

SB 819 and Special Education Law Background

Current Special Education Law

Students who have a disability that impacts their access to education are protected under Federal law. Students with a disability that needs accommodation but not specially designed instruction are covered under section 504 of the Rehabilitation Act. They have what is known as a **504 plan**. Students with a disability that requires specially designed instruction are protected by Section 504, but they also have what is called an **Individual Education Plan or IEP**, designed by an IEP team, which can include parents, teachers, administrators, experts and other advocates. The IEP team makes a decision as to educational placement, which has very wide latitude but should be the **least restrictive environment** that can deliver the necessary supports and instruction. Whatever their disability or placement, every student has a right to a **free, appropriate public education**.

It is important to note that special education covers a very wide range of students and educational needs.

Types of Placements

Some students with disabilities receive their education with supports and specially designed instruction in the general education environment; some at a neighborhood school in a separate classroom; some at a special school. A special school might be a district program, an ESD program or a private program. Some students might combine these settings. Some people have very strong opinions on which of these types of placement is better, but Oregon law and SB 819 take no position on this, and do not favor one setting over the other.

Abbreviated Day Placements

A abbreviated day might mean that a student attends their neighborhood school for less time than a full school day (sometimes not attending at all), or that they attend a special school that does not provide a full day of services. SB 819 interprets a full school day as equivalent to the hours of instruction and other educational services offered to the majority of other students in the student's home district. This includes "bell-to-bell" time including lunch, recess and passing time, but does not include after-school activities.

A full school day is an educational right, and cannot be taken away, even by an IEP team. The right to a full school day is not in the Individuals with Disabilities Education Act, but is protected

under Section 504 of the Rehabilitation Act that requires people with disabilities have equal access to all benefits, rights, privileges and services offered by entities receiving federal funds.

Currently

1. Some students are being offered an abbreviated day as their only option.
2. Some students are given the “choice” between a full day with inadequate supports or an abbreviated day with supports. This does not count as free, appropriate public education.
3. Some parents are unaware they can insist on a full school day.
4. Some parents do insist on a full school day and are refused. They have no recourse except to sue, which is expensive and complicated.