

Legislative session opens with new faces, birthday wishes

By **PARIS ACHEN,**
AUBREY WIEBER AND
CLAIRE WITHYCOMBE
Oregon Capital Bureau

As state Rep. Cheri Helt, a freshman Republican legislator from Bend, left the floor of the Oregon House Tuesday, she introduced herself to two pages stationed at the exit.

They found an immediate commonality: It was the first day of their first legislative session, a time to figure out who's who and how things work.

The first day of the 2019 Legislature wasn't like a typical legislative day. There were no votes in the House.

Ismael Diaz, one of the newly minted pages, said he is looking forward to seeing the voting process.

"I am pretty sure there are going to be people against (proposed laws) and people in favor. I want to see how they get to a common conclusion," Diaz said. "How do they actually

approve stuff and resolve their differences?"

Helt was the only legislator leaving that exit who greeted Diaz and his fellow page, Isidro Hernandez, the pages said.

"It's important to me to make sure I learn everybody's names and everybody's jobs that make everything work," Helt said.

With more than a dozen new legislators this year, the Capitol was flush with optimism on the opening day of the session.

To convene the House, Speaker Tina Kotek chose Whitney Houston's iconic 1991 Super Bowl performance of "The Star Spangled Banner."

"It's one of my favorite renditions," Kotek said.

Once legislators settled back into their seats, Kotek whipped through the order of business in 25 minutes.

"Her sense of efficiency is pretty incredible," said state Rep. Shelly Boshart Davis, R-Tangent, another freshman.



Oregon Capital Bureau/Audrey Wieber

Members of the Oregon House of Representatives swear in on Tuesday to begin the 2019 Legislative session at the Oregon Capitol.

As lawmakers old and new shuffled in minutes before the 11 a.m. start, they exchanged pleasantries and sat down at their desks to find a blue gift bag stuffed with items such as a state of Oregon key chain, courtesy of the speaker.

"I appreciate the blue

bag," Rep. Sherrie Sprenger, R-Scio, said. "Red's also a good choice."

Other representatives stood to share tidbits during the "remonstrative" period. Then, Kotek explained to the newcomers how to press a button on their desks to signal they are present.

Boshart Davis said she has been in the Capitol and testified to committees, so she knew some of the procedure. She would watch the livestream of proceedings from her office at Boshart Trucking, where she's the vice president of international sales and marketing.

But Tuesday was different. She was participating.

"There is that absolute awe that you are sitting on the House floor, the House of Representatives for the state of Oregon in their Capitol."

Boshart Davis said the responsibility voters bestowed upon her hit while she was on the floor.

"It was a pretty big moment for me," she said.

Then she looked up to the front of the chamber, where Kotek continued slamming her gavel, moving on from item to item. She found the speaker's confidence admirable.

"I have to think that

it took her some time to get comfortable," Boshart Davis said. "Maybe she was born to do this."

Meanwhile, the Senate launched its first session with celebratory flair.

State Sen. Lew Frederick, D-Portland, led the invocation, quoting writers W.E.B. Du Bois and Langston Hughes.

"A long time ago, an enslaved people heading towards freedom made up a song," Frederick said, quoting Hughes, a poet. "Keep your hand on the plow, hold on." The plow plowed a new furrow across the field of history. Into that furrow the freedom seed was dropped, and from that seed a tree grew, is growing, will ever grow. That tree is for everybody, for all America, for all the world."

Frederick concluded: "I think that's appropriate for us as we begin this session. Let's keep our hand on the plow, and hold on."

Families: File suit over students' shortened days

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day, regressed even further in his communication skills. Another was asked not to return to school until a replacement aide could be found, and was eventually removed from the district's roster. At one point, one child was receiving only half an hour of instruction a day in a separate classroom.

The plaintiffs seek injunctive relief — the suit doesn't ask for money, but that the state implement non-discriminatory policies that ensure students with disabilities can have enough district support to attend a full school day.

The lawsuit states that the practice of shortening days violates the Individuals with Disabilities Education Act (IDEA), which says the state must ensure that "all eligible children with disabilities receive a free and appropriate public education."

The lawsuit also cites Senate Bill 263, which was passed in 2017, and restricts a school district's ability to shorten a student's day. It states that a district can do so if the child is medically unable to attend, if they present a safety risk, or if the child's parents ask for a reduction. The bill requires that the child's Individualized Education Program (IEP) team meet every few weeks to discuss the child's progress, and that the district provide any necessary supports. The bill also states that districts have to document the students in abbreviated school day programs — but does not require they submit it to the state.

Local Impact

Though they're not involved in the lawsuit, the issue is familiar to parents in Umatilla County.

Jennifer Schell, mother of 8-year-old Aidin Schell, said she pulled her son out of the Pendleton School District after a few years.

She said her son began to show signs of being overstimulated and acting out when he attended kindergarten at Pendleton Early Learning Center. He was sent home so frequently, she eventually received a letter from the Oregon Department of Education saying her son was in violation of truancy laws.

"That was very



Photo contributed by Jennifer Schell

Jennifer Schell, right, mother of Aidin Schell, said her son is now doing online schooling after years of struggles with the district shortening his day.

concerning to me when the school is the one sending him home and making him absent," she said.

Schell said a doctor diagnosed her son as being on the autism spectrum.

As he moved into first grade at Sherwood Heights Elementary School he was able to get on an IEP, but after a functional behavior assessment did not receive an educational diagnosis as being on the autism spectrum, which Schell said was because he could read and write on his own.

Through first and second grade, Schell said her son was only receiving 2.5 hours of instruction in school each day.

"The school district said they didn't have enough support to accommodate him," she said.

She said the district recommended her son attend a program at Lifeways, which he completed. But afterward, she said the school district and Lifeways together failed to transfer him back into public school completely, for which she never received a reason.

"Being on the spectrum, he already feels isolated, and like he's not a normal kid," Schell said. "He's

embarrassed to tell people where he goes to school. It was very sad for him, and it's frustrating as a parent."

Schell said she got involved with Disability Rights Oregon recently and didn't find out about it in time to be a part of the lawsuit, but is not ruling that out in the future. She said many families of special needs children in the area have encountered problems, and don't feel like they have resources.

Schell said as of now, homeschooling is working well for her son.

"Until I see better progress in place and more one-on-one support, I'm not interested in re-enrolling him," she said.

Brandalynn Gorman, a parent of a child in the Hermiston School District, said she is experiencing similar difficulties.

"Especially Eastern Oregon, we have no representation," Gorman wrote to the *EO*.

Gorman's son is a student in West Park Elementary School's social communication class for children on the autism spectrum. In the past few months, she said, her son has been suspended many times for acting out

due to overstimulation or anxiety, and has had his day shortened despite her wishes.

Gorman said when she cited SB 263 to administrators at her son's school, she faced even more resistance.

"My son was put on suspension pending a risk evaluation," Gorman wrote. "[The principal] was trying to bypass the law by saying my son was a danger to the school."

She said the district asked in the risk assessment if her son was angry at home, if he hurt animals, or if they had weapons in the home — questions Gorman said she didn't think fit the way her son acted.

Administrators from both districts said they couldn't comment on the specific incidents.

B.J. Wilson, Hermiston's director of special programs, said the reduction of a student's day is a last resort, and always with parents' written permission.

"Only after a school has gone through an extensive process of documentation and intervention do we ever entertain the possibility of reducing a student's day," Wilson wrote to the *EO* in an email. He added that the decision is always accompanied by a plan to gradually increase the student back to a full day of instruction.

"I can say with confidence that no student in our district is having their day reduced without full awareness and consent of the parents," Wilson wrote.

Pendleton School District's Director of Special Programs Julie Smith also said the decision to shorten a child's day is the final option, and made by a team.

She said she didn't know exactly how many Pendleton students are currently on abbreviated school days, but said there weren't many, and the school has received no formal complaints from families about their children's days being shortened.

She said while some families have said SB 263 prohibits school districts from shortening a child's day without parental consent, it doesn't explicitly prevent it.

"That's why I think the lawsuit's coming out," she said. "What it says is that for a student on an IEP, an IEP team makes a decision on

placement. That's a team-based decision."

She said that parents can give or revoke consent from having their child in a special ed program at any time. If a parent revokes consent, a child would then be returned to general education classes.

"But then they could be suspended for behavior, or for disciplinary issues," she said. "They lose the protections of IDEA."

Greenberg said that many states shorten school days for children with behavioral issues, but he said he thinks it's especially bad in areas with a stark rural-urban split.

"Places like Oregon with a geographical divide — concentrated urban centers separated from rural parts of the states, isolated by mountains," he said. "The experts tend to live in big cities, and the resources are concentrated in cities."

In Oregon's urban centers, he said, the number of complaints about shortened days has dropped since SB 263 was passed. But he said complaints in small, rural districts have increased.

He said the decision to sue the state, instead of the individual districts where the plaintiffs live, was twofold.

"That has turned out to be a very poor way of dealing with a large-scale problem," he said. "If I sue individual districts, perhaps I could fix the problem for one client, or a few. But it won't end the practice, or affect the next town over that's doing the same thing."

"We also think in small, rural districts trying to deal

with problems, they simply don't have the resources they need," he said. "It's the state's responsibility to bring in a psychologist, or a behavioral expert, some other measure."

He called the lack of a requirement to submit data to the state a "horrible oversight," because even if the data exists, no one has compiled or analyzed it.

"They can't even estimate the number of students affected by this," he said.

Greenberg said the next step will be whether the federal court assigned to the case will certify the class of plaintiffs. A class-action suit like this one, he said, typically takes at least a year to reach a jury trial.

Greenberg said he feels the state's handling of behavioral problems is less an issue of carelessness than a lack of resources.

"ODE has ceded authority to local districts to a degree that does not provide proper insight, and doesn't make sure children are getting the education they're entitled to by law," he said.

He said the state's structure for dealing with problems, doesn't lend itself to handling the issue.

"The state system is constructed in a way that focuses on compliance with the law, rules and regulations," he said. "And very little on outcome."

He said the system assumes that families will file complaints or go through the proper channels if something is amiss.

"But many times, families don't have the resources to file an effective complaint, or be good advocates for their kids," he said.

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HART: Bus service adds hours to accommodate workers

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While they haven't collected any official data on HART riders, Morgan said anecdotally, the users are not necessarily seniors or disabled, but rather people who don't have another public transit option.

Johnson said based on drivers' observations, the most popular stops are

Walmart, Good Shepherd Medical Center, and the Columbia Drive stop, where the Department of Human Services and Blue Mountain Community College are located.

She said ridership varies from day to day.

"On January 16, we had a total of 28 passengers," she said. "The next day we had 14. That's kind of the way it is."

Morgan said he hopes people will use the two services in tandem — while a person who works nights may not be able to take the bus home, they can use the free service to at least get to work.

He said if riders can access Google Maps, it will tell them the most convenient bus stop for their location at any given time,

including the updated hours.

The Tribes' planning director J.D. Tovey said the decision to expand hours was based on some extra grant money they had. He said operating costs for HART come out to around \$200,000.

He said he hopes the expanded hours will make it more accessible to people in the workforce.