



# Implementing SB 819: *Guidance for School Districts and Programs*



**OREGON**  
**DEPARTMENT OF**  
**EDUCATION**

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# Implementing SB 819: Guidance for School Districts and Programs

## Introduction

Dear Leaders,

We are providing you with this resource to provide clarity and guidance for the implementation of Oregon’s Senate Bill (SB) 819 (2023). SB 819 marks a momentous stride towards establishing an education system that prioritizes inclusivity and equity, particularly for students with disabilities. Our intention is to equip you with tools and knowledge needed to support students to reach their full potential. Together, we can create an environment where every student can thrive and fulfill their academic journey with unwavering support and opportunity.

As leaders entrusted with the responsibility of shaping educational experiences, we recognize the importance of creating an environment where all students have equal opportunities to thrive academically, socially, and emotionally. SB 819 serves as a critical tool to address the unique needs of students with disabilities and emphasizes their right to a full and meaningful education.

Implementing this legislation successfully requires careful planning, collaboration, and a deep understanding of the diverse range of challenges faced by students with disabilities. It is imperative for us to work closely together as educators, administrators, and families to ensure a smooth transition and effective execution of the requirements outlined in SB 819.

This document serves as a resource that:

- Emphasizes the rights of students with disabilities to equitable access and outlines steps to determine if a placement constitutes an abbreviated school day;
- Provides clarification on definitions, applicability, requirements, and processes relating to appropriate use of abbreviated school day programs under SB 819; and
- Details accountability measures such as superintendent reviews, data reporting, and enforcement procedures to ensure compliance.

As leaders, you play a crucial role in ensuring that SB 819 translates into tangible improvements in the lives of students across Oregon. Your commitment to the principles of inclusivity, fairness, and equitable opportunities for all students will shape the future of education in our state. Thank you for your dedication to the betterment of education in Oregon. Your leadership and vision will pave the way for a brighter future for students with disabilities.

Sincerely,

Dr. Charlene Williams

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## Disclaimer

This guidance represents ODE’s best current thinking on the implementation of Senate Bill 819 (SB 819). We aim to provide the most helpful and well-informed recommendations possible, but please understand that implementation will be an iterative process that will be refined over time. **This guidance does not constitute legal advice, nor should it be considered definitive or legally binding.** ODE strongly recommends that school districts review the law carefully and consult with their own legal counsel to understand their obligations. As ODE continues to work with school districts, educational partners, and all stakeholders regarding SB 819, ODE may amend or clarify this guidance, as needed, to provide the most current and reliable information on interpreting and meeting compliance with SB 819. This is an evolving document—but together, we aim to achieve the full promise of this new law.

We appreciate your patience and partnership in this implementation process. ODE will notify the field when updated resources are available. Please also regularly review ODE’s SB 819 [website](#) and submit questions or need for support to [ODE.SB819Questions@ode.oregon.gov](mailto:ODE.SB819Questions@ode.oregon.gov).



# Implementing SB 819: Guidance for School Districts and Programs

## Overview and Summary: Values and Centering on Students

This guidance is designed to support schools, districts, and programs in meeting their responsibilities under [SB 819](#) relating to the use of abbreviated school day programs for students with disabilities.

Every student in Oregon belongs and needs to be invited and supported towards full participation. In SB 819, the Oregon legislature noted that, “students with disabilities have a right to meaningful access to the same number of hours of instruction and educational services as the majority of students without disabilities...” and that, “removal from school is neither a service nor support for students with disabilities.” **It is essential that school districts maintain this presumptive right to a full school day as the central principle guiding decisions related to abbreviated school day programs** and that decisions to place a student on an abbreviated school day program are, accordingly, made only when that student’s individual needs require it.

### *Oregon’s Equity Stance and Ableism*

ODE’s education equity stance states that “equity is the equitable implementation of policy, practices, procedures, and legislation,” which “means the restructuring and dismantling of systems and institutions that create the dichotomy of beneficiaries and the oppressed and marginalized.”

Ableism is a form of systemic oppression faced by disabled individuals and individuals with disabilities<sup>1</sup> embedded within our systems and institutions. Ableism gives unearned advantages to people who do not experience the world as disabled. This system results in: (a) barriers that people with disabilities uniquely face when trying to navigate the world and (b) unfair treatment and discrimination against people with disabilities. An example of ableism in education is when a teacher may misinterpret a manifestation of a student’s disability (e.g., distractibility or difficulty focusing) as a behavioral issue.

Schools and districts are encouraged to review [this resource](#) to consider ways to address ableism and its impacts in their systems.

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<sup>1</sup> ODE believes in and values language that honors peoples’ lived experiences. As a general matter, ODE uses person-first language when discussing disabilities. However, we note that many disabled individuals and communities prefer identity-first language. Through prior community engagement efforts, ODE has generally adopted the phrase “students experiencing disabilities” to discuss students who receive special education services. We used the phrase disabled individuals and individuals with disabilities here to reflect that identity-first language matters and should be honored according to individual or community preference. However, following this section, consistent with the statutory language of SB 819, “students with disabilities” is used throughout this document.

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## *Overview of Legal Requirements and Right to Equitable Access and Nondiscrimination*

SB 819, recently passed in Oregon, sets forth additional requirements for school districts to ensure equitable access and nondiscrimination for students with disabilities. This state law interacts with federal laws, namely the Americans with Disabilities Act (ADA), the Rehabilitation Act of 1973 (Section 504), and the Individuals with Disabilities Education Act (IDEA), which form the basis for equitable access to education for students with disabilities.

- [Section 504 of the Rehabilitation Act of 1973](#) is a federal law that protects the rights of individuals with disabilities in programs receiving Federal financial assistance. It mandates a “free appropriate public education” (FAPE) to each qualified student with a disability, designed to meet the student’s individual educational needs as adequately as the needs of nondisabled students.
- [The ADA](#) builds upon Section 504, barring employment and educational discrimination against “qualified individuals with disabilities.” Under Title II of the ADA, educational institutions, educational opportunities, extracurricular activities, and facilities must be made accessible for all students.
- [The IDEA](#) mandates that the IEP team is responsible for developing a shared vision of success and individualized educational program (IEP) for students with disabilities. This guidance aims to support IEP teams, especially in relation to abbreviated school day program placements.

As a state law, SB 819 does not and cannot supersede any of these federal requirements. Rather, school districts should be aware of how SB 819 interacts with federal requirements and ensure that they follow all applicable requirements in making decisions about abbreviated school day programs.

## *Abbreviated School Day Program Placements in Oregon*

The Oregon Legislature first addressed abbreviated school day program placements 2017 when it enacted SB 263. Under SB 263, abbreviated school day programs were codified as Oregon Revised Statute 343.161. Under ORS 343.161, Oregon developed significant procedures related to the use of abbreviated school day program placements. In 2019, ODE was sued alleging the widespread misuse of abbreviated school day program placements by Oregon school districts. SB 819 changes the state-level statutory framework established for abbreviated school day programs.

Some of the significant updates made to abbreviated school day programs with the passage of SB 819 include:

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- The addition of new K-12 (including [18–21-year-old secondary transition](#)) student populations for whom the requirements related to abbreviated school day programs are applicable;
- New requirements that must be met prior to and once students with disabilities are placed on an abbreviated school day program, most notably the requirement for voluntary informed and written parent<sup>2</sup> or foster parent consent prior to placement on an abbreviated school day program;
- Additional meeting requirements to review the placement of students with disabilities placed on abbreviated school day programs; and
- Expanded documentation and data submission requirements for students with disabilities placed on abbreviated school day programs.

The passage of SB 819 bolsters protections for students with disabilities. School districts should carefully review the changes enacted by SB 819 to ensure appropriate application of the statute. **Moving forward, any use of abbreviated school day program placements for students meeting the definition of student with a disability must meet all requirements of SB 819 in addition to compliance with all otherwise applicable federal and state laws.**

## Specific Definition Changes in SB 819 Impacting Implementation of Abbreviated School Day Program Placements

SB 819 revised a number of applicable definitions that impact how school districts must implement abbreviated school day program placements, if the school district has abbreviated school day program placements within their placement options available to students with disabilities. The primary definitions that are either new in SB 819 or have changed from the prior definition in ORS 343.161 include:

- Student with a Disability
- Abbreviated School Day and Abbreviated School Day Program
- Instruction
- Educational Services
- Meaningful Access
- Informed and Written Consent

School districts will need to understand how the definitions in SB 819 differ from the definitions under ORS 343.161. A thorough understanding of the differences is necessary to be able to implement SB 819 effectively. Where further clarification is needed on how new or existing

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<sup>2</sup> Under SB 819, “parent” includes: (a) a parent or a legal guardian, other than a state agency; (b) the student, if the student is 18 years of age or older or is emancipated pursuant to ORS 419B.550 to 419B.558; and (c) the student’s surrogate, if the student has a surrogate, as defined in ORS 419A.004.



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definitions apply to requirements around individual students, school districts should consult with their legal counsel. ODE’s goal is to support school district implementation of SB 819 in a way that fulfills both the letter and spirit of the law to enable all students to access and benefit from an appropriate education. Below, the guidance provides further detail on each of these definitions and a description of how these definitions impact the use of abbreviated school day programs under SB 819.

## Definition of Student with a Disability

Under SB 819, a student is considered a student with a disability and, therefore, the provisions related to placement on an abbreviated school day program apply when the student:

- Is eligible for special education and related services, as provided by ORS chapter 343.
- Has a disability under section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, and is eligible for a 504 Plan.
- Has not been determined to be eligible for special education and related services, as provided by ORS chapter 343, or to be eligible for a 504 Plan, but for whom a request or referral for evaluation for eligibility determination has been made but not yet completed.

Whenever this guidance document uses the terms “student with a disability” or “students with disabilities,” it refers to the full definition of student with a disability as defined in SB 819.

## Impact of Definition of Student with a Disability

**This is a new definition in SB 819 that did not appear in ORS 343.161.** The expanded population of students for whom SB 819 applies – relative to the population of students to which ORS 343.161 applied – could result in a significant shift in the number of students within your school district who are considered to be placed on or receiving an abbreviated school day program. School districts should carefully consider the circumstances of each of their students to determine whether they meet the definition of student with a disability under SB 819 and, if they do, whether they are placed on or receiving an abbreviated school day program in light of SB 819’s expanded definition.

Due to SB 819’s new definitions, school districts may need to revisit or expand the list of students considered to be placed on an abbreviated school day program. By July 27, 2023, for students who were placed on or receiving an abbreviated school day program under ORS 343.161, school districts must [notify parents or foster parents of the enactment of SB 819](#), and inform them that they have the right to revoke consent or object to the abbreviated school day program placement. That includes any student who ended the 2022-23 school year placed on

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an abbreviated school day program and any student who was placed on an abbreviated school day for 30 or more cumulative days in the 2022-23 school year.

**While school districts do not need to retroactively seek consent for these students, SB 819 establishes timelines within which districts must address any objections raised by parents or foster parents, depending on the timing of the objection:**

- For objections raised at least 14 calendar days prior to the start of the 2023-24 school year, the school district will need to ensure that the student has meaningful access to a full school day by the start of the school year.
- For objections raised within 14 calendar days of the start of the 2023-24 school year, the school district will need to ensure that the student has meaningful access within 5 school days from the first day of school.

SB 819 does allow the parent to grant written consent to extend the return timeline.

For students where SB 819's new definition now means they are considered to be placed on or receiving an abbreviated school day program, [informed and written consent](#) for that placement is required. Under SB 819, school districts will need to either adjust the student's schedule so that they are not placed on or receiving an abbreviated school day program or meet to ensure the student has an appropriate educational program that complies with SB 819.

## Definitions of Abbreviated School Day and Abbreviated School Day Program

An abbreviated school day means any school day during which a student with a disability receives instruction or educational services for fewer hours than the majority of students who are in the same grade within the student's resident school district<sup>3</sup>.

When a student with a disability receives an abbreviated school day for more than 10 school days per school year, it constitutes an abbreviated school day program. All of the requirements of SB 819 must be met prior to placement on an abbreviated school day program.

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<sup>3</sup> "Resident school district" means the school district in which a student is a resident under ORS 339.133. Generally, under ORS 339.133, with some exceptions, individuals between the ages of 4 and 18 shall be considered resident for school purposes in the school district in which their parents, their guardians or persons in parental relationship to them reside.

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## *Impact of Definitions of Abbreviated School Day and Abbreviated School Day Program*

These definitions changed significantly from the prior definitions in ORS 343.161 for purposes of determining whether a student experiences an abbreviated school day program. Under ORS 343.161, students were compared to the majority of students in the same grade *in the same school they attended*. The requirements of ORS 343.161 did not apply to students who were educated in settings other than “schools” (e.g., instruction in the home, instruction in hospitals). Under SB 819, the comparison group has been changed, in most cases, to the majority of students who are in the same grade *in the student’s resident school district*. This shift results in all settings within any local educational agency’s (LEA’s) continuum of alternative placements being subject to the requirements for abbreviated school day programs under SB 819. Determining whether a student with a disability is placed on or receiving an abbreviated school day program is dependent on the number of hours of meaningful access to instruction and educational services they receive compared to the majority of other students who are in the same grade within their resident school district.

The requirements of SB 819 apply to all students who are placed on or receiving an abbreviated school day program, unless SB 819 exempts them. The student populations, schools, and programs those exemptions apply to will be further [described later in the guidance](#).

## **Right to Instruction and Educational Services**

Each child has a presumptive right to a full school day. SB 819 ensures that students with disabilities have a right to meaningful access to the same number of hours of instruction and educational services as the majority of students without disabilities who are in the same grade within the student’s resident school district. The total number of hours of instruction and educational services available for a student with a disability from the start of the school day until the end of the school day (i.e., bell-to-bell) is used to determine whether that student is placed on or receiving an abbreviated school day program. A bell-to-bell comparison does not require that every student has the same start and end time to their school day; rather, it requires that every student has the same number of hours of instruction and/or educational services throughout their day.

Whenever that comparison reveals that a student with a disability is receiving fewer hours of instruction or educational services, and unless explicitly exempted by SB 819, it constitutes an abbreviated school day. If the student’s school day is abbreviated, the appropriate processes for abbreviated school day program placements must be followed. Understanding the definitions of instruction and educational services is therefore essential in order to implement SB 819.

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## *Definition of Instruction*

Effective instruction that improves student outcomes and enables students to meet challenging objectives is central to the mission of schools. SB 819 relies on instruction as one of the two major elements that are used to determine whether a student with a disability is placed on or receiving an abbreviated school day program. Under SB 819, instruction **includes** the time during which a student, under the direction and supervision of appropriate school district staff<sup>4</sup>, is:

- Engaged in regularly scheduled instruction that is designed to meet Common Curriculum Goals or grade level academic content standards;
- Engaged in regularly scheduled learning activities that are designed to meet Common Curriculum Goals or grade level academic content standards;
- Engaged in regularly scheduled learning assessments that are designed to meet Common Curriculum Goals or grade level academic content standards; or
- Engaged in specially designed instruction that is individualized to support a student to make meaningful progress in the general curriculum.

SB 819 also clarifies that instruction **does not include** time during which a student is:

- Passing between class, at recess, in nonacademic assemblies, on nonacademic field trips, traveling to or from school, loading or unloading from a school bus at the start or end of the student's school day, participating in optional programs, or participating in study periods or advisory periods when attendance is not required and no instructional assistance is provided.
- 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 supports necessary to access the materials or instruction, including the support of an instructional assistant, nursing services, adapted materials or other related services identified in the student's IEP or 504 Plan as being necessary for FAPE.

Please note that school activities that are excluded from the definition of instruction (e.g., passing time) may meet the definition of educational services.

## *Definition of Educational Services*

SB 819 introduces the concept of educational services as the other major component used to determine whether a student with a disability is placed on or receiving an abbreviated school

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<sup>4</sup> Working under the direction and supervision of a licensed or registered teacher, a licensed career and technical education instructor, a licensed practitioner or an instructional assistant who is assigned instructionally related activities and is working under the direct supervision of a licensed or registered teacher.

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day program. If instruction can be thought of as the central element used to achieve the mission of schools, educational services can be thought of as a central element used to achieve the operational aspects of schools and/or to support the totality of the student's educational experience. Educational services may or may not be explicitly listed in a student's IEP or 504 plan.

Under SB 819, educational services include any social, learning, enrichment, community or support opportunity or benefit that is offered during the school day to the majority of other students who are in the same grade within a student's resident school district. For example, that means that educational services include:

- Passing time between classes;
- Time reasonably needed to transport a student between locations during the school day if the student receives hours of instruction or educational services in more than one location on the same day;
- Recess;
- Nonacademic assemblies and field trips;
- Job shadows, internships and community service activities arranged by the school or school district;
- Optional school programs held during the school day, including study periods and advisory periods that are open to the majority of students in the school;
- Lunch periods or other meal or snack periods provided to the majority of students of the school; and
- Reasonable access to school facilities during non-instructional time that is equal to the access available to the majority of other students who are in the same grade within the student's resident school district.

Because educational services must occur during the school day in SB 819's definition, educational services **do not include** time being transported to or from school. Educational services also do not include time traveling from school drop off to the beginning of their school day or from the classroom to leave school at the end of the day.

## *Impact of Definition of Instruction and Educational Services*

**The definitions of "instruction" and "educational services" did not appear in ORS 343.161.**

School districts must evaluate their programs to accurately identify students with disabilities as defined in SB 819 who are or may be placed on abbreviated school day programs. Given the many ways in which schools are organized and operated, developing an exhaustive list of educational services is not possible. Where there are questions, school districts should consult with legal counsel when determining whether a specific service meets the definition of instruction or educational services for a student with a disability.



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## Definition of Meaningful Access

Meaningful access means access to full-time, quality instruction or educational services. In order to have meaningful access, your instruction and educational services must meet both of these requirements:

- It must be delivered by a qualified licensed teacher or qualified classified staff who are under the direct supervision of a qualified licensed teacher.
- It must be synchronous, unless the instruction or educational services are provided by a virtual public charter school in compliance with ORS chapter 338.

## Impact of Definition of Meaningful Access

**Meaningful access is a concept in SB 819 that was not addressed in ORS 343.161.**

If a student is not receiving meaningful access to the same number of hours of instruction or educational services as the majority of students in the same grade in their resident school district, or other appropriate comparison group under SB 819, they cannot be considered to be receiving a full school day. Therefore, students in this situation are on an abbreviated school day and the provisions of SB 819 apply.

Meaningful access requires that instruction and educational services be synchronous, unless the instruction or educational services are provided by a virtual public charter school in compliance with ORS chapter 338. **This exception applies only to virtual public charter schools.** SB 819 is silent on the definition of synchronous and asynchronous. For the purposes of determining if instruction and educational services meet the meaningful access requirement for SB 819, ODE suggests school districts use the following definitions of synchronous and asynchronous:

- **Synchronous instruction and educational services** mean simultaneous interactions between a qualified licensed teacher, or qualified staff under the direct supervision of a qualified licensed teacher, at the same time, either in person or through the use of an interactive technology. This may include audio only, video only, or audio and video. Key to the definition of synchronous is the opportunity for interaction between the staff and the student that occurs in or near real time, allowing for feedback and adjustments.
- **Asynchronous instruction and educational services** are flexible non-simultaneous approaches using audio, video, and learning platforms. Key to the definition of asynchronous is that there is limited or no opportunity for interaction between the staff and the student that occurs in or near real time.

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For students with disabilities, except those in virtual public charter schools operating in compliance with ORS Chapter 338, asynchronous instruction and educational services provided during the school day cannot be counted as meaningful access to hours of instruction or educational services and, therefore, may constitute an abbreviated school day. School districts should carefully review their offerings to determine where students with disabilities are impacted by this requirement. Primary areas where ODE sees the likelihood of an impact from this requirement include credit recovery, elective offerings, district-sponsored virtual schools, other online instruction, or educational service offerings.

## Definition of Informed and Written Consent

No student can be placed on an abbreviated school day program without the voluntary [informed and written consent](#) of their parent or foster parent that was sought following the opportunity for the parent or foster parent to meaningfully participate in the IEP or 504 team meeting where the abbreviated school day program placement was discussed. Processes associated with initial placement and review of placements on abbreviated school day programs consistent with the expectations of SB 819 are described [later in this guidance document](#). Under SB 819, informed and written consent means that a student's parent or foster parent has signed and dated a written consent form affirming that:

- The parent or foster parent received the following information:
  - The student's right to have meaningful access to the same number of hours of instruction and educational services as the majority of other students who are in the same grade within the student's resident school district;
  - The prohibition on the school district to unilaterally place a student with a disability on an abbreviated school day program; and
  - The parent's or foster parent's right, at any time, to withdraw consent for an abbreviated school day program placement or to request a meeting of the student's IEP or 504 team to discuss whether the student should no longer be placed on an abbreviated school day program.
  - A written statement that documents and summarizes the documentation about the following in a language and format accessible to the parent or foster parent:
    - The school district's offer of at least one reasonable alternative placement that included appropriate supports for the student and that could enable the student to have meaningful access to the same number of hours of instruction and educational services that are provided to the majority of other students who are in the same grade within the student's resident school district.
    - The specific provisions of the abbreviated school day program, including:

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- How the abbreviated school day program will be designed to:
  - Support the student’s return to a school day program that is not an abbreviated school day program; and
  - Make progress toward the student’s individualized learning goals and progress in the general curriculum;
- The number of hours of instruction and educational services to be provided to the student while the student is placed on the abbreviated school day program;
- How the student’s progress toward the student’s individualized learning goals and progress in the general curriculum will be measured; and
- The date by which the student is expected to return to a school day program that is not an abbreviated school day program.
- The parent or foster parent was not asked to provide consent for an abbreviated school day program placement before having an opportunity to meaningfully participate in a meeting of the IEP or 504 team;
- The school district offered, and the IEP or 504 team considered, at least one reasonable alternative placement<sup>5</sup> prior to requesting that the parent or foster parent provide consent for an abbreviated school day program placement;
- The parent or foster parent was informed that the IEP or 504 team will meet at least once every 30 calendar days during the school year unless the parent or foster parent provides signed consent to meet less frequently as allowed under SB 819;
- The parent or foster parent was informed that if, during the school year, the IEP or 504 team is scheduled to convene less frequently than once every 30 calendar days during the abbreviated school day program, the school district must convene an IEP or 504 team meeting within 14 calendar days of receiving a written request from the parent or foster parent for the meeting;
- The parent or foster parent voluntarily signed the consent form for the abbreviated school day program placement; and
- The parent or foster parent was informed of the right to revoke consent, in writing, to an abbreviated school day program placement at any time and informed that the parent or foster parent is not required to request or attend an IEP or 504 team meeting prior to revoking consent to an abbreviated school day program placement.

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<sup>5</sup> Under SB 819, reasonable alternative placements include appropriate supports for the student and could enable the student to have meaningful access to the same number of hours of instruction and educational services that are provided to the majority of other students who are in the same grade within the student’s resident school district.

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## ***Revocation of Consent***

Under SB 819, even if a parent or foster parent provides consent, they have the right, at any time, to [revoke that consent](#), in writing, or to otherwise object to their child's abbreviated school day program, in writing. When a parent or foster parent revokes consent, in writing, or otherwise objects to the consent, the school district must ensure that the child is provided with meaningful access to the same number of hours of instruction or educational services available to the majority of other students in the same grade in the student's resident school district, or other appropriate comparison group.

If a parent or foster parent submits a written revocation or objection to the placement of their child on an abbreviated school day program, the superintendent of the school district is responsible for ensuring that within five school days or a later date specified in a written notice from the parent or foster parent, the student is granted meaningful access to the same number of hours of instruction and educational services as the majority of other students who are in the same grade within the student's resident school district.

## ***Revocation of Consent over the Summer***

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

## ***Consent to Extend the Timeline for Return***

A parent or foster parent of a student may allow the school district an extension of up to a maximum of an additional five school days to provide the student with meaningful access to the same number of hours of instruction and educational services that are provided to the majority of other students who are in the same grade within the student's resident school district if:

- The parent or foster parent provides written consent for the extension; and
- The parent or foster parent has not previously provided written consent for an extension for the student during the school year.

It is important to note that, if a school district fails to provide meaningful access before the expiration of an extension, SB 819 prescribes corrective action, including that ODE order a specific amount of compensatory education. Under these circumstances, any calculations of compensatory education that must be provided by the school district will be made as though an extension had not been allowed.

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## *Impact of Definition of Informed and Written Consent and Impact of Revocation of Consent*

### **Informed and Written Consent is a new definition in SB 819.**

Under both Section 504 and the IDEA, informed consent is required in some circumstances. However, neither the IDEA nor Section 504 requires informed consent for a specific placement once a student has been made eligible and placed within the program.

Under SB 819, however, when a school district believes that an abbreviated school day program is appropriate, they must seek the parent or foster parent's informed and written consent before they can implement such a program. School districts cannot implement an IEP or 504 plan that it believes will enable the provision of FAPE if that plan would result in the student being placed on an abbreviated school day program without the informed and written consent of the parent or foster parent. Rather, if a parent denies consent for placement on an abbreviated school day program, the school district must ensure that, within 5 school days, the student has meaningful access to the same number of hours of instruction and educational services that are provided to the majority of other students who are in the same grade within the student's resident school district.

**Simply put, moving forward, parents and foster parents must consent for their children to be placed on an abbreviated school day program, and determine how long that placement will continue.** Parents and foster parents have the right to revoke consent or object, in writing, to an abbreviated school day program placement at any time. If a school district believes that such a placement may be necessary, it should work closely with the parent or foster parent to proactively address the needs arising from the student's disability.

School districts must enable the provision of FAPE. If a school district believes that an abbreviated school day program placement is the only way to enable the provision of FAPE, the **only** way it can make that occur is to successfully and receive the parent or foster parent's voluntary informed and written consent. Collaboration with parents throughout the process will be essential.

## **Applying the Concepts of Abbreviated School Day Programs**

This section of the guidance aims to share information related to the practical application of SB 819 in relation to abbreviated school day programs.

Specifically, this section will provide step-by-step suggestions to help school district staff determine whether a student's placement constitutes an abbreviated school day program



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under the definitions and processes outlined in SB 819 and, in turn, whether the provisions of SB 819 (e.g., informed and written consent, regular review meetings, superintendent review) apply.

**These steps do not establish a process for placing a student on an abbreviated school day.** They instead offer a suggested method to assess if a student’s day is considered abbreviated under the law.

This section also provides information on how SB 819 may apply to different types of schools and programs, including those with varied requirements and those exempt from certain requirements established by SB 819.

## Steps to Determine Whether a Placement Constitutes an Abbreviated School Day

SB 819 defines who is considered a student with a disability for the purpose of determining if they are receiving abbreviated school days and/or an abbreviated school day program. School districts will need to apply these definitions and processes to their schools, programs, and individual student schedules to determine if a student’s day is receiving abbreviated school days.

The steps below outline how to apply the requirements of SB 819 to the various schools and programs. **These general steps provide an overview for thinking about abbreviated school day program placements; they do not establish a process to place someone on an abbreviated school day program.** School districts may wish to consult legal counsel regarding their specific context.

### Steps to Determine Whether a Placement Constitutes an Abbreviated School Day Program

The following steps offer a potential approach to apply the requirements of SB 819 to various school and program designs. ***This is not a process to place someone on an abbreviated day.***

**Step 1:** Is the student considered a “student with a disability” under the law?

If the student **is considered** a “student with a disability” under SB 819, continue to Step 2.

If the student **is NOT currently considered** a “student with a disability” under SB 819, the provisions of the law do not currently apply to the student.

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## Steps to Determine Whether a Placement Constitutes an Abbreviated School Day Program

The following steps offer a potential approach to apply the requirements of SB 819 to various school and program designs. *This is not a process to place someone on an abbreviated day.*

In these cases, school districts are reminded to be aware of and meet their child find obligations under Section 504 and the IDEA. Consistent with those obligations, teams should carefully consider whether a child's circumstances – including the reduction of their access to hours or instruction or educational services relative to the majority of other students who are in the same grade in the student's resident school district – raise suspicion that, or give the school district reason to suspect that, the student is or may be a student with a disability who requires reasonable accommodation or special education and related services. Where such suspicion exists, or where it should exist, school districts have an obligation to seek the parent's informed consent for a comprehensive initial evaluation.

**Step 2:** What is the appropriate comparison group under SB 819's requirements for determining whether the number of hours of instruction and education services the student can access constitutes an abbreviated school day? Unless the student's school or program is exempted in SB 819, this determination allows school districts to identify the number of hours of instruction and educational services required for a full school day.

For most students, in most situations, the appropriate comparison group is the majority of other students who are in the same grade within the student's resident school district.

Some students who attend specific schools or programs are required to be compared to a different group of students. The guidance section on [Schools and Programs With Varied Requirements under SB 819](#) describes these students, schools, and programs further.

**Step 3:** How many total hours of instruction and educational services does the student with a disability have access to? How does it compare to their appropriate comparison group that was determined in Step 2?

For the purposes of making these determinations, hours includes any fraction of an hour.

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## Steps to Determine Whether a Placement Constitutes an Abbreviated School Day Program

The following steps offer a potential approach to apply the requirements of SB 819 to various school and program designs. *This is not a process to place someone on an abbreviated day.*

If the student with a disability **has access to** the same number of hours of instruction or educational services as their appropriate comparison group, continue to Step 4.

If the student with a disability **does not have access to** the same number of hours of instruction or educational services as their appropriate comparison group, the student's schedule would constitute an abbreviated school day program and the requirements of SB 819 apply to the student, according to their circumstances.

**Step 4:** Do the hours of instruction and educational services available to the student with a disability constitute meaningful access?

If the student with a disability **has meaningful access to** the same number of hours of instruction and educational services as the majority of other students in their appropriate comparison group, continue to Step 5.

If the student with a disability **does not have meaningful access to** the same number of hours of instruction and educational services as the majority of other students in their appropriate comparison group, the student is receiving an abbreviated school day and the requirements of SB 819 do currently apply to the student, according to their circumstances.

**Step 5:** Is the student receiving an abbreviated school day?

If the hours of instruction and educational services **meet all of the requirements in SB 819** the student's day is not an abbreviated school day. If the student is not receiving an abbreviated school day, the requirements of SB 819 do not currently apply to the student.

If the hours of instruction and educational services **do not meet all of the requirements in SB 819** the student's day is considered an abbreviated school day, and the requirements of SB 819 do currently apply to the student, according to their circumstances.

***When any student's day is considered to be an abbreviated school day program, the protections established by SB 819 apply to the student and must be followed. These***

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## Steps to Determine Whether a Placement Constitutes an Abbreviated School Day Program

The following steps offer a potential approach to apply the requirements of SB 819 to various school and program designs. *This is not a process to place someone on an abbreviated day.*

*protections include but are not limited to placement provisions, appropriate notice, acknowledgement, regular review meetings, and informed and written consent for placement on an abbreviated school day program from the parent or foster parent.*

### **Schools and Programs Subject to Full Requirements of SB 819**

Most schools and programs are subject to the full requirements of SB 819. These requirements include, but are not limited to:

- Providing every student with a disability with meaningful access to the same number of hours of instruction or educational services as available to other students in the appropriate comparison group, unless the child requires an abbreviated school day program and all of the applicable requirements of SB 819 are met;
- Comparing the number of hours of instruction and educational services available to students with disabilities to the majority of other students who are in the same grade and resident school district as the student with a disability;
- Obtaining the parent or foster parent's: (1) signed acknowledgement, and (2) informed and written consent before placing a student on an abbreviated school day program, but after providing the parent or foster parent with the opportunity to meaningfully participate in person in a meeting where the abbreviated school day program was being considered; and
- Meeting at regular, prescribed intervals after a student has been placed on an abbreviated school day program, which will typically be at least every 30 calendar days, unless extended via written parent consent.

Additional requirements are explained in the sections below.

### **Impact of Schools and Programs Subject to Full Requirements of SB 819**

Under ORS 343.161, the definition of an abbreviated school day program was limited to certain settings, excluding home education, special schools, and certain programs with shorter instructional hours. The adoption of SB 819 modifies and expands that definition. **Now, it considers the majority of students in the same grade within a student's resident school district as the comparison group, rather than just those in the same school.**

This change means that settings previously excluded are potentially included in the definition of an abbreviated school day program. These newly included settings include but are not limited

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to special schools, homebound placements, and secondary transition programs for students aged 18-21.

For example, secondary transition programs for 18-21 year old students must comply with both: (1) the requirements of SB 819, and (2) the requirements of related Oregon Administrative Rules (i.e., [OAR 581-022-2010](#)(14)(f), [OAR 581-022-2015](#)(8)(f), and [OAR 581-022-2020](#)(7)(f)). For a detailed description of the requirements of secondary transition programs as they relate to abbreviated school day program placements, please see [Abbreviated School Day Programs for Secondary Transition Programs Following SB 819 and Existing Rules](#).

## ***Schools and Programs with Varied Requirements under SB 819***

The provisions from Sections 2 through 5 in SB 819 do not apply to some student populations. Relevant information related to these students and settings are described below.

### **Pediatric Nursing Facilities**

Abbreviated school day programs *for students who are enrolled in Pediatric Nursing Facilities* must meet all of the requirements of SB 819. However, after the 25-35 calendar day meeting to review the placement, if the parent or foster parent chooses to provide written consent for it, the IEP team can meet as infrequently as once each year to review the placement.

### **Students Fulfilling Graduation Requirements**

For students who have fulfilled all state graduation requirements for *a high school diploma as outlined in ORS 329.451(2)*, SB 819 provides an exemption to standard abbreviated school day requirements. In these cases, a student's school day can be abbreviated if the parent or foster parent agrees to the abbreviated school day program.

### **Virtual Public Charter Schools**

Virtual public charter schools that are operating in compliance with ORS Chapter 338 must follow the guidelines set forth in SB 819, with a few exceptions. To determine if a student enrolled in a virtual public charter school is receiving an abbreviated school day program, their instruction and educational services must be compared to those provided to the majority of other students who are in the same grade within the student's resident school district.

In virtual public charter schools operating in compliance with ORS 338, SB 819 waives the requirement for instruction to be synchronous in order for it to be considered meaningful access. Under that exception, virtual public charter schools operating in compliance with ORS Chapter 338 can include both asynchronous and synchronous hours when determining the total number of hours in order to compare them to the majority of other students who are in the same grade within the student's resident district.



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- If a student's hours match those of the majority of other students who are in the same grade within their resident school district, the student's day **is not considered abbreviated**.
- If a student's hours are fewer than those of the majority of other students who are in the same grade within their resident school district, their day **is considered abbreviated** and requirements of SB 819 apply.

Requirements from SB 819 include providing appropriate notice, obtaining acknowledgement, and obtaining informed and written consent from the parent or foster parent prior to placing the student on an abbreviated school day program.

SB 819 also includes requirements regarding meeting frequency for virtual public charter schools. For these students, the IEP or 504 team must meet as follows:

- Initial meeting to consider placement;
- Between 25-35 calendar days after initial placement;
- At least every 30 calendar days after the 25-35 calendar day review, unless the parent consents to meet less frequently when the student is receiving meaningful access to the same amount of hours of instruction or educational services as the majority of other students who are not disabled students who are in the same grade within the school;
- But no less than annually after the initial meeting, even with parent consent; and
- Within 14 calendar days if the parent requests a meeting, only if the parent has provided consent to meet less frequently than every 30 days.

## ***Expanded Options, Accelerated College Credit, and Alternative Education Programs***

High school students who are voluntarily enrolled in Expanded Options (ORS 340.005-340.090) or accelerated college credit programs (ORS 340.300) are exempt from sections 2 through 5 of SB 819 if:

- the majority of the students in the program are not students with disabilities;
- the student's hours match those of students without disabilities in the same grade in the same program; and
- parents are informed in writing that they can request full school day access.

Similar criteria apply for voluntary alternative education programs under ORS 336.635. However, students in voluntary alternative education programs also have the right to have meaningful access to a full school day immediately restored upon written request of the parent or foster parent.

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## ***Out-of-District Programs and Other Special Placements***

There are specific provisions in SB 819 that apply to students placed in programs or other special placements outside of their resident school district. The requirements of SB 819 apply regardless of whether the resident school district has control over the school or program. The resident district remains responsible for ensuring proper processes are followed, including proper notification, maintaining full school day access unless informed and written consent is obtained, and calculating hours to compare the program to the resident district.

Unless specific procedures are followed, a student with a disability cannot be placed in a program or school outside their resident district if that program or school provides fewer hours of instruction and educational services compared to the majority of students in the same grade in the student's resident district. The resident district remains responsible for ensuring FAPE and compliance with SB 819. Therefore, when considering placement in another program or school, the resident district must compare the hours of the proposed placement to the hours received by the majority of students in the same grade in the resident district. The student may only be placed in the program if:

- it provides meaningful access to equal instructional hours and educational services as compared to the resident district grade level; or
- The parent provides informed and written consent for an abbreviated school day program based on the student's needs.

Before the resident school district can seek to place a student outside of their district to a program with fewer instructional hours or educational services, the district must inform the parent or foster parent in a language and format accessible that the placement would be an abbreviated school day program and indicate the number of hours of instruction or educational services that would be missed over each two ordinary full school weeks while the student is placed on an abbreviated school day program. Under SB 819, school districts must include any fraction of an hour of instruction or educational services when calculating whether a child is receiving access to fewer hours of instruction or educational services. Following that, the resident school district must seek the parent or foster parent's informed and written consent for the abbreviated school day program, consistent with SB 819's requirements.

If the parent does not consent to the abbreviated day the resident school district is required to ensure meaningful access to the same number of hours of instruction or educational services that are available to the majority of other students who are in the same grade within the student's resident school district. School districts should work with parents and families to determine the appropriate placement out of available options in light of the student's circumstances.

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For example, some options that may enable the provision of FAPE for a student in these circumstances include but are not limited to:

- The resident school district could work with the out-of-district placement to adjust the number of hours of instruction or educational services available to the student in that primary placement.
- The resident school district could place the student on a full school day within the resident school district.
- The resident school district could supplement the hours of instruction or educational services available to the student in their primary placement to ensure they have meaningful access to the same number of hours of instruction or educational services as the majority of students who are in the same grade within the student's resident school district.

## ***Different Comparison Groups Required***

Under SB 819, determining whether students who attend some programs, including special placements and consortium programs, involves a unique comparison group. For students in these programs, determining whether they have meaningful access to the same number of bell-to-bell instructional and educational service time requires comparison of the student's total number of minutes to the total number of minutes available to other students in the ***same school they attend***, rather than to their same grade peers in ***their resident school district***.

In addition, students enrolled in the following programs also have different required comparison groups:

- Juvenile Detention Education Programs, as described in ORS 336.585;
- Youth Corrections Education Programs, as described in ORS 336.590;
- Education for children in local or regional correctional facilities, as described in ORS 339.129;
- Instruction in hospitals, as described in ORS 343.261;
- Eligible Residential Treatment Programs, as described in ORS 343.961(1)(c)(A)(i); and
- Oregon School for the Deaf, as described in ORS 364.010.

For detailed information on comparing and calculating hours of instruction for students within these schools and programs, see below.

## ***Schools and Programs Excluded from the Requirements of SB 819***

Some schools and programs are excluded from the requirements of SB 819. The requirements of SB 819 do not apply to students who attend school under any of the following circumstances:

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- Students who are **registered home school** students;
- Students who are **parentally-placed private school** students;
- Students who are under a **court order**;
- Students who are excluded from schools due to the student's **immunization status** due to the student's exposure to a restrictable disease;
- Students who are excluded from schools or the closure or restriction of access to schools due to actions taken under a **public health emergency**; and
- Students who are excluded due to **disciplinary measures** so long as the consequences being imposed comply with all federal, state and local requirements including:
  - ORS 339.252 - Disciplinary removal requirements for students with disabilities.
  - ORS 343.155(5) - Rules prescribing standards and procedures for disciplinary actions for behavior or misconduct of a child with a disability.
  - ORS 343.177 - Educational placements during administrative or judicial proceedings.

Additionally, SB 819 does not change the school district's ability to appropriately impose disciplinary consequences on a student for violations of the code of conduct. While students with disabilities can be excluded due to disciplinary measures, additional protections have been established to prevent students from being disciplined because they have a disability. Within 10 school days of any decision to make a disciplinary change of placement for a student with a disability, the school district, the parent, and relevant members of the IEP team must determine whether the conduct in question:

- Was caused by or directly and substantially related to the child's disability; or
- Was the direct result of the LEA's failure to implement the child's IEP.

The process by which this is conducted is called a manifestation determination review (MDR).

Accordingly, a school day that is shortened, appropriately, and in line with applicable requirements, due to violations of the code of conduct, is not an abbreviated school day program. However, where students with disabilities are exhibiting behaviors of concern, the appropriate team should reconvene to review and, if appropriate, revise the child's IEP or 504 Plan.

## Considering the Use of Abbreviated School Day Programs

School districts should seek to avoid the use of abbreviated school day program placements wherever appropriate. Recognizing that the goal is to avoid use of abbreviated school day program placements wherever appropriate, there will, nevertheless, be students with

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disabilities within Oregon school districts for whom an abbreviated school day program placement is appropriate.

School districts should closely collaborate with parents or foster parents to proactively work to address student needs. Having effective IEP and 504 discussions about students' needs and potential placements can require significant trust between team members. In some cases, school districts may need to employ meeting facilitation skills to build trust with parents or foster parents.

It is up to each student's IEP or 504 team to make unique, individualized recommendations about when an abbreviated school day program placement may be appropriate. SB 819 prohibits school districts from providing an abbreviated school day program to a student with a disability unless the student's IEP or 504 team recommends that the student should be placed on an abbreviated school day program based on the student's individual needs, which may not include consideration of a lack of school district resources, including: (i) licensed or classified staff; (ii) availability of training; (iii) accessible facilities; and (iv) related services, including nursing services and transportation services.

When reviewing the student's individual needs, teams should meaningfully consider all available data and information sources that could inform abbreviated school day program placements. School districts always have significant academic, social emotional, and behavioral data related to students but, in many cases where an abbreviated school day program placement is being considered, there may be additional important data and recommendations provided by medical and psychiatric providers, through doctor's orders, in mental health treatment plans, and in chronic disease management plans.

## ***IEP and 504 Processes Related to SB 819***

SB 819 requires regular IEP or 504 meetings when students with disabilities are placed on an abbreviated school day program. ODE has developed suggested meeting procedures and relevant documentation forms for each meeting type to support school districts in implementing SB 819 effectively. **However, school districts will need to ensure that all processes required by SB 819 in light of a student's individual circumstances are followed appropriately, including but not limited to notice, acknowledgement, informed and written consent, and documentation requirements.** ODE recommends school districts work with legal counsel as needed.

ODE has developed the following suggested meeting procedures that IEP and 504 teams can choose to use for these purposes:

- [A meeting where the initial abbreviated school day program placement occurs;](#)

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- [A first review meeting that occurs within 25-35 calendar days of the initial abbreviated school day program placement occurs;](#) and
- [Subsequent review meetings no less frequently than once every 30 calendar days.](#)

## Superintendent Review

SB 819 introduced a mandatory superintendent review process for some abbreviated school day programs. This section provides an overview of these required review processes. Under SB 819, superintendents must review students' abbreviated school day programs, ensuring compliance with state and federal laws. The review is triggered once a student's abbreviated school day placement reaches 90 cumulative calendar days over two or more consecutive school years. This section also outlines the procedures to be followed when a program is found to be compliant or noncompliant, and the additional steps required for high school students not expected to graduate on time due to abbreviated school day placement.

SB 819 introduces two review processes whereby superintendents are required to analyze and document students' abbreviated school day programs. The school district superintendent must review a student's abbreviated school day program placement if the student is placed on an abbreviated school day program for:

- Ninety (90) or more cumulative **calendar** days during the school year, or
- Ninety (90) or more cumulative **calendar** days, excluding summer break, when the student is placed on an abbreviated school day program during two or more consecutive school years.

The Superintendent must review each student's abbreviated school day program placement, at the required intervals stated above, to determine if the student's program is compliant with state and federal law. Any findings or documentation required by SB 819 must be provided, within five school days of making the finding, to the student's parent or foster parent in a language and format accessible to the parent or foster parent. The [Superintendent Review Form](#) may be of assistance to districts in documenting completion of this review.



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## Superintendent Review Process - Compliance

The Superintendent must review each student’s abbreviated school day program placement, at the required intervals, to determine if it is compliant with state and federal law. The following are suggested procedures to handle compliant and noncompliant placements.

When Compliant	When Noncompliant
<ol style="list-style-type: none"> <li>1. Upon review, find that the abbreviated school day program is compliant with state and federal law;</li> <li>2. Document the efforts of the school district to facilitate the student’s meaningful access to the same number of hours of instruction and educational services that are provided to the majority of other students who are in the same grade within the student’s resident school district;</li> <li>3. Document the specific barriers that prevent that meaningful access; and</li> <li>4. Submit finding and documentation to the parent in a language and format that is accessible within 5 school days of making the finding.</li> </ol>	<ol style="list-style-type: none"> <li>1. Upon review, find that the abbreviated school day program is not compliant with state and federal law;</li> <li>2. Ensure that, within five school days of making the finding, the student has meaningful access to the same number of hours of instruction and educational services that are provided to the majority of other students who are in the same grade within the student’s resident school district unless an extension has been allowed following the provisions of SB 819; and</li> <li>3. Submit the finding to the parent in a language and format that is accessible within 5 school days of making the finding.</li> </ol>

If a school district fails to provide meaningful access within the required timeline, including any extensions allowed under SB 819, any calculations of compensatory education that must be provided by the school district will be made as though an extension had not been allowed.

In addition, to the required review of compliance for a student’s abbreviated school day program, SB 819 also requires additional steps to be taken for any student in grades 9 through 12 who is not expected to graduate on time with a high school diploma, modified diploma, or extended diploma due to placement on abbreviated school day. For those students, SB 819 prescribes steps to develop a plan for credit recovery and comprehensive services in order for students to have a pathway to achieve an Oregon diploma. ODE suggests that school districts use the [Superintendent Review Form](#) to document completion of this review.

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## Superintendent Review Process—On time Graduation

When conducting this review, the Superintendent must also review and develop a plan for graduation for any student with a disability as defined under SB 819 in grades 9 through 12 who is not expected to graduate on time with a high school diploma, modified diploma, or extended diploma. The following are suggested procedures to review graduation progress.

1. Conduct a review of the student's achievements towards graduation.
2. Document the following items:
  - A plan for credit recovery and comprehensive services, including compensatory services, that is being implemented to ensure the student's on-time graduation; and
  - The student's progress toward on-time graduation with a high school diploma, a modified diploma or an extended diploma.
3. The superintendent provides any findings or documentation required under the superintendent's review to the parents, foster parents, or adult student **within five school days** of making the finding in a language and format accessible to the parent or foster parent.

**Note:** If the student is served by an education program through an education service district, the requirements of the superintendent's review described above apply to the superintendent of the **resident** school district.

## Impact of Definition of Superintendent Review Processes

The implementation of these procedures introduces a framework for review of abbreviated school day programs, establishing substantial new responsibilities for the resident school district superintendent. ODE suggests that districts establish protocols to monitor students' daily attendance and inform superintendents, enabling them to oversee the review processes and ensure adherence to these requirements.

**Please note** that under SB 819, an abbreviated school day is any **school** day during which a student with a disability receives instruction or educational services for fewer hours than the majority of students who are in the same grade within the student's resident school district. However, the Superintendent must complete the review for any student who has received an abbreviated school day program for 90 cumulative **calendar** days over two or more consecutive school years.

Superintendents will need to carefully track abbreviated school day program placements to ensure they meet the timelines required for this superintendent review process. ODE cautions that only counting school days could result in an undercount of cumulative calendar days and may result in a delayed superintendent review that fails to comply with SB 819. School districts

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are encouraged to consult with their legal counsel to determine when individual abbreviated school day program placements require this review.

If, in this review process, a Superintendent determines that a student's abbreviated school day program does not meet the requirements of SB 819, or other state or federal laws, they must ensure the student is provided with meaningful access within five school days. Consequently, IEP and 504 teams should be prepared to promptly reconvene in order to plan for the student's timely transition back to full-day instruction.

## Data Reporting and Accountability to ODE

SB 819 requires school districts to provide ODE with regular updates and data about students enrolled in an abbreviated school day program. **These updates are to be submitted at least once every 30 calendar days throughout the school year.** The information to be included in the report consists of the student's grade level, the weekly number of hours of instruction and educational services scheduled by the district, the start date of the abbreviated school day program, and the anticipated date when the student is expected to receive meaningful access to the same amount of instruction and services provided to other students in the same grade within the district.

ODE is establishing a new, permanent, formal data collection to align with the requirements of SB 819. As part of this required data submission, districts must submit the most recent signed acknowledgement and informed and written consent forms received from the parent or foster parent. ODE anticipates this new data collection system will be available for school district use by late August 2023. The Department will provide training and technical assistance to support data submitters.

Any student who has an IEP, a 504 plan, or is undergoing an initial evaluation to determine eligibility for either special education or Section 504 and who is placed on an abbreviated school day program must be reported in the [Abbreviated Day](#) collection within the [ODE Consolidated Collections](#) at least once every 30 calendar days. Each instance of a student being placed on an abbreviated school day program during the reporting period should be reported individually. The reporting period for each school year spans from July 1 to June 30.

Further details, including reporting requirements and guidance on the data collection process, will be made available on the [Abbreviated Day Collection](#) page once it is finalized.

## Enforcement

SB 819 introduces a new enforcement process at the state level that will operate alongside existing federal enforcement processes under the IDEA related to noncompliance and corrective action. Under 34 CFR § 300.600 at the federal level, ODE is responsible for ensuring the implementation of state and federal requirements related to the education of students with disabilities, including implementing enforcement activities to compel compliance as needed. Newly required complaint processes and specific enforcement requirements are introduced in SB 819 related to abbreviated school day program placements. For students with disabilities receiving an abbreviated school day program who are eligible under the IDEA, these enforcement measures will be utilized consistent with [Oregon's System of General Supervision](#). For students with disabilities receiving an abbreviated school day program who are eligible under Section 504, state-level monitoring and enforcement measures are being implemented.

## Complaint Process

Under SB 819, when ODE receives a complaint or has cause to believe a school district is not in compliance with Section 2(7) or Section 3(5) of the Act, the department must initiate an investigation and inform the school district of any noncompliance within 30 calendar days of receiving the complaint or having cause to believe the school district is not in compliance. Section 2(7) prohibits school districts from unilaterally placing a student with a disability on an abbreviated school day program, regardless of the age of the student. A unilateral placement is a placement without the informed and written consent of the parent or foster parent. Section 3(5) requires the school district to receive the parent or foster parent informed and written consent prior to the abbreviated school day program placement. SB 819 explains that if the complaint relates to a specific student and is made by the student's parent or foster parent, the Department is not required to conduct an investigation and will instead presume that consent for the abbreviated day program has been revoked.

If ODE conducts an investigation and determines that a district is not in compliance with Section 2(7) or Section 3(5) of SB 819 for any students named in the complaint or identified in the investigation, the Department must order the district to end the abbreviated day program and return the student to meaningful access to full time instruction and educational services within five school days. The parent or foster parent can provide written consent for an extension of an additional five school days, as long as the parent or foster parent has not previously provided written consent for an extension for the student during the school year.

Separately, under SB 819, the Department must initiate an investigation and inform the school district within 30 calendar days of receiving the complaint or having cause to believe that a school district is not in compliance with the bill. ODE is also obligated to investigate potential

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noncompliance with these new state requirements because of its general supervisory obligations under the IDEA.

## *Impact of Complaint Processes*

SB 819 seeks to exempt ODE from having to complete state complaint investigations when the parent or foster parent files it on behalf of their child who is placed on an abbreviated school day program. However, the Superintendent of Public Instruction, through ODE, has an obligation under Federal law to investigate state complaints when they are filed, and an obligation to ensure that educational programs for students with disabilities meet federal and state requirements. ODE will continue to meet its obligations under federal law.

Further, ODE had an existing general supervision responsibility to ensure existing federal and state laws related to the education of students with disabilities were implemented. ODE also had an existing obligation to protect the federally guaranteed civil rights of students with disabilities. Those obligations are not new or changed by SB 819. State law cannot change or preempt federal obligations or a student's right to seek alternate federally guaranteed civil rights relief. Rather, SB 819 adds new requirements to state law related to the education of students with disabilities that ODE now needs to ensure are implemented because of existing federal obligations.

## **Enforcement: Nonstandard School**

If the Superintendent of Public Instruction finds that a school district is not in compliance with SB 819's prohibition on unilateral placement or requirement for informed and written parent consent, SB 819 requires the Superintendent of Public Instruction to:

- Immediately, and in no case no more than two business days after receipt of the complaint, order the school district to provide to the student, within five school days, meaningful access to the same number of hours of instruction and educational services that are provided to the majority of other students who are in the same grade within the student's resident school district; and
- Find the school district is not in compliance with SB 819's prohibition on unilateral placement and requirement for informed and written parent consent if the school district fails to comply with the order and the parent or foster parent has not granted written consent for an extension.

When a parent or foster parent files a complaint about their child's abbreviated school day program, SB 819 requires the Superintendent of Public Instruction to presume that consent for the abbreviated school day program placement has been revoked. SB 819 does not require ODE to conduct an investigation in these cases, but other requirements may.

# Implementing SB 819: Guidance for School Districts and Programs

If the school district fails to comply with the order within five school days, the Superintendent of Public Instruction must find the school district nonstandard under ORS 327.103 or 334.217 until all students subject to the order and placed on an abbreviated school day program in violation of SB 819's prohibition on unilateral placement or requirement for informed and written parent consent are provided with meaningful access to the same number of hours of instruction and educational services that are provided to the majority of other students who are in the same grade within the student's resident school district.

## Enforcement: Withholding State Funds

If a school district fails to comply with the order specified in SB 819 within 10 school days, the Department is obligated to take certain actions. Specifically, the State School Fund moneys that would typically be allocated to the district must be immediately withheld, regardless of any timelines or process requirements stated in ORS 327.103 or 334.217. The amount to be withheld is determined by calculating the weighted average daily membership of the students affected by the order, as outlined in ORS 327.013. Additionally, the calculation must take into account the percentage of the school year during which the relevant students were placed in an abbreviated school day program, in violation of SB 819's provisions prohibiting unilateral placement and requiring informed and written consent from parents.

## Enforcement: Compensatory Education

SB 819 also includes a provision regarding compensatory education. According to this requirement, the Department must instruct the school district to provide compensatory education to the students affected by the order. The compensatory education must be equivalent to at least one hour of direct instruction for every two hours of instruction that were lost as a result of the student's placement in an abbreviated school day program, which violated the prohibition on unilateral placement and the requirement for informed and written consent established by SB 819.

## Enforcement: TSPC Discipline

Under SB 819, the failure of a school district superintendent to restore meaningful access to a student within the time required by the Act or to comply with an order issued to restore meaningful access to all students subject to the order may be grounds for discipline by the Teacher Standards and Practices Commission (TSPC) under ORS 342.175. If the commission receives a complaint concerning a failure described in this subsection, the commission shall take into consideration the responsive efforts and actions of the superintendent to restore meaningful access to the student or students.

Therefore, understanding and complying with SB 819's provisions is essential for superintendents to avoid potential disciplinary action and impacts on their professional licensure.



# Implementing SB 819: Guidance for School Districts and Programs

Upon receiving a complaint, the TSPC initiates a review process, and if noncompliance is found, disciplinary actions, ranging from a formal reprimand to potential revocation of the superintendent's license, may ensue.

## Resources

Here is an alphabetical list of links from the guidance document to additional resources related to implementing SB 819:

- [Abbreviated Day Collection page](#)
- [Abbreviated School Day Programs for Secondary Transition Programs Following SB 819 and Existing Rules](#)
- [Acknowledgement of Notice of Required Information Prior to Required Meetings to Review Placement on an Abbreviated School Day Program](#)
- [Information to Consider About Possible Continued Placement on an Abbreviated School Day Program](#)
- [Information to Consider About Possible Initial Placement on an Abbreviated School Day Program](#)
- [Informed and Written Consent for Extending Abbreviated School Day Program Meeting Timeline](#)
- [Informed and Written Consent for Placement on an Abbreviated School Day Program](#)
- [Notice and Acknowledgement of Information Prior to Initial Consideration of an Abbreviated School Day Program](#)
- [Notice of Required Information Prior to Required Meetings to Review Placement on an Abbreviated School Day Program Sample Form](#)
- [ODE's SB 819 website](#)
- [Revocation of Consent For Abbreviated School Day Program Placements Under SB 819](#)
- [SB 819 Abbreviated School Day Programs Meeting Expectations and Exceptions](#)
- [SB 819 Sample Letter for District Use \(English\) / \(Spanish\)](#)
- [Senate Bill 819 \(Enrolled\)](#)
- [Suggested Meeting Procedures for 30-Day Meeting for Regular Review of Placement on an Abbreviated School Day Programs](#)
- [Suggested Meeting Procedures for Initial Meeting to Consider Placement on an Abbreviated School Day Program](#)
- [Suggested Procedures for Required 25-35 Calendar Day Meeting to Review Placement on an Abbreviated School Day Program](#)
- [Superintendent Review: Placement on an Abbreviated School Day Program Sample Form](#)