



Federal Lawsuit: Oregon Failing to Ensure That All Children Can Attend a Full day of School

Parents & Advocates Call for Equal Access to Classrooms for Students with Disabilities

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Contact:

Lewis Cohen, National Center for Youth Law, lcohen@youthlaw.org, 510-899-6561

Norma Kelly, Bazelon Center, norma@jrcommunications.com, 818-395-1342

Julie Rosenthal, Bazelon Center, julie@jrcommunications.com, 202-486-3059

Selene Almazan, COPAA, selene@copaa.org

Elizabeth Seaberry, Disability Rights Oregon, eseaberry@droregon.org

Eugene, OR - The State of Oregon has denied Oregon children with disabilities the opportunity to attend school for a full day, according to a federal class action lawsuit filed today in the U.S. District Court for the District of Oregon. The lawsuit alleges that public schools throughout Oregon unnecessarily shorten the school day of children whose disabilities lead to challenging classroom behaviors, and that the State violates federal law by failing to take the steps necessary to ensure that these students receive the education to which they are entitled. The lawsuit was filed by parents of children who have been deprived of the opportunity to attend a full day of school and by local and national disability advocates.

Children in Oregon as young as five- and six-years-old are routinely excluded from attending a full school day with their peers because of their disability-related behaviors. Their school districts often make these decisions without first adequately considering and developing services or supports that would allow the students to successfully attend school for the full day. According to the lawsuit, some of these children receive as little as one or two hours of instruction a day instead of the six hours their classmates typically receive. Even when they are permitted to attend school, their instruction often takes place in a separate classroom where they have little or no opportunity to interact and learn with their non-disabled peers despite abundant research and evidence that they are far more likely to enjoy academic and social success when allowed to do so.

“The State of Oregon has been aware for years that many of its school districts are choosing to deny a full day of instruction to students with disability-related behaviors instead of

providing them with the services and supports that would help them learn safely and productively at school,” said Alice Abrokwa, an attorney at the National Center for Youth Law (NCYL). “The state has the tools to help end this widespread and ongoing practice, but it has chosen inaction instead.”

The complaint highlights the troubling experiences of the named plaintiffs:

- J.N. is a 6-year-old who was subjected to a shortened school day during the entire 2017-2018 school year, while in kindergarten. For several months, the length of J.N.’s school day was just one hour, with only 15 minutes each of reading and math.
- E.O. is a 10-year-old who is currently being subjected to a shortened school day because of his disability-related behaviors. He has not been allowed to attend a full day of school since the middle of the 2017-18 school year.
- J.V. is a 7-year-old. Until the current school year, J.V. had never been permitted to attend school for a full day due to behaviors caused by his disabilities.
- B.M. is a 14-year-old who has received multiple shortened school day schedules that included just thirty minutes of instruction a day during the 2015-2016 school year. B.M. is currently not permitted to attend his school at all because of his behavioral needs.

“Excluding these students robs them of the life opportunities that come with a high quality education,” said Selene Almazan, Legal Director for the Council of Parent Attorneys and Advocates (COPAA), which is also a plaintiff in the case. “Public schools must, by law, support all students in their learning communities, including students with disabilities. Every student should have access to an education premised on high expectations for achievement.”

According to the recent U.S. Supreme Court ruling in *Endrew F. v. Douglas County School District*, under the federal Individuals with Disabilities Education Act (IDEA), Oregon must ensure that all eligible children with disabilities receive an “appropriately ambitious” educational program and “the chance to meet challenging objectives.” The Americans with Disabilities Act and Rehabilitation Act requires Oregon to ensure that all students in the state receive an appropriate education without discrimination based on disability.

“Access to education is a cornerstone of preparing young people for life, but thousands of Oregon children don’t attend full days of school for months or even years at a time because of behavior problems tied to disability. More and more, this is a problem in small, rural school districts – places that don’t have behavioral experts who could work with these children to help them attend a full day of school and learn,” said Joel Greenberg, attorney for Disability Rights Oregon.

“It is the responsibility of the state to ensure that all schools in the state comply with IDEA, the *Endrew F.* decision, and with other federal laws protecting students with disabilities,” said Ira Burnim, Legal Director at the Bazelon Center for Mental Health Law. “Excluding students from school instruction neither supports their learning nor effectively addresses their behaviors, thereby escalating rather than solving the problem. Oregon’s children deserve more.”

The suit was filed by NCYL, COPAA, Disability Rights Oregon, the Bazelon Center, and pro bono attorneys Peter Simshauser, Stacy Horth-Neubert and Michael Folger. Governor Katherine Brown, the Oregon Department of Education and its Director Colt Gill are named as defendants in the complaint.

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The National Center for Youth Law is a non-profit law firm that helps marginalized children achieve their potential by transforming the public agencies that serve them. For more information, please visit www.youthlaw.org.

The Council of Parents Attorneys and Advocates (COPAA) is an independent, national nonprofit organization of parents, attorneys, advocates, and related professionals. COPAA's national network of 2100+ members works to protect the legal and civil rights of students with disabilities and their families. Our members are at work wherever the voices of families and students need to be heard and COPAA supports them with resources, training, and information to assist in obtaining the equal opportunity for education those children deserve and are entitled to under federal law. www.copaa.org

Disability Rights Oregon upholds the civil rights of people with disabilities to live, work, and engage in the community. The nonprofit works to transform systems, policies, and practices to give more people the opportunity to reach their full potential. For more than 40 years, the organization has served as Oregon's Protection & Advocacy system.

The Bazelon Center for Mental Health Law is a national advocacy organization representing people with mental disabilities. It promotes laws and policies that enable people with psychiatric, intellectual, or developmental disabilities to exercise their life choices and receive the supports they need to participate fully in their communities. For more information, see www.bazelon.org.