

## *Considerations Related to Abbreviated School Day Programs and Compulsory Attendance*

---

Oregon public schools share responsibility with parents/guardians to ensure school-age children are enrolled in and attending appropriate educational programs. Under Oregon's compulsory school law, all children between age 6 and 18 must attend a public or private school, or a home-based private educational program (home schooling) unless the student is excused under the law or has graduated with a regular diploma (ORS 339.010).

In accordance with ORS 339.010, attendance in the program within which the child is enrolled is mandatory for all children. Oregon's compulsory school law applies to students with disabilities the same way it applies to those without disabilities. Federal laws – like the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act (ADA) – have long guaranteed that students with disabilities are afforded equitable access to the educational system. SB 819 clearly reaffirmed that commitment in Oregon. Students with disabilities must attend school for the same number of hours and minutes as nondisabled students, unless a student's individualized education program (IEP) team or 504 team determines otherwise based on a student's unique, disability-related needs, with the support of results from an appropriate evaluation.

Students who receive special education and related services must be allowed to participate in a school district's educational programs and services, such as a full day of school, to the same extent as their nondisabled peers, consistent with their rights under the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act of 1973. Whether an Abbreviated School Day Program (ASDP) is initially suggested by the school district or the parents, a student's individualized education program (IEP) team or 504 team needs to carefully consider the potential impact of decreasing the number of hours of instruction and educational services to which a student has meaningful access.

Districts should take care to ensure that all service decisions are student-driven, including any shortening of a school day that constitutes an ASDP under SB 819. IEP and 504 teams are cautioned that any reduction of a school day that results in a denial of a free appropriate public education (FAPE) for the student is not permitted. This requirement applies regardless of whether the reduction constitutes an ASDP under SB 819. Decisions to shorten a student's school day can only be based on the unique needs and individual circumstances of the student. Such decisions cannot be based on budgetary concerns, staffing shortages, scheduling conflicts, administrative convenience, or any reason outside of the student's individual needs.

In some cases, parents may request that their student's school day be shortened (e.g., to attend regularly scheduled non-school medical or therapeutic appointments). As is the case for any parent request of an IEP or 504 team, when a parent requests a shorter school day, the IEP or 504 team should review all available information, meaningfully consider the parent's request, and make a reasonably calculated decision that enables the student to make progress appropriate in light of their circumstances. Where providing FAPE cannot be enabled consistent with the ASDP requested by the parent, the district's obligation is to enable the provision of FAPE.

If that is the case and it results in absences from school, parents and districts should communicate regarding those absences. When absences are frequent, the IEP or 504 team should meet to determine how to ensure the continued provision of FAPE in order for the student to continue to make appropriate progress. Districts must refer to their local attendance and excusal policies to determine whether absences are excused.

Where an IEP or 504 team determines the parent's requested ASDP would result in a denial of FAPE to a student, the responsibility lies with the district to instead develop and offer an IEP or 504 Plan that is reasonably calculated to enable the provision of FAPE. If the IEP or 504 team determines that FAPE can be provided through an ASDP, even one that results from a parent request, all SB 819 procedures and paperwork must be completed.