



# Disability Rights Oregon

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,

It has now been ten years or more since DRO began a series of efforts to convince the Oregon Department of Education that it has a duty to proactively eliminate the destructive practice of shortening the school days of children for long periods of time. ODE recently began to collect data that should enable it to estimate the number of children who receive Shortened School Days (SSDs) in each district. However, the Department still refuses to acknowledge that SSDs are indeed a problem that disastrously impacts a thousand or more children with disabilities every year. That glaring reality and the fact that the Department’s limited efforts to address SSDs have been ineffective have been strongly confirmed by a neutral expert who was hired by ODE.<sup>1</sup>

If passed into statute, SB 819 will provide a clear legal framework that will require ODE to aggressively pursue the elimination of frequent and long-term shortened school days in an accountable way. In so doing, it will spare hundreds of Oregon children from an experience that robs them of the basic right to receive a full day of effective education at a public school where they live. It will change lives.

DRO’s long experience with the problem of the pervasive inappropriate use of SSDs as a substitute for effective behavioral supports suggests that three of its proposed provisions are particularly important:

- 1.) Oregon School Districts will be clearly and accountably prohibited from reducing the school days of children because of behavioral issues without written and revocable parental agreement. This will end any confusion about what constitutes a unilateral and unlawful district imposition of SSDs. As a result, it will also end the all too common situation in which a parent agrees to what she believes will be a short period of a reduced school day that turns into months or

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<sup>1</sup> See report of Dr. David Bateman available at <https://www.droregon.org/s/Neutral-Expert-Report.pdf> .

years during which the child is not allowed to be at school for more than a few hours a day.<sup>2</sup>

- 2.) The revocation of parent consent will trigger a speedy and time-limited return to the full day of school that is their right. This will end another common scenario in which parents are repeatedly advised not “make a fuss” because a longer school day is just around the corner as soon their children attain a level of performance measured against criteria that act to prolong exclusion from school.
- 3.) In what we expect will become rare situations in which SSDs might continue for substantial periods of time despite parental objections, SB 819 will require a significant measure of compensatory education to redress the harm associated with lost time in school.

Past history suggests that ODE has been unable or unwilling to act when confronted with systemic issues such as SSDs because of an unhealthy surrender to the power of school districts to chart their own course without much oversight or interference under the banner of local control. DRO believes that SB 819 will prompt ODE to adopt a new and necessary understanding of its role as the agency that is entrusted to oversee a comprehensive educational system which ensures that every Oregon child with a disability receives FAPE in the least restrictive environment without discrimination based on disability.

For most if not all of those children,<sup>3</sup> that means a full day of school as a baseline. It is our additional expectation that a better understanding of this duty will spur ODE to more actively support the classroom teachers who may not have the resources or expertise to effectively address complex behavioral problems.

For all of the above reasons, DRO supports the passage of SB 819.

### **About Disability Rights Oregon**

Since 1977 Disability Rights Oregon has been the State's Protection and Advocacy System.<sup>4</sup> 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”.<sup>5</sup> We are also mandated to “educate policymakers” on matters related to people with disabilities.<sup>6</sup>

**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](mailto:mmoyer@droregon.org).**

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<sup>2</sup> It is notable that the legislatures previous effort to eliminate such situations (ORS 343.161) has been harmfully interpreted by many districts to be a roadmap for how to override parental objections to SSDs.

<sup>3</sup> Excluding children with medical issues that render them unable to receive a full day of education.

<sup>4</sup> See ORS 192.517.

<sup>5</sup> See 42 U.S.C. § 15041 et seq; 42 U.S.C. § 10801 et seq.

<sup>6</sup> See 42 U.S. Code § 15043(a)(2)(L).

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