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Creighton holds  
on for Top 25  
win, Nebraska  
rallies from 17  
down for OT  
victory. **Sports**



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# Sunday World-Herald

SUNDAY, FEBRUARY 12, 2023

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EILEEN T. MESLAR PHOTOS, THE WORLD-HERALD

Randi Peavy sits with her daughter, Bailey Peavy, as she uses her talker device to communicate at their home in Omaha on Thursday. Bailey was born with polymicrogyria, a condition characterized by abnormal brain development before birth. Faced with what she described as unacceptable and unsafe conditions, Randi pulled Bailey out of McMillan Middle School. In school districts across the state, parents of special needs children say their children are not receiving the care they deserve.

## HOW SPECIAL ED SYSTEM FAILS STUDENTS, STAFF

LAUREN WAGNER  
World-Herald Staff Writer

Randi Peavy couldn't go a day without checking her phone dozens of times, dreading a call from her daughter's school that something horrible had finally happened.

In 2021, Peavy's daughter, Bailey, was 13 years old and received special education through the Omaha Public Schools. She was born with polymicrogyria, a condition characterized by abnormal brain development before birth that causes her motor skill impairment, epilepsy and incontinence. She also uses a wheelchair.

Elementary school was less problematic, but both of their lives started to fall apart when Bailey entered junior high at McMillan Middle School, Peavy said.

She eventually pulled her daughter out of McMillan after dealing with several alleged concerns — security guards transferring Bailey due to lack of staff; her disengaged wheelchair being parked next to the school pool; not being able to get one-on-one help; and others.

"When I finally pulled Bailey out (of school), I was like, there's literally nothing I can do to get her needs met," Peavy said. "And now not only is she not getting anything from school and she's unsafe, I'm putting her at risk."

Peavy is far from the only family with special needs children who are facing unacceptable situations at



Molly Jareske reads with her son, Caiden Jareske, at the Bennington Public Library on Thursday. Jareske filed a complaint against Bennington Public Schools in November after Caiden became isolated due to behavior stemming from his autism. An investigation found the district didn't adequately address Caiden's behavior and determine what positive behavioral supports were appropriate for improvement.

school, which are not limited to OPS.

Family and advocates say special education has always received the short end of the stick, from insufficient federal and state funding to staffing shortages that have spanned decades. But through the COVID-19 pandemic, the flaws in Nebraska's special education system have worsened and become more evident.

It's taken thousands of dollars out of families' pockets for students to receive the services they deserve in a statewide system that can't support them. And sometimes students don't receive the services at all.

During the 2021-22 school year, the Nebraska Department of Education

Please see **SPECIAL ED**, Page A7

## Sen. Hunt's proposal on church camps gets attention

Omaha lawmaker hit the national spotlight recently with her amendment

MARTHA STODDARD  
World-Herald Bureau

LINCOLN — An Omaha lawmaker set the internet abuzz recently with an amendment to ban minors from church camps, vacation Bible study classes and other "religious indoctrination camps."

The proposal is just one of several amendments from State Sen. Megan Hunt intended to make a statement while helping her fight bills she opposes. In doing so, the second-term lawmaker is taking a page from the playbook of another state legislator famous for riling opponents, former Sen. Ernie Chambers of Omaha.

It was Hunt's amendment to Legislative Bill 371, which seeks to ban minors from drag shows, that generated the recent attention.

Her amendment generally mirrors the bill, which she opposes, but starts by laying out legislative findings that there is a "well-documented history of indoctrination and sexual abuse perpetrated by religious leaders and clergy people upon children."

The amendment drew attention from conservative national media, including Fox News, which quoted critics calling it "anti-religious bigotry."

Thousands of comments, calls and tweets soon followed. Some called Hunt "dangerous," "evil," "a Communist" and an "embarrassment."

"If Megan Hunt can't tell the difference in freedom of religion and sexualizing our kids with drag shows, there's no hope for her. I get what she's trying to convey, but sweetheart it's apples and oranges," one critic tweeted.

Another said: "Megan Hunt needs to be recalled — she is

Please see **AMENDMENT**, Page A2

### She has a super role

An Omaha Skutt graduate is working behind the scenes at the big game today. **Midlands**

### Weather

High: 47  
Partly sunny  
Low: 25  
Details: A20

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## Special ed

From A1

investigated 32 state complaints regarding special education, according to state data. That's up from the 2020-21 school year, when the state investigated 19 complaints.

Families or attorneys can file a complaint against a district with allegations of noncompliance, wrongdoing or other failures. The investigations are completed by the Nebraska Department of Education.

In the 2019-20 school year, which was cut short by the pandemic, fewer than 10 complaints were made. The 2018-19 school year had 17 complaints.

By the end of the first semester this school year, the state had already investigated 16 special education complaints.

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It's the obligation of the U.S. Department of Education at the federal level and state education departments to resolve these issues and ensure school districts are in compliance with special education laws, said Denise Marshall, CEO of the Council of Parent Attorneys and Advocates, a national network of people who advocate for education rights for students with disabilities.

"They are not doing the job they're supposed to do," Marshall said. "And so the burden continues to be on the family."

Marshall said Nebraska's struggle with its special education system is not unique — it's a problem that's happening in several states around the U.S.

"There are some pockets of states that are generally regarded as doing better, that do have more robust follow-up or policies that are more in line with allowing parents and their advocates and attorneys to understand the information," Marshall said.

Failures aren't usually found until families file a complaint or lawsuit or an outside agency investigates, according to Marshall. One example came in 2020, when the U.S. Department of Education issued a report after a lengthy investigation into Virginia public schools. The report concluded that the state did not have the procedures or practices to adequately serve its special education students.

Systemic failures have also been found in Nebraska schools — more recently in an investigation into OPS that concluded last October.

The Omaha-based Education Rights Counsel filed a state complaint detailing the experiences of 10 highly mobile OPS students who experienced severe delays in receiving evaluations, which are necessary to determine special education services.

The Nebraska Department of Education found that the district had systemic noncompliance in meeting evaluation timelines and complying with ChildFind, a regulation that requires schools to timely identify, locate and evaluate all children with disabilities in Nebraska to provide services.

"NDE found that OPS had a systemic pattern and practice of failing their legal duty to conduct timely and appropriate evaluations," said Lauren Vargas, executive director of Education Rights Counsel. "This failure deprived students of services they need. This complaint was just one small piece of the work needed to ensure all children have access to a free appropriate public education."

OPS is now required by the state to undergo corrective action, which includes more staff training, a review of special education policies, a review of all eligible student files and more.

"There's a lot of systemic issues wherever you go," said Cheryl Logan, OPS superintendent. "For children who are highly mobile, one of the things is that it does take time to get to know a child and (sometimes) the records don't follow. And having less people certainly exacerbates the issue."

Angie Phillips' son, William, has been home-schooled since last year, when he left Minne Lusa Elementary School in OPS.

William became overstimulated at school because of his undiagnosed autism, Phillips said. Some days he refused to go, but when he did, he would often end up in the fetal position, rocking back and forth.

William's special education teacher was the only person he succeeded with, but she was gone a lot, covering for



EILEEN T. MESLAR, THE WORLD-HERALD

**Bailey Peavy uses her talker device to communicate with her mother, Randi Peavy, at their home in Omaha. Randi said the family spent thousands of dollars to ultimately provide Bailey with a good education. "I say free public education is not a thing when you have a special needs kid," Randi said.**

other teachers or helping other schools.

Phillips said she begged the school to help her find a way to keep him in school, but she was told William would need an official diagnosis for his individualized education program (IEP) to be changed.

And then one day, Phillips got a call from a teacher saying he was wandering the halls and wouldn't go to art class and they didn't know what to do.

When Phillips arrived at Minne Lusa, no one knew where William was.

"It only took a couple of minutes and I found him wandering the hallways, unsupervised by himself as a 7-year-old autistic kid at the time. I was upset about that, but I was able to get him to go into the art classroom," Phillips said. "It turned out that the only reason he didn't want to go in was because the teacher had a welcome sign on the door that hadn't been turned around. And so in his head he wasn't allowed to go into the classroom."

The ordeal made Phillips nervous because it followed the disappearance of Ryan Larsen, a boy with autism who has been missing since May 2021 after leaving his Papillion-La Vista school.

After an official autism diagnosis, the school came up with a safety plan and changed William's IEP, but because staff didn't stick to the IEP consistently, Phillips kept William home more often.

Finally, William's principal said he was in danger of becoming truant. And then child protective services showed up.

"I said, 'Look, he doesn't go to school because you guys don't follow the IEP. I've been begging for help,'" Phillips said. "Having a hard time at school quickly turned into the verbalization of my son saying things like, 'I wish I wasn't here anymore.' So I was like, we're gonna stay home and be safe until we can figure something out."

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Noncompliance is reported in a variety of Nebraska school districts each year.

Molly Jareske filed a complaint against Bennington Public Schools in November after her son, Caiden, became isolated in second grade because of behavior that stemmed from his autism.

An investigation found that, among other violations, the district didn't adequately address Caiden's behavior and determine what positive behavioral supports were appropriate for improvement. It found the district continued to remove Caiden from school entirely instead of changing his IEP.

"This whole school year has been a nightmare," Jareske said.

Jareske said she also tried to get Caiden one-on-one paraprofessional help back in September, but was denied each time because of low staffing. She said she didn't feel that there was one day that Caiden was in school that his IEP was in 100% compliance.

Now Caiden is being home-schooled until Jareske can find another solution, she said.

The Bennington school district said in a statement Friday that it "continuously updates positive behavioral interventions for students as often as needed" and ensures that "the students' needs are being met and that we are making changes as needed and as behaviors change from our students."

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Jenni Benson, president of the Nebraska State Education Association, said there has always been a shortage of special education teachers, even when she first became one herself 40 years ago.

"We've always kind of been on the cusp of 'Gosh, we have a shortage in special ed educators.' Well, now, it's way past (that)," Benson said. "Folks are not going into education, which has exacerbated the problem overall."

Special education has the highest number of vacant positions in the state out of any other endorsement, according to a recent Nebraska Department of Education report. More than 20% of special education positions in Nebraska public schools remain unfilled.

OPS, the state's largest district, has been hit hard by the special education teacher shortage, contributing to caseload rates significantly higher than other large districts in Nebraska, according to a World-Herald analysis.

The district responded in a records request that average caseload numbers for K-12 special education resource teachers was between 22 and 35 in December. Michelle Settlemyer, president of the Omaha Education Association, said those numbers aren't correct — caseloads have risen anywhere from 30 to 50 students per resource teacher.

Settlemyer said OPS special education teachers are also stretched thin because of other staff shortages, including substitutes. Some schools have to share special education teachers while some will have to delay their work to help others in the classroom.

"The biggest concerns I hear from the special education teachers is that students' needs aren't getting met," Settlemyer said. "Student's aren't receiving services not only that they deserve, but are also required by their IEPs."

Logan said OPS's low special education numbers affect everything in the district's special education system, such as "giving kids what they need, meeting them where they are and providing for the needs that they have."

Lincoln Public Schools caseloads barely budged between 2019 and 2022, with the highest roster tapping out at 18 students per middle school resource teacher.

Caseload numbers between 2019 and 2022 remained similar in the Millard, Ralston, Bellevue, Elkhorn, Kearney, Fremont and Grand Island school districts, though some of them did lose many paraprofessionals, who often help in special education classrooms.

Among those districts, the highest caseload number was

27 for middle school resource teachers.

One former OPS high school resource teacher said her caseload began with 16 students when her career started 16 years ago. Right before she resigned last year, her caseload was about 40 students. The former teacher spoke on the condition she not be named because of fear of it impacting future jobs.

She spent the last 12 years of her teaching career at an OPS high school, where she taught a range of students who were "very high functioning, needing help with organization, to students that couldn't read anything higher than a second grade level."

"It was unmanageable," she said.

The teacher said she had a son with an intellectual disability as well, so she understood parents' frustration over inadequate services.

"I always tried to treat the kids and the families the way that I wanted the teachers to treat my son and myself," she said. "And it was such an internal battle for me because I never felt like I was giving the kids what they deserved, because I physically could not. Because there just was not enough time in the day. The system we had did not work."

Besides teaching students, special education staff are loaded with documenting minuscule details of a child's progress on a daily, monthly and quarterly basis, plus creating legal paperwork like IEPs, the former teacher said.

She said as the years went on, more requirements were mandated of special education teachers and the pandemic caused even more students to qualify for services.

"It was tough," she said. "It was like a living hell."

Logan said that OPS will continue to work to improve conditions for teachers, but it still won't make as much of an impact with a continuing staff shortage.

"We have great special educators. We have amazing kids," Logan said. "We just have great staff that are working as hard as they can. And we all need to recognize that."

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It can be even more difficult for special education teachers in rural schools, said Angie Willey, who has a son in Elmwood Murdock Public School, located roughly 30 miles southwest of Omaha.

Her son Ben, who has Down syndrome and autism, was always being pulled from his general education classroom to work by himself in a different room for his special education services. She said his first year being included with his general education peers was when he became a freshman in high school.

Willey said she eventually was able to get Ben evaluated by the school's psychologist, who concluded that he didn't need to be pulled out of the classroom — his learning just needed to be modified better to meet his needs.

"It's a lack of training," Willey said, "it's 'doing what we've al-

ways done.' "

Willey's experience advocating for her son's education led her to a training offered by Disability Rights Nebraska called the Inclusive Education Lay Advocacy Program. It teaches parents to become public advocates to help other Nebraska families navigate the special education system.

Pat Cottingham, director of the program, said there are now parent advocates all over Nebraska.

"(One mom) told me that it made her a better advocate for her daughter and that she was able to use the right language in the IEP meeting so the school actually listened to her," Cottingham said. "Many families feel like nobody listens to them. And they don't feel that their input is respected in the way it should be."

Now Willey spends her free time coaching other parents how to ask schools for what their children need in their IEPs.

"As parents, we need to get together and talk," she said. "It's not like schools are trying not to educate our kids. But they're not giving them necessarily everything they could."

For decades, public and political advocates have tried to obtain more funding for Nebraska's special education system.

"If you have a student who has a lot of needs, they not only need a special education teacher — they need a paraprofessional, a nurse, an occupational therapist, a physical therapist, a speech and language person. Those are all resources that have to be paid for," said Benson, the state teachers union president.

More help could be coming if the Nebraska Legislature acts on a funding proposal from Gov. Jim Pillen. Legislative Bill 583, introduced by State Sen. Rita Sanders, would create a statutory provision that 80% of districts' special education costs be covered through a combination of federal and state funding.

Logan said she thinks the real problem isn't funding, but the lack of teachers in the state's pipeline.

"The issue is going to be more difficult as we move forward through the next five to 10 years because of the lack of people in the pipeline, which creates a cycle because then you have people who have a higher caseload and they tire or burn out more quickly," Logan said. "Honestly, this is a state issue."

Lawmakers have proposed multiple bills this year that revolve around teacher recruitment and retention. But even with immediate funding and more staff, gaps still remain in Nebraska's education system.

Cottingham said it seems to take money — sometimes a lot of it — for parents to secure services.

Peavy said it took several months, thousands of dollars for a lawyer and for Bailey to move to Westview High School in OPS before things improved drastically.

"I say free public education is not a thing when you have a special needs kid," Peavy said.