

D-Engrossed
Senate Bill 819

Ordered by the House June 23
Including Senate Amendments dated February 28 and House Amendments
dated May 24 and June 21 and June 23

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

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 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 **catinal 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 during the school day to the majority of other**
18 **students who are in the same grade within a student’s resident school district, including:**

19 (A) **Passing time between classes;**

20 (B) **Time reasonably needed to transport a student between locations during the school**
21 **day if the student receives hours of instruction or educational services in more than one**
22 **location on the same day;**

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 (C) Recess;

2 (D) Nonacademic assemblies and field trips;

3 (E) Job shadows, internships and community service activities arranged by the school
4 or school district;

5 (F) Optional school programs held during the school day, including study periods and
6 advisory periods that are open to the majority of students in the school;

7 (G) Lunch periods or other meal or snack periods provided to the majority of students
8 of the school; and

9 (H) Reasonable access to school facilities during noninstructional time that is equal to
10 the access available to the majority of other students who are in the same grade within the
11 student's resident school district.

12 (b) "Educational services" does not include time being transported to or from school or
13 time traveling between a classroom and transportation before or after the school day.

14 (4) "504 Plan" means an education plan developed for a student with a disability in ac-
15 cordance with section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794.

16 (5) "Foster parent" means the foster parent of a child or ward who is in the legal custody
17 of the Department of Human Services as provided in ORS 418.015 or 419B.337 and who has
18 been placed in substitute care.

19 (6) "Hours" includes any fraction of an hour.

20 (7) "Individualized education program team" includes, when applicable, a team that de-
21 velops a 504 Plan.

22 (8) "Informed and written consent" means that a student's parent or foster parent has
23 signed and dated a written consent form affirming that:

24 (a) The parent or foster parent received the information described in section 3 (2) and
25 (3) of this 2023 Act;

26 (b) The parent or foster parent was not asked to provide consent for an abbreviated
27 school day program placement before having an opportunity to meaningfully participate in
28 a meeting of the individualized education program team;

29 (c) The school district offered, and the individualized education program team considered,
30 at least one reasonable alternative placement, as described in section 3 (1)(c) of this 2023 Act,
31 prior to requesting that the parent or foster parent provide consent for an abbreviated
32 school day program placement;

33 (d) The parent or foster parent was informed that the individualized education program
34 team will meet at least once every 30 calendar days during the school year unless the parent
35 or foster parent provides signed consent to meet less frequently as provided in section 4
36 (2)(b)(B) of this 2023 Act;

37 (e) The parent or foster parent was informed that if, during the school year, the indi-
38 vidualized education program team is scheduled to convene less frequently than once every
39 30 calendar days during the abbreviated school day program, the school district must con-
40 vene an individualized education program team meeting within 14 calendar days of receiving
41 a written request from the parent or foster parent for the meeting;

42 (f) The parent or foster parent voluntarily signed the consent form for the abbreviated
43 school day program placement; and

44 (g) The parent or foster parent was informed of the right to revoke consent, in writing,
45 to an abbreviated school day program placement at any time and informed that the parent

1 or foster parent is not required to request or attend an individualized education program
2 team meeting prior to revoking consent to an abbreviated school day program placement.

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

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

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

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

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

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

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

26 (a) Delivered by:

27 (A) A qualified licensed teacher; or

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

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

32 (11) "Parent" includes:

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

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

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

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

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

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

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

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

44 (c) Has not been determined to be eligible for special education and related services, as
45 provided by ORS chapter 343, or to be eligible for a 504 Plan, but for whom a request or re-

1 ferral for evaluation for eligibility determination has been made but not yet completed.

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

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

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

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

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

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

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

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

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

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

29 (B) Convenience of school district staff; or

30 (C) Behaviors related to the student's disability, unless the schedule is provided pursuant
31 to ORS 339.250, 339.252, 343.155 (5) or 343.177.

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

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

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

43 (e) The school district providing transportation that arrives at the student's school after
44 the start of the school day or leaves from the student's school before the end of the school
45 day and that causes the student to receive fewer hours of instruction or educational services

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

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

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

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

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

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

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

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

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

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

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

1 provided to the majority of other students who are in the same grade in the student's resi-
2 dent school district.

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

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

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

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

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

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

15 (i) Licensed or classified staff;

16 (ii) Availability of training;

17 (iii) Accessible facilities; and

18 (iv) Related services, including nursing services and transportation services; and

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

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

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

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

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

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

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

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

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

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

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

1 of:

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

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

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

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

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

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

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

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

23 (a) Prior to each meeting of the student's individualized education program team, provide
24 the following information in writing to the parent or foster parent of the student in a lan-
25 guage and format accessible to the parent or foster parent:

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

28 (B) The prohibition against a school district unilaterally placing a student with a disa-
29 bility on an abbreviated school day program;

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

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

37 (b) Hold a meeting of the student's individualized education program team to review the
38 student's abbreviated school day program as described in paragraph (c) of this subsection.
39 During the school year, a meeting must be held:

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

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

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

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

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

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

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

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

16 (c) During each meeting of the student's individualized education program team while the
17 student is placed on the abbreviated school day program:

18 (A) Obtain from the parent or foster parent a signed acknowledgement that the parent
19 or foster parent received the information described in paragraph (a) of this subsection;

20 (B) Review the student's progress on the abbreviated school day program;

21 (C) Consider at least one reasonable alternative placement that includes appropriate
22 supports for the student and that could enable the student to have meaningful access to the
23 same number of hours of instruction and educational services that are provided to the ma-
24 jority of other students who are in the same grade within the student's resident school dis-
25 trict; and

26 (D) If the individualized education program team recommends continuing the abbreviated
27 school day placement, consider whether the number of hours of instruction and educational
28 services should be increased.

29 (d) If the parent or foster parent provides informed and written consent to continue an
30 abbreviated school day program placement, include in the student's individualized education
31 program or 504 Plan a written statement that:

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

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

36 (e) At least once every 30 calendar days during the school year, inform the Department
37 of Education about the student's abbreviated school day program placement, including:

38 (A) The grade level of the student;

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

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

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

45 (3)(a) The school district superintendent must review a student's abbreviated school day

1 program placement if the student is placed on an abbreviated school day program for:

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

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

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

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

9 (i) The efforts of the school district to facilitate the student's meaningful access to the
10 same number of hours of instruction and educational services that are provided to the ma-
11 jority of other students who are in the same grade within the student's resident school dis-
12 trict; and

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

14 (B) Find that the abbreviated school day program placement is not compliant with state
15 and federal law and ensure that, within five school days of making the finding, the student
16 has meaningful access to the same number of hours of instruction and educational services
17 that are provided to the majority of other students who are in the same grade within the
18 student's resident school district unless an extension has been allowed as provided by section
19 5 (1)(d) of this 2023 Act.

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

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

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

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

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

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

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

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

42 (c) Upon receipt of a written revocation or objection to the abbreviated school day pro-
43 gram placement, the school district superintendent shall ensure that, within five school days
44 or by a later date specified in a written notice provided by the parent or foster parent, the
45 student has meaningful access to the same number of hours of instruction and educational

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

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

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

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

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

15 (D) The school district provides to the parent or foster parent, in writing and in a lan-
16 guage and format accessible to the parent or foster parent, the specific reasons why the
17 extension is needed.

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

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

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

35 (b) If a complaint described in paragraph (a) of this subsection relates to a specific stu-
36 dent and is submitted by the student's parent or foster parent, the Superintendent of Public
37 Instruction is not required to conduct an investigation and shall:

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

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

1 (C) Find the school district is not in compliance with sections 2 (7) and 3 (5) of this 2023
2 Act if the school district fails to comply with the order described in subparagraph (B) of this
3 paragraph and the parent or foster parent has not granted written consent for an extension
4 as described in subsection (1)(d) of this section.

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

8 (A) Enter an order that any students named in the complaint or identified in the course
9 of an investigation initiated under paragraph (a) of this subsection who are placed on an
10 abbreviated school day program in violation of sections 2 (7) and 3 (5) of this 2023 Act be
11 provided, within five school days of the final order, with meaningful access to the same
12 number of hours of instruction and educational services that are provided to the majority
13 of other students who are in the same grade within the student's resident school district.

14 (B) If the school district fails to comply with the order described in subparagraph (A) of
15 this paragraph within five school days, find the school district nonstandard under ORS
16 327.103 or 334.217 until all students subject to the order and placed on an abbreviated school
17 day program in violation of sections 2 (7) and 3 (5) of this 2023 Act are provided with mean-
18 ingful access to the same number of hours of instruction and educational services that are
19 provided to the majority of other students who are in the same grade within the student's
20 resident school district.

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

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

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

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

42 (1) Any abbreviated school days that are a component of discipline imposed in compliance
43 with ORS 339.250, 339.252 or 343.155 (5) or that are the result of a placement made as pro-
44 vided by ORS 343.177.

45 (2) A student's exclusion from schools due to the student's immunization status or due

1 to the student's exposure to a restrictable disease, as provided by ORS 433.235 to 433.284.

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

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

8 (5) A student enrolled in a program described in ORS 336.585, 336.590, 339.129, 343.261,
9 343.961 (1)(c)(A)(i) or 346.010, if the student has meaningful access to the same number of
10 hours of instruction and educational services as the majority of other students enrolled in
11 the same program as the student.

12 (6) A student whose parent or foster parent has notified an education service district
13 that the student is being taught by a parent, legal guardian or private teacher under ORS
14 339.035.

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

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

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

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

24 (c) For an alternative education program in which the student is enrolled under ORS
25 336.635, the school district informs the parent or foster parent, in writing and in a language
26 and format accessible to the parent or foster parent, that upon written request of the parent
27 or foster parent, the student will be immediately restored to a school that allows the student
28 to access the same number of hours of instruction and educational services that are provided
29 to the majority of other students who are in the same grade within the student's resident
30 school district.

31 **SECTION 7.** (1) Nothing in sections 1 to 6 of this 2023 Act is intended to limit or operate
32 as a prerequisite to pursuing any rights or remedies provided under other state or federal
33 statutes or common law.

34 (2) Nothing in sections 1 to 6 of this 2023 Act is intended to eliminate or limit the ability
35 of a school district to request an expedited hearing as described in ORS 343.165 (8)(b) because
36 the school district believes that not making an abbreviated school day program placement
37 is substantially likely to result in injury to the student or others. When an expedited hearing
38 is conducted pursuant to ORS 343.165 (8):

39 (a) Notwithstanding ORS 343.167, a hearing officer's finding that an abbreviated school
40 day program placement is appropriate may not be valid for more than 45 days from the date
41 the decision is entered;

42 (b) Notwithstanding sections 2, 3, 4 and 5 of this 2023 Act, and if the school district is in
43 compliance with the decision of the hearing officer:

44 (A) A parent or foster parent may not compel, and the Department of Education may
45 not order, a school district to provide meaningful access to the same number of hours of

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

3 (B) The Department of Education may not find the school district is not in compliance
4 with sections 2 (7) and 3 (5) of this 2023 Act and the Teacher Standards and Practices Com-
5 mission may not take any action described in section 5 (3) of this 2023 Act; and

6 (c) The student's individualized education program team shall immediately meet to re-
7 view the student's abbreviated school day program and to revise the student's individualized
8 education program or 504 Plan to make the documentation described in section 3 (1)(d) of
9 this 2023 Act.

10 **SECTION 8.** ORS 343.161 is repealed.

11 **SECTION 8a.** Notwithstanding section 8, chapter 202, Oregon Laws 2023 (Enrolled Senate
12 Bill 992) (amending ORS 343.161), if Senate Bill 992 becomes law, ORS 343.161 is repealed by
13 section 8 of this 2023 Act.

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

17 (2) Nothing in this section prevents a parent or foster parent from revoking consent for
18 or making a written objection to an abbreviated school day program placement, or the De-
19 partment of Education or the Superintendent of Public Instruction from taking any action
20 related to the placement of a student with a disability on an abbreviated school day program,
21 if the abbreviated school day program placement occurred before the effective date of this
22 2023 Act and the abbreviated school day program placement is ongoing on the effective date
23 of this 2023 Act.

24 (3) If a parent or foster parent does not revoke consent or make a written objection to
25 an abbreviated school day program placement that occurred before the effective date of this
26 2023 Act and that was ongoing on the effective date of this 2023 Act:

27 (a) The school district is not required to retroactively obtain informed and written con-
28 sent from the parent or foster parent;

29 (b) The abbreviated school day placement shall continue until the next meeting of the
30 student's individualized education program team; and

31 (c) At the next meeting of the student's individualized education program team, consid-
32 eration of placement on an abbreviated school day program shall be conducted in compliance
33 with sections 3 and 4 of this 2023 Act.

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

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

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

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

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

44 (a) The enactment of this 2023 Act;

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

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

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

7 (e) The obligation of the school district, within five school days of receiving a revocation
8 or objection described in paragraph (c) of this subsection or by a later date specified by
9 written notice by the parent or foster parent, to provide a student with a disability with
10 meaningful access to the same number of hours of instruction and educational services that
11 are provided to the majority of other students who are in the same grade within the
12 student’s resident school district;

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

19 (g) The contact information for:

20 (A) The Department of Education;

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

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

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

30 SECTION 12. In addition to and not in lieu of any other appropriation, there is appro-
31 priated to the Department of Education, for the biennium beginning July 1, 2023, out of the
32 General Fund, the amount of \$3,140,320, to implement the provisions of this 2023 Act.

33 SECTION 13. This 2023 Act being necessary for the immediate preservation of the public
34 peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect
35 on its passage.

36