



**HB 3318A: Bipartisan Effort to Keep Students and Staff Safe**  
**HB 3318A comes to the Senate with unanimous bipartisan support from the House.**

**Bill Sponsors:** Senators Gelser, Dembrow, Frederick, Knopp and Roblan; Representatives Doherty, Gorsek, Hack, McLain, Post, G. Smith and Sollman.

**Background:** For a number of years, Oregon School Employees Association (OSEA) has heard from instructional assistants and school bus drivers working in special education about injuries occurring on the job in Oregon's schools. To determine how widespread the problem is, OSEA conducted a statewide survey along with AFT-Oregon and the Oregon Education Association (OEA). Nearly 2,000 educators from 106 school districts responded to the survey. The results made clear far too many educators are being injured on the job as a result of not having access to the information or training necessary to safely provide a high-quality education for their students.

The scientific survey found just 42 percent of respondents working with students on an individualized Education Program (IEP) had been asked to participate in developing a behavior management plan. The same survey also showed that almost half of the respondents believed they were not adequately trained to keep students or themselves safe.

When educators aren't told how best to meet the special needs of their students — or trained how to avoid serious bodily injury — educators and students get hurt, and families and school districts ultimately pay a price.

**HB 3318A** will ensure educators working with these students are no longer left in the dark while working to ensure their student's needs are being met. It would require districts to use existing resources to:

- Have a qualified professional conduct a functional behavioral assessment (FBA) for students with an IEP or 504 Plan and who have behaviors that put themselves, other students or staff at risk of serious bodily injury;
- Develop, review or revise a behavioral intervention plan (BIP) within 60 days following an incident resulting in a serious bodily injury; and
- Allow service providers (those responsible for implementation of an IEP or 504 Plan) to provide input into the development, review or revision of the BIP, as well as require them to be notified of relevant changes to the BIP and training opportunities.

\* (BIP) Behavioral intervention plan (BIP) as defined by OAR 581-015-2400 (1) is an individualized plan, including positive interventions, designed to assist a student to decrease inappropriate behavior and increase or teach an alternative appropriate behavior.

\*\*Functional behavioral assessment (FBA) as defined by OAR 581-015-2400(4) is an individualized assessment of the student that results in a hypothesis about the function of a student's behavior and, as appropriate, recommendations for a behavior intervention plan.

For additional information see attached or please contact OSEA Government Relations Specialist Soren Metzger at [soren@osea.org](mailto:soren@osea.org) or 971-283-1184.

## **Additional information:**

**What is an Individualized Education Program (IEP)?** According to ORS 343.035(7) "individualized education program" means a written statement of an educational program for a child with a disability that is developed, reviewed and revised in a meeting in accordance with criteria established by rules of the State Board of Education for each child eligible for special education and related services under this chapter.

**Who is on the IEP Team?** According to OAR 581-015-2210 (1) School districts must ensure that the IEP Team for each child with a disability includes the following participants: (a) One or both of the child's parents, except as provided in OAR 581-015-2195; (b) The child where appropriate; (c) At least one regular education teacher of the child, if the child is or may be participating in the regular education environment, consistent with section (4) of this rule; (d) At least one special education teacher of the child or, if appropriate, at least one special education provider of the child; (e) A representative of the school district, who may also be another member of the team, who is: (A) Qualified to provide, or supervise the provision of, specially designed instruction; (B) Knowledgeable about the general education curriculum; (C) Knowledgeable about district resources; and (D) Authorized to commit district resources and ensure that services set out in the IEP will be provided. (f) An individual who can interpret the instructional implications of the evaluation results (who may also be another member of the team); (g) Other individuals, including related services personnel as appropriate, invited by: (A) The parent, whom the parent determines to have knowledge or special expertise regarding the child; or (B) The school district, whom the school district determines to have knowledge or special expertise regarding the child; and (h) Transition services participants, as described in section (2) of this rule. (2) If a purpose of the meeting will be consideration of the postsecondary goals for the student and the transition services needed to assist the student in reaching those goals: (a) The school district must invite the student. If the student does not attend the meeting, the school district must take other steps to ensure that the student's preferences and interests are considered. (b) To the extent appropriate, with consent of the parents or adult student, the school district must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services.

**Can an IEP be modified?** According to OAR 581-015-2225 (2) Agreement to amend or modify IEP (a) In making changes to a child's IEP between annual IEP Team meetings, the parent of a child with a disability and the school district may agree not to hold an IEP Team meeting to make these changes, and instead may develop a written document to amend or modify the child's current IEP. (b) If changes are made to the child's IEP in accordance with subsection (1), the district must ensure that the child's IEP team is informed of these changes. (3) Amendments to IEP (a) Changes to the IEP may be made either by the entire IEP team at an IEP team meeting, or as provided in subsection (2) by amending the IEP rather than by redrafting the entire IEP. (b) Upon request, the parent must be provided with a revised copy of the IEP with the amendments incorporated.

**Who has access to the IEP?** According to OAR 581-015-2220 (3) Accessibility of IEPs Each school district must: (a) Ensure that the IEP is accessible to each regular education teacher, special education teacher, related service provider and other service provider who is responsible for its implementation; and (b) Inform each teacher and provider described in (3)(a) of his or her specific responsibilities for implementing the child's IEP and the specific accommodations, modifications and supports that must be provided for or on behalf of the child in accordance with the IEP.

**What qualifies under Section 504 as a disability?** According to OAR 581-015-2390 (1) "Student with a disability under Section 504" means any student who has a physical or mental impairment that substantially limits one or more major life activities. (2) As used in section (1) of this rule: (a) "Physical or mental impairment" means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal;

special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; endocrine; any mental or psychological disorder, such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities; (b) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working;

**How do we define qualified student under Section 504?** According to OAR 581-015-2390 (3) "Qualified student with a disability under Section 504" means a student with a disability under Section 504 who is: (a) Of an age during which persons without a disability are provided educational services; (b) Of any age during which it is mandatory under state law to provide such services to students with disabilities; or (c) To whom a state is required to provide a free appropriate public education under the Individuals with Disabilities Education Act.

**Are there training requirements for special education personnel?** According to ORS 343.041 (4) The State Board of Education shall adopt rules relating to the establishment and maintenance of standards to ensure that personnel providing special education and early childhood special education and early intervention services are appropriately and adequately trained.

**What is manifestation determination?** According to OAR 581-015-2420 Manifestation Determination (1) In determining whether the child's behavior is a manifestation of the child's disability, the school district, the parent, and relevant members of the IEP team (as determined by the parent and the district) must review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine: (a) If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or (b) If the conduct in question was the direct result of the school district's failure to implement the IEP. (2) If the school district, the parent, and relevant members of the IEP team determine that either subsection (1)(a) or (b) is applicable for the child, the conduct must be determined to be a manifestation of the child's disability. (3) If the basis for the team's determination is that the school district did not implement the child's IEP, the school district must take immediate steps to remedy those deficiencies.

**What is meant by serious bodily injury?** As defined by ORS 339.285(4) "Serious bodily injury" means any significant impairment of the physical condition of a person, as determined by qualified medical personnel, whether self-inflicted or inflicted by someone else.