

Abbreviated School Day Programs

Frequently Asked Questions
ORS 343.321 to 343.333

2024-25



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Disclaimer

This guidance represents ODE’s best current thinking on the implementation of ORS 343.321 to 343.333. 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 Abbreviated School Day Programs, ODE may amend or clarify this guidance, as needed, to provide the most current and reliable information on interpreting and meeting compliance with ORS 343.321 to 343.331. This is an evolving document—but together, we aim to achieve the full promise of this law.

We appreciate your patience and partnership in this implementation process. Please also regularly review ODE’s Abbreviated School Day Program website and submit questions or need for support to ode.SB819questions@ode.oregon.gov.

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1. Abbreviated School Day Programs Overview

A. General Questions

Question A-1: What is an abbreviated school day?

Answer: Under ORS 343.321, an abbreviated, shortened, or reduced school day is any school day during which a student 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, unless the statute requires comparison to another student group (see ORS.331 for exemption examples).

Question A-2: What is an Abbreviated School Day Program (ASDP)?

Answer: Under ORS 343.321, an ASDP means an education program:

- In which a school district restricts access for a student with a disability 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, unless the statute requires comparison with a different population of students; and
- That results in a student with a disability having an abbreviated school day for more than 10 school days per school year.

Question A-3: What are some considerations regarding Abbreviated School Day Programs?

Answer: Some considerations for school districts considering ASDPs are:

- School districts must provide all students with disabilities with the same opportunities as nondisabled peers and may not exclude students from attendance based on their disability (Section 504 of the Rehabilitation Act of 1973, 34 C.F.R. § 104.4).
- Oregon’s compulsory school attendance law applies to all students. Students with disabilities must attend school for the same number of hours and minutes as nondisabled students, unless a student’s IEP or 504 team determines otherwise based on a student’s unique, disability-related needs. 34 C.F.R. § 300.11(c)(2). All students between ages 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 state law or has graduated with a regular diploma (ORS 339.010)
- School districts have an obligation to enable the provision of FAPE for each eligible student with a disability. Students with disabilities should generally receive full school days, with decisions to shorten the school day of a student with a disability made only when it enables the provision of FAPE.
- It is not appropriate to shorten the school day for a student with a disability unless the student’s team determines a shortened day is required to address the student’s unique, disability-related needs. This should occur only in rare circumstances, and in most cases, a shortened school day should be in place for only a short amount of time.

Question A-4: According to ORS 343.321, when is a student considered a student with a disability?

Answer: For the purposes of ORS 343.321 through ORS 343.331, a student is considered a student with a disability in Oregon when the student meets one of the following three criteria:

- The student is eligible for special education and related services, as provided by ORS chapter 343.

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- The student has a disability under section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, and is eligible for a 504 Plan.
- The student 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 has a pending request or referral for evaluation for eligibility determination that has been made but not yet completed.

Question A-5: Are any students with disabilities excluded from Abbreviated School Day Programs?

Answer: A student with a disability is exempt from the requirements concerning ASDPs when the student is:'

- A registered home school student;
- A parentally placed private school student;
- Under a court-ordered placement;
- Excluded from school due to actions taken under a public health emergency;
- Excluded from school due to disciplinary measures in compliance with all federal, state, and local requirements;
- Voluntarily not scheduled for a class during one or more class periods, if:
 - The student is in 11th or 12th grade and is on track to graduate with a high school diploma or modified diploma within 4 years of starting grade 9, or
 - The student is on track to graduate with a high school diploma or modified diploma by the end of the school year;
- Enrolled in a course with asynchronous instruction, and that instruction meets all five of the criteria below:
 - The instruction is ONLY for one class per term/semester.
 - The instruction satisfies a credit requirement for a high school diploma or a modified diploma.
 - The instruction is a credit recovery class or is a class not otherwise available to the student.
 - The instruction is offered to students on a voluntary basis and is not restricted to only students with a disability.
 - The instruction is accessible to a student while the student is at school and while staff of the school are immediately available to the student.

However, a student who is exempted from the requirements due to one of the named exemptions above may qualify for protections based on other criteria or may not *always* qualify for the exemption. Districts should carefully consider the totality of a student's experiences and meaningful access to instruction and educational services and revisit as necessary to determine if the student is fully exempt.

Question A-6: When is it appropriate for a school district to implement an Abbreviated School Day Program for a student with a disability?

Answer: Any reduction of a school day that results in a denial of FAPE for the student is not permitted. It is up to each student's IEP or 504 team to make recommendations about when an ASDP may be appropriate based on the individual student's needs. Knowledge of a student's needs may be informed by academic, social, emotional, and behavioral data related to the student as well as recommendations provided by physical and mental health providers such as in mental health treatment plans, and in chronic disease management plans.

Assessment of needs must be focused on the student and may not include lack of school district resources, including licensed or classified staff, availability of training, accessible facilities, and related services, including nursing services and transportation services.

School districts are not allowed to unilaterally place a student on an ASDP. To place a student on an ASDP, a school district must have written parental consent.

Question A-7: If a team believes an Abbreviated School Day Program may be appropriate, what are the requirements?

Answer: To provide an ASDP for a student with a disability, school districts must meet several requirements including, but not limited to, the following:

1. Obtain signed acknowledgement from the parent that they have received information about ASDPs in a language and format accessible to them.
2. Ensure the parent has the opportunity to meaningfully participate in the ASDP determination process, including the reasonable opportunity to physically attend the meeting where the ASDP is discussed. Virtual meetings may be held if the parent prefers it, but they must be provided with an opportunity for an in-person meeting.
3. Document at least one alternative that included appropriate supports for the student to enable 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 or appropriate alternative comparison group, as established in ORS.
4. Obtain voluntary informed and written consent from the parent.

If voluntary informed and written consent is obtained, ODE requires school districts to report the student to the [ASDP Data Collection](#). For more information and additional resources, please see our dedicated [ASDP Website](#).

Question A-8: What is important to know about Right to Instruction and Educational Services?

Answer: Every student in Oregon has the right to a full school day. For students with disabilities, this means that they 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 ASDP.

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, unless explicitly exempted, it constitutes an abbreviated school day. If the student's school day is abbreviated, the appropriate processes for implementing an ASDP must be followed.

Question A-9: What if a student has poor attendance or a parent removes a student repeatedly? Are those examples of Abbreviated School Day Programs?

Answer: No. Oregon’s compulsory school law applies to students with disabilities the same way it applies to those without disabilities. Public schools share responsibility with parents and 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 educational program (home schooling) unless the student is excused under the law or has graduated with a regular diploma (ORS 339.010).

Occasionally, parents may remove students from school (e.g., to attend regularly scheduled non-school medical or therapeutic appointments) and may seek an ASDP. 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 appropriate progress in light of their circumstances.

The school district is obligated to enable the provision of FAPE. Parents and districts are encouraged to communicate regarding absences. When a student has frequent absences, the IEP or 504 team should convene to discuss how to maintain the provision of FAPE, ensuring the student continues to make appropriate progress. School districts that are concerned about absences should refer to their local attendance and excusal policies to determine whether absences are excused.

When an IEP or 504 team determines the parents requested an ASDP that 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, all procedures (e.g., meeting timelines, data submissions) must be followed.

Question A-10: What are Educational Services?

Answer: Educational services include any social, learning, enrichment, community or support opportunity or benefit that is offered during the school day, 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;
- 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.

B. Implementation

Question B-1: Are all schools and programs subject to Abbreviated School Day Program procedures?

Answer: All elementary, middle, high school, charter schools, special schools, and adult transition programs are subject to ASDP procedures. There are some exceptions and alternative requirements. See [Alternative Requirements](#) for more details.

Question B-2: How should comparison school days be calculated?

Answer: In most cases, determining the comparison school day for calculating meaningful access will be based on the minutes of instruction and educational services available to the majority of students who are in the same grade within the student's resident school district; however, there are some exceptions where alternative programs are concerned. Please see the [Alternative Requirements](#) section for more information.

To calculate the school days, 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 ASDP. 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 the law, it constitutes an ASDP. If the student's school day is abbreviated, appropriate ASDP processes must be followed.

Question B-3: Do Abbreviated School Day Programs apply to Early Childhood Special Education?

Answer: No. The requirements for ASDPs do not apply to Early Childhood Special Education.

Question B-4: May a school shorten a school day due to lack of school district personnel, including instructional assistants, nursing staff and transportation providers?

Answer: No. 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 other than the student's individual needs.

Question B-5: May a school district implement a standard shortened school day for all students with disabilities or for a group of students with disabilities?

Answer: No. 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, supported by the results of an appropriate evaluation.

Question B-6: Is a free period considered an Abbreviated School Day Program if it is an available choice for all students?

Answer: It depends upon the circumstances. It is not considered an ASDP when a student does not schedule a class for one or more class periods when:

1. The student is in 11th or 12th grade and on track to graduate with a high school diploma or modified diploma within 4 years of starting grade 9, OR
2. The student is on track to graduate with a high school diploma or modified diploma by the end of the school year.

Apart from this exception, each school district will need to carefully consider their offerings to ensure compliance with all legal requirements.

Question B-7: Can a doctor order an Abbreviated School Day Program?

Answer: A doctor cannot order an Abbreviated School Day Program. The decision for an Abbreviated School Day Program (or any special education service) is determined by the IEP or 504 team. However, a doctor's note stating their opinion about a student's needs is one piece of documentation the IEP or 504 team should review when making decisions about an Abbreviated School Day Program.

Question B-8: Must a school district shorten a student's school day upon request of the student's parent?

Answer: No, but they must meaningfully consider the parent's request.

If, in considering the parent's request, the IEP or 504 team determines that the request appropriately enables the provision of FAPE, ASDP processes must be followed.

If, in considering the parent's request, the IEP or 504 team determines that the request would not provide FAPE, the district's obligation is to enable FAPE. IEP and 504 teams are cautioned that any reduction of a school day that results in a denial of a FAPE for the student is not permitted, even when requested by the parent. School teams should take care to appropriately document meaningful consideration of parent requests.

Question B-9: Can a school unilaterally place a student on an abbreviated day or refuse to remove a student from an Abbreviated School Day Program if their parent objects?

Answer: No. Informed and written parental consent is required to place a student on an ASDP. If a parent does not consent or revokes consent at a later date, school districts will need to adjust the student's schedule and return them to a full school day within five school days or by a later date specified in a written notice provided by the parent.

Question B-10: Where can I find guidance, sample forms, communications, and tools to assist with the implementation of an Abbreviated School Day Program?

Answer: You can find training tools, forms, and step by step suggestions for conducting IEP/504 meetings for ASDPs [here](#) on our website. You may also send your questions to ode.SB819questions@ode.oregon.gov.

Question B-11: What can a school district do if it believes that an Abbreviated School Day Program is the only way to enable Free Appropriate Public Education, but the parent refuses to consent?

Answer: School districts should closely collaborate with parents to proactively work to address student needs. Having effective IEP and 504 discussions about students' needs and potential ASDPs is key and can require significant trust between team members. If disagreement about services and moving to an ASDP does occur, IEP teams can request IEP facilitation or mediation through ODE. School districts must enable the provision of FAPE. If a school district believes that an ASDP is the only way to enable FAPE, the school district **must** obtain the parent's voluntary informed and written consent. Without voluntary, informed and written consent from the parent or foster parent, the school district must provide a full school day to the student. Collaboration with parents throughout the process is essential.

Question B-12: If an Abbreviated School Day Program is no longer necessary for a student, what steps must a district take in order to return the student to a full day?

Answer: When the team determines that an ASDP is no longer necessary, the student should return to a full school day as soon as possible, with supports as determined necessary by the team. The team will need to document the decision as appropriate for the circumstance, and the data administrator will add the stop date to the ODE data collection application.

Question B-13: How long should schools keep the records on file once a student is no longer on an Abbreviated School Day Program?

Answer: Under OAR 166-400-0060, records documenting a student on an ASDP should be kept for three years after the record was created.

C. Alternative Requirements

Question C-1: Are there any requirements that are different than the standard Abbreviated School Day Program procedures?

Answer: Yes. Some schools, programs, and specific courses may have alternative requirements. Specifically, ASDP protections may differ in these cases:

1. Pediatric Nursing Facilities;
2. Virtual Public Charter Schools;
3. Students On Track to Graduate;
4. Students who have met graduation requirements;
5. Asynchronous instruction;
6. Expanded, accelerated college credit;

More specifics about these alternative requirements are outlined within this section.

Question C-2: What are the requirements for pediatric nursing facilities?

Answer: Pediatric nursing facilities are subject to full ASDP requirements; however, after the initial ASDP meeting, with written parental consent, the IEP team can meet as infrequently as once each year to review the program.

Question C-3: What are the requirements for virtual public charter schools?

Answer: Virtual public charter schools are subject to the full ASDP requirements; however, after the initial ASDP meeting, with written parental consent, the IEP team can meet as infrequently as once each year to review the program. Additionally, for students in virtual public charter schools operating in compliance with ORS Chapter 338, asynchronous instruction can be included within the number of hours of instruction and educational services to which the student has meaningful access. More information about the connection between meaningful access to instruction and asynchronous instruction is available in question C-5.

Question C-4: What are the requirements for students who are on track to graduate?

Answer: A student who is on track to graduate may voluntarily choose not to schedule a class for one or more periods, if:

- The student is in 11th or 12th grade and is on track to graduate with a high school diploma or modified diploma within 4 years of starting grade 9; or
- The student is on track to graduate with a high school diploma or modified diploma by the end of the school year.

Please note that a student exempt from ASDP requirements due to this exception may still require ASDP protections based on other criteria. Districts should carefully consider the totality of a student's experiences and meaningful access to instruction and educational services to make appropriately individualized determinations.

Question C-5: What are the requirements for schools or programs offering asynchronous instruction?

Answer: Generally speaking, asynchronous instruction may not be counted toward the calculation of minutes of meaningful access. However, there is an exception for certain types of asynchronous instruction.

Asynchronous instruction may be counted as meaningful access for students enrolled in virtual public charter schools operating in compliance with ORS Chapter 338 or if the instruction meets all five of the following criteria:

- The instruction is ONLY for one class per term/semester;
- The instruction satisfies a credit requirement for a high school diploma or a modified diploma;
- The instruction is a credit recovery class or is a class not otherwise available to the student;
- The instruction is offered to students on a voluntary basis and is not restricted to only students with a disability; and
- The instruction is accessible to a student while the student is at school and while staff of the school are immediately available to the student.

A student who is exempt from ASDP requirements due to this exemption may still require ASDP protections based on other criteria. Districts should carefully consider the totality of a student's experiences and meaningful access to instruction and educational services to make appropriately individualized determinations.

Question C-6: What are the requirements for schools or programs offering expanded options or accelerated college credit?

Answer: Programs offering expanded options and/or accelerated college credit are exempt from ASDP protections if all of the following criteria are met:

- The student is voluntarily enrolled;
- The majority of students in the program are not students with disabilities; and
- The student's hours match those of students without disabilities in the same grade in the same program.

The comparison group for expanded options and accelerated college credit programs is students within the same grade within the program.

Question C-7: What are the requirements for alternative education programs?

Answer: Programs offering alternative education are exempt from ASDP protections if all of the following criteria are met:

- The student is voluntarily enrolled;
- The majority of 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.

The comparison group for alternative education programs is students within the same grade within the program.

Question C-8: What are the requirements for transition programs?

Answer: In general, ASDPs for adult students (aged 18-21 years) in secondary transition programs must meet the same requirements that pertain to all students with disabilities. However, there are some slightly different requirements related to students in these programs.

Key requirements for Secondary Transition Programs

- The IEP team must document how the student’s ASDP will support their progress toward their transition plan in addition to their progress toward their individualized learning goals.
- Required transition services must continue to be provided during the student’s Abbreviated School Day Program.
- For adult students who are not expected to graduate on-time, and who have been on an Abbreviated School Day Program for at least 90 cumulative days, the superintendent must document the student’s plan for credit recovery to ensure on-time graduation and the student’s progress toward graduation.
- If the student’s rights have transferred because the student reached the age of majority, the school district must inform the student directly of their right to a full school day.
- As an adult, the student can also grant or revoke consent for an ASDP.
- When the adult student, parent, or foster parent revokes informed and written consent the school district must restore meaningful access to a full school day within five school days.

Secondary transition programs for 18-21 year-old students must follow both ASDP requirements and applicable OARs (OAR 581-022-2010(14), OAR 581-022-2015(8), and OAR 581-022-2020(7) and 2020(5)(a)). Under these laws and rules, secondary transition programs must ensure that:

- Courses and services are made available at each High School for completion of any diploma option.
- Students have access to instructional hours, transition service hours, and other service hours designed to meet their unique needs.
- Their total hours must equal at least what is available to the majority of other students who are in Grade 12 within the student’s resident school district, or 966 hours, whichever is greater.
- School districts cannot unilaterally decrease total hours regardless of a student’s age.
- School districts must inform parents/students if the student will not access the total hours available for all students and must receive informed and written consent before this occurs.
- School districts are allowed to enter into interagency agreements to provide transition services.

Question C-9: Are there any exceptions to using students in the same grade within the same resident district as the comparison group for calculating minutes of meaningful access?

Answer: Yes. Exceptions are listed in the table below.

Please note that this is not an exhaustive list.

Abbreviated School Day Programs

| Program Type | Comparison Group |
|--|--|
| Transition Programs (18–21-Year-Old Students) | Students who are in Grade 12 within the resident school district. |
| Long-Term Care & Treatment- 343.961 (1)(c)(A)(i) | Contracted by OHA, DHS, OYA: Majority of students enrolled in the same program as the student. |
| Long-Term Care & Treatment- 343.961 (1)(c)(A)(i) | Not Contracted by OHA, DHS, OYA: Majority of students in the same grade within the student’s resident school district. |
| <ul style="list-style-type: none"> ○ Eligible Residential Treatment Programs, as described in ORS 343.961 (1)(c)(A)(i) ○ Hospital Programs ○ Juvenile Detention Education Programs- ORS 336.585, ○ Local/Regional Correctional Facilities - ORS 339.129 ○ Oregon Health Authority (OHA), the Department of Human Services (DHS), or Oregon Youth Authority (OYA) ○ Oregon School for the Deaf ○ Youth Corrections Education Programs- ORS 326.590 | Majority of students enrolled in the same program as the student. |
| Pediatric Nursing Facility | Majority of students in the same grade within the school district where the facility is located. |

D. Parental Rights

Question D-1: Can a parent request an Abbreviated School Day Program?

Answer: Yes. ODE recommends an appropriate team should convene to meaningfully consider the parent's request for an ASDP and determine whether it is appropriate. This meeting should include the parent, district staff, and any other relevant team members. The team should discuss the parent's rationale for requesting an ASDP, the available data and information about the student’s circumstances, and the services and supports necessary to enable FAPE for the student while under evaluation. If the team needs more information to make the decision, ODE suggests completing an evaluation as expeditiously as possible to provide comprehensive information for educational planning purposes.

Question D-2: Can a parent refuse to place their student on an Abbreviated School Day Program?

Answer: Yes. ASDPs require parental consent. A school district may not unilaterally place a student with a disability on an ASDP.

Question D-3: What if a parent does not want their student on an Abbreviated School Day Program or wants to discontinue an Abbreviated School Day Program?

Answer: Informed and written parental consent is required to place a student on an ASDP. If a parent does not consent or wishes to discontinue an ASDP, school districts will need to either adjust the student’s schedule so that they are not placed on or receiving an ASDP or meet to ensure the student has an appropriate educational program within five school days.

Question D-4: Can a parent change their mind about an Abbreviated School Day Program?

Answer: Yes. A parent may, at any time, withdraw consent for an ASDP in writing or ask for a meeting to discuss the program.

Question D-5: Are districts required to get signed consent from a parent at each of the meetings that are held to review the Abbreviated School Day Program?

Answer: Yes, districts are required to obtain signed informed and written consent at each Abbreviated School Day Program meeting.

Question D-6: If a parent wants to revoke consent to an Abbreviated School Day Program, can the written notification be emailed or does the revocation have to be mailed?

Answer: Yes, written notification may be emailed, but there is no requirement for it to be mailed or emailed. Requirements for the revocation or objection are limited to it being “in writing” (ORS 343.164).

Question D-7: If parents regularly remove a student for appointments, is there a need for the Abbreviated School Day Program procedure?

Answer: Because the absences could have an impact on the provision of FAPE for the student, it is likely that a team would want to review the student’s absences and make appropriate determinations to ensure that FAPE can be provided. ASDPs are only appropriate when based on the student’s individual needs and should not be based on the family’s decision to attend appointments or activities outside of the school day.

Question D-8: What happens if a parent files a complaint? Is consent immediately revoked?

Answer: When a parent files a complaint about their student’s ASDP, ODE is required to presume that consent for the ASDP has been revoked. The school district must ensure that the student 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 within five school days or a later date specified in a written notice from the parent.

E. Compliance & Enforcement

Question E-1: What happens if a parent complains to ODE that they no longer wish to have their student on an Abbreviated School Day Program?

Answer: If ODE receives a complaint that a parent no longer wants their student on an ASDP, ODE will immediately, no more than two business days after receipt of the complaint, order the school district 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. The school district has five school days to provide access to a full day of school.

Question E-2: What steps should be taken if a school district fails to comply with an order to provide meaningful access within five school days?

Answer: 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 until all students subject to the order and placed on an ASDP in violation of the 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.

Question E-3: What steps should be taken if a school district fails to comply with an order to provide meaningful access within ten days?

Answer:

- **Withhold Funding:** If a school district fails to comply with the order to restore meaningful access 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 ASDP, in violation of provisions prohibiting unilateral placement and requiring informed and written consent from parents.

- **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 ASDP, which violated the prohibition on unilateral placement and the requirement for informed and written consent.
- **TSPC Discipline:** 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.

Question E-4: How is the withholding of State School Fund dollars calculated if a school is found in violation of provisions prohibiting unilateral placement and requiring informed and written consent from parents?

Answer: 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 ASDP, in violation of provisions prohibiting unilateral placement and requiring informed and written consent from parents.

Question E-5: What are the requirements for compensatory education if a school is found to be in violation of the prohibition on unilateral placement and the requirement for informed and written consent from a parent when placing a student on an Abbreviated School Day Program?

Answer: 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 ASDP, which violated the prohibition on unilateral placement and the requirement for informed and written consent.

Question E-6: What happens if a parent revokes consent for an Abbreviated School Day Program over the summer?

Answer: If a student is on an ASDP on the last day of the school year and the student's parent makes a written objection to the ASDP or revokes consent for the ASDP 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.

2. Requirements

F. Informed & Written Consent

Question F-1: What does informed and written consent mean according to ORS 363.164?

Answer: Informed and written consent means:

- The parent signs and dates a written consent form affirming that the parent received the information described within the law.
- The parent was able to meaningfully participate in a meeting of the individualized education program team to discuss the Abbreviated School Day Program.
- At least one reasonable alternative prior to requesting that the parent consent for an Abbreviated School Day Program.
- Parents understand the meeting frequency required by 343.321 to 343.331.
- Consent was clearly voluntary.
- Parents understand consent can be revoked at any time and do not need a meeting to revoke consent.

Question F-2: What is the process for obtaining informed and written parental consent?

Answer: Before placing any student on an ASDP, the student's parent must be given the opportunity to meaningfully participate in the IEP or 504 team meeting before consenting to an ASDP for their student.

That meeting should:

- Ensure the parent understands their student's right to access the same number of hours of instruction and educational services as other students in their comparison group.
- Consider at least one reasonable alternative prior to requesting consent to place the student on an ASDP.
- Discuss and document the specific provisions of the recommended ASDP for the student.
- Outline an IEP or 504 team meeting schedule to ensure a meeting is held at least once every 30 days during the school year. For students with 504 plans, a review meeting may be held once per year with written parent consent.
- Affirm the parent's right to revoke consent in writing at any time.

Question F-3: When does the initial meeting need to occur for students newly placed on an Abbreviated School Day Program?

Answer: ODE suggests that the initial meeting be completed by the start of the school year. However, school districts should note that the definition of an ASDP requires an education program:

(a) In which a school district restricts access for a student with a disability 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; and

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(b) That results in a student with a disability having an abbreviated school day for more than 10 school days per school year.

As a result, if the school district is unable to complete the meeting before school starts, the definition for an Abbreviated School Day Program is not met until after this 10 school day timeline.

In the event a school district was unable to ensure requirements have been met for this population of students by the 11th day of the school year, that school district would be noncompliant. See [Timelines](#) for more information on on-going meetings and timelines.

Noncompliance will result in required enforcement actions, including the loss of ADM and a requirement for compensatory education.

Question F-4: When do school districts need to meet for consent for students who ended the last school year with an Abbreviated School Day Program?

Answer: If a student is on an ASDP from the previous school year, the student's IEP or 504 team should strongly consider meeting before the 2024-25 school year begins to consider the student's ASDP. The student's unique circumstances may have changed (e.g., the student will be in a new grade level, may have changed schools within the district, may have different support systems and/or may be experiencing different circumstances from the previous school year). In reviewing the student's circumstances, teams are reminded to center the student's presumptive right to a full school day as a primary principle guiding decisions related to ASDPs.

For the 2024-25 school year, once the new ASDP application opens, names of students that were on an ASDP at the end of the 2023-24 school year will automatically be "rolled over" to the new application and the count of days on an abbreviated school day will continue from the end of the 2023-24 school year.

Question F-5: What procedure should be followed if a parent does not attend a meeting to review their student's placement on an Abbreviated School Day Program?

Answer: School districts should work to ensure that parents are able to participate in meetings related to ASDPs wherever possible. If the school district is unable to come to an agreement with the parent to attend a meeting where the ASDP is discussed or reviewed, and the district recommends placement on an ASDP, immediate action is required by the district, as informed and written consent will not have been obtained. A student cannot be placed on an Abbreviated School Day Program without the informed and written consent of the parent or foster parent.

The school district can work with the parent following the meeting to seek informed and written consent. School districts should continue to seek informed and written consent and document their efforts. Any action would be dependent on the student's unique circumstances and school districts should work to continue to offer a full day of school, as appropriate.

Question F-6: What can we do if a parent attends an IEP or 504 check-in meeting via phone, was not physically on site to sign consent paperwork, and we cannot reach them right away due to holidays or vacation?

Answer: A handwritten signature is not specifically required from the parent on the informed and written consent form. In situations where the parent participates in the meeting remotely, ODE recommends that districts utilize their own policies and procedures for obtaining signature confirmation.

Question F-7: What if a parent is unable to attend any of the Abbreviated School Day Program reviews after the start of an ASDP? Or the parent has signed off on meeting less frequently than every 90 days?

Answer: Districts must make multiple attempts to engage the parent through various means, documenting all efforts. If a parent does not attend a meeting where a continued ASDP is discussed, the school district can work with the parent to seek informed and written consent. If a written consent is obtained within five school days, the student can continue with the ASDP. Without parental consent, the school district must restore the student to meaningful access to a full school day within five school days following the meeting.

Furthermore, the IEP team is required to meet at least every 90 calendar days. After the initial and 25- to 35- calendar day meetings, in no event may a meeting be held less frequently than once every 90 calendar days for a student with an IEP and once a year for a student with a 504 plan. Even when parents may want to meet less often, the team is still required to meet at least every 90 calendar days for students served through IEPs. School districts must take steps to ensure that one or both of the parents of the child are present but may move forward without a parent present when they are unable to come to an agreement with the parent to attend. ODE encourages school districts to maintain clear documentation of its efforts to encourage meaningful parent participation if the school district proceeds with a meeting without a parent.

Question F-8: Where can I find an example of a form containing all the necessary information for obtaining parental consent for an Abbreviated School Day Program?

Answer: ODE’s website contains a variety of Abbreviated School Day Program Sample forms including an [Informed and Written Consent for Placement on an Abbreviated School Day Program](#) form in English and several other languages.

G. Timelines

Question G-1: What are the general requirements for meeting timelines?

Answer: A core feature of requirements for Abbreviated School Day Programs is the need for the student’s team to reconvene frequently to consider whether the student continues to require a shortened school day.

There are three different types of meetings associated with ASDPs that IEP and 504 teams are required to have.

School districts should be prepared for:

- Initial Meetings to Consider an ASDP;
- Initial Follow-up Meeting (e.g., 25-35 Calendar Day Follow-Up) and
- Subsequent follow-up meetings (e.g., 30 Calendar Day Follow-Up Meetings).

For a student with an IEP placed on an ASDP, the IEP team must meet:

- For an initial meeting to consider the program;
- Between 25-35 calendar days after the initial start date of the ASDP;
- At least every 30 calendar days after the initial meeting, unless the parent consents to meet less frequently, but no less than every 90 calendar days 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.

For a student with a Section 504 plan placed on an ASDP, the 504 team must meet:

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- For an initial meeting to consider the ASDP;
- Between 25-35 calendar days after the initial start date of the ASDP;
- At least every 30 calendar days after the initial meeting, unless the parent consents to meet less frequently, 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.

For a student who is not yet eligible under IDEA or Section 504 of the Rehabilitation Act, but for whom an evaluation to determine eligibility is pending, and who is placed on an ASDP, the team must meet:

- For an initial meeting to consider the ASDP;
- Between 25-35 calendar days after the initial start date of the ASDP;
- At least every 30 calendar days after the initial meeting, unless the parent consents to meet less frequently; 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.

Question G-2: Is it possible to extend the timeline for providing a student with meaningful access to the same number of hours of instruction and educational services that are provided to other students within their comparison group?

Answer: A parent of a student may allow the school district an extension of up to a maximum of five additional 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 or appropriate comparison group if:

- The parent provides written consent for the extension; and
- The 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, any required corrective action may include an order of a specific amount of compensatory education. Under these circumstances, any calculations of compensatory education that ODE requires the school district to provide will be made as though an extension had not been allowed.

Question G-3: If a student on an Abbreviated School Day Program is dropped from enrollment after 10-days and comes back to school on a later date, does the team have to start over at step one of the Abbreviated School Day Program process?

Answer: Yes. If the ASDP ended as a result of the student's withdrawal from the district, the team should revisit the initial ASDP process.

H. Educational Services & Meaningful Access

Question H-1: What is meaningful access?

Answer: Meaningful access means students are entitled 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 or appropriate comparison group.

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To be considered meaningful access, a student must have access to full-time, quality instruction or educational services delivered by a qualified licensed teacher or qualified classified staff who are under the direct supervision of a qualified licensed teacher.

Generally, in order to meet the meaningful access provision, instruction needs to be synchronous, unless the instruction or educational services are provided by a virtual public charter school in compliance with ORS chapter 338 or it falls under specific exceptions related to asynchronous learning and ASDPs.

ASDP protections do not apply to asynchronous instruction if the instruction meets all five of the criteria below:

- a. The instruction is ONLY for one class per term/semester;
- b. The instruction satisfies a credit requirement for a high school diploma or a modified diploma;
- c. The instruction is a credit recovery class or is a class not otherwise available to the student;
- d. The instruction is offered to students on a voluntary basis and is not restricted to only students with a disability; and
- e. The instruction is accessible to a student while the student is at school and while staff of the school are immediately available to the student.

Question H-2: Do educational services include transportation?

Answer: Transportation to and from school at the beginning and end of the school day is not included in the number of minutes of instruction and educational services to which a student with a disability has access. However, transportation may be included as appropriate when it occurs during the school day in order to enable students to receive their education across multiple sites in the same day.

It is important to note that any policy or action that is not applied to the majority of students in the same grade within the student's resident school district and that causes the student to start school late, leave school early, or not come to school due to lack of transportation providers results in an abbreviated school day.

Question H-3: What are the requirements for asynchronous vs. synchronous learning in relation to meaningful access in Abbreviated School Day Programs?

Answer: In general, for instruction or educational services to be considered to provide meaningful access for a student with a disability, it must be synchronous. However, there is an exception that allows asynchronous instruction and educational services to provide meaningful access for students who are enrolled in a virtual public charter school operating in compliance with ORS Chapter 338. Asynchronous instruction is also exempt from the requirements around ASDPs if the instruction meets all five of the criteria below:

- a. The instruction is ONLY for one class per term/semester;
- b. The instruction satisfies a credit requirement for a high school diploma or a modified diploma;
- c. The instruction is a credit recovery class or is a class not otherwise available to the student;
- d. The instruction is offered to students on a voluntary basis and is not restricted to only students with a disability; and
- e. The instruction is accessible to a student while the student is at school and while staff of the school are immediately available to the student.

Question H-4: How is meaningful access to hours of instruction for an online learning program at a virtual public charter school calculated?

Answer: There is not a different comparison group established for virtual schools, so the comparison is to the majority of other students in the same grade within the resident school district. However, for students enrolled

in virtual public charter schools operating in compliance with ORS Chapter 338, school districts may also include asynchronous instruction in the calculation of instructional time to which the student has meaningful access.

Question H-5: How is meaningful access calculated for students at a virtual public charter school who are still attending school to work on transition skills after graduating?

Answer: To determine whether a student with a disability in an 18–21-year-old secondary transition program is receiving an abbreviated school day, the *number of hours of meaningful access to instruction plus the number of hours of meaningful access to educational services* should be compared to the total number of hours for the majority of other students who are in Grade 12 within the resident school district. If the student with a disability in the 18–21-year-old secondary transition program receives meaningful access to fewer hours of instruction and educational services than those available to the majority of other students who are in Grade 12 within the resident school district, the student is receiving an abbreviated school day. When that occurs for 10 or more days in a school year, it is an ASDP. When calculating time within the transition program, it is advised that school districts may wish to carefully review the definition of “educational services” within ASDP when calculating meaningful access to hours of instruction and educational services, as educational services include “job shadows, internships and community service activities arranged by the school or school districts.”

I. Superintendent Review

Question I-1: What is the purpose of superintendent review?

Answer: The Superintendent must review each student’s ASDP to determine if the student’s program is compliant with state and federal law. Any findings or documentation required must be provided within five school days of making the finding to the student’s parent in a language and format accessible to the parent. [The Superintendent Review Form](#) may be of assistance to districts in documenting completion of this review.

Question I-2: When should a superintendent review occur?

Answer: Superintendents are required to review a student’s ASDP when the student remains on an ASDP for ninety (90) or more cumulative calendar days during the school year, or ninety (90) or more cumulative calendar days, when the student is placed on an Abbreviated School Day Program during two or more consecutive school years.

Question I-3: Does the superintendent's 90-day review include summer?

Answer: The ninety calendar days specifically excludes summer break.

Question I-4: Does the 90-day superintendent review need to be submitted to ODE?

Answer: 90-day superintendent reviews do not need to be submitted to ODE. However, any findings or documentation required must be provided, within five school days of making the finding, to the student’s parent in a language and format accessible to the parent.

Question I-5: Can the superintendent delegate the 90-day review if they are out of district or unavailable to complete the review?

Answer: Yes. When a law delegates responsibility to a "school district superintendent," and the superintendent is unavailable, districts should utilize their policies and procedures to determine who and when others can act in that role.

Question I-6: What steps should be followed if a school has failed to provide meaningful access?

Answer: If, in this review process, a Superintendent determines that a student’s ASDP does not meet the requirements for meaningful access 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.

Question I-7: What steps should be followed if a school has failed to provide meaningful access within the 5-day timeline?

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

Question I-8: If a student who is on an Abbreviated School Day Program drops out and then returns a few weeks later what date should be used to calculate the 90-day review?

Answer: The school district superintendent must review a student's ASDP if the student is placed on an ASDP for ninety or more cumulative calendar days during the school year. As a result, you should total the number of cumulative days without counting the time the student was away. The Superintendent's Review is required when that total reaches 90.

3. Best Practice

J. Transportation

Question J-1: May a school district shorten or reduce a day for a student based on transportation?

Answer: 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 any reason outside of the student's individual needs. Failing to make an individualized determination of the need for a shortened school day, based on the unique needs of the student could lead to a denial of FAPE or discrimination based on the disability status of the student.

It is important to note that any policy or action that is not applied to the majority of students in the same grade within the student's resident school district and that cause the student to start school late, leave school early, or not come to school due to lack of transportation providers is considered an abbreviated school day.

K. Behavior & Discipline

Question K-1: Do short breaks for self-regulation (e.g., 3 minutes to walk halls, quiet their mind, leave class to work on classwork elsewhere after the lesson has been given, etc.) need to be considered in calculating an Abbreviated School Day Program? What if a student needs to leave the classroom if they are very dysregulated?

Answer: As long as students are not being removed from class on a regular and systematic basis for extended periods of time, this would not be considered an abbreviated school day. Periods of time spent allowing the student to learn and practice strategies for self-regulation, work on de-escalation procedures, problem solving, etc., when planned by the appropriate team as a support for the student, should be counted as instructional minutes. Wherever possible, ODE suggests school districts include these behavior management strategies and/or accommodations in the student's IEP or 504 Plan. When a student is not provided with meaningful access to instruction or educational services as a result of such a break, it could result in an Abbreviated School Day Program.

Question K-2: Can a student be placed on an Abbreviated School Day Program if they continuously present a risk of serious bodily injury to themselves or others and the behavior is a manifestation of their disability?

Answer: School districts should do everything possible to maintain students within a full school day. When a student has behavior that impedes their learning or that of others, school districts should consider the use of positive behavioral interventions and supports that can enable meaningful access to a full school day and should consider more evaluation data, as needed.

In addition, when a student’s behavior is deemed a manifestation of the disability, the team must return the student to a full school day unless the (1) parent and district agree to another alternative, (2) hearing officer orders a new placement, or (3) removal is for “special circumstances” [including the infliction of serious bodily injury] under 34 CFR § 300.530(g). Additionally, when a student has placed themselves, other students, or staff at imminent risk of serious bodily injury as a result of the student’s behavior (OAR 581-015- 2181(2)(a)), and/ or a student’s behavior(s) are determined to be a manifestation of the student’s disability, the team should conduct a functional behavioral assessment (FBA) and develop a behavioral implementation plan (BIP), or review and modify an existing plan as needed. 34 CFR 300.530(f)(1)(i)-(ii). Upon completion of these requirements, school districts should implement the new or updated BIP with fidelity and work to maintain students within a full school day.

However, following reasonable efforts to implement the BIP and 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, in accordance with relevant federal and state laws, the IEP or 504 team can consider an ASDP if that program would meet the student’s unique disability related needs. For more information, see:

- [Guidance Regarding Discipline of Special Education Students under IDEA 2004 Best Practice Recommendations for Conducting Functional Behavioral Assessments \(FBAs\), Developing and Implementing Behavior Intervention Plans \(BIPs\)](#)

Question K-3: May schools impose disciplinary consequences on students with disabilities?

Answer: Students with disabilities can receive disciplinary consequences but cannot have disciplinary consequences imposed upon them because of their disability.

A school day that is shortened, appropriately, and in line with applicable requirements, due to violations of the code of conduct is not an ASDP.

Question K-4: May school districts still apply exclusionary discipline such as suspension or expulsion?

Answer: School districts may still apply exclusionary discipline such as out-of-school suspension.

As long as disciplinary action meets all other state and federal requirements related to discipline, students with disabilities can still have discipline consequences appropriately imposed upon them by their school district.

That said, if the expulsion is not in compliance with ORS 339.250, 339.252 or 343.155 (5) or was not the result of an ASDP made as provided by ORS 343.177, it would be considered an ASDP after 10 school days.

Question K-5: May an IEP team shorten a student’s school day for administrative convenience?

Answer: No. 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.

L. IEPs & 504 Implementation

Question L-1: What if a student’s eligibility status changes during the school year (i.e., a student is on a 504 and then moves to an IEP). Does the team have to meet to reconsider the Abbreviated School Day Program?

Answer: Yes. The team should meet and consider if the ASDP is still appropriate given the unique needs of the student and based on the evaluation data that prompted the change.

If the team recommends continuing an ASDP, a new informed and written consent should be secured from the parent at the eligibility meeting, allowing for the student’s ASDP to occur. This updated informed and written consent form should also be submitted to the abbreviated day data application. The most recent informed and written consent form signed by the parent for any student on an ASDP should always be submitted to the data application.

Question L-2: How should an Abbreviated School Day Program be documented in the student’s IEP?

Answer: ODE recommends that IEPs should reflect the student’s academic and functional performance, including information regarding an Abbreviated School Day Program, and any previous attempts by the IEP team to keep the student on a full-day schedule. It should also reflect any other changes to the student’s educational program such as supports that would enable access to move toward a full school day.

M. Parent Choice

Question M-1: What if a parent wants to enroll in a district-sponsored charter school, virtual public charter school or other alternative format school offered to all students?

Answer: Districts must ensure compliance with ORS 343.321 through ORS 343.333 when parents choose to enroll their children in a district-sponsored charter school. School districts may not discriminate against students with disabilities by preventing them from enrolling in these programs. However, the appropriate school team should review the educational plan to ensure that the alternative setting will meet student’s unique needs based on their individual circumstances. If the charter or alternative format school is considered an Abbreviated School Day Program pursuant to [ORS 343.321](#), districts may want to consider their options for documenting the parent’s enrollment decision in order to ensure compliance with ASDP procedures.

Question M-2: How should school districts document a parent choice due to enrollment in a program offered to all students?

Answer: School districts are obligated to make a full school day available to each student with a disability. Any decision that results in a student with a disability being provided with meaningful access to a fewer number of hours of instruction or educational services than those that are available to the majority of other students who are enrolled in the same grade within the student’s resident school district constitutes an ASDP, unless specifically exempted. In those situations, the school district must meet the requirements of ORS 343.321 through ORS 343.333.

ODE recognizes that parents may decide to enroll their child in a school or program of choice unrelated to school district decisions. By design, some of these schools or programs of choice may offer meaningful access to a fewer number of hours of instruction or educational services than those that are available to the majority of

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other students who are enrolled in the same grade within the student's resident school district, and result in students with disabilities being placed on an ASDP.

Any decision a parent makes to enroll their student into an alternative educational setting that results in the student being on an Abbreviated School Day Program must be completely voluntary. When parents choose to enroll their student in an alternative setting which is an Abbreviated School Day Program as defined by ORS 343.321, school districts must follow ASDP procedures to comply with the law.