the off-site provision of educational ser-**
6 **vices by a school district during the COVID-19 emergency.**

7 (b) **“COVID-19 emergency” means the period beginning with the declaration of a state**
8 **of emergency related to COVID-19 issued by the Governor on March 8, 2020, and ending upon**
9 **the expiration of that declaration or any extensions of that declaration.**

10 (c) **“School district” means a school district, education service district or public charter**
11 **school.**

12 (d) **“Student with a disability” means a student who has:**

13 (A) **An individualized education program developed in accordance with ORS chapter 343**
14 **and the Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq.; or**

15 (B) **An education plan developed in accordance with section 504 of the Rehabilitation Act**
16 **of 1973, 29 U.S.C. 794.**

17 (2) **For purposes of providing education to a student with a disability during the**
18 **COVID-19 emergency:**

19 (a) **School districts must undertake reasonable efforts or make reasonable accommo-**
20 **dations necessary to meet the individual educational needs of those students by allowing**
21 **those students to effectively access and engage in education.**

22 (b) **As part of the undertaking described in paragraph (a) of this subsection, when a**
23 **school district provides comprehensive distance learning to the students of the school dis-**
24 **trict, the school district:**

25 (A) **Must meet the individual educational needs of students with a disability and may not**
26 **categorically limit or eliminate the option of in-person education for those students when**
27 **those students are not able to effectively access or engage in education provided through**
28 **comprehensive distance learning.**

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 (B) Must consider the needs of each student with a disability and the student's at-home
 2 support, including family and caregivers, if the student's residence becomes the student's
 3 principal learning environment. For purposes of this subparagraph, the needs of the at-home
 4 support may include the need to limit exposure to COVID-19 or the need to use an in-home
 5 tutor.

6 (C) Must ensure that families of a student with a disability who use an in-home tutor are
 7 offered consultation with the student's educators and any related service providers.

8 (c) School districts must document the efforts and accommodations made as described
 9 in this subsection, including situations for which reasonable efforts and reasonable accom-
 10 modations are unable to allow a student with a disability to effectively access and engage in
 11 education.

12 (3) The State Board of Education, the Department of Education or a school district may
 13 not adopt, issue or prescribe any rule, order, declaration, directive, policy, statement,
 14 standard, guidance or regulation that prevents a school district from complying with the
 15 requirements of subsection (2) of this section.

16 (4)(a) The Department of Education shall convene an advisory group for purposes of as-
 17 sisting students with a disability in meeting their individual educational needs during the
 18 COVID-19 emergency. The advisory group must be comprised as follows:

19 (A) At least one third of the members of the advisory group must be a parent of a stu-
 20 dent with a disability or a representative of an entity that advocates for the educational
 21 rights of students with a disability.

22 (B) Additional members of the advisory group must include special education adminis-
 23 trators and teachers, family support agencies that assist parents of students with a disability
 24 and relevant specialists from the Department of Education.

25 (b) No later than August 15, 2021, the advisory group must provide a report to the De-
 26 partment of Education that identifies:

27 (A) Specific criteria for identifying students with a disability who are failing to receive
 28 educational benefits from comprehensive distance learning and therefore require exceptions
 29 to state, county or school district distance learning policies in order to effectively access and
 30 engage in education; and

31 (B) Methods of accountability for student progress by students with a disability based on
 32 the level of the student's engagement in education and the student's specific goals.

33 (5) The Department of Education shall establish:

34 (a) Temporary processes, rules and requirements designed to streamline and simplify a
 35 proactive process to provide compensatory or recovery educational services to students with
 36 a disability who are not receiving, or did not receive, during the COVID-19 emergency edu-
 37 cational services that meet or met the students' educational needs. The compensatory or
 38 recovery educational services must be provided in an individualized manner that mitigates
 39 regression or other developmental complications experienced during the COVID-19 emer-
 40 gency as the result of the failure described in this paragraph.

41 (b) A streamlined and parent-friendly complaint process for parents to resolve claims
 42 based on a failure described in paragraph (a) of this subsection.

43 **SECTION 2.** This 2021 Act being necessary for the immediate preservation of the public
 44 peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect
 45 on its passage.

