

Instructional Time and Education Services Definitions

Note: Language that is not directly pulled from existing sources is bolded and italicized and accompanied by a note under the “other notes” column.

Note: All references to federal sources are to the implementing regulations of Section 504 of the Rehabilitation Act found at Title 34, Subpart B, Chapter I, Part 104

Note: When there is reference to an OCR Resolution agreement, there is a link to the cover letter and to the corrective action plan/settlement agreement.

Instructional Hours include the time during which:

SB 819A -7 Provision	State Source	Federal Source	Other Notes
<p>A student is engaged in regularly scheduled instruction, learning activities or learning assessments that are designed to meet Common Curriculum Goals, grade level academic content standards and <i>specialized instruction designed to support a student to make meaningful progress in the general curriculum</i></p>	<p>OAR 581-022-0102 (30)(a)</p> <p>“Instructional time” means time during which students are engaged in regularly scheduled instruction, learning activities, or learning assessments that are designed to meet Common Curriculum Goals and academic content standards.</p>	<p><u>§ 104.4 Discrimination prohibited.</u></p> <p>(a) General. No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives Federal financial assistance.</p> <p>(b) Discriminatory actions prohibited.</p> <p>(1) A recipient, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of handicap:</p> <p>(i) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or service;</p> <p>(ii) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;</p>	<p>“Specialized instruction designed to support a student to make meaningful progress in the general curriculum” is added to clarify that time spent on specialized instruction identified on the IEP counts as instructional time</p> <p>Oregon Department of Education Resolution with US Department of Education, Office of Civil Rights, 2020 #10171027- Letter Resolution Agreement</p>

		<p>(iii) Provide a qualified handicapped person with an aid, benefit, or service that is not as effective as that provided to others;</p> <p>(iv) Provide different or separate aid, benefits, or services to handicapped persons or to any class of handicapped persons unless such action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others;</p> <p>(v) Aid or perpetuate discrimination against a qualified handicapped person by providing significant assistance to an agency, organization, or person that discriminates on the basis of handicap in providing any aid, benefit, or service to beneficiaries of the recipients program or activity;</p> <p>(vi) Deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards; or</p> <p>(vii) Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service.</p>	
During which time the student is working under the direction and supervision of a licensed or registered teacher, licensed CTE instructor, licensed practitioner or	<p>OAR 581-022-0102 (30)(a)</p> <p>And are working under the direction and supervision of a licensed or registered teacher,</p>	<p>§ 104.4 Discrimination prohibited.</p> <p>(See text above in first cell of this table)</p>	

Educational Assistant who is assigned instructionally related activities and is working under the direct supervision of a licensed or registered teacher.	licensed CTE instructor, licensed practitioner, or Educational Assistant who is assigned instructionally related activities and is working under the supervision of a licensed or registered teacher.		
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Instruction does not include:

Provision	State Source	Federal Source	Other Notes
Passing between classes	581-022-0102 (30)(c) Instructional time shall not include time that a student spends passing between classes		
Recess	581-022-0102 (30)(c) (Instructional time shall not include time that a student spends) at recess		
Non-academic assemblies	581-022-0102 (30)(c) (Instructional time shall not include time that a student spends) in nonacademic assemblies		
Non-academic field trips	581-022-0102 (30)(c) (Instructional time shall not include time that a student spends) on non-academic field trips		
Traveling to or from school; loading or unloading from the school bus at the start or end of the student's day	COSA Guidance , 2014 (this was guidance prior to the new rule which further restricted what can be counted as instructional time), see page 2: The following cannot be counted as instructional time: • Study periods where student attendance is not required or no instructional assistance is provided • Transportation to and		Beaverton Resolution with US Dept. of Ed Office of Civil Rights, 2016, #10151271- Letter Resolution Agreement Silver Falls School District Resolution with US Dept. of Ed Office of Civil Rights, 2016, # 10151452- Letter Resolution Agreement Lake Oswego Resolution with US Dept. of Ed Office of Civil Rights, 2018, # 10181133 – Letter

	<p>from school • Passing time between classes • Noninstructional recess • Lunch periods • Student and staff activities related to the opening and closing of the school year • Grade reporting • Program planning • Staff meetings • Other classroom and building management activities</p>		<p>Resolution Agreement</p> <p>Portland Public Schools Resolution with US Dept. of Ed Office of Civil Rights, 2019 #10161263- Letter Resolution Agreement</p> <p>Roseburg School District 4 Resolution with US Dept. of Ed Office of Civil Rights 2019, #10181307- Letter Resolution Agreement</p> <p>McMinnville Resolution with US Dept. of Ed Office of Civil Rights, 2020, #10201073- Letter Resolution Agreement</p>
<p>Participation in optional school programs or in study periods or advisory periods where attendance is not required and no instructional assistance is provided</p>	<p>581-022-0102 (30)(c) (Instructional time shall not include time that a student spends) in study periods of advisory periods where attendance is not required and no instructional assistance is provided</p>		
<p>Time spent in an online learning program during which the student is unable to access the materials or benefit from instruction because the school district has not provided the student with the appropriate supports to access the instruction, included but not limited to the support of an educational assistant, nursing services, adapted materials or other related services identified in the student’s IEP as necessary to access a Free and Appropriate Public Education</p>	<p>OAR 581-022-2320 (7)</p> <p>For students participating in online instruction: (a) Instructional time includes online instruction supported by a licensed or registered teacher through electronic means. (b) For online instruction, up to one hour per course per day may be counted as instructional time where the following criteria are met: (A) Every student has access to a licensed or registered</p>	<p>§ 104.4 (b)(4) Discrimination prohibited</p> <p>A recipient may not, directly or through contractual or other arrangements, utilize criteria or methods of administration :</p> <p>(i) that have the effect of subjecting qualified handicapped persons to discrimination on the basis of handicap, (ii) that have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the</p>	

	<p>teacher through in-person, telephone, or electronic means for each course taken; and</p> <p>(B) Every student has regular contact with school personnel for the purpose of attendance and progress monitoring as outlined in the policies maintained by the Oregon Department of Education.</p>	<p>recipient's program or activity with respect to handicapped persons, or</p> <p>(iii) that perpetuate the discrimination of another recipient if both recipients are subject to common administrative control or are agencies of the same State.</p>	
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Educational Services includes (including school activities not considered instructional time):

Provision	State Source	Federal Source	Other Notes
Any other social, learning, enrichment, community or support opportunity or benefit that is offered to the majority of students in the same grade and same resident school district as the student	<p>ORS 659.850</p> <p>“Discrimination” means any act that unreasonably differentiates treatment, intended or unintended, or any act that is fair in form but discriminatory in operation, either of which is based on race, color, religion, sex, sexual orientation, gender identity, national origin, marital status, age or disability.</p>	<p>§ 104.37 (a)(1-2)</p> <p>Nonacademic services</p> <p>A recipient to which this subpart applies shall provide non-academic and extracurricular services and activities in such manner as is necessary to afford handicapped students an equal opportunity for participation in such services and activities.</p> <p>(2) Nonacademic and extracurricular services and activities may include counseling services, physical recreational athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by</p>	

		<p>the recipients, referrals to agencies which provide assistance to handicapped persons, and employment of students, including both employment by the recipient and assistance in making available outside employment.</p> <p><i>See also § 104.4 Discrimination prohibited.</i> (Text included in first row of Instructional Time table)</p> <p><i>See also § 104.4 (b) (3) Discrimination prohibited.</i> Despite the existence of separate or different aid, benefits, or services provided in accordance with this part, a recipient may not deny a qualified handicapped person the opportunity to participate in such aid, benefits, or services that are not separate or different.</p>	
Time passing between classes	<p>581-022-0102 (30)(c)</p> <p>Instructional time shall not include time that a student spends passing between classes</p>	<p>§ 104.37 (a)(1-2) Nonacademic services <i>See text above in first cell of this table</i></p> <p><i>See also § 104.4 Discrimination prohibited.</i> (Text included in first row of Instructional Time table)</p>	
Recess	<p>581-022-0102 (30)(c) (Instructional time shall not include time that a student spends) at recess</p>	<p>§ 104.37 (a)(1-2) Nonacademic services <i>See text above in first cell of this table</i></p>	

		<p><u>See also § 104.4 Discrimination prohibited.</u> (Text included in first row of Instructional Time table)</p>	
<p>Non-academic assemblies and field trips, job shadows, internships and community service activities arranged by the school</p>	<p><u>581-022-0102 (30)(c)</u> (Instructional time shall not include time that a student spends) in nonacademic assemblies or on nonacademic field trips</p>	<p><u>§ 104.37 (a)(1-2) Nonacademic services</u> <i>See text above in first cell of this table</i></p> <p><u>See also § 104.4 Discrimination prohibited.</u> (Text included in first row of Instructional Time table)</p>	<p>Harney County School District Resolution with US Department of Education, Office of Civil Rights, 2015 # 10141327- <u>Letter Resolution Agreement</u></p> <p>Estacada Resolution with US Department of Education, Office of Civil Rights, 2020 # 10181008 - <u>Letter Resolution Agreement</u></p>
<p>Optional school programs such as study periods and advisory periods that are open to the majority of students in the school</p>	<p><u>581-022-0102 (30)(c)</u> (Instructional time shall not include time that a student spends) in optional school programs, or in study periods or advisory periods where attendance is not required and no instructional assistance is provided</p>	<p><u>§ 104.37 (a)(1-2) Nonacademic services</u> <i>See text above in first cell of this table</i></p> <p><u>See also § 104.4 Discrimination prohibited.</u> (Text included in first row of Instructional Time table)</p>	
<p>Lunch periods or other meal or snack periods provided to nondisabled students</p>		<p><u>§ 104.37 (a)(1-2) Nonacademic services</u> <i>See text above in first cell of this table</i></p> <p><u>See also § 104.4 Discrimination prohibited.</u> (Text included in first row of Instructional Time table)</p>	
<p>Accessing school resources such as breakfast or lunch open to the majority students in the school</p>		<p><u>§ 104.37 (a)(1-2) Nonacademic services</u> <i>See text above in first cell of this table</i></p> <p><u>See also § 104.4 Discrimination prohibited.</u></p>	

		(Text included in first row of Instructional Time table)	
Accessing school resources such as before or after school enrichment programs open to the majority students in the school		<p>§ 104.38 Preschool and adult education.</p> <p>A recipient to which this subpart applies that provides preschool education or day care or adult education may not, on the basis of handicap, exclude qualified handicapped persons and shall take into account the needs of such persons in determining the aid, benefits or services to be provided.</p> <p>§ 104.37 (a)(1-2) Nonacademic services See text above in first cell of this table</p> <p>See also § 104.4 Discrimination prohibited. (Text included in first row of Instructional Time table)</p>	
Accessing school resources such as dental, vision and other health screenings open to the majority students in the school		<p>§ 104.37 (a)(1-2) Nonacademic services See text above in first cell of this table</p> <p>See also § 104.4 Discrimination prohibited. (Text included in first row of Instructional Time table)</p>	
Reasonable access to school facilities during non-instructional time that is equal to the access enjoyed by the majority of students of the same grade in the student's same resident school district	<p>ORS 339.256 (2)</p> <p>For an alternative education student, an English language learner or a special education student, a school district may not restrict access to specialized learning areas</p>	<p>§ 104.37 (a)(1-2) Nonacademic services See text above in first cell of this table</p> <p>See also § 104.4 Discrimination prohibited.</p>	

	or to the common lunch area, common gathering areas or recreational areas in a manner that is different than any restrictions imposed on traditional students in the same grade.	(Text included in first row of Instructional Time table)	
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Educational Services do not include:

Provision	State Source	Federal Source	Other Notes
Time a student spends being transported to or from school and time it takes to travel between the bus or other vehicle and the classroom at the beginning and end of the school day			<p>Beaverton Resolution with US Dept. of Ed Office of Civil Rights, 2016, #10151271- Letter Resolution Agreement</p> <p>Silver Falls School District Resolution with US Dept. of Ed Office of Civil Rights, 2016, # 10151452- Letter Resolution Agreement</p> <p>Lake Oswego Resolution with US Dept. of Ed Office of Civil Rights, 2018, # 10181133 – Letter Resolution Agreement</p> <p>Portland Public Schools Resolution with US Dept. of Ed Office of Civil Rights, 2019 #10161263- Letter Resolution Agreement</p> <p>Roseburg School District 4 Resolution with US Dept. of Ed Office of Civil Rights 2019, #10181307- Letter Resolution Agreement</p> <p>McMinnville Resolution with US Dept. of Ed Office of Civil Rights, 2020, #10201073- Letter Resolution Agreement</p>

