

(Including Amendments to Resolve Conflicts)

B-Engrossed Senate Bill 819

Ordered by the House May 24
Including Senate Amendments dated February 28 and House Amendments
dated May 24

Sponsored by Senators GELSER BLOUIN, KNOPP, WAGNER, DEMBROW, GORSEK, HAYDEN, JAMA, MAN-
NING JR, PATTERSON, Representatives BYNUM, HUDSON, MORGAN, PHAM H, SCHARF; Senators
ANDERSON, CAMPOS, FREDERICK, GOLDEN, HANSELL, LIEBER, MEEK, SOLLMAN, TAYLOR,
THATCHER, WEBER, Representatives GRAYBER, MANNIX, NELSON, RUIZ, SMITH G, TRAN

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.

Modifies abbreviated school day program requirements. Requires that parent or foster parent must give informed and written consent for student with disability to be placed on program. Prescribes duties of school district superintendent and Department of Education in relation to abbreviated school day programs.

Directs school districts to provide notice to parents or foster parents of every student with disability who was on abbreviated school day program at end of 2022-2023 school year or who had abbreviated school days during 2022-2023 school year. Prescribes requirements of notice.

Declares emergency, effective [March 27, 2023] on passage.

A BILL FOR AN ACT

1
2 Relating to abbreviated school day programs; creating new provisions; repealing ORS 343.161; and
3 declaring an emergency.

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

5 **SECTION 1. As used in sections 1 to 6 of this 2023 Act:**

6 (1) "Abbreviated school day" means any school day during which a student with a disa-
7 bility receives instruction or educational services for fewer hours than the majority of other
8 students who are in the same grade within the student's resident school district.

9 (2) "Abbreviated school day program" means an education program:

10 (a) In which a school district restricts access for a student with a disability to hours of
11 instruction or educational services to less than the number of hours of instruction or edu-
12 cational services that are provided to the majority of other students who are in the same
13 grade within the student's resident school district; and

14 (b) That results in a student with a disability having an abbreviated school day for more
15 than 10 school days per school year.

16 (3)(a) "Educational services" includes any social, learning, enrichment, community or
17 support opportunity or benefit that is offered to the majority of other students who are in
18 the same grade within the student's resident school district and is offered during the time
19 the majority of schools, school programs and school facilities are open and accessible to the
20 majority of students during the school day, including:

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 (A) Passing time between classes;
- 2 (B) Recess;
- 3 (C) Nonacademic assemblies and field trips;
- 4 (D) Job shadows, internships and community service activities arranged by the school
5 or school district;
- 6 (E) Optional school programs held during the school day, including study periods and
7 advisory periods that are open to the majority of students in the school;
- 8 (F) Lunch periods or other meal or snack periods provided to the majority of students
9 of the school; and
- 10 (G) Reasonable access to school facilities during noninstructional time that is equal to
11 the access available to the majority of other students who are in the same grade within the
12 student's resident school district.
- 13 (b) "Educational services" does not include time being transported to or from school or
14 time traveling between a classroom and transportation before or after the school day.
- 15 (4) "504 Plan" means an education plan developed for a student with a disability in ac-
16 cordance with section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794.
- 17 (5) "Foster parent" means the foster parent of a child or ward who is in the legal custody
18 of the Department of Human Services as provided in ORS 418.015 or 419B.337 and who has
19 been placed in substitute care.
- 20 (6) "Hours" includes any fraction of an hour.
- 21 (7) "Individualized education program team" includes, when applicable, a team that de-
22 velops a 504 Plan.
- 23 (8) "Informed and written consent" means that a student's parent or foster parent has
24 signed and dated a written consent form affirming that:
- 25 (a) The parent or foster parent received the information described in section 3 (2) and
26 (3) of this 2023 Act;
- 27 (b) The parent or foster parent was not asked to provide consent for an abbreviated
28 school day program placement before having an opportunity to meaningfully participate in
29 a meeting of the individualized education program team;
- 30 (c) The school district offered, and the individualized education program team considered,
31 at least one reasonable alternative placement, as described in section 3 (1)(c) of this 2023 Act,
32 prior to requesting that the parent or foster parent provide consent for an abbreviated
33 school day program placement;
- 34 (d) The parent or foster parent was informed that the individualized education program
35 team will meet at least once every 30 calendar days during the school year unless the parent
36 or foster parent provides signed consent to meet less frequently as provided in section 4
37 (2)(b)(B) of this 2023 Act;
- 38 (e) The parent or foster parent was informed that if, during the school year, the indi-
39 vidualized education program team is scheduled to convene less frequently than once every
40 30 calendar days during the abbreviated school day program, the school district must con-
41 vene an individualized education program team meeting within 14 calendar days of receiving
42 a written request from the parent or foster parent for the meeting;
- 43 (f) The parent or foster parent voluntarily signed the consent form for the abbreviated
44 school day program placement; and
- 45 (g) The parent or foster parent was informed of the right to revoke consent, in writing,

1 to an abbreviated school day program placement at any time and informed that the parent
2 or foster parent is not required to request or attend an individualized education program
3 team meeting prior to revoking consent to an abbreviated school day program placement.

4 (9)(a) "Instruction" means the time during which a student is:

5 (A) Engaged in regularly scheduled instruction, learning activities or learning assess-
6 ments that are designed to meet Common Curriculum Goals or grade level academic content
7 standards or engaged in specially designed instruction that is individualized to support a
8 student to make meaningful progress in the general curriculum.

9 (B) Working under the direction and supervision of a licensed or registered teacher, a
10 licensed career and technical education instructor, a licensed practitioner or an instructional
11 assistant who is assigned instructionally related activities and is working under the direct
12 supervision of a licensed or registered teacher.

13 (b) "Instruction" does not include time spent:

14 (A) Passing between class, at recess, in nonacademic assemblies, on nonacademic field
15 trips, traveling to or from school, loading or unloading from a school bus at the start or end
16 of the student's school day, participation in optional programs or participation in study pe-
17 riods or advisory periods when attendance is not required and no instructional assistance is
18 provided.

19 (B) In an online learning program during which the student is unable to access the ma-
20 terials or benefit from instruction because the school district has not provided the student
21 with the supports necessary to access the materials or instruction, including the support of
22 an instructional assistant, nursing services, adapted materials or other related services
23 identified in the student's individualized education program or 504 Plan as being necessary
24 for a free appropriate public education.

25 (10) "Meaningful access" means access to full-time, quality instruction or educational
26 services that is:

27 (a) Delivered by:

28 (A) A qualified licensed teacher; or

29 (B) Qualified classified staff who are under the direct supervision of a qualified licensed
30 teacher; and

31 (b) Synchronous, unless the instruction or educational services are provided by a virtual
32 public charter school in compliance with ORS chapter 338.

33 (11) "Parent" includes:

34 (a) A parent or a legal guardian, other than a state agency.

35 (b) The student, if the student is 18 years of age or older or is emancipated pursuant to
36 ORS 419B.550 to 419B.558.

37 (c) The student's surrogate, if the student has a surrogate, as defined in ORS 419A.004.

38 (12) "Resident school district" means the school district in which a student is a resident
39 under ORS 339.133.

40 (13) "School district" includes an education service district.

41 (14) "Student with a disability" means a student who:

42 (a) Is eligible for special education and related services, as provided by ORS chapter 343;

43 (b) Has a disability under section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, and
44 is eligible for a 504 Plan; or

45 (c) Has not been determined to be eligible for special education and related services, as

1 provided by ORS chapter 343, or to be eligible for a 504 Plan, but for whom a request or re-
2 ferral for evaluation for eligibility determination has been made but not yet completed.

3 (15) "Unilaterally place" means a placement by a school district without the informed and
4 written consent of the student's parent or foster parent.

5 **SECTION 2.** (1) The Legislative Assembly finds that:

6 (a) Students with disabilities have a right to meaningful access to the same number of
7 hours of instruction and educational services as the majority of students without disabilities
8 who are in the same grade within the student's resident school district.

9 (b) Removal from school is neither a service nor support for students with disabilities.

10 (c) Use of an abbreviated school day program for students with disabilities should be in-
11 frequent and, under most circumstances, should be used for a limited duration.

12 (2) Before considering or recommending a student with a disability for an abbreviated
13 school day program, a school district must document reasonable efforts to provide mean-
14 ingful access to the same number of hours of instruction and educational services that are
15 provided to the majority of other students who are in the same grade within the student's
16 resident school district.

17 (3) A school district may not consider, recommend or implement an abbreviated school
18 day program due to the school district, or a contractor with the school district, having in-
19 adequate staffing available for instruction or educational services.

20 (4) For the purpose of determining if an abbreviated school day program has been im-
21 plemented, or of determining if a student with a disability has received an abbreviated school
22 day for more than 10 school days, the following are considered examples of an abbreviated
23 school day:

24 (a) The school district implementing policies or taking actions that are not applied to the
25 majority of other students who are in the same grade within the student's resident school
26 district and that cause the student to start school late, to leave school early or to not come
27 to school due to:

28 (A) Lack of school district personnel, including instructional assistants, nursing staff and
29 transportation providers;

30 (B) Convenience of school district staff; or

31 (C) Behaviors related to the student's disability, unless the schedule is provided pursuant
32 to ORS 339.250 or 339.252.

33 (b) The school district releasing the student early from school or requesting or requiring
34 the student not to come to school due to any illness that would not typically have the same
35 effect for the majority of other students who are in the same grade within the student's
36 resident school district.

37 (c) The school district requesting the student to not attend, prohibiting the student from
38 attending or otherwise making attendance inaccessible for a planned activity, including a
39 field trip, a special event or an outdoor school program.

40 (d) The school district imposing temporary lack of access to education facilities due to
41 construction, special events or weather when that lack of access does not apply to the ma-
42 jority of other students who are in the same grade within the student's resident school dis-
43 trict.

44 (e) The school district providing transportation that arrives at the student's school after
45 the start of the school day or leaves from the student's school before the end of the school

1 day and that causes the student to receive fewer hours of instruction or educational services
2 than the number of hours provided to the majority of other students who are in the same
3 grade within the student's resident school district.

4 (f) The school district failing to provide transportation identified in the student's indi-
5 vidualized education program or 504 Plan.

6 (g) The student being placed in a program or school when:

7 (A) The program or school offers all students attending the program or school fewer
8 hours of instruction and educational services than are provided to the majority of other
9 students who are in the same grade within the student's resident school district; and

10 (B) The student's resident school district does not provide the student with an additional
11 placement that ensures that the student has meaningful access to the same number of hours
12 of instruction and educational services that are provided to the majority of other students
13 who are in the same grade within the student's resident school district.

14 (5) If an individualized education program team recommends that a student with a disa-
15 bility be placed in a program or school that offers fewer hours of instruction and educational
16 services than are provided to the majority of other students who are in the same grade
17 within the student's resident school district, the school district must inform the parent or
18 foster parent in a language and format accessible to the parent or foster parent of the fol-
19 lowing:

20 (a) That placement in the program or school would be an abbreviated school day program
21 placement unless a sufficient number of additional hours of instruction or educational ser-
22 vices are provided to the student to ensure that the student has meaningful access to at
23 least the same total number of hours of instruction and educational services that are pro-
24 vided to the majority of other students who are in the same grade within the student's re-
25 sident school district; and

26 (b) The number of hours of instruction and educational services that, over the course
27 of two ordinary full school weeks, the student will not be able to access while placed on the
28 abbreviated school day program if the student is not provided additional hours of instruction
29 or educational services as described in paragraph (a) of this subsection.

30 (6)(a) When a school district places a student with a disability in a school or program,
31 the student's resident school district shall ensure that the student has meaningful access to
32 the same number of hours of instruction and educational services that are provided to the
33 majority of other students who are in the same grade within the student's resident school
34 district unless the student's parent or foster parent has provided informed and written con-
35 sent for an abbreviated school day program placement.

36 (b) Prior to the placement of a student with a disability in a school or program, the
37 student's resident school district shall ensure that the student has meaningful access to the
38 same number of hours of instruction and educational services that are provided to the ma-
39 jority of other students who are in the same grade within the student's resident school dis-
40 trict.

41 (c) When calculating the number of hours of instruction and educational services that
42 are provided by a school or program that operates on a different schedule than the schedule
43 of the resident school district of a student with a disability, the resident school district must
44 compare the total number of hours of instruction and educational services offered over the
45 course of two ordinary full school weeks to determine whether the student will have mean-

1 **ingful access to the same number of hours of instruction and educational services that are**
2 **provided to the majority of other students who are in the same grade in the student's resi-**
3 **dent school district.**

4 **(d) The requirements of this subsection apply regardless of whether the resident school**
5 **district has control over the school or program that the school district is considering placing**
6 **the student with a disability in, including schools and programs that provide services under**
7 **a contract with a school district or that serve students from multiple school districts.**

8 **(7) A school district may not unilaterally place a student with a disability on an abbrevi-**
9 **ated school day program, regardless of the age of the student.**

10 **SECTION 3. A school district may not provide an abbreviated school day program to a**
11 **student with a disability unless all of the following are satisfied:**

12 **(1) The student's individualized education program team:**

13 **(a) Recommends that the student should be placed on an abbreviated school day program:**

14 **(A) Based on the student's individual needs, which may not include consideration of a**
15 **lack of school district resources, including:**

16 **(i) Licensed or classified staff;**

17 **(ii) Availability of training;**

18 **(iii) Accessible facilities; and**

19 **(iv) Related services, including nursing services and transportation services; and**

20 **(B) After the opportunity for the student's parent or foster parent to meaningfully par-**
21 **ticipate in a meeting of the individualized education program team to discuss an abbreviated**
22 **school day program placement, including the reasonable opportunity to physically attend the**
23 **meeting of the individualized education program team at which the abbreviated school day**
24 **program placement is discussed.**

25 **(b) Makes determinations about the instruction and educational services to be offered to**
26 **the student based on the student's individual needs.**

27 **(c) Documents that the school district offered at least one reasonable alternative place-**
28 **ment that included appropriate supports for the student and that could enable the student**
29 **to have meaningful access to the same number of hours of instruction and educational ser-**
30 **vices that are provided to the majority of other students who are in the same grade within**
31 **the student's resident school district.**

32 **(d) Documents the specific provisions of the abbreviated school day program, including:**

33 **(A) How the abbreviated school day program will be designed to:**

34 **(i) Support the student's return to a school day program that is not an abbreviated**
35 **school day program; and**

36 **(ii) Make progress toward the student's individualized learning goals and progress in the**
37 **general curriculum;**

38 **(B) The number of hours of instruction and educational services to be provided to the**
39 **student while the student is placed on the abbreviated school day program;**

40 **(C) How the student's progress toward the student's individualized learning goals and**
41 **progress in the general curriculum will be measured; and**

42 **(D) The date by which the student is expected to return to a school day program that is**
43 **not an abbreviated school day program.**

44 **(2) Prior to the discussion of the abbreviated school day program placement, the school**
45 **district provides a written statement to the student's parent or foster parent in a language**

1 and format accessible to the parent or foster parent informing the parent or foster parent
2 of:

3 (a) The student's right to have meaningful access to the same number of hours of in-
4 struction and educational services as the majority of other students who are in the same
5 grade within the student's resident school district;

6 (b) The prohibition on the school district to unilaterally place a student with a disability
7 on an abbreviated school day program; and

8 (c) The parent's or foster parent's right, at any time, to withdraw consent for an abbre-
9 viated school day program placement or to request a meeting of the student's individualized
10 education program team to discuss whether the student should no longer be placed on an
11 abbreviated school day program.

12 (3) The school district provides a written statement summarizing the documentation de-
13 scribed in subsection (1)(c) and (d) of this section in a language and format accessible to the
14 parent or foster parent.

15 (4) The school district receives a signed acknowledgment from the parent or foster par-
16 ent acknowledging receipt of the written statement described in subsection (2) of this sec-
17 tion.

18 (5) The parent or foster parent provides informed and written consent for the abbreviated
19 school day program placement.

20 **SECTION 4.** (1) When a student with a disability is placed on an abbreviated school day
21 program, the provisions of this section apply.

22 (2) For each student with a disability placed on an abbreviated school day program, the
23 school district shall:

24 (a) At least once every 30 calendar days during the school year:

25 (A) Provide the following information in writing to the parent or foster parent of the
26 student in a language and format accessible to the parent or foster parent:

27 (i) The school district's duty to comply with the requirements of sections 1 to 6 of this
28 2023 Act;

29 (ii) The prohibition against a school district unilaterally placing a student with a disabil-
30 ity on an abbreviated school day program;

31 (iii) The student's right to have meaningful access to the same number of hours of in-
32 struction and educational services as the majority of other students who are in the same
33 grade within the student's resident school district; and

34 (iv) The parent's or foster parent's right, at any time, to withdraw consent for an ab-
35 breviated school day program placement or to request a meeting of the student's individ-
36 ualized education program team to discuss whether the student should no longer be placed
37 on an abbreviated school day program.

38 (B) Obtain from the parent or foster parent a signed acknowledgment that the parent
39 or foster parent received the information described in subparagraph (A) of this paragraph
40 and does not choose to withdraw consent for an abbreviated school day program placement.

41 (b) Hold a meeting of the student's individualized education program team to review the
42 student's abbreviated school day program and discuss whether to continue the abbreviated
43 school day program placement. During the school year, a meeting must be held:

44 (A) No fewer than 25 calendar days and no more than 35 calendar days after the initial
45 placement on the abbreviated school day program.

1 (B) No less frequently than once every 30 calendar days, starting after the meeting de-
2 scribed in subparagraph (A) of this paragraph, unless the parent or foster parent provides
3 written consent to meet less frequently than once every 30 calendar days. Notwithstanding
4 written consent provided under this subparagraph:

5 (i) In no event may a meeting be held less frequently than:

6 (I) Once every 90 calendar days for a student with an individualized education program,
7 starting after the meeting described in subparagraph (A) of this paragraph;

8 (II) Once every year for a student with a 504 Plan, starting after the meeting described
9 in subparagraph (A) of this paragraph;

10 (III) Once every year for a student who is enrolled in a virtual public charter school that
11 operates in compliance with ORS chapter 338 and who has meaningful access to the same
12 number of hours of instruction and educational services as the majority of other students
13 who are not disabled students and who are in the same grade within the school, starting af-
14 ter the meeting described in subparagraph (A) of this paragraph; or

15 (IV) Once every year for a student receiving educational services in a pediatric nursing
16 facility as provided in ORS 343.941, starting after the meeting described in subparagraph (A)
17 of this paragraph; and

18 (ii) A meeting must be held within 14 calendar days of a parent or foster parent re-
19 questing a meeting.

20 (c) If the parent or foster parent provides a signed acknowledgment under paragraph
21 (a)(B) of this subsection and the abbreviated school day program placement continues, in-
22 clude in the student's individualized education program or 504 Plan a written statement that:

23 (A) Explains the reasons the student was placed on the abbreviated school day program;
24 and

25 (B) Describes in detail other reasonable options that were considered and documents why
26 each option considered was not implemented.

27 (d) Inform the Department of Education about the student's abbreviated school day pro-
28 gram placement, including:

29 (A) The grade level of the student;

30 (B) The number of hours of instruction and educational services the school district is
31 scheduled to provide to the student each week;

32 (C) The date the student began the abbreviated school day program; and

33 (D) The date by which the student is expected to receive meaningful access to the same
34 number of hours of instruction and educational services that are provided to the majority
35 of other students who are in the same grade within the student's resident school district.

36 (3)(a) The school district superintendent must review a student's abbreviated school day
37 program placement if the student is placed on an abbreviated school day program for:

38 (A) Ninety or more cumulative calendar days during a school year; or

39 (B) Ninety or more cumulative calendar days, excluding summer break, when the student
40 is placed on an abbreviated school day program during two or more consecutive school years.

41 (b) The school district superintendent must review the student's abbreviated school day
42 program placement when required under paragraph (a) of this subsection and:

43 (A) Find that the abbreviated school day program placement is compliant with state and
44 federal law and document in writing:

45 (i) The efforts of the school district to facilitate the student's meaningful access to the

1 same number of hours of instruction and educational services that are provided to the ma-
2 jority of other students who are in the same grade within the student's resident school dis-
3 trict; and

4 (ii) The specific barriers that prevent that meaningful access; or

5 (B) Find that the abbreviated school day program placement is not compliant with state
6 and federal law and ensure that, within five school days of making the finding, the student
7 has meaningful access to the same number of hours of instruction and educational services
8 that are provided to the majority of other students who are in the same grade within the
9 student's resident school district unless an extension has been allowed as provided by section
10 5 (1)(d) of this 2023 Act.

11 (c) In addition to a finding made under paragraph (b) of this subsection, for any student
12 in grades 9 through 12 not expected to graduate on time with a high school diploma, a mod-
13 ified diploma or an extended diploma, the school district superintendent must document in
14 writing:

15 (A) The plan for credit recovery and comprehensive services, including compensatory
16 services, that is being implemented to ensure the student's on-time graduation with a high
17 school diploma, a modified diploma or an extended diploma; and

18 (B) The student's progress toward on-time graduation with a high school diploma, a
19 modified diploma or an extended diploma.

20 (d) If the student is served by an education program through an education service dis-
21 trict, the requirements of paragraphs (a) to (c) of this subsection apply to the superintendent
22 of the resident school district.

23 (e) Any findings or documentation required under paragraphs (b) and (c) of this sub-
24 section must be provided, within five school days of making the finding, to the student's
25 parent or foster parent in a language and format accessible to the parent or foster parent.

26 **SECTION 4a.** Section 4 of this 2023 Act becomes operative July 1, 2023.

27 **SECTION 5.** (1)(a) A parent or a foster parent may, at any time, revoke consent for the
28 placement of a student with a disability on an abbreviated school day program.

29 (b) Consent for the abbreviated school day program placement shall be considered re-
30 voked if, at any time, the parent or the foster parent revokes the consent, in writing, to an
31 abbreviated school day program placement or makes a written objection to the abbreviated
32 school day program placement.

33 (c) Upon receipt of a written revocation or objection to the abbreviated school day pro-
34 gram placement, the school district superintendent shall ensure that, within five school days,
35 the student has meaningful access to the same number of hours of instruction and educa-
36 tional services that are provided to the majority of other students who are in the same grade
37 within the student's resident school district.

38 (d) Notwithstanding paragraph (c) of this subsection, a parent or foster parent of a stu-
39 dent may allow the school district superintendent to have an extension of an additional five
40 school days to ensure that the student has meaningful access to the same number of hours
41 of instruction and educational services that are provided to the majority of other students
42 who are in the same grade within the student's resident school district if:

43 (A) The parent or foster parent provides written consent for the extension;

44 (B) The parent or foster parent has not previously provided written consent for an ex-
45 tension for the student during the school year;

1 (C) The written consent states that the parent or foster parent understands that the
2 parent or foster parent is not required to give consent for the extension and that the refusal
3 to give consent for the extension will not result in adverse actions being taken against the
4 student; and

5 (D) The school district provides to the parent or foster parent, in writing and in a lan-
6 guage and format access to the parent or foster parent, the specific reasons why the exten-
7 sion is needed.

8 (e) If a school district fails to provide meaningful access before the expiration of an ex-
9 tension allowed under paragraph (d) of this subsection, any calculations of compensatory
10 education that must be provided by the school district will be made as though an extension
11 had not been allowed.

12 (f) If a student is on an abbreviated school day program on the last day of the school year
13 and the student's parent or foster parent makes a written objection to the abbreviated school
14 day program placement or revokes consent for the abbreviated school day program place-
15 ment at least 14 calendar days prior to the beginning of the next school year, the student
16 shall, beginning on the first day of the new school year, be provided with meaningful access
17 to the same number of hours of instruction and educational services that are provided to the
18 majority of other students who are in the same grade within the student's resident school
19 district.

20 (2)(a) When the Department of Education receives a complaint or otherwise has cause
21 to believe a school district is not in compliance with sections 2 (7) and 3 (5) of this 2023 Act,
22 the department must initiate an investigation and inform the school district of any non-
23 compliance within 30 calendar days of receiving the complaint or having cause to believe the
24 school district is not in compliance.

25 (b) If a complaint described in paragraph (a) of this subsection relates to a specific stu-
26 dent and is submitted by the student's parent or foster parent, the Superintendent of Public
27 Instruction shall:

28 (A) Presume that consent for the abbreviated school day program placement has been
29 revoked.

30 (B) Immediately, and in no case no more than two business days after receipt of the
31 complaint, order the school district to provide to the student, within five school days,
32 meaningful access to the same number of hours of instruction and educational services that
33 are provided to the majority of other students who are in the same grade within the
34 student's resident school district. For the purpose of this subparagraph, "business day" has
35 the meaning given that term in ORS 192.311.

36 (C) Find the school district is not in compliance with sections 2 (7) and 3 (5) of this 2023
37 Act if the school district fails to comply with the order described in subparagraph (B) of this
38 paragraph.

39 (c) If the superintendent finds that a school district is not in compliance with sections 2
40 (7) and 3 (5) of this 2023 Act, either after an investigation or as provided by paragraph (b)
41 of this subsection, the superintendent shall:

42 (A) Enter an order that any students named in the complaint or identified in the course
43 of an investigation initiated under paragraph (a) of this subsection who are placed on an
44 abbreviated school day program in violation of sections 2 (7) and 3 (5) of this 2023 Act be
45 provided, within five school days of the final order, with meaningful access to the same

1 number of hours of instruction and educational services that are provided to the majority
2 of other students who are in the same grade within the student's resident school district.

3 (B) If the school district fails to comply with the order described in subparagraph (A) of
4 this paragraph within five school days, find the school district nonstandard under ORS
5 327.103 or 334.217 until all students subject to the order and placed on an abbreviated school
6 day program in violation of sections 2 (7) and 3 (5) of this 2023 Act are provided with mean-
7 ingful access to the same number of hours of instruction and educational services that are
8 provided to the majority of other students who are in the same grade within the student's
9 resident school district.

10 (C) If the school district fails to comply with the order described in subparagraph (A) of
11 this paragraph within 10 school days and notwithstanding any timelines or process require-
12 ments of ORS 327.103 or 334.217, immediately withhold State School Fund moneys that oth-
13 erwise would be distributed to the school district. Amounts withheld must be calculated
14 based on the weighted average daily membership attributable to the students subject to the
15 order, as calculated under ORS 327.013, and the percentage of the school year that the stu-
16 dents were placed on an abbreviated school day program in violation of sections 2 (7) and 3
17 (5) of this 2023 Act.

18 (D) Require the school district to provide compensatory education to the students subject
19 to the order that is equivalent to at least one hour of direct instruction for every two hours
20 of instruction that were lost due to an abbreviated school day program placement in violation
21 of sections 2 (7) and 3 (5) of this 2023 Act.

22 (3) The failure of a school district superintendent to restore meaningful access to a stu-
23 dent within the time required by section 4 (3)(b)(B) of this 2023 Act or subsection (1)(c) or
24 (d) of this section or to comply with an order issued under subsection (2)(c) of this section
25 to restore meaningful access to all students subject to the order may be grounds for disci-
26 pline by the Teacher Standards and Practices Commission under ORS 342.175. If the com-
27 mission receives a complaint concerning a failure described in this subsection, the
28 commission shall take into consideration the responsive efforts and actions of the super-
29 intendent to restore meaningful access to the student or students.

30 **SECTION 6.** Sections 2, 3, 4 and 5 of this 2023 Act do not apply to any of the following:

31 (1) Any abbreviated school days that are a component of discipline imposed in compliance
32 with ORS 339.250 or 339.252.

33 (2) A student's exclusion from schools due to the student's immunization status or due
34 to the student's exposure to a restrictable disease, as provided by ORS 433.235 to 433.284.

35 (3) The exclusion of a student from schools or the closure or restriction of access to
36 schools due to actions taken under a public health emergency authorized under ORS 433.441
37 to 433.452.

38 (4) A student who has fulfilled all state requirements for graduation with a high school
39 diploma, as described in ORS 329.451 (2), when the parent or foster parent has agreed to the
40 abbreviated school day program.

41 (5) A student enrolled in a program described in ORS 336.585, 336.590, 339.129, 343.261,
42 343.961 (1)(c)(A)(i) or 346.010, if the student has meaningful access to the same number of
43 hours of instruction and educational services as the majority of other students enrolled in
44 the same program as the student.

45 (6) A student whose parent or foster parent has notified an education service district

1 that the student is being taught by a parent, legal guardian or private teacher under ORS
2 339.035.

3 (7) A student who is excluded from, or limited access to, school due to a court order.

4 (8) A high school student who is voluntarily enrolled in an alternative education program
5 in compliance with ORS 336.635, the Expanded Options Program under ORS 340.005 to 340.090
6 or an accelerated college credit program as defined in ORS 340.300, when:

7 (a) The majority of the students of the program are not students with disabilities;

8 (b) The student is not restricted to attending fewer hours of instruction and educational
9 services than the number of hours of instruction and educational services attended by the
10 majority of students without disabilities who are in the same grade and who attend the same
11 program; and

12 (c) For an alternative education program in which the student is enrolled under ORS
13 336.635, the school district informs the parent or foster parent, in writing and in a language
14 and format accessible to the parent or foster parent, that upon written request of the parent
15 or foster parent, the student will be immediately restored to a school that allows the student
16 to access the same number of hours of instruction and educational services that are provided
17 to the majority of other students who are in the same grade within the student's resident
18 school district.

19 SECTION 7. Nothing in sections 1 to 6 of this 2023 Act is intended to limit or operate as
20 a prerequisite to pursuing any rights or remedies provided under other state or federal
21 statutes or common law.

22 SECTION 8. ORS 343.161 is repealed.

23 SECTION 8a. Notwithstanding section 8, chapter ___, Oregon Laws 2023 (Enrolled Senate
24 Bill 992) (amending ORS 343.161), if Senate Bill 992 becomes law, ORS 343.161 is repealed by
25 section 8 of this 2023 Act.

26 SECTION 9. (1) Sections 1 to 3 of this 2023 Act apply to a student with a disability who
27 is placed on an abbreviated school day program on or after the effective date of this 2023
28 Act.

29 (2) Nothing in this section prevents a parent or foster parent from revoking consent for
30 or making a written objection to an abbreviated school day program placement, or the De-
31 partment of Education or the Superintendent of Public Instruction from taking any action
32 related to the placement of a student with a disability on an abbreviated school day program,
33 if the abbreviated school day program placement occurred before the effective date of this
34 2023 Act and the abbreviated school day program placement is ongoing on the effective date
35 of this 2023 Act.

36 SECTION 10. Section 11 is added to and made a part of sections 1 to 6 of this 2023 Act.

37 SECTION 11. (1) No later than 14 calendar days after the effective date of this 2023 Act,
38 each school district shall provide the notice described in subsection (2) of this section to the
39 parents or foster parents of every student with a disability who:

40 (a) Was on an abbreviated school day program at the end of the 2022-2023 school year;
41 or

42 (b) Had an abbreviated school day for 30 or more school days during the 2022-2023 school
43 year.

44 (2) The notice required under this section must be in a language and format accessible
45 to the parent or foster parent and must inform parents and foster parents of:

1 (a) The enactment of this 2023 Act;

2 (b) The notice and disclosure requirements of section 4 (2)(a) of this 2023 Act;

3 (c) The parent's or foster parent's right to revoke, in writing, consent for an abbreviated
4 school day program placement or to make a written objection to a student's abbreviated
5 school day program placement;

6 (d) The name, electronic mail address, mailing address and other contact information of
7 the person to whom a revocation or objection described in paragraph (c) of this subsection
8 may be sent;

9 (e) The obligation of the school district, within five school days of receiving a revocation
10 or objection described in paragraph (c) of this subsection, to provide a student with a disa-
11 bility with meaningful access to the same number of hours of instruction and educational
12 services that are provided to the majority of other students who are in the same grade
13 within the student's resident school district;

14 (f) The student's right to meaningful access to the same number of hours of instruction
15 and educational services that are provided to the majority of other students who are in the
16 same grade within the student's resident school district beginning on the first day of the
17 2023-2024 school year if the parent or foster parent provides the revocation or objection de-
18 scribed in paragraph (c) of this subsection at least 14 calendar days prior to the start of the
19 2023-2024 school year, as identified by the school district; and

20 (g) The contact information for:

21 (A) The Department of Education;

22 (B) The parent information and training center for families with children with disabili-
23 ties, or FACT Oregon; and

24 (C) The system designated to protect and advocate for the rights of individuals with dis-
25 abilities, or Disability Rights Oregon.

26 (3) Notwithstanding section 5 (1)(d) of this 2023 Act, an extension may not be allowed if
27 a parent or foster parent revokes consent for an abbreviated school day program placement
28 or makes a written objection to a student's abbreviated school day program placement at
29 least 14 calendar days prior to the start of the 2023-2024 school year as described in sub-
30 section (2)(f) of this section.

31 **SECTION 12.** This 2023 Act being necessary for the immediate preservation of the public
32 peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect
33 on its passage.

34