

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: SB 819 - A16

82nd Oregon Legislative Assembly – 2023 Regular Session

Legislative Fiscal Office

Only Impacts on Original or Engrossed Versions are Considered Official

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Measure Description:

Modifies abbreviated school day program requirements. Resolves potential conflict with Senate Bill 992 (2023) if it becomes law.

Government Unit(s) Affected:

Department of Education, School Districts, Teacher Standards and Practices Commission, Department of Justice

Summary of Fiscal Impact:

Costs related to the measure are anticipated to be minimal - See explanatory analysis.

Analysis:

Senate Bill 819 A-engrossed, as amended by the -A16 amendments, repeals and replaces the abbreviated school day program requirements for students with disabilities in public school districts and education service districts.

The measure requires school districts to document reasonable efforts to provide meaningful access to full school days, before considering or recommending a student with a disability for an abbreviated school day program. School districts may not consider, recommend, or implement an abbreviated school day program due to inadequate staffing available for instruction or educational services. School districts also may not unilaterally place a student on an abbreviated school day.

The measure allows a student's individualized education program (IEP) team to recommend an abbreviated school day based on the student's individual needs, but only if the student's parent or foster parent has had an opportunity to meaningfully participate in a discussion of the student's placement; the school district documents one alternative that was offered, including the specific provisions of the abbreviated school day program in question; and the student's parent or foster parent is provided written information and gives informed written consent.

Once a student with a disability is placed on an abbreviated school day program, school districts must:

- Provide certain information in writing to the student's parent or foster parent every 30 days during the school year;
- Obtain a signed acknowledgement from the parent or foster parent that the parent received the information in writing and does not withdraw consent every 30 days during the school year;
- Hold a meeting of the student's IEP team to review and discuss whether to continue the student's placement in an abbreviated school day program;
- Once a parent provides a signed acknowledgement, include in the student's individualized education program, or 504 Plan, a written statement that explains the reasons for the placement and why other reasonable options were not implemented; and
- Inform the Department of Education (ODE) about the student's placement in an abbreviated school day program.

A school district superintendent must review a student's abbreviated school day program placement of the student is placed on an abbreviated school day program for 90 or more cumulative calendar days during a school

year or during two or more consecutive school years. When required to do so, school district superintendents must review a placement and must document in writing whether the placement complies or does not comply with state and federal law, including any plan for credit recovery and comprehensive services, the student's progress towards on-time graduation, and any findings or documentation that, within five school days of making the finding, must be provided to the student's parent or foster parent. If a parent or foster parents revokes consent or objects to an abbreviated school day program, the school district superintendent must ensure that the student has meaningful access to a full school day within five school days, or by the start of a new school year.

When ODE receives a complaint or has cause to believe a school district is not in compliance with the measure, ODE must initiate an investigation and inform the school district of any noncompliance within 30 days of receiving the complaint or having caused to believe that the school district is noncompliant, unless the complaint was made by a student's parent or foster parent, in which case no investigation is required and the Superintendent of Public Instruction (SPI) must immediately order the school district to restore the student to a full school day. If a school district fails to comply with the order within five school days, SPI must find the school district nonstandard; if a school district fails to comply with the order within 10 school days, SPI must immediately withhold State School Fund moneys, on a per-student basis, that would otherwise be distributed to the school district. If a school district is found to be noncompliant, SPI must require the school district to provide compensatory education to the student that is equivalent to at least one hour of direct instruction for every two hours of instruction that were lost due to placement on an abbreviated school day program. Failure of a school district superintendent to restore meaningful access to a student within five school days or to comply with an SPI order may be grounds for discipline by the Teacher Standards and Practice Commission (TSPC), subject to certain exceptions.

The measure applies to any student with a disability who is placed on an abbreviated school day program and who currently has a 504 plan or an IEP, on or after its effective date. The measure takes effect on passage.

Within 14 days of the effective date, each school district must provide notice to the parents or foster parents of every student with a disability who was on an abbreviated school day program at the end of the 2022-23 school year or had an abbreviated school day program for more than 30 days during the 2022-23 school year.

Department of Education

The measure is anticipated to have a minimal fiscal impact on ODE; however, the impact is indeterminate at this time. It is currently unknown how many complaints about the use of abbreviated school days would fail to be resolved at the school level and would be escalated from a local school district to ODE. Of the complaints escalated to ODE, it is currently unknown how many would be made by parents or foster parents of students, the only people authorized by the measure to revoke consent to an abbreviated school day program. Revocation of consent by a parent or foster parent would relieve ODE of the responsibility to initiate an investigation, but would require SPI to immediately order the school district to provide to the student meaningful access to the same number of hours of instruction and educational services that are provided to the majority of other students who are in the same grade within the student's resident school district. It is currently unknown how many school districts would fail to immediately reinstate the student to a full-day schedule. Should a district continue to violate an order to provide students with meaningful access to the same number of hours of instruction and educational services that are provided to other students in the same grade and resident school district, ODE would be required to withhold State School Fund dollars attributable to the student(s) subject to the order. The number of instances where this withholding would have to be calculated is currently unknown. Should additional staff be required in ODE's School Finance Unit to manage these withholdings, those would be added in the Department's budget bill for the 2023-25 biennium.

ODE has identified intersections between this measure and its responsibilities under federal law for ensuring a free appropriate public education to students with disabilities. The Legislative Fiscal Office notes that the agency receives federal funding for providing technical assistance and ensuring compliance with federal law.

School Districts

The measure is anticipated to have a fiscal impact on school districts; however, the impact is indeterminate at this time. The fiscal impact would only affect those school districts with students with disabilities in an abbreviated school day program. The measure imposes requirements on school districts that may or may not require greater use of district resources than are being used now, such as for providing additional qualified licensed teachers and/or qualified classified staff to provide meaningful access to instruction as defined in the measure. New requirements are imposed on school districts for more frequent reviews of a student's abbreviated school day program, some additional reporting, superintendent review of a student's abbreviated school day program if the student is placed on an abbreviated school day program for ninety or more cumulative calendar days during a school year or during two or more consecutive school years, and the provision of two hours of compensatory education for each hour lost due to a student's being placed in an abbreviated school day program in violation of the measure. Additional penalties for violations of the measure include withholding, on a pro rata basis, State School Fund moneys that would otherwise be distributed to the school district.

Other Agencies

The measure is anticipated to have a minimal fiscal impact on the Department of Justice and the Teacher Standards and Practices Commission.