



Disability
Rights
Oregon



FOR IMMEDIATE RELEASE
July 9, 2025

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Ninth Circuit Reverses Dismissal of Special Education Lawsuit Against Oregon Department of Education

Federal appeals court rules claims against state must be heard on merits

Portland, Ore.— On July 7, the U.S. Court of Appeals for the Ninth Circuit ruled that a federal class action lawsuit challenging Oregon's failure to ensure students with disabilities receive a full day of education should proceed, reversing a prior dismissal. The appellate court's ruling in [*J.N. v. Oregon Department of Education \(ODE\)*](#) means the case will return to federal district court for consideration.

The Ninth Circuit rejected the State's argument that policy changes and a new law (SB 819) that imposed additional data-reporting and procedural requirements on school districts are providing equal educational opportunities for students with disabilities.

In its reversal order, the Ninth Circuit stated: "We disagree that either S.B. 819 or ODE's own voluntary changes entirely mooted any of Plaintiffs' claims. We reverse and remand for the district court to address the merits of those claims."

The lawsuit, filed in 2019, alleges that Oregon public schools systematically shorten the school day for hundreds of students — some as young as 5 and 6 years old — separating them from their peers and limiting their educational opportunities. As a result, the Oregon Department of Education (ODE) has failed to fulfill its federal obligations to provide a free and appropriate public education in the least restrictive environment, and to provide equal educational opportunities in the most integrated setting.

The Ninth Circuit's decision ensures these students will have their day in court and the opportunity to prove that the State must do more to guarantee equal educational access. Named plaintiffs include four students and the Council of Parent Attorneys and Advocates (COPAA), representing a class of similarly affected students statewide. They are

represented by the National Center for Youth Law (NCYL), COPAA, Disability Rights Oregon, the Bazelon Center for Mental Health Law, and law firm McDermott Will & Emery.

"Today's ruling represents a significant step forward for Oregon students with disabilities who have been systematically excluded from their classrooms," said Tom Stenson, Deputy Legal Director at Disability Rights Oregon. "The State claims SB 819 solved its decades-old failure to ensure children with disabilities are allowed full days at school, yet school districts continued to pull hundreds of students from class long after the new law went into effect. ODE has failed to protect hundreds of kids from being denied their rights to an education."

Added Hannah Benton Eidsath, Co-Director of Litigation at NCYL: "Today's decision is a crucial affirmation that every child deserves a full and fair education. For too long, Oregon students with disabilities have been denied equal access to the classroom, their peers, and critical opportunities. The Ninth Circuit's ruling ensures these students will finally have their voices heard in court and moves us one step closer to a system where all children can learn, feel welcome, and thrive."

"This decision helps us continue the important fight to ensure children with disabilities are not robbed of their opportunity to be included in their learning communities in Oregon schools," noted Selene Almazan, Legal Director for COPAA. "Every student's voice matters as we proactively work to protect their rights and safeguard their access to an education premised on the highest expectations for achievement."

"Students with disabilities subjected to shortened school days experience poorer academic and other life outcomes," said Megan Schuller, Legal Director of the Bazelon Center for Mental Health Law. "There is more that Oregon can do to ensure its students with disabilities have equal access to a meaningful education. We commend the court for recognizing this and the importance of ensuring full and complete relief for these students so they may enjoy a brighter future."

The Court Order includes:

- **Plaintiffs' claims are not moot.** The district court erred by finding that Senate Bill 819 (SB 819) fully addressed Plaintiffs' alleged harms related to ODE's lack of data collection and failure to monitor compliance.
- **Additional discovery is needed.** The factual record stops in 2022, prior to the enactment of SB 819. As a result, there is no current state data in the court record about use of shortened school days by Oregon public school districts.

Background

- The federal class action lawsuit [*JN v Oregon Department of Education \(ODE\)*](#) was filed in January 2019 by the National Center for Youth Law, the Council of Parent Attorneys and Advocates (COPAA), Disability Rights Oregon, the Bazelon Center for Mental Health Law, and McDermott Will & Emery and on behalf of four individual

students and COPAA against the Oregon Department of Education, Oregon Governor Kate Brown, and other state officials.

- [Senate Bill 819](#) (SB 819) passed during the 2023 Oregon Legislative Session and took effect on July 13, 2023. The new law states that the use of an abbreviated school day program for students with disabilities should be infrequent and, under most circumstances, used for a limited time. Parents must also receive specific notice and have the right to oppose.
- Shortened school days are unlawful pursuant to the requirements of three Federal statutes: Individuals with Disabilities Education Act (20 U.S.C. § 1400 et seq.), Title II of the Americans with Disabilities Act (ADA) (42 U.S.C. §§ 12131–12134), & Section 504 of the Rehabilitation Act of 1973 (Rehabilitation Act) (29 U.S.C. § 794).
- For decades, federal courts have found that excluding children with disabilities from school by reducing the length of their schooldays or repeatedly sending them home violates the federal law.
- The Americans with Disability Act (ADA) and Section 504 of the Rehabilitation Act forbid discrimination against children on the basis of disability.
- The IDEA requires schools to provide a free and appropriate public education in the least restrictive environment.
- Students who miss 10% of kindergarten lag almost a year behind their peers in reading by the time they reach third grade.
- Students who miss two days of school per month will miss 1.5 years of instruction by the end of 12th grade.

Resources

- July 7, 2025: [Order to Reverse Dismissal](#)
- February 29, 2025: [Order to Dismiss](#)
- June 30, 2022: [Neutral Expert Report](#)
- February 5, 2021: [Order Granting Class Certification](#)
- September 1, 2020: [Opinion and Order on Motion to Dismiss](#)
- February 3, 2020: [Motion for Class Certification](#)
- May 3, 2019: [Response to Motion to Dismiss](#)
- April 19, 2019: [Motion to Dismiss](#)
- January 22, 2019: [Class Action Complaint](#)

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[Disability Rights Oregon](#) upholds the civil rights of people with disabilities to live, work and engage in the community. Serving as Oregon's federally mandated Protection & Advocacy

system since 1977, the nonprofit works to transform systems, policies, and practices to give more people the opportunity to reach their full potential.

The [National Center for Youth Law](#) is a national nonprofit that puts children — and especially those pushed to society’s margins — at the center of every fight for justice. For more than 50 years, we have partnered with young people, families, and communities to build a future where every child can thrive.

[COPAA](#) is an independent, nonprofit organization founded in 1998 and comprised of over 3600+ parents, attorneys, advocates, and related professionals; over 90% of whom identify as having a disability or are parents or family members of individuals with disabilities. COPAA members are active in all 50 states, the District of Columbia, and several US territories and work to protect student civil rights and secure excellence in education on behalf of the nearly 9.5 million students with disabilities in America who have qualifying disabilities under the Individuals with Disabilities Education Act and Section 504 of the Rehabilitation Act of 1973.

The [Judge David L. Bazelon Center for Mental Health Law](#) is a national organization that, for over 50 years, has advanced the civil rights, full inclusion, and equality of adults and children with mental disabilities. The Bazelon Center believes that schools should help all children—including children with mental health or other behavior support needs—become successful adults who can hold jobs, live independently, and be engaged in their communities.