

# Families file suit over students' shortened days

By Jayati Ramakrishnan  
EO Media Group

Disability Rights Oregon filed a lawsuit Tuesday accusing school districts in rural Oregon of cutting school days short for children with disabilities, blaming the state for failing to provide the resources to offer a full day of education.

The four plaintiffs in the suit claim that practice violates state and federal laws, and are suing the state of Oregon, Governor Kate Brown and Oregon Department of Education Director Colt Gill.

The plaintiffs are all students in Oregon public schools with behavior-related disabilities. The lawsuit gives detailed accounts of the experiences of four boys. It does not identify the boys or the districts by name, instead using initials.

Disability Rights Oregon attorney Joel Greenberg said the four children represented in the case were selected because they represent the breadth of the issue. The children range from ages 6 to 14, live in communities around the state, and have behavioral problems of differing severity.

"One of the points of the lawsuit is that the issue of shortening a child's school day instead of helping them learn to be successful is happening to a lot of students," said Greenberg.

The suit describes each boy's experience with special education programs in their district, and how each district systematically responded to each child's disruptive behavior by shortening their day instead of conducting functional behavior assessments or modifying their behavior plans.

It talks about the negative impact of the shortened day on the students, both academically and socially. It describes a 7-year-old boy who was mostly non-verbal, but due to his short-



Contributed by Jennifer Schell/East Oregonian  
**Aidin Schell is a third-grader from Pendleton. Though not involved in the lawsuit, his mother said he has had many problems with the district shortening his school day due to behavioral disabilities.**



Contributed by Jennifer Schell/East Oregonian  
**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.**

ened 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 medi-

cally 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 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."

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