

Abbreviated School Day  
Program Placements:  
SB 819 (2023) as Replacement  
for ORS 343.161

Eric Wells, Director of IDEA, OESO  
Tenneal Wetherell, Chief of Staff,  
ODE

SCAN HERE FOR THE SLIDE DECK



*Revision Date: 8/21/2023*

# Leaning In

- We are going to place the students who our system has most marginalized at the center of this discussion.
- Lean into a commitment to dismantling the systems that have created barriers for equitable access to instruction.
- Today will be challenging. The information being shared will impact your systems, staff, operations, families, and students.
- As you listen and learn, try to center a solution-oriented approach towards these challenges.
- This is a *systems-level* presentation, not a presentation at the individualized student-specific level.
- Our goal is to talk through the features of a system that can honor the complexities that emerge in discussions related to abbreviated school day program placements.

# Logistics

- Please stop us, ask questions, get clarification, etc., as needed to learn what you need to today. This is an interactive learning environment.
- We will not know all of the answers, but we commit to getting them to you.
- Come and go as you need, the information is dense and this is a large group so will not have time for a break.
- Please make sure to visit our abbreviated day [webpage](#) for updates to training tools.
- There will be more opportunity for training in the coming months, we expect there to be unique situations around the state that will cause us to provide additional guidance as we learn to apply this law.

# Disclaimer

These materials constitute the Oregon Department of Education's interpretation of various state laws and are provided to support public education programs' understanding of their obligations under these laws. The information in these materials is subject to change based on future legal and policy changes. These materials are intended for informational purposes only and do not constitute legal advice.

# ODE's Equity Stance

Education equity is the equitable and anti-racist implementation of policy, practices, procedures, and legislation that translates into resource allocation, education rigor, and opportunities for historically and currently marginalized youth, students, and families including civil rights protected classes.

This means the restructuring and dismantling of systems and institutions that create the dichotomy of beneficiaries and the oppressed and marginalized.

# Ableism

- [Ableism](#) is a form of systemic oppression that gives advantages to people without disabilities.
- It suggests that some abilities are “normal” or “better,” and ranks people’s worth based on their abilities.
- Ableism results in barriers and discrimination that negatively impact students with disabilities.
- Ableism can manifest in overt or subtle ways, including:
  - Refusing to provide accommodations
  - Using ableist language like “lame” or “crazy”
  - Segregating or marginalizing students
  - Punishing students for disability-related behavior
  - Limiting students’ equitable access to education

# Ableism and Abbreviated School Days

- Well-intentioned programs can still subtly promote ableism if they do not give students experiencing disability voice, choice, and control over their education.
- Most of the time, abbreviated school day program placements do not effectively support student needs.
- Abbreviated school day program placements can be a result of ableism in schools if they are used to exclude students experiencing disabilities rather than to support them.



# Orienting to Presentation Framework



# Goals For Our Time Together

Assist you in understanding the new requirements from SB 819

Provide space to think about how the new law applies to your students and district

ODE will learn about where additional guidance, tools, and supports are required to effectively implement SB 819

# Presentation Framework

*The presentation is divided into three sections:*

- **Section One:** *Definitions and Applicability to Districts*
- **Section Two:** *Conducting Compliant Meetings*
- **Section Three:** *Reporting and Enforcement*

## **Important Definitions of Days**

- **Calendar Days** - *means every day.*
- **School Days** - *means any day, including partial days that children are in attendance at school for instructional purposes.*
- **Business Days** - *means a day other than Saturday, Sunday or a legal holiday and on which at least one paid employee of the public body is scheduled to and does report to work. In the case school district or education service district, “business day” does not include any day on which the central administration offices of the district or university are closed.*

**Note:** *There are some slides in this deck that we will cover only briefly due to time but have included for reference. If you have questions on anything in the slide deck, please ask.*

### **Important Note**

When reading the SB 819 in most cases IEP team should be considered IEP and 504 team unless otherwise stated that the language is only for IEPs or 504s.



# Equitable Access to Instruction

# Foundations of SB 819

## Individuals with Disabilities Education Act (IDEA)

Requires that eligible students receive a free appropriate public education in the least restrictive environment.

This means schools must educate students with disabilities alongside their non-disabled peers as much as possible.

## Section 504 of the Rehabilitation Act of 1973

Prohibits discrimination against people with disabilities in programs that receive federal funding, like public K-12 schools.

This means schools must provide accommodations and modifications to allow students with disabilities equitable access.

## Americans with Disabilities Act (ADA)

Prohibits discrimination against people with disabilities in public accommodations, including schools.

This means that facilities, programs, and activities, including those in schools, must be accessible for people with disabilities.

# Foundations of SB 819

## Free Appropriate Public Education (FAPE)

Schools must provide students with disabilities with specially designed instruction and related services required for them to make appropriately ambitious progress in light of their circumstances, at no cost to families.

## Individualized Education Program (IEP) or 504 Plan

Legal document that outlines the supports a school will provide to an individual student to meet their unique needs and enable them to receive FAPE.

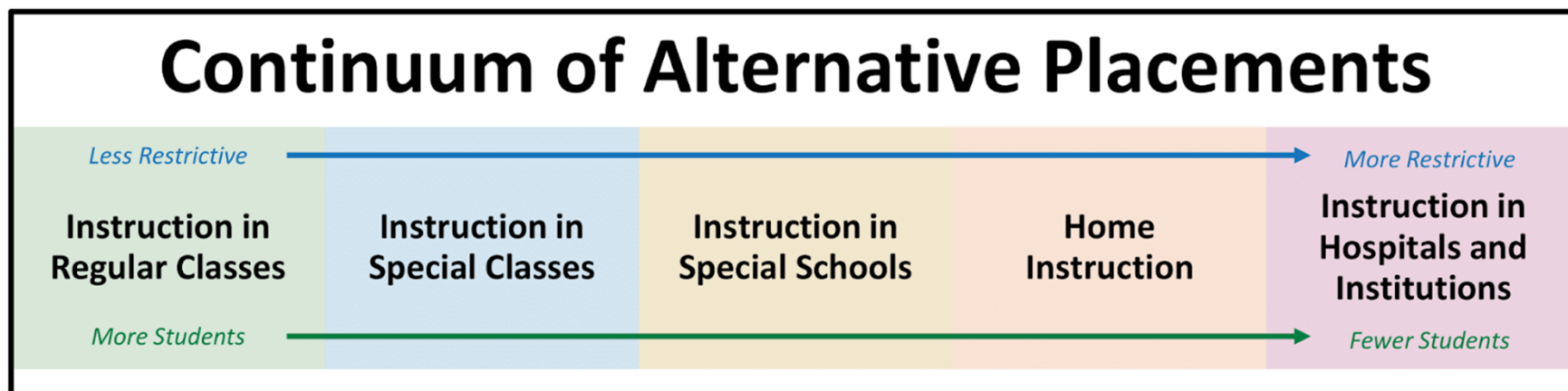
**Under SB 819 – and *only* there – IEP team may also refer to a team that develops a 504 Plan.**

## Least Restrictive Environment (LRE)

Students with disabilities must be educated with their non-disabled peers as much as possible.

Separate, segregated placements should only happen when education in a regular class with accommodation is not possible. (34 CFR 300.114(a)(2))

# Least Restrictive Environment Requirement



Each local educational agency (LEA) is required to “ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services” (34 CFR § 300.115).

# 504 Protections Regarding Student Placements

## General Provision

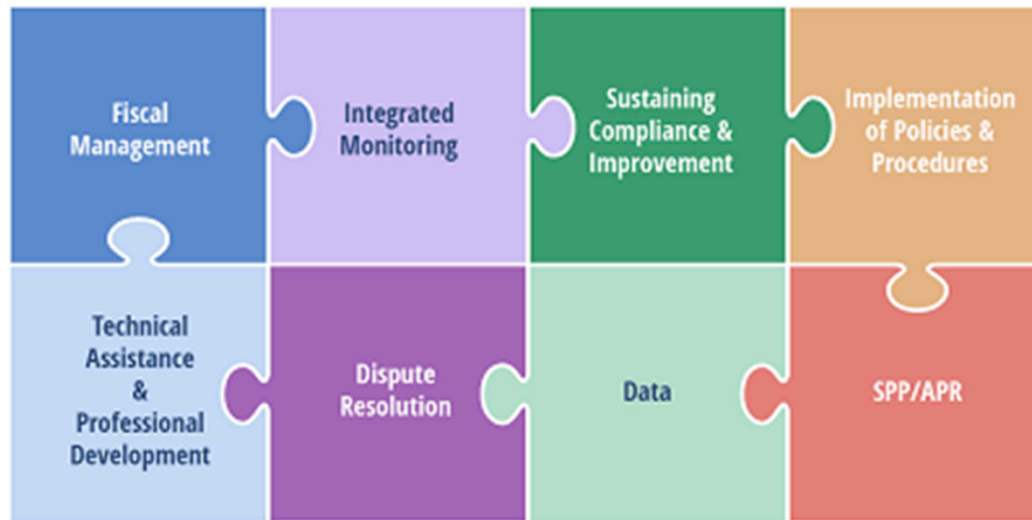
“...afford [people with disabilities] equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement in *the most integrated setting appropriate* to the person’s needs” (34 CFR § 104.4(b)(2))

## Educational Setting

A district shall place a student with a disability “in the *regular educational environment* operated by the [district] unless it is demonstrated by the [district] that the education of the person in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily” (34 CFR § 104.34(a))

# State Obligation to Ensure IDEA's Implementation

ODE will monitor for implementation of the IDEA and SB 819 through Oregon's System of General Supervision. Because SB 819 imposes new obligations, ODE is working to scale up its capacity for this work.





# State's Obligation to Ensure Nondiscrimination

## **Section 504**

- Discrimination prohibited
- Procedural safeguards

ODE accepts disability discrimination complaints on appeal - typically, once a complainant exhausts the local/district discrimination complaint process

ODE will monitor compliance with SB 819 separately from the discrimination complaint process. However, there is nothing that precludes a complainant from filing a discrimination complaint as it relates to an abbreviated school day program placement for a student protected under Section 504.

## 819 Premise: Equitable Access to Instruction

*Abbreviated school day program placements should happen only when no full day placement within a continuum of alternative placements can meet a child's needs.*

*All students have a right to a full school day.*

# All Students Have a Right to a Full School Day

- 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.
- Removal from school is neither a service nor support for students with disabilities.
- Use of an abbreviated school day program for students with disabilities should be infrequent and, under most circumstances, should be used for a limited duration.
- Before considering or recommending a student with a disability for an abbreviated school day program, a school district must document reasonable efforts to provide 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.

## Factors That May Not Influence Abbreviated School Days

**A school district may not consider, recommend or implement an abbreviated school day program due to:**

Lack of staffing, personnel, nursing services, instructional assistants

Convenience for the district, its systems or policies

Transportation: staffing, scheduling (no early pick up or drop off times allowed)

...any illness that would not typically have the same effect for the majority of other students who are in the same grade within the student's resident school district.

**School districts must provide transportation as outlined in each student's IEP/504 Plan.**

## School Districts Must Not:

Request the student to not attend, prohibiting the student from attending or otherwise making attendance inaccessible for a planned activity, including a field trip, a special event or an outdoor school program.

Impose temporary lack of access to education facilities due to construction, special events or weather when that lack of access does not apply to the majority of other students who are in the same grade within the student's resident school district

Offer a program that is less hours than the majority of other students who are in the same grade within the student's resident school district



# Section One

Definitions and Applicability to Districts



# Definition of Student with a Disability

# Student With A Disability: Comparison of Language

## Student with a Disability under ORS 343.161 (Previous)

“Child with a disability” means a school-age child who is entitled to a free appropriate public education as specified by ORS 339.115 and who requires special education because the child has been evaluated as having one of the following conditions as defined by rules established by the State Board of Education.

## Student with a Disability under SB 819 (Current)

A student who is eligible for **special education** and related services, as provided by ORS chapter 343;

A student who has a disability under **Section 504 of the Rehabilitation Act** of 1973, 29 U.S.C. 794, and is eligible for a 504 Plan; or

A student who 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**.



# Student With A Disability: Impact

For Students and Families	For Districts and Programs	For ODE
Students who are on a 504 Plan or under evaluation will now have a formalized process by which they can receive this program placement.	Districts will need to have systems to track use of abbreviated school day programs for new populations of students.	ODE will need to establish supervision and oversight processes for the requirements of SB 819 that newly apply to students served through 504 Plans.

# Ideas for Next Steps

Identify your current students, if any, who are currently placed or placed more than 30 school days last year on an abbreviated school day program.

Identify any students who would be newly considered on an abbreviated school day based on the updated definitions.

Develop a system to track newly eligible (IDEA & 504) students considering the new population included in this SB 819.

**Tip: Review your ODE Informal Submission Data**



# Definition of Abbreviated School Day & Abbreviated School Day Program

# Abbreviated School Day Program: Comparison of Language

## **Prior (ORS 343.161) Definition of Abbreviated School Day**

Abbreviated school day means any school day during which a student receives instruction or educational services for fewer hours than other students who are in the **same grade within the same school**.

## **Abbreviated School Day Program**

Is an education program:

- In which a school district restricts a student's access to hours of instruction or educational services; and
- That results in a student having an abbreviated school day for more than 10 school days per school year.

# Abbreviated School Day Program: Comparison of Language

## Current (SB 819) Definition of 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 other students who are in the same grade within the student's resident school district.**

## Abbreviated School Day Program

Is an education program:

- In which a school district **restricts a student's access** to hours of instruction or educational services to less than the number of hours of instruction or educational services that are provided to the majority of other students who are in the same grade within the student's resident school district
- **That results in a student having an abbreviated school day for more than 10 school days per school year.**

# Applicability to the School Settings

The change in comparison from the “same school” to the “resident school district” implicates the entire continuum of alternative placements. SB 819 applies to:

- Comprehensive Schools, Special Schools, Home Instruction, Alternative Schools, Virtual Public Charter Schools, Specialized Programs (Special Ed and Gen Ed)

Regardless of a student’s placement on the continuum of alternative placements, their hours of instruction and educational services will need to be compared to a specific population of students as indicated in SB 819. For example, you will see comparison groups called out as:

- Same grade, resident district
- Same grade, same school
- Same program (e.g., LTCT, OSD) - not grade specific

# Applicability to the School Settings

The comparison between schools and programs will need to be **bell-to-bell**.

## This Means

The same number of instructional and educational service hours in a school day.

The hours must meet the definitions of:

- Educational Services
- Instruction
- Meaningful Access Provision

## This Does Not Mean

All students will have to start and end school at the same time.

All students will receive the exact same instruction and educational services.

# Applicability to the School Settings

Whenever that comparison reveals that a student with a disability is receiving fewer hours of instruction or educational services, unless explicitly exempted by SB 819, it constitutes an abbreviated day.

If the student's day is abbreviated:

- The appropriate processes for abbreviated school day program placements must be followed.
- Those processes may vary based on the specific context of the student, their program and the rules outlined in SB 819.
- Schools should consistently work to increase meaningful access to a full school day.



# Abbreviated Day: Impact

For Students and Families	For Districts and Programs	For ODE
<p>All school environments and programs will now be applicable to the abbreviated school day definition ensuring equitable access across school placements.</p>	<p>Districts will need to consider bringing their schools and programs into bell-to-bell alignment.</p> <p>For those programs that are not in alignment under the requirements of the SB 819 the placement of students with disabilities in those locations could constitute an abbreviated day.</p> <p>Districts will need to apply the new definitions appropriately in order to avoid unintentional lack of compliance and risk enforcement measures.</p>	<p>ODE will need to scale up its internal IDEA and 504 teams to provide technical assistance as well as its general supervision system to address the increased population that will require monitoring of the students within the various contexts districts provide.</p> <p>ODE will need to collect and evaluate data for an unknown amount of students.</p>

# Ideas for next steps

Initially, districts should consider conducting a bell-to-bell comparison and charting the hours for:

- All of the students in each of your schools
- All of the students in each of your programs
- Make sure to include every student with a disability under SB 819

For situations where newly eligible in the schools and programs where the bell-to-bell comparison now constitutes an abbreviated day, the school or program hours will need to be addressed or a meeting will need to be held using the proper processes for that student to determine appropriate placement and schedule changes prior to the beginning of the school year.

Thereafter, districts and their 504 and IEP teams will need to ensure that each student's placement meets the abbreviated day requirements outlined in SB 819.

District teams will need to consider operational issues like transportation, staffing and food service given the potential changes in school, program and student schedules.



# Definition of Instruction & Educational Services

# Contextualizing Instruction and Educational Services

The definitions of instruction and educational services are used to describe the services that count towards the bell-to-bell comparison to determine if students have access to a full school day.

The instructional hours and educational services hours of each student can be added together and count towards the comparison hours of the majority of students in the same grade in the resident district as long as they meet the meaningful access provision.

**Note:** Hours includes any fraction of an hour.

# Educational Services: SB 819's Language

Educational services includes 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, including:

- 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;

## Educational Services: SB 819's Language, cont'd.

Educational services includes 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, including:

- 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 noninstructional 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.

# Instruction: SB 819's Language

Instruction means the time during which a student is:

- Engaged in regularly scheduled instruction, learning activities or 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.
- 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.

# Instruction: SB 819's Language

Instruction does not include time spent:

- 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, participation in optional programs or participation 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 individualized education program or 504 plan as being necessary for a free appropriate public education.



# Definition of Educational Services and Instruction: Impact

For Students and Families	For Districts and Programs	For ODE
Clear understanding as to what constitutes education and instruction allowing students and families to be better informed for decision making.	Clear expectations around what constitutes education and instructional services in order to ensure students receive a full school day.	ODE will need to ensure that guidance is clear around the definition of educational and instructional services. The definition will also assist ODE in technical assistance and monitoring.

# Ideas for Next Steps

Ensure that staff, leaders, and IEP and 504 teams understand the definitions and how they impact the potential of placement on an abbreviated school day program.

Identify any students who may have unique schedules or approaches to their education to determine if their individualized program meets the definition of abbreviated school day.



# Definition of Meaningful Access

# Meaningful Access: SB 819's Language

Meaningful access means access to full-time, quality instruction or educational services that is delivered by:

- A qualified licensed teacher; or
- Qualified classified staff who are under the direct supervision of a qualified licensed teacher; and
- Synchronous, unless the instruction or educational services are provided by a virtual public charter school in compliance with ORS chapter 338.

# Application of Meaningful Access

For the purposes of determining if instruction and educational services meet the meaningful access requirement for SB 819, ONLY the definitions of synchronous and asynchronous are as follows:

## Synchronous

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

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.

# Application of Meaningful Access

For students who are on an IEP or 504 plan, asynchronous instruction and educational services provided during the school day cannot be counted as instruction or educational services and may likely constitute an abbreviated day.

School districts should note that this could include:

- credit recovery
- elective offerings
- other online instruction or educational service offerings

# Meaningful Access: Impact

For Students and Families	For Districts and Programs	For ODE
<p>Clear understanding as to what constitutes meaningful access to make it easier to determine if the student is receiving appropriate instruction and educational services and to determine and what constitutes an abbreviated day.</p>	<p>Districts will need to assess and potentially address the programming in their schools, programs as well as specialized approaches used in their districts to determine if they meet the meaningful access provision.</p> <p>Training plan for staff who develop student schedules</p>	<p>Scale up technical assistance, guidance and support to districts, families and partners.</p> <p>Embed assessment of meaningful access in general supervision practices.</p>

# Ideas for Next Steps

Ensure that individuals that develop student schedules understand the meaningful access provision and the subsequent requirements of SB819.

Develop a plan to assess the instruction and educational services at schools, programs and for asynchronous offerings in the district.

- Where able attempt to resolve the asynchronous programming
- Where it applies to individual students begin the process of implementing the provisions of SB 819





# School/Program Application

# Applicability to Schools & Programs

## Applies in Full

- Elementary Schools
- Middle Schools
- High Schools
- Private School  
By IEP or 504 Team
- CTE Programs
- Charter Schools
- Online Schools that are not Virtual Public Charter schools
- Special Schools
- Home Instruction
- 18-21-Transition Services

## Applies in Part

- Pediatric Nursing Facility  
With consent may meet 1x per year
- Virtual Public Charter Schools with asynchronous Instruction  
With consent may meet 1x per year
- Fulfilled Graduation Requirements  
Requires agreement ORS 329.451
- Expanded Options  
Voluntary Enrollment  
Majority Students not Students with Disabilities  
Comparison: Same Grade/Same Program
- Accelerated College Credit  
Voluntary Enrollment  
Majority Students not Students with Disabilities  
Comparison: Same Grade/Same Program
- Alternative School (High School Only)  
Voluntary Enrollment/Informed in Writing  
Majority Students not Students with Disabilities  
Comparison: Same Grade/Same Program  
Immediate return upon request

## Comparison Group

Students in the Same Program

- LTCT  
(1)(c)(A)(i) Only
- YCEP
- JDEP
- County Jails
- Hospital Programs
- Oregon School for the Deaf

## Excluded

- Home School
- Private School  
Parentally Placed
- Court Order
- Discipline  
ORS 339.250 or 339.252
- Exposure to Disease  
ORS 433.235 to 433.284
- Public Health  
Emergency  
ORS 433.441 to 433.452

**Note: Not an exhaustive list**

# Applies in Full

All of these schools and programs will be subject to the full requirements of SB 819 abbreviated school day:

- Elementary Schools
- Middle Schools
- High Schools
- CTE Programs
- Credit Recovery Programs
- Schools/programs that combine traditional instruction with asynchronous instruction

**Note:** This is not an exhaustive list. Each school district will need to evaluate the unique schools, programs, and contexts in their individual district.

# Applies in Full: New for Special Education

All schools and programs will be subject to the full requirements of SB 819 abbreviated school day

- Special Schools
- Homebound placements
- 18-21-Transition Services
  - Must follow both 819 and [OAR 581-022-2010\(14\)\(f\)](#), [OAR 581-022-2015\(8\)\(f\)](#), and [OAR 581-022-2020\(7\)\(f\)](#),

**Note:** This is not an exhaustive list, please evaluate the unique schools, programs and contexts that your individual district has developed

# Applies in Part

## Pediatric Nursing Facility

- Comparison district will be the district where the facility is located;
- Requires consent for placement on abbreviated day;
- Must meet all IEP/504 meeting requirements as indicated for this placement type; and
- Teams are able to meet 1x a year if written consent is provided after the first review meeting

## Fulfilled Graduation Requirements (ORS 329.451)

- A student who has fulfilled all state requirements for graduation with a high school diploma; and
- The parent or foster parent has agreed to the abbreviated school day program.

# Applies in Part

## Virtual Public Charter Schools w/asynchronous Instruction

- For the purposes of determining if the students hours are abbreviated the hours would be compared to the **majority of other students who are in the same grade within the student's resident school district**;
- The student's cumulative number of hours of instruction and education services can include both asynchronous and synchronous hours
  - If the students hours are the same as the the majority of the students in the same grade in the resident district then the student's day is not considered abbreviated
  - If the students hours are less than the majority of the students in the same grade in the resident district the students day is considered abbreviated

# Applies in Part

If the student's hours in the virtual public charter school constitute an abbreviated day:

- All of the placement provisions of the SB 819 are required to be applied including appropriate notice, acknowledgement and consent for placement on an abbreviated day from the parent, guardian or foster parent.

If the abbreviated school day hours are:

- The same number of hours of instruction and educational services as the majority of other students who are not disabled students, and
- Who are in the same grade within the school:
  - After the initial placement and review meeting, with consent from the parent the team can hold additional meetings once every year.

# Applies in Part

## Expanded Options and Accelerated College Credit

- Requires Voluntary Enrollment
- The majority of the students of the program are not students with disabilities;
- The student is not restricted to attending fewer hours of instruction and educational services than the number of hours of instruction and educational services attended by the majority of students without disabilities who are in the same grade and who attend the same program;



# Comparison Group: Same Program

A student enrolled in:

- LTCT-343.961 (1)(c)(A)(i)
- YCEP-ORS 3326.590
- JDEP-ORS 336.585,
- Local/Regional Correctional Facilities - ORS 339.129
- Hospital Programs- ORS 343.261
- Oregon School for the Deaf 346.010

Student has meaningful access to the same number of hours of instruction and educational services as the majority of other students enrolled in the same program as the student.

# Alternative Education

For an alternative education program in which the student is enrolled under ORS 336.635, the SB 819 provisions include the following requirements:

- High School Students only
- Requires voluntary enrollment
- The majority of the students of the program are not students with disabilities;
- The student is not restricted to attending fewer hours of instruction and educational services than the number of hours of instruction and educational services attended by the majority of students without disabilities who are in the same grade and who attend the same program; and
- The district informs the parent or foster parent, in writing and in a language and format accessible to the parent or foster parent, that upon written request of the parent or foster parent, the student will be immediately restored to a school that allows the student to access 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.

# Provisions for Special Placements and Consortium Programs

SB 819 has specific requirements for placements in programs outside a student's resident district, including:

- Special education programs/schools that contract with districts
- Consortium programs serving multiple districts
- Other out-of-district placements

For these placements, the resident district remains responsible for ensuring compliance with SB 819, including:

- Informing parents in advance if a proposed placement provides fewer instructional hours than the resident district grade level
- Comparing hours over two typical weeks to determine if they match resident district
- Obtaining informed written consent from parents for an abbreviated day program based on student needs
- Considering schedule changes or supplemental services to provide full school day access

# Provisions for Special Placements and Consortium Programs

The resident district must ensure proper processes are followed regardless of whether it controls the out-of-district program. It remains responsible for calculating hours, providing notification, and facilitating consent. Exceptions apply for certain programs with different comparison groups.

## **Key Details:**

- Parent consent must specify the number of hours missed
- Consent is voluntary and can be revoked at any time
- Resident district must still ensure access to full school day if consent is declined

# Excluded from the Requirements of 819

Home School

Parentally-Placed Private School Students

Court Order

Exposure to Disease

- *A student's exclusion from schools due to the student's immunization status or due to the student's exposure to a restrictable disease, as provided by ORS 433.235 to 433.284.*

Public Health Emergency

- *The exclusion of a student from schools or the closure or restriction of access to schools due to actions taken under a public health*

# Excluded from the Requirements of 819

The IDEA and Section 504 of the Rehabilitation Act have significant disciplinary protections written into them.

Children with disabilities can receive disciplinary consequences, but cannot have disciplinary consequences imposed upon them because of their disability. The manifestation determination review process assures this does not happen.

SB 819 does not change this. 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.

# Excluded from the Requirements of 819

Therefore, students with disabilities **may** continue to be excluded under SB 819 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.

# Students on Abbreviated Day under ORS 343.161

Students who were placed on an abbreviated school day program when ORS 343.161 was in effect have the right to revoke consent.

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

- The school district is not required to retroactively obtain informed and written consent from the parent or foster parent;
  - The district is required to inform each currently eligible child of the provisions of 819 and their right to revoke consent
- The abbreviated school day placement shall continue until the next meeting of the student's individualized education program team; and
- At the next meeting of the student's individualized education program team, consideration of placement on an abbreviated school day program shall be conducted in compliance with sections 3 and 4 of this 2023 Act."



# Common Questions about Application

ODE has received questions about “schools of choice” and the terms “placement” or “placed” and if it impacts the requirements of SB 819.

- SB 819 defines “Abbreviated School Day” as any school day during which a student with a disability receives instruction or educational services for fewer hours than the majority of other students who are in the same grade within the student’s resident school district.
- Districts are required to ensure that students have “Meaningful Access” to full-time, quality instruction or educational services that is: (a) delivered by: (A) a qualified licensed teacher; or (B) qualified classified staff who are under the direct supervision of a qualified licensed teacher; and (b) synchronous, unless the instruction or educational services are provided by a virtual public charter school in compliance with ORS chapter 338.

To ensure compliance of SB 819, ODE suggests applying these requirements to all schools and programs, unless explicitly exempted. ODE recommends working with your legal counsel to determine how SB 819 may apply to your specific circumstances.

# Nondiscrimination

“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 age, **disability**, national origin, race, color, marital status, religion, sex, sexual orientation, or gender identity (OAR 581-021-0045)

Section 504 of the Rehabilitation Act states that: ***"No otherwise qualified individual with a disability in the United States . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance . . . ."***

These protections extend to all students who experience disabilities.

# Ensuring Nondiscrimination when Applying SB 819

Denying a student with a disability access to a program/school/class, etc. on the basis of their disability could be **discrimination**.

To universally decide that no student with a disability can participate in a program because it fits the ASDP definition under SB 819 may be against federal and state civil rights laws and districts' nondiscrimination policies.

This includes access to (but not limited to) public charter schools, hybrid classes, programs of study, electives, and rights enjoyed by nondisabled peers.

A discrimination complaint may be filed at the local level and appealed at the state level. Complainants can also file at the federal level with the US DOE Office for Civil Rights (OCR).

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

***THIS IS NOT THE PROCESS TO PLACE SOMEONE ON AN ABBREVIATED DAY***

SB 819 defines who is a student with a disability when considering an abbreviated school day program and how to determine if they are on an abbreviated school day.

The next slides describe the steps to follow to determine whether a student is to be considered on an abbreviated school day program under SB 819.

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

***THIS IS NOT THE 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.

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

## ***THIS IS NOT THE PROCESS TO PLACE SOMEONE ON AN ABBREVIATED DAY***

**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.

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

## ***THIS IS NOT THE PROCESS TO PLACE SOMEONE ON AN ABBREVIATED DAY***

**Step 3:** How many total number of 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?

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.

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

## ***THIS IS NOT THE PROCESS TO PLACE SOMEONE ON AN ABBREVIATED DAY***

**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.



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

***THIS IS NOT THE PROCESS TO PLACE SOMEONE ON AN ABBREVIATED DAY***

**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.

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

***THIS IS NOT THE PROCESS TO PLACE SOMEONE ON AN ABBREVIATED DAY***

**When any student with a disability'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 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.**

# Applicability of 819 on Schools/Programs: Impact

For Students and Families	For Districts and Programs	For ODE
<p>Allows parents to understand what schools and program types 819 applies to and in what ways.</p>	<p>Impacts all schools and programs in districts as well as increases the amount of students the district will need to process using 819 requirements given the number of students with disabilities in the variety of programs.</p>	<p>The locations where abbreviated school day programs now apply have significantly expanded. This will increase all aspects of general supervision for the department.</p>



# Section Two

## Conducting Compliant Meetings

# Requirements for Abbreviated School Day IEP/504 Meetings

SB 819 designates specific steps that must be taken before, during and after the following meeting types:

- Initial placement on Abbreviated School Day Program
- The first review meeting held between 25-35 days after initial placement
- Subsequent review meetings at specified intervals

These requirements are for both IEP and 504 teams:

- Districts need to make sure that both teams are trained in the specific requirements and how they apply to the different contexts of IDEA, 504 and ADA.
- Special attention should be paid to 504 teams as these processes are a significant departure from their previous processes.

Oregon Department of Education

**ODE will provide guidance and training to both IEP teams and 504 teams separately.**

## SB 819 Abbreviated School Day Program (ASDP) Program Meeting Requirements

**Note:** These are general steps for a training overview. Please fully review SB 819 and ODE guidance for comprehensive step by step requirements

<p style="text-align: center;"><b><u>Initial placement</u> on abbreviated school day program</b></p>	<p style="text-align: center;"><b><u>First review meeting</u> held no fewer than 25 calendar days and no more than 35 calendar days after initial placement</b></p>	<p style="text-align: center;"><b><u>Subsequent review meetings</u> no less frequently than 30 calendar day</b></p>
<ol style="list-style-type: none"> <li>1. Document reasonable efforts to provide meaningful access to the same number of hours of instruction and educational services</li> <li>2. Obtain <a href="#">signed acknowledgement</a> prior to discussion of ASDP</li> <li>3. Ensure required parent participation</li> <li>4. Hold 504/IEP Meeting</li> <li>5. 504/IEP Team recommends ASDP</li> <li>6. <a href="#">Document required elements for initial placement on ASDP</a></li> <li>7. Obtain <a href="#">parent consent</a></li> </ol> <p style="text-align: center; margin-top: 20px;">Oregon Department of Education</p>	<ol style="list-style-type: none"> <li>1. Before the meeting send <a href="#">written notice of students rights</a> as outlined in SB 819 alongside the meeting notice</li> <li>2. Obtain <a href="#">signed acknowledgement</a></li> <li>3. Ensure required parent participation</li> <li>4. Review the placement including required elements of SB 819</li> <li>5. Obtain <a href="#">parent consent</a></li> <li>6. <a href="#">Document required elements for the ASDP review meeting</a></li> <li>7. With <a href="#">parent consent determine the ASDP meeting cadence</a> in alignment with SB 819 requirements</li> </ol>	<ol style="list-style-type: none"> <li>1. Schedule the next review meeting no later than the timeframe of which the parent consented</li> <li>2. Before the meeting send <a href="#">written notice of students rights</a> as outlined in SB 819 alongside the meeting notice</li> <li>3. Obtain <a href="#">signed acknowledgement</a></li> <li>4. Ensure required parent participation</li> <li>5. Review the placement including required elements of SB 819</li> <li>6. Obtain <a href="#">parent consent</a></li> <li>7. <a href="#">Document required elements for the review meeting</a></li> <li>8. With <a href="#">parent consent determine the ASDP meeting cadence</a> in alignment with SB 819 requirements</li> </ol>

## Before the Initial Placement Meeting: Requirements for Offering an Abbreviated School Day Program

Before considering or recommending a student with a disability for an abbreviated school day program, a school district must document reasonable efforts to provide 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.

School district may meet this requirement through:

- Documented reasonable evidence-based efforts to provide 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.
- Progress monitoring data, specific to the student, with careful and thoughtful adjustments made to enable the student to remain in a full school day program. Data collected from ongoing progress monitoring is an important part of the decision making process.

School districts should work to keep the parent or foster parent informed of these ongoing efforts and must include them in educational decision making meetings as required by law.

## Notice Requirement: During the Initial Meeting

Prior to a discussion on abbreviated school day program placement, the school district must provide a written statement to the student's parent or foster parent in a language and format accessible to the parent or foster parent informing the parent or foster parent of the following information.

The school district must receive a signed acknowledgment from the parent or foster parent that the parent is in receipt of this written statement.

- 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 or foster parent's right, any 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.

ODE has developed a sample acknowledgement form.

Oregon Department of Education



## Notice and Acknowledgement Requirement: Subsequent Meetings After Initial Placement on an Abbreviated School Day Program

Prior to each meeting of the student's individualized education program team, provide the following information in writing to the parent or foster parent of the student in a language and format accessible to the parent or foster parent:

- The school district's duty to comply with the requirements of sections 1 to 6 of this 2023 Act;
- The prohibition against a school district unilaterally placing a student with a disability on an abbreviated school day program;
- 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; 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 individualized education program team to discuss whether the student should no longer be placed on an abbreviated school day program.

ODE suggests you send this notice with the meeting invitation for the review meeting.

The parent or foster parent must sign acknowledgement that they received this information prior to the meeting.

## Requirements for Any Meeting to Discuss Abbreviated School Day Placements:

The IEP/504 team can only recommend an abbreviated school day after the opportunity for the student's parent or foster parent to:

- meaningfully participate in a meeting of the individualized education program or 504 team to discuss an abbreviated school day program placement,
- including the reasonable opportunity to physically attend the meeting of the individualized education program team at which the abbreviated school day program placement is discussed.

When challenges with meeting attendance occur, please see ODE's guidance document titled, *Guidance on Implementing SB 819 When Parents Do Not Attend Meeting*.

# Requirements for Any Meeting to Discuss Abbreviated School Day Placements:

A school district may not provide an abbreviated school day program to a student with a disability unless all of the following are satisfied:

The student's individualized education program team:

- Recommends that the student should be placed on an abbreviated school day program:
  - The recommendation must be based on the student's individual needs,
  - The recommendation may not include consideration of a lack of school district resources, including:
    - Licensed or classified staff;
    - Availability of training;
    - Accessible facilities; and
    - Related services, including nursing services and transportation services.

# Initial Documentation for Abbreviated School Day Program prior to Seeking Consent

A school district may not provide an abbreviated school day program to a student with a disability unless all of the following are satisfied:

**Documents the specific provisions of the abbreviated school day program, including:**

- 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
- How the abbreviated school day program will be designed to 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.

## Requirements for Subsequent Meetings After Initial Placement on an Abbreviated School Day Program

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

- Review the student's progress on the abbreviated school day program;
- Consider at least one reasonable alternative placement that includes 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; and
- If the individualized education program team recommends continuing the abbreviated school day placement, consider whether the number of hours of instruction and educational services should be increased.

# Documentation for Review Meetings on Abbreviated School Day Program Prior to Seeking Consent

If the parent or foster parent provides informed and written consent to continue an abbreviated school day program placement, include in the student's individualized education program or 504 plan a written statement that:

- Explains the reasons the student was placed on the abbreviated school day program; and
- Describes in detail other reasonable options that were considered and documents why each option considered was not implemented.

# Requirements for Offering an Abbreviated School Day Program: Impact

For Students and Families	For Districts and Programs	For ODE
<p>Ensures information is understood with specific acknowledgements required, provides for consent for placement from the family.</p>	<p>Requires districts to develop new processes for IEP/504 meetings.</p> <p>Failure to follow processes could result in required enforcement actions or other general supervision corrective action measures.</p>	<p>Scale up technical assistance, guidance and support to districts, families and partners.</p> <p>Embed assessment of new IEP practices in the general supervision system.</p>

# Ideas for Next Steps

Utilize ODEs form or  
Develop District forms  
for Notice,  
Acknowledgement,  
Documentation of  
Abbreviated Day and  
Consent

Ensure that IEP/504  
team members  
understand and can  
implement new  
processes.





# Informed and Written Consent

## Informed and Written Consent: SB 819's Language

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 information described in Section 3 (2) and (3)
- 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 individualized education program team;

# Informed and Written Consent: SB 819's Language

Informed and written consent means that a student's parent or foster parent has signed and dated a written consent form affirming that:

- The school district offered, and the individualized education program team considered, at least one reasonable alternative placement, as described in Section 3 (1)(c) of this 2023 Act, 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 individualized education program 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 provided in Section 4 (2)(b)(B) of this 2023 Act;

# Informed and Written Consent: SB 819's Language

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 was informed that if, during the school year, the individualized education program 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 individualized education program 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

## Informed and Written Consent: SB 819's Language

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 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 individualized education program team meeting prior to revoking consent to an abbreviated school day program placement.

# Informed and Written Consent: Impact

For Students and Families	For Districts and Programs	For ODE
<p>Students and Families have the right to consent.</p>	<p>Districts will need to develop and implement consent procedures.</p>	<p>ODE prepared a sample consent form.</p> <p>ODE will confirm consent during the monthly abbreviated day collection.</p>

# Ideas for Next Steps

Review ODE's acknowledgement and consent form.

Determine if the district will use the sample or create its own that meets requirements.

Develop and implement processes for using the form appropriately.

Train IEP and 504 teams to ensure they know how to use the form and what's required on the form.

Think about how you will support staff to facilitate these important conversations.

The ultimate authority for this placement decision rests with the family. Parents make this decision.



# Revoking Informed and Written Consent



# Revoking Consent

A parent or a foster parent may, at any time, revoke consent for the placement of a student with a disability on an abbreviated school day program.

- Consent for the abbreviated school day program placement shall be considered revoked if, at any time, the parent or the foster parent revokes the consent, in writing, to an abbreviated school day program placement or makes a written objection to the abbreviated school day program placement.

# Revoking Consent

Upon receipt of a written revocation or objection to the abbreviated school day program placement, the school district superintendent shall ensure that,

- Within five school days or by a later date specified in a written notice provided by the parent or foster parent, 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.

# Consent to Extend 5 Day Timeline

A parent or foster parent of a student may allow the school district superintendent to have an extension of an additional five school days to ensure that 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 if:

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

# Consent to Extend 5 Day Timeline

The written consent must state that the parent or foster parent understands that the parent or foster parent is not required to give consent for the extension and that the refusal to give consent for the extension will not result in adverse actions being taken against the student; and

The school district must provide this information to the parent or foster parent, in writing and in a language and format accessible to the parent or foster parent, the specific reasons why the extension is needed.

ODE has developed a sample extension of consent form for district use.

# Failure to Return within Agreed Timelines

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

# 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.

# Revoking Consent: Impact

For Students and Families	For Districts and Programs	For ODE
Students and Families have the right to revoke consent.	Districts will need to develop and implement procedures for when consent is revoked ensuring that timelines are met.	ODE will develop internal procedures to address complaints that stem from lack of compliance to revoked consent.



# Meeting Frequency Requirements



# Meeting Frequency

SB 819 requires that the district hold a meeting of the student's IEP/504 team to review the student's abbreviated school day program at specific intervals.

During the school year, a review meeting must be held:

- No fewer than 25 calendar days and no more than 35 calendar days after the initial placement on the abbreviated school day program.
- No less frequently than once every 30 calendar days, starting after the meeting described in subparagraph (A) of this paragraph, unless the parent or foster parent provides written consent to meet less frequently than once every 30 calendar days.

***\*\*\*Unless written consent is provided and only within certain parameters\*\*\****

# Exceptions to 30 Day Meeting Timelines

With parent consent, exceptions to timelines can be made after the initial placement and first review meeting but within specified timelines for specific populations or school/program type.

## IEP

### Process with parent consent:

**Meeting 1:** Initial Placement

**Meeting 2:** Starting after the first meeting of initial placement that occurs no fewer than 25 calendar days and no more than 35 calendar days

**Meeting 3:** Even with written consent, an IEP meeting must be held at least every 90 calendar days.

**Note:** When a parent requests a meeting it must be held within 14 calendar days of a parent or foster parent request

## 504

### Process with parent consent:

**Meeting 1:** Initial Placement

**Meeting 2:** Starting after the first meeting of initial placement that occurs no fewer than 25 calendar days and no more than 35 calendar days

**Meeting 3:** Even with written consent, a 504 meeting must be held at least annually.

**Note:** When a parent requests a meeting it must be held within 14 calendar days of a parent or foster parent request

# Exceptions for 30 Day Meetings

With Parent Written Consent and starting after the first meeting of initial placement that occurs within 25-35 days:

- Once every year for a student who is enrolled in a virtual public charter school that operates in compliance with ORS chapter 338 and who has meaningful access to the same number of hours of instruction and educational services as the majority of other students who are not disabled students and who are in the same grade within the school,
- Once every year for a student receiving educational services in a pediatric nursing facility as provided in ORS 343.941, starting after the meeting described in subparagraph (A) of this paragraph; and

A meeting must be held within 14 calendar days of a parent or foster parent requesting a meeting.

## Requirements for Offering an Abbreviated School Day Program: Impact

For Students and Families	For Districts and Programs	For ODE
Allows parents to determine the frequency of abbreviated school day program meetings	<p>Districts will need to ensure that meetings are held at the timeline prescribed by the SB 819 and with consent from the family.</p> <p>With the increase of student population and locations that constitute an abbreviated day there will be more meetings necessary for the district to conduct.</p>	<p>ODE will need to provide technical assistance to districts and families on meeting timelines.</p> <p>General supervision practices will need to comply with new timelines.</p>



# Section Three

Reporting and Enforcement



# Data Reporting

# Submit Data to ODE

SB 819 requires that districts submit data to the Department about each student who is on an abbreviated school day program.

During the 2022-2023 school year, ODE launched an informal abbreviated school day program data collection while it developed a full data collection for the 2023-2024 school year.

The new data collection is aligned with SB 819 and has a few additional elements and will also require the district to submit the signed acknowledgement and the consent form.

It is on track for implementation in late August 2023. The Department will provide training and technical assistance to data submitters.

# Submit Data to ODE

SB 819 requires that at least one every 30 calendar days during the school year, inform the Department of Education about the student's abbreviated school day program placement, including:

- The grade level of the student;
- The number of hours of instruction and educational services the school district is scheduled to provide to the student each week;
- The date the student began the abbreviated school day program; and
- The date by which the student is expected to receive 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.



# Data: Impact

For Students and Families	For Districts and Programs	For ODE
N/A	Develop systems to collect data from each school and program monthly and submit on time to ODE.	Design and implement permanent data collection tool.

# Ideas for Next Steps

Meet with relevant partners to design an adequate district-wide data collection system.

Select and train employee(s) to submit data collections as required.

Design a system to review, analyze, and improve district data on ongoing basis.



# Superintendent Review

# 90 Days Superintendent Review

The superintendent must review each abbreviated school day program placement where a student is placed on an abbreviated school day program for:

- Ninety or more cumulative calendar days during a school year.
- Ninety or more cumulative calendar days (excluding summer break) during two or more consecutive school years.

*This means that the Superintendent must complete the review once the student's abbreviated school day placement reaches 90 cumulative calendar days over two or more consecutive school years.*

# Superintendent Review Process

The Superintendent must review each student's abbreviated school day program placement, at the required intervals stated in SB 819, to determine if it is compliant with state and federal law. Below are the actions the Superintendent must take:

<b>Compliant</b>	<b>Non Compliant</b>
<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; and</li><li>3. The specific barriers that prevent that meaningful access</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. Direct within five school days of making the finding, that 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 as provided by section 5 (1)(d).</li><li>3. Submit finding to the parent in a language and format that is accessible within 5 school days of making the finding.</li></ol>

# Superintendent Review Process

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

- The plan for credit recovery and comprehensive services, including compensatory services, that is being implemented to ensure the student's on-time graduation with a high school diploma, a modified diploma or an extended diploma; and
- The student's progress toward on-time graduation with a high school diploma, a modified diploma or an extended diploma.
- If the student is served by an education program through an education service district, the requirements of paragraphs (a) to (c) of this subsection apply to the superintendent of the resident school district.
  - Any findings or documentation required under paragraphs (b) and (c) of this subsection 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.

# Superintendent Review: Impact

For Students and Families	For Districts and Programs	For ODE
N/A	<p>Design a process for timely superintendent review</p> <p>Ensure the superintendent has deep understanding of SB 819 requirements</p>	<p>Design processes for withholding state school funds and assigning compensatory education</p>

# Ideas for Next Steps

Designing systems for superintendent review





# Complaint Investigation

# Complaint Investigation

When the Department of Education receives a complaint or otherwise has cause to believe a school district is not in compliance with:

- Section 2(7) -A school district may not unilaterally place a student with a disability on an abbreviated school day program, regardless of the age of the student.
- Section 3(5) - The parent or foster parent provides informed and written consent for the abbreviated school day program placement.

of SB 819, 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.

If a complaint relates to a specific student and is submitted by the student's parent or foster parent, the Superintendent of Public Instruction is not required to conduct an investigation and shall:

- Presume that consent for the abbreviated school day program placement has been revoked.

# Complaint Investigation

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.

# Complaint Investigation: Impact

For Students and Families	For Districts and Programs	For ODE
Families and students will have access to investigative procedures without personally filing.	School districts risk losing state school fund dollars for days of lost instruction for students.  Compensatory education will need to be provided for lost days.	ODE will design and implement systems to investigate and respond within two business days.

# Ideas for Next Steps

Ensure adequate systems are set up to reduce the likelihood of an investigation.



# Enforcement

# Enforcement: Non Standard School

ODE will enter an order that any students named in the complaint or identified in the course of an investigation:

- Be provided, within five school days of the final order, 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 school district fails to comply with the order:

- Find the school district nonstandard until all students subject to the order and placed on an abbreviated school day program in violation of sections 2(7) and 3(5) of this 2023 Act 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 Funds & Comp. Ed.

If the school district fails to comply with the order within 10 school days and notwithstanding any timelines or process requirements of ORS 327.103 or 334.217,

- Immediately withhold State School Fund moneys that otherwise would be distributed to the school district.
- Amounts withheld must be calculated based on the weighted average daily membership attributable to the students subject to the order, as calculated under ORS 327.013, and the percentage of the school year that the students were placed on an abbreviated school day program in violation of sections 2(7) and 3(5) of this 2023 Act.

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



# Enforcement: TSPC Discipline

The failure of a school district superintendent to

- Restore meaningful access to a student within the time
- Comply with an order issued under subsection (2)(c) of this section to restore meaningful access to all students subject to the order

May be grounds for discipline by the Teacher Standards and Practices Commission 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.

# Enforcement: Impact

For Students and Families	For Districts and Programs	For ODE
Students will be able to return to school full time.	Districts are at risk for the loss of state school funds and the costs of providing compensatory education.  Superintendents are at risk for discipline at TSPC.	Design and implement enforcement provisions, develop a process to prioritize enforcement to meet required timelines.

# Ideas for Next Steps

Ensure that district staff and leadership understands the enforcement processes and implications of them for the school district.



# Requirements for Students Already Placed on Abbreviated School Day Programs under ORS 343.161 at Time of SB 819's Enactment

# Required Notice

No later than 14 calendar days after the effective date (7/13/23) of this 2023 Act, each school district shall provide the notice described in subsection (2) of this section to the parents or foster parents of every student with a disability who:

- Was on an abbreviated school day program at the end of the 2022-2023 school year; or
- Had an abbreviated school day for 30 or more school days during the 2022-2023 school year.

# Required Notice

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

- The enactment of SB 819;
- The notice and disclosure requirements of section 4 (2)(a) of this 2023 Act;
- The parent's or foster parent's right to revoke, in writing, consent for an abbreviated school day program placement or to make a written objection to a student's abbreviated school day program placement;
- The name, electronic mail address, mailing address and other contact information of the person to whom a revocation or objection described in paragraph (c) of this subsection may be sent;

# Required Notice

- The obligation of the school district, within five school days of receiving a revocation or objection described in paragraph (c) of this subsection or by a later date specified by written notice by the parent or foster parent, to provide a student with a disability 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;
- The student's right to 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 beginning on the first day of the 2023-2024 school year if the parent or foster parent provides the revocation or objection described in paragraph (c) of this subsection at least 14 calendar days prior to the start of the 2023-2024 school year, as identified by the school district; and

# Required Notice

The contact information for:

- The Department of Education;
- The parent information and training center for families with children with disabilities, or FACT Oregon; and
- The system designated to protect and advocate for the rights of individuals with disabilities, or Disability Rights Oregon.

ODE has developed a sample letter for districts.



# Students on Abbreviated Day under ORS 343.161 when SB 819 was Enacted: Impact

For Students and Families	For Districts and Programs	For ODE
<p>Current students will receive notice of their right to provide consent for their placement on abbreviated day.</p>	<p>Districts will need to send letters informing of their rights to consent to their abbreviated school day placement.</p> <p>Host meetings for all students who wish to return to school full day and prepare for their return.</p>	<p>Draft letter for current students on abbreviated day.</p>

# Ideas for Next Steps

Make a list of all students who are currently on an abbreviated day.

Prepare and send student letter within 14 days of the Governor's signature on SB 819.

Designate employee(s) and establish procedures to receive any revocations of consent and schedule meetings in a timely manner.

Conduct meetings and prepare for students to return if consent is revoked.



# Training and Technical Assistance

# Training

Get trained! ODE will have several webinars for school administrators throughout July and August and in person at the COSA August Conference.

## Parent Training

- [August 31st 12:00-1:00pm](#)
- [September 19th 6:00-7:00pm](#)
- [September 30th 10:00-11:00am](#)

## Education Partner Trainings

- [August 22nd 8:00am-11:00am](#)
- [August 23rd 3:30-6:30](#)

## School Districts

- [July 14<sup>th</sup> 10:00 a.m. - 1:00 p.m.](#)
- [July 19<sup>th</sup> 1:00 p.m. - 4:00 p.m.](#)
- [August 1<sup>st</sup> 9:00 a.m. - 12:00 p.m.](#)
- [August 10<sup>th</sup> 2:00 p.m. - 5:00 p.m.](#)
- [August 15<sup>th</sup> 11:00 a.m. - 2:00 p.m.](#)

Additional webinars will be added throughout the year. For anyone seeking training who is not a school administrator please reachout to [ODE.SB819Questions@ode.oregon.gov](mailto:ODE.SB819Questions@ode.oregon.gov).

# Technical Assistance

SB 819 Guidance is available on ODE's Abbreviated School Day Programs [webpage](#).

OESO will send limited Govdelivery messages for the most important updates, but monitoring this [webpage](#) is the best way to identify updates on guidance, sample forms, tools and Q&A.

You can also always use ODE's SB 819 Inbox for any implementation questions:  
[ODE.SB819Questions@ode.oregon.gov](mailto:ODE.SB819Questions@ode.oregon.gov).