

SB 819 -2, -3, -5 STAFF MEASURE SUMMARY

Senate Committee On Education

Prepared By: Lisa Gezelter, LPRO Analyst

Meeting Dates: 2/7, 2/21

WHAT THE MEASURE DOES:

Modifies statutes related to abbreviated school days. Changes definition of abbreviated school day so comparison group is majority of students in the same grade within the student's resident district. Adds foster advocate as person who can participate in meeting to discuss placement. Adds definition of meaningful access. Expands definition of parent. Adds education service districts to prohibition on unilaterally placing a student on an abbreviated school day. Requires school districts to document efforts to provide meaningful access to the same number of hours of instruction or educational services provided to students in same grade in same district. Prohibits school districts from considering staffing shortages when placing a student on abbreviated school days. Lists examples of abbreviated school days. Requires that recommendation of individualized education program (IEP) team be based on the student's individual needs, not available resources. Requires school district to offer at least one option that provides supports sufficient to allow student to attend full days. Requires school districts to inform parents and foster advocates of students' rights to access full days of instruction, the prohibition on unilateral placement, and the parents' or foster advocates' rights to withdraw consent. Prohibits placement on abbreviated days unless parent or foster advocate provides informed and written consent. For students placed on an abbreviated school day program, requires district to notify parents or foster advocates every 30 days of the student's right to access full days and the parents' or foster advocates' right to withdraw consent to the abbreviated day placement. Requires signed consent every 30 days from parents or foster advocates. Requires IEP meeting every 30 days to discuss placement and establishes requirements for those meetings. Requires district superintendent review for any student placed on abbreviated day program for more than 60 days or 90 days during the school year. Requires written documentation from district superintendent of compliance with state and federal law. Establishes requirements for written documentation. Establishes additional documentation requirements for superintendents in cases where students in grades 9-12 are not expected to graduate on time. Requires superintendent's documentation be sent to parents, foster advocates, and the Oregon Department of Education (ODE). Defines failure to comply with documentation requirements as gross neglect of duty for district superintendents. Establishes right of parent or foster advocate to revoke consent for placement on abbreviated school day program at any time. In cases where consent is revoked. Requires district to ensure student has access to full days within five school days of revocation. Requires ODE to initiate investigation when it determines that a district is not in compliance. Establishes requirements for investigations. Provides for enforcement actions if Superintendent of Public Instruction finds that school districts is not in compliance. Requires district superintendent to review all abbreviated day placements on the effective date. Declares emergency, effective March 27, 2023.

REVENUE: *May have revenue impact, but no statement yet issued.*

FISCAL: *May have fiscal impact, but no statement yet issued.*

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-2 Replaces measure. Establishes requirement that school district must document efforts to provide access to full school days before considering or recommending a student for abbreviated school days. Prohibits school districts

SB 819 -2, -3, -5 STAFF MEASURE SUMMARY

from considering, recommending, or implementing abbreviated school days due to staffing. Lists examples of abbreviated school days. Prohibits school districts from unilaterally placing student on abbreviated school days. Allows for abbreviated school days only in situations where the student's individualized education program team recommends abbreviated school days based on a student's individual needs, after the opportunity for a parent or foster parent to meaningfully participate in discussion of placement, after the district documents one alternative that was offered as well as the specific provisions of the abbreviated school day program, and only after parent or foster parent is provided with written information and provides informed written consent. Specific provisions that must be included in documentation are defined as: how program will support the student's return to full school days, how the program will help the student make progress toward their goals, how progress will be measured, and the date by which the student is expected to return to full days. Establishes requirements for districts when student is placed on abbreviated school day program, including providing written information to parent or foster parent every 30 days, obtaining signed acknowledgement from parent or foster parent every 30 days, holding IEP team meeting every 30 days, and inclusion of written statement in student's IEP. Requires districts to inform Department of Education (ODE) every 30 days about student's placement on abbreviated school day program and establishes reporting requirements. Requires school district and education service district superintendent to review students' placement on abbreviated school day program if student remains on abbreviated days more than 60 consecutive days. Requires school district and education service district superintendent to find that the placement is compliant with state and federal law and document that finding in writing, or find that the placement is not compliant and return the student to full school days within five school days. Establishes requirement for school district and education service district superintendents to document credit recovery, comprehensive, and compensatory services in cases of high school students not expected to graduate on time and placed on abbreviated days. Requires local superintendents to provide all documentation compiled in reviews to ODE and student's parent or foster parent within five school days. Allows parents or foster parents to revoke consent for abbreviated school days at any time by submitting revocation or objection in writing. Requires local superintendents to ensure that student is placed on full school days within five school days of receiving revocation. Requires ODE to find a district nonstandard if student is not returned to full school days within specified time. Requires ODE to initiate investigation upon receiving complaint or whenever it has cause to believe a district is not in compliance with Act. Requires ODE to inform district of any noncompliance within 30 days. Requires Superintendent of Public Instruction to presume that receipt of a complaint means that consent has been revoked and order student returned to full days. Requires SPI, upon finding that students were placed on abbreviated school days in violation of Act, to order that students be returned to full school days within five school days. Requires SPI to find district nonstandard and withhold prorated State School Fund moneys if district fails to comply within specified timelines. Requires SPI to ensure district provides student with compensatory education if district is found to have violated Act. Allows Teacher Standards and Practices Commission (TSPC) to discipline school district superintendents for failing to restore students to full school days when required by Act.

Exempts abbreviated school days imposed as component of disciplinary measures allowed under ORS 339.250, exclusion from school based on immunization status, exclusion from school based on public health emergency, abbreviated days for students who have fulfilled all state requirements for graduation when parent or foster parent agrees to abbreviated day program, student who at start of grade 12 is on track to exceed state graduation requirements if parent or foster parent agrees to abbreviated day program and does not revoke consent, students who attend alternative education programs under specific circumstances, high school students who are earning credits through accelerated courses under certain circumstances, students in local and regional correctional facilities who have access to same number of hours of instruction as others in their program, students enrolled in hospital education programs who have access to same number of hours of instruction as others in their program, students enrolled in the School for the Deaf who have access to the same number of hours of instruction as

SB 819 -2, -3, -5 STAFF MEASURE SUMMARY

others in their program, students who are homeschooled, and students who are excluded from school based on a court order.

Repeals current abbreviated school day programs law.

Prohibits TSPC from taking disciplinary action against school district superintendent if student was placed on abbreviated school day program prior to February 1, 2023 unless superintendent has failed to restore access to full school days within 10 school days of finding such placement to be in violation of law, finding that parent or foster parent has revoked consent, or complying within 10 school days with order of SPI.

Monthly requirements for districts relative to students placed on abbreviated school days become operative July 1, 2023. Declares emergency, effective March 27, 2023.

-3 Replaces measure. Establishes requirement that school district must document efforts to provide access to full school days before considering or recommending a student for abbreviated school days. Prohibits school districts from considering, recommending, or implementing abbreviated school days due to staffing. Lists examples of abbreviated school days. Prohibits school districts from unilaterally placing student on abbreviated school days. Allows for abbreviated school days only in situations where the student's individualized education program team recommends abbreviated school days based on a student's individual needs, after the opportunity for a parent or foster parent to meaningfully participate in discussion of placement, after the district documents one alternative that was offered as well as the specific provisions of the abbreviated school day program, and only after parent or foster parent is provided with written information and provides informed written consent. Specific provisions that must be included in documentation are defined as: how program will support the student's return to full school days, how the program will help the student make progress toward their goals, how progress will be measured, and the date by which the student is expected to return to full days. Establishes requirements for districts when student is placed on abbreviated school day program, including providing written information to parent or foster parent every 30 days, obtaining signed acknowledgement from parent or foster parent every 30 days, holding IEP team meeting every 30 days, and inclusion of written statement in student's IEP. Requires districts to inform Department of Education (ODE) every 30 days about student's placement on abbreviated school day program and establishes reporting requirements. Requires school district and education service district superintendent to review students' placement on abbreviated school day program if student remains on abbreviated days more than 60 consecutive days. Requires school district and education service district superintendent to find that the placement is compliant with state and federal law and document that finding in writing, or find that the placement is not compliant and return the student to full school days within five school days. Establishes requirement for school district and education service district superintendents to document credit recovery, comprehensive, and compensatory services in cases of high school students not expected to graduate on time and placed on abbreviated days. Requires local superintendents to provide all documentation compiled in reviews to ODE and student's parent or foster parent within five school days. Allows parents or foster parents to revoke consent for abbreviated school days at any time by submitting revocation or objection in writing. Requires local superintendents to ensure that student is placed on full school days within five school days of receiving revocation. Requires ODE to find a district nonstandard if student is not returned to full school days within specified time. Requires ODE to initiate investigation upon receiving complaint or whenever it has cause to believe a district is not in compliance with Act. Requires ODE to inform district of any noncompliance within 30 days. Requires Superintendent of Public Instruction to presume that receipt of a complaint means that consent has been revoked and order student returned to full days. Requires SPI, upon finding that students were placed on abbreviated school days in violation of Act, to order that students be returned to full school days within five school days. Requires SPI to find district nonstandard and withhold prorated State School Fund moneys if district fails to comply within specified timelines. Requires SPI to ensure district provides student with compensatory

SB 819 -2, -3, -5 STAFF MEASURE SUMMARY

education if district is found to have violated Act. Allows Teacher Standards and Practices Commission (TSPC) to discipline school district superintendents for failing to restore students to full school days when required by Act.

Exempts abbreviated school days imposed as component of disciplinary measures allowed under ORS 339.250, exclusion from school based on immunization status, exclusion from school based on public health emergency, abbreviated days for students who have fulfilled all state requirements for graduation when parent or foster parent agrees to abbreviated day program, students in local and regional correctional facilities who have access to same number of hours of instruction as others in their program, students enrolled in hospital education programs who have access to same number of hours of instruction as others in their program, students enrolled in the School for the Deaf who have access to the same number of hours of instruction as others in their program, students who are homeschooled, and students who are excluded from school based on a court order.

Repeals current abbreviated school day programs law.

Prohibits TSPC from taking disciplinary action against school district superintendent if student was placed on abbreviated school day program prior to February 1, 2023 unless superintendent has failed to restore access to full school days within 10 school days of finding such placement to be in violation of law, finding that parent or foster parent has revoked consent, or complying within 10 school days with order of SPI.

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SB 819 -2, -3, -5 STAFF MEASURE SUMMARY

revocation. Requires ODE to find a district nonstandard if student is not returned to full school days within specified time. Requires ODE to initiate investigation upon receiving complaint or whenever it has cause to believe a district is not in compliance with Act. Requires ODE to inform district of any noncompliance within 30 days. Requires Superintendent of Public Instruction to presume that receipt of a complaint means that consent has been revoked and order student returned to full days. Requires SPI, upon finding that students were placed on abbreviated school days in violation of Act, to order that students be returned to full school days within five school days. Requires SPI to find district nonstandard and withhold prorated State School Fund moneys if district fails to comply within specified timelines. Requires SPI to ensure district provides student with compensatory education if district is found to have violated Act. Allows Teacher Standards and Practices Commission (TSPC) to discipline school district superintendents for failing to restore students to full school days when required by Act.

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BACKGROUND:

In January, 2019, advocates for students with disabilities filed a class-action lawsuit in federal court, alleging that the State of Oregon had failed to ensure that students with disabilities had access the educational opportunities guaranteed to them. At issue were instances of Oregon school districts placing students with disabilities onto shortened school days, and the Oregon Department of Education's failure to take the steps necessary to ensure these students' rights to a free, appropriate public education were upheld. In June, 2022, the court-ordered neutral fact-finder issued a report detailing their findings, including that there is no consistent use of signed parental permission, there are no mandated trainings provided by ODE, districts' record-keeping is often poor or neglected, the state has no effective or efficient way to gather data or monitor the use of shortened days, some districts withheld information, students are sometimes placed in permanent shortened day programs, students are often required to "earn" a full school day, students often did not have any behavioral goals or a behavioral intervention plan, and that in many cases parental consent was not obtained.

The State Board enacted a General Supervision Rule in July, 2022 (OAR 581-015-2015) that allows the Department to monitor whether school districts are operating in compliance with legal and regulatory requirements. The rule is specific to programs for students with disabilities and allows the department to provide technical assistance, coaching, and professional development, to notify districts of any identified noncompliance within three months (or 30 days in certain cases), and any required corrective action. The rule requires districts to

SB 819 -2, -3, -5 STAFF MEASURE SUMMARY

take specific actions and provides the Department with the ability to withhold funds.

Senate Bill 819 clarifies existing provisions and enacts new requirements related to the placement of students onto abbreviated school days.

PRELIMINARY