



TO: Senate Committee on Education
FROM: Disability Rights Oregon
DATE: Month February 7, 2023
RE: SB 819 Abbreviated School Day and Unilateral Placement

Chair Dembrow, Vice Chair Weber, and members of the Committee,

Following the recent dismissal of *J.N. v. Oregon Department of Education et al*, ODE is no longer providing any data about the number of recorded Shortened or Abbreviated School Days (SSDs), to DRO. For that reason, the last SSD data DRO received from ODE indicated that about 400 students were still receiving SSDs in March of 2024. However, questions about the accuracy and quality of that data continue to be a matter of concern for DRO. Those concerns prominently include a belief that many districts may now be resorting to SSDs without accountability to the requirements of SB 819 by failing to acknowledge that behavior is the reason for a shortened day. This and other more general concerns about the quality of SSD and behavioral data kept and provided by Oregon school districts were strongly supported by the neutral expert who was employed by ODE as part of the *J.N.* lawsuit. We also have serious doubts about how well ODE monitors and responds to a large number of children with disabilities who are not allowed to attend full days of productive education.

For those and other reasons, we are confident that the actual number of students with disabilities who continue to receive less than a full day of safe and effective education far exceeds the numbers reported by ODE in February or any other month.

A number of recent parent calls strongly support that belief. Currently, DRO is seeing a growing variety of situations which suggest that some districts are now resorting to a number of informal removal strategies and/or coercing parents into accepting SSDs in order to continue their use of SSDs as a way to reduce staff demand or cut costs. For instance, we are hearing accounts of situations in which a district offers that the result of withdrawing consent to an SSD would be a short-staffed or otherwise insufficiently supportive environment. Parents who face this choice are led to believe that their insistence on a full school day would almost guarantee suspension, other discipline, or various forms of seclusion. A recent uptick in parent calls about districts that are resorting to the imposition 45-day alternative placements or indefinite suspensions as the school year nears its end suggests that such fears are well founded.

We have also seen that some districts may be adopting other strategies to avoid the intent of SB 819 for students with disabilities who reside in group homes. In one instance, a district effectively changed the IEP placement of a student (which provided that he would spend 40% or less of his full school day out of the presence of other students to a full day) by instead restricting the student to a

“personal learning environment.” In practice, this meant that the student has been spending his entire school day in a classroom with 1 to 3 adults and no other students for months without the knowledge of his parent. The parent and group home only learned of the change when the parent recently visited her son on his birthday.

We have received little or no information to indicate that ODE is effectively operating a monitoring system that is capable of reliably alerting it when informal removals and other practices which thwart the intent of SB 819 take place.

In conclusion, a long history of district resistance to their responsibilities to students with disabilities and parent contacts with DRO since February of this year indicate that an unknown but substantial number of Oregon school districts are finding ways to satisfy the procedural requirements of SB 819 without addressing SB 819’s clear intent: ensuring that the parents of students with disabilities have a right to insist that their children receive a full day of safe and productive education in their least restrictive environment.

About Disability Rights Oregon

Since 1977 Disability Rights Oregon has been the State's Protection and Advocacy System.¹ We are authorized by Congress to protect, advocate, and enforce the rights of people with disabilities under the U.S. Constitution and Federal and State laws, investigate abuse and neglect of people with disabilities, and “pursue administrative, legal, and other appropriate remedies”.² We are also mandated to "educate policymakers" on matters related to people with disabilities.³

If you have any questions regarding DRO’s position on this legislation, please call Meghan Moyer at 503-432-5777 or email her at mmoyer@droregon.org.

¹ See ORS 192.517.

² See 42 U.S.C. § 15041 et seq; 42 U.S.C. § 10801 et seq.

³ See 42 U.S. Code § 15043(a)(2)(L).