



## Oregon School Employees Association

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Haley Percell, Chief Legal Officer and Interim Deputy Executive Director  
Oregon School Boards Association  
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Re: Oregon School Districts Failing to Comply with ORS 343.186 and 343.068  
**Notice of Potential Legal Claims**

Ms. Parent and Ms. Percell:

The Oregon School Employees Association (OSEA) represents classified school employees who provide services to students with individualized education programs (IEPs). Recent changes in the law provide OSEA members with the right to access IEPs, be invited to IEP meetings, and discuss the IEP with parents/guardians. These rights include:

- **ORS 343.068(2)(a)(A):** Employees assigned to work with a student with special needs “***must***” have access to the IEP, 504 Plan, behavioral intervention plan, medical support protocols and any other documentation related to the employee’s responsibilities to assist the student with their special needs.
- **ORS 343.068(2)(a)(B)(i)-(ii):** Employees assigned to work with a student with special needs “***must*** . . . be consulted with when the education plan for the student is being developed, reviewed or revised, **including being invited to, and compensated for attending**, meetings regarding the student’s individualized education program, 504 Plan or behavior intervention plan” or meetings regarding the student related to the responsibilities of the school district employee to support the student.
- **ORS 343.186:** A school district **may not prohibit or discourage a school employee from sharing information** in good faith with the student or the student’s parent about the services provided to the student.

Despite these clear legal requirements, some school districts across Oregon continue to knowingly violate the law by prohibiting classified employees from accessing IEPs, refusing to



invite them to IEP meetings, and prohibiting them from speaking with parents about services provided. These blatant violations of the law are placing staff and students at risk of injury and interfering with the delivery of student services.

OSEA chapters across the state have been working in good faith to collaborate with their employers but are being met with complacency, disregard and unwillingness to implement a system that fully follows statute. Please be advised that OSEA is preparing to take legal action against school districts that violate these laws. Specifically, OSEA may seek a writ of mandamus pursuant to ORS 34.110 from the circuit court in which the district is located. A writ of mandamus will provide a court order to the district to comply with the law. OSEA may also seek a declaratory judgment from the circuit court pursuant to ORS 28.020, which would provide a judgment from the court that the district is violating the law, ordering the district to comply with the law, and ordering any injunctive relief required to remedy the violation. In both legal actions, OSEA will seek its costs and attorney fees.

Relatedly, the law was recently changed to hold school districts accountable for certain acts of child abuse when the employee involved in the act lacks access to the student's IEP. (*See* SB 790 (2023), ORS 339.296, and OAR 407-047-0273(1) (“OTIS shall determine that the **public education program is responsible for the abuse** if ... the abuse involved the use of restraint, seclusion or neglect **and the public education program failed to provide the personnel involved with the restraint, seclusion or neglect with access to the student's individualized education program**[.]”). In addition to taking the legal actions described above, OSEA may assert that the school district is liable for acts of child abuse in investigations conducted by the Department of Human Services for child abuse.

I hope that you will inform school districts and superintendents in Oregon that OSEA is planning to take the legal actions described above to enforce the rights of its members. OSEA remains committed to bargaining processes and procedures necessary to implement these rights. However, we are no longer willing to tolerate the willful disregard of these legal requirements.

Please feel free to reach out to me if you have questions.

Thank you,



Susan Miller  
OSEA Executive Director

*The Oregon School Employees Association (OSEA) is an affiliate of the AFL-CIO, the American Federation of Teachers (AFT) and the American Association of Classified School Employees (AACSE).*

