

BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of Glendale School
District #77

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FINDINGS OF FACT,
CONCLUSIONS
AND FINAL ORDER
Case No. 13-054-017

I. BACKGROUND

On May 20, 2013, the Oregon Department of Education (Department) received a written request for a special education complaint investigation from the parent (Parent) of a student (Student) residing in the Glendale School District #77 (District). The Parent requested that the Department conduct a special education investigation under OAR 581-015-2030. The Department confirmed receipt of this complaint and forwarded the request to the District by email and by US mail on May 20, 2013.

Under state and federal law, the Department must investigate written complaints that allege violations of the Individuals with Disabilities Education Act (IDEA) and issue an order within sixty days of receipt of the complaint.¹ This timeline may be extended if the parent and the school district agree to the extension in order to engage in mediation or local resolution or for exceptional circumstances related to the complaint.² This order is timely.

On May 29, 2013, the Department's complaint investigator sent a *Request for Response* to the District identifying the specific allegations in the complaint to be investigated and establishing a *Response* due date of June 12, 2013.

On June 12, 2013, the District submitted a timely response indicating they disputed the allegations in the Parent's complaint. The *Response* packet contained IEP's; eligibility reports; a transcript; prior written notices; meeting notices; and copies of correspondence between the District and the Parent. The Department's complaint investigator determined that on-site interviews were needed. On June 24, 2013 the complaint investigator interviewed the District's Superintendent/Special Education Director, a Douglas County special education consultant, a high school English teacher and the high school special education teacher. The parent submitted materials for consideration on June 19, 2013. The investigator interviewed the Parent, Student, Student's attorney and Student's social worker on June 24, 2013. The complaint investigator reviewed and considered all of these documents, interviews, and exhibits in reaching the findings of fact and conclusions of law contained in this order.

Both the Parent and the District agreed to mediation, and while the District agreed to extend the investigation timeline in order to engage in mediation, the parent did not. A mediation session was scheduled for June 27, 2013, but the Parent cancelled the mediation on June 25, 2013.

II. ALLEGATIONS AND CONCLUSIONS

The Department has jurisdiction to resolve this complaint under 34 CFR §§ 300.151-153 and OAR 581-015-2030. The Parent's allegations and the Department's conclusions are set out in the chart below. These conclusions are based on the Findings of Fact in Section III and the Discussion in

¹ OAR 581-015-2030(12) and 34 CFR § 300.152(a)

² OAR 581-015-2030(12) and 34 CFR § 300.152(b)

Section IV. This complaint covers the one year period from May 21, 2012 to the filing of this complaint on May 20, 2013.

During the interview process, the District Superintendent/Special Education Director decided not to contest the first two allegations outlined below. The District acknowledges that it did not provide Brailled materials to the student in a timely manner, nor did it provide specially designed instruction in Language Arts. In addition, the District acknowledges that it violated the IDEA when it moved the Student from a general education class in Language Arts to a more restrictive environment (one-to-one instruction in Language Arts in the special education classroom). The District did not suggest a Corrective Action plan but did ask the Department to provide some training and consultation to staff on these sections of IDEA.

	<u>Allegations:</u>	<u>Conclusions:</u>
1.	<p><u>IEP Implementation/ When IEP is in effect:</u></p> <p>1) The Parent alleges that the District violated the IDEA by not providing the Student with written course materials in Braille in a timely fashion in Language Arts, Science and Math. In addition, the Parent alleges that the District violated IDEA when it gave the Student tests not printed in a Braille format;</p> <p>2) The Parent alleges the District violated the IDEA by not providing specially designed instruction in Language Arts</p> <p>(OAR 581-015-2220 and 34 CFR 300.323).</p>	<p><u>Not Contested:</u></p> <p>The District does not contest either part of this allegation and believes it has corrected the problem. A review of the facts substantiates that the District did, in fact, violate the IDEA by not providing the course materials in Braille in a timely fashion, and by not providing specially designed instruction in Language Arts. Consequently, the Department orders Corrective Action.</p>
2.	<p><u>Requirement for Least Restrictive Environment (LRE):</u></p> <p>1) The Parent alleges that the District violated the IDEA when it moved the Student from a general education class in Language Arts to a more restrictive environment (one-to-one instruction in Language Arts in the special education classroom).</p> <p>(OAR 581-015- 2240 and 34 CFR 300.114)</p>	<p><u>Not Contested:</u></p> <p>The District does not contest this allegation and so the Department orders Corrective Action.</p>

3.	<p><u>Confidentiality of Student Education Records:</u></p> <p>1) The Parent alleges the District violated IDEA when staff discussed the Student in front of other students in the special education classroom.</p> <p>(OAR 581-015-2300 and 34 CFR 300.610 and 34 CFR 300.622)</p>	<p><u>Not Substantiated:</u></p> <p>The Department finds that the District did not violate IDEA and the Student's right to confidentiality. However, the Department recommends the District carefully review the laws and policies governing students with disabilities' rights to confidentiality under IDEA and FERPA with all District staff.</p>
4.	<p><u>Failure to Provide FAPE:</u></p> <p>1) As a result of the violations alleged above, the District has failed to provide the Student with a Free and Appropriate Public Education (FAPE).</p> <p>(OAR 581-015-2040 and 34 CFR 300.101)</p>	<p><u>Substantiated:</u></p> <p>This student did not receive IEP components in a timely or consistent fashion. The student's placement was changed to a more restrictive environment. The Parent was not given appropriate notice of all of these actions. The District planned a more restrictive placement for the upcoming school year, but described a very different one on the IEP. For all of these reasons, the Department substantiates this allegation and orders Corrective Action.</p>
	<p><u>Proposed Corrective Actions:</u></p> <p>The Parent submitted materials for consideration on June 19, 2013.</p> <ol style="list-style-type: none"> 1) That all teachers send all of the Student's assignments to the Braillist in a timely manner (2 weeks before the assignments are handed out) so that the Student receives them at the same time as classmates receive theirs. The materials should include all notes, page numbers or any other items the Student needs to complete the assignments; 2) That the teacher should be reprimanded for not supplying class materials in Braille; 3) That all general education teachers should ensure that the Student is learning using the same curriculum as other students in the classes; 4) That the Student should receive all 	

	<p>grades earned on assignments, tests, etc. in a timely manner;</p> <p>5) That staff should not discuss a change of placement with the Student outside of a formally convened IEP meeting;</p> <p>6) That staff should not discuss the student when other students are within hearing distance;</p> <p>7) That IEP meetings should be conducted in such a manner as to allow all parties sufficient time to express a point of view;</p> <p>8) That the Student's placement should not be changed without such a change being discussed with and agreed upon by the full IEP team; and,</p> <p>9) That the Student should not be assigned for instruction during the teacher's preparation period.</p>	
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Allegations Not Investigated:

The Parent alleges that the District violated the IDEA when the special education teacher conducted discussions with the Student in which the teacher compared the teacher's personal problems and issues with the Student's. While this may have made the Student uncomfortable, as the Parent alleges, such discussions are not regulated by the IDEA; therefore, this issue will not be investigated. Additionally, the Parent alleges the District violated the IDEA when it refused to continue a discussion about page numbering during an IEP meeting at the Parent's request. However, as alleged this would not be a violation of the IDEA, so the allegation will not be investigated. The Parent also alleges the District violated the IDEA when it discussed and encouraged a change of placement with the student outside of a formally convened IEP meeting. However, this statement as alleged is not a violation of the IDEA so it will not be investigated. The Parent also alleged the District violated the IDEA by not providing the student with grades the student earned on a Science Final. This statement as alleged is not a violation of the IDEA so will not be investigated. The Parent was referred to the Office of Civil Rights and the Teacher Standards and Practices Commission for the relevant complaints outside the jurisdiction of OAR 581-015-2030.

III. FINDINGS OF FACT

Background Information:

- 1) The student is 16 years old and resides in the Glendale School District. The student is eligible for special education as a student with Vision Impairment (VI) and a Traumatic Brain Injury (TBI), and these were re-established on March 7, 2012 (VI) and April 26, 2012 (TBI). The student has completed the tenth grade. As of June 4, 2013, the student has earned ten credits toward graduation, has a cumulative GPA of 3.737 and is ranked first in a class of 22 students.

- 2) The student's IEP was rewritten three times during the 2012-2013 school year. The first rewrite was completed at the annual IEP review meeting on March 19, 2013. The team met again on May 15, 2013 and began another review of the IEP. The final IEP was completed and signed by all team members on June 16, 2013. For purposes of clarity, in the next group of facts, the IEP's will be designated and referred to as follows:
 - a. March 19, 2013 -- March IEP
 - b. May 15, 2013 -- May IEP
 - c. June 16, 2013 -- June IEP

- 3) In the March IEP Present Level of Academic Achievement and Functional Performance (PLAAFP) statement, the team provided general information about the Student's placement (enrolled in general education classes for science, math, home economics, language arts and computer applications). In addition, the team noted the Student receives specially designed instruction for vision related skills and that the District provides copies in Braille of the general education materials. The team noted the Student can use a BrailleNote note taker, and a Victor Reader Stream. Finally, the team wrote that the Student is a cane user who has great difficulty remembering routes that involve multiple steps. There was no information provided describing the Student's current academic skills and levels, credits earned, etc.

- 4) The PLAAFP in the May and June IEP versions is exactly the same as the March IEP. All three IEP's state that the Parent is concerned the Student receives the accommodations needed to be successful in school.

- 5) The table below describes some of the other components of the March IEP that were not changed in the May and June versions:

Consideration of Special Factors	<ul style="list-style-type: none"> • Is blind or visually impaired and needs assistive technology devices or services.
Transition	<ul style="list-style-type: none"> • The Student will increase understanding and use of Braille cooking items; • Will learn to use a GPS system for mobility; • Will enroll in a cooking class as an elective; • Will participate in summer camp opportunities provided by the Commission for the Visually Impaired; • Will consider enrolling in the Washington School for the Blind. • Anticipated Graduation Date: 6/10/2016, with an alternative document –Modified Diploma was discussed as a possibility.

	<ul style="list-style-type: none"> • Student was informed of rights under Part B of IDEA on 5/15/2013.
Assessment	<ul style="list-style-type: none"> • No Statewide or District wide assessments administered at Student's current grade level.
Goals	<ul style="list-style-type: none"> • Compensatory Technology Skills: Student will use devices to complete classroom work independently using screen reading software, BrailleNote, and Braille display to navigate word processing programs and the internet; • Orientation and Mobility: Student will utilize the Trekker breeze and long cane to safely and efficiently travel both residential and light business areas; • Language Arts: Student will increase writing skills to grade level proficiency in (sic) area of content, organization, sentence fluency, and conventions; • Math and Algebra Skills: Student will complete basic pre-algebra skills by reading and comparing information about samples, tactual graphs, charts, and diagrams.
Related Services	<ul style="list-style-type: none"> • Braille Service: 20 hours weekly
Non-participation justification	<ul style="list-style-type: none"> • Student needs to be removed from participating with nondisabled students in the regular classroom for 2-3 hours per day for special 1:1 or small group instruction to meet individual needs of Student.

6) The table below describes the Specially Designed Instruction component in the March IEP, and the changes the team made in the May and June versions³:

March	May	June
Language Arts : 30 minutes weekly	Same as March	<i><u>120 minutes weekly</u></i>
Compensatory Skills, Braille writing and Braille technology: 60 minutes weekly	Same as March	Same as March
Math: 60 minutes weekly	Same as March	<i><u>120 minutes weekly</u></i>
Orientation and Mobility: 120 minutes weekly	<i><u>120 minutes 2 times per month</u></i>	Same as May

7) The table below describes the Supplementary Aids/Services; Modifications and Accommodations component in the March IEP, and the changes the team made in the May and June versions.⁴

March	May	June
Instructional materials:	Same as March	Same as March

³ Changes are Bolded and Italicized.

⁴ Changes are Bolded and Italicized.

Reduce amount of work and pages numbers next to handout questions for easier scimming (sic) -- 1 hour daily		
Braille Tactile Materials: Braille worksheets/daily materials -- 5 hours daily	Same as March	Same as March
Auditory Materials: Books on tape/CD/Digital from TBABS -- 1 hour	Same as March	Same as March
Auditory Materials: Talking calculator -- 55 minutes	Same as March	Same as March
Braille/Tactile Materials: Braille books -- 5 hours daily	Same as March	Same as March
Advanced Technology: Electronic Braille (Braille and Speak, BrailleNote, Lite +, etc.) -- 5 hours weekly	<u>5 hours daily</u>	Same as May
Assignments shortened to demonstrate mastery of material -- ⁵	Same as March	Same as March
Supports for School Personnel: In-service/training provided to staff modifications to assignments -- 1 hour weekly.	Same as March	Same as March

- 8) At the March IEP meeting (March 19, 2013), the team considered two placement options: Special Education Services less than 21% of the day; and Special Education Services more than 21% of the day. The team chose the placement of more than 21% of the day—citing the benefit of specially designed instruction for individual and small group setting (sic).
- 9) At the May IEP meeting (May 15, 2013), the team did not consider any changes in the Student's IEP.
- 10) The District sent no Prior Written Notices of Special Education Action informing the Parent of any of the actions taken at either the March or the May IEP meetings.
- 11) At the June IEP meeting (June 16, 2013), the team considered the same two placement options: Special Education Services less than 21% of the day; and Special Education Services more than 21% of the day. The team chose the placement of more than 21% of the day; again citing the benefit of specially designed instruction for individual and small group setting (sic).

⁵ No Anticipated Amount or Frequency given.

- 12) On June 19, 2013, the District sent the Parent a Prior Written Notice of Special Education Action (PWN) explaining that the IEP Team had met to consider provision of a Free, Appropriate Public Education (FAPE) and the Student's placement. On this PWN, the District wrote the following:
 - a. The team made needed changes to the amount of specially designed instruction provided in Orientation and Mobility; and,
 - b. The team wrote and included a Media Form for Braille Services.
 - c. The team discussed the need to assemble as a team if the Student does not attend the Washington School for the Blind (WSB) after a thirty day trial period.
- 13) On May 9, 2013, the District gave the Parent a "Parent Letter for IEP/Team Meeting." In this letter, the District noted that it planned to "follow up on the Washington School for the Blind." The agenda the District wrote for the May 15, 2013 IEP meeting lists the Student's placement at the WSB as a topic of discussion. The minutes of the May 15, 2013 IEP meeting list a number of items the team discussed about the Student's placement in the Washington School for the Blind for the 2013-2014 school year. These items include transportation by the District, communications between the WSB, the contract between the District and the WSB, etc. Although there are no minutes of the June 16, 2013 IEP meeting, all parties agree that the IEP team finalized plans for the Student to attend the WSB for a thirty day trial period at the start of the 2013-2014 school year; and to complete the school year there if the trial period was successful.
- 14) The District did not include consideration of the placement at WSB when it completed and signed the Special Education Placement Determination Form at the June 16, 2013 IEP meeting. However, in the PWN written on June 19, 2013, the case manager noted that the team discussed the need to assemble as a team if the Student does not remain at the WSB after a thirty day trial period.
- 15) Per the June 16, 2013 IEP the Student is required to attend school at the District for the first week of the 2013-2014 school year, and then will move to the WSB for a 30 day trial period. If the trial period is successful, the Student will remain at the WSB; the District will provide transportation and other costs, and will transfer state school ADM funds for the Student to the WSB.
- 16) The Student is capable of reading in Braille, and uses the Nemeth Code for math. The Student also uses a number of assistive technology devices to learn.

Information Specific to the Allegations (In numerical order)

- 17) In the spring of 2012, the high school special education teacher asked the general education teachers to submit the titles of all textbooks, and other curriculum materials before the teachers left for the summer vacation. This was so that the District could order the text in Braille format, and translate other written materials into Braille before the 2012-2013 school year began. Independently, the high school special education teacher researched and ordered a set of mathematics materials that were grade appropriate for the Student's level—then estimated to be Pre-Algebra. The high school special education teacher also ordered appropriate materials in Science but was unable to do so in Language Arts, because the Language Arts teacher did not provide the necessary information. At the beginning of the 2012-2013 school year, the high school special education teacher informed all general education teachers that over the course of the school year, they would be required to submit written curriculum materials for translation into Braille at least ten working days in advance. Teachers had several options--they could submit hard copies of the materials, or they could email the materials in .pdf format directly to the Vision

Specialist. If a teacher decided to use some other materials at the last minute, (i.e. quizzes, short worksheets) a one-to-one assistant was available to read the material aloud to the Student.

- 18) The math teacher had not submitted any text in the spring, so the special education teacher gave the independently ordered math materials to the math teacher. Both the Student and the District staff reported in interviews that the Student had no difficulty obtaining appropriate materials for math in Braille and in the Nemeth Code over the course of the school year.
- 19) In Science, the teacher submitted additional materials for translation into Braille in a timely fashion throughout the year. However, the system broke down several times before and after holiday seasons when the teacher did not timely submit the materials. It also broke down at various points in the year when the Student needed to take major examinations. For example, for the end of the school year final, the Student was offered the choice of a 150-200 item test that contained multiple choice, short answer, and fill-in-the blank questions. Translated into Braille, this document would be twice to three times in size as the word document. The Student and the special education teacher decided instead to opt for a five question essay test. However, when the test was given to the Student, it consisted of five questions with multiple parts—resulting in nine actual questions.⁶ It took the Student many hours over the better part of a weekend and into the week to complete the test; whilst other students had the opportunity to take the test in one sitting in the classroom.
- 20) Because Braille text are of necessity printed in multiple volumes and very large, early in the school year the Student and Parent asked the special education teacher to arrange for the general education teachers to provide page numbers associated with individual assignments. The Student could use these page numbers as 'locators' to find the reference points in the text, instead of having to skim all of the pages of the large text. This became an issue which prevailed the rest of the school year. Often staff would provide the list of page numbers in large print rather than including them in the materials to be translated into Braille. The special education teacher offered the services of the assistant to send the materials to the Brailist as long as the teachers gave the information to the assistant in a timely fashion. The District acknowledges that its staff struggled all year long to provide these numbers to the Student in a timely or useful way.
- 21) In Language Arts, the District acknowledges that staff was often late in providing materials to be translated into Braille or did not provide them at all. The Language Arts teacher also acknowledged feeling very pressured by the system and very frustrated because the necessity of providing at least ten days advance notice was at odds with the teacher's teaching style. In mid-November (exact date unknown), the Language Arts teacher told the Student during a class that the system was "impossible" and that the Language Arts teacher "would not do it anymore." The Student went to the special education teacher and that teacher arranged a meeting between the Parent, Student, Language Arts teacher, Superintendent, ESD specialists. At the meeting, the team decided to change the Student's schedule so that the Student received Language Arts instruction in the Resource Room, using a one-to-one format with the special education teacher. The District acknowledges that the teacher was not providing specially designed instruction in language arts to the Student, but rather used the general education teacher's curriculum and materials. The team did not send out a team meeting notice identifying it as an IEP team meeting,

⁶ For Example, Question Four: a. Explain how Darwin's encounter with all the different creatures in places like the Galapagos Islands along with his understanding of geology helped him formulate the theory of evolution. Be sure to include how the study of fossils, anatomical studies, embryological studies, and biochemistry have all helped scientists better understand the theory of evolution that Darwin initially presented and....b. Explain how the concepts of variation, natural selection, mutations, and gene frequency can result in speciation, gradualism, punctuated equilibrium, convergent evolution and divergent evolution.

and it did not complete a Written Agreement between the Parent and District form verifying the change in placement.

- 22) In an interview, the Language Arts teacher expressed the belief that other District staff had stated the Student should only be given 70% of the curriculum. The Language Arts teacher graded the Student's work on what the Student had accomplished on the assignments given; rather than on the same "Grading Curve" used to grade other students' materials in the class. The Language Arts teacher expressed the opinion that the Student's work and grading were "very modified" as compared to other students.
- 23) After this placement change was effected, the Student spent 4 of 8 periods per day in the special education Resource Room.
- 24) Both the Language Arts teacher and the special education teacher agree that there was at least one incident during which the Language Arts teacher walked in to the Resource Room where other students were present and started a conversation with the special education teacher about the Student. The Student described hearing at least one telephone call in which the special education teacher discussed another student with a disability during the call. The special education teacher and the Superintendent both noted that the special education teacher often had students in the room during a preparation period, when students could overhear the teacher's conversation on the phone.

IV. DISCUSSION

1. IEP Implementation/ When IEP is in effect:

The Parent alleges that the District violated the IDEA by not providing the Student with written course materials in Braille in a timely fashion in Language Arts, Science and Math. In addition, the Parent alleges that the District violated IDEA when it gave the Student tests not printed in a Braille format. The Parent also alleges the District violated the IDEA by not providing specially designed instruction in Language Arts (OAR 581-015-2220 and 34 CFR 300.323).

The District does not contest either part of this allegation and believes it has corrected the problem. A review of the facts substantiates that the District did, in fact, violate the IDEA by not providing the course materials in Braille in a timely fashion, and by not providing specially designed instruction in Language Arts. It is important to note that Braille is a key tool for literacy for many blind and visually impaired individuals and the IDEA specifically addresses a public agency's responsibility's to make provisions for Braille instruction in the education of blind and visually impaired students.⁷ Consequently, the Department orders Corrective Action.

2. Requirement for Least Restrictive Environment:

The Parent alleges that the District violated the IDEA when it moved the Student from a general education class in Language Arts to a more restrictive environment (one-to-one instruction in Language Arts in the special education classroom). (OAR 581-015- 2240 and 34 CFR 300.114)

The District does not contest this allegation and the Department concurs and orders Corrective Action.

⁷ See Office of Special Education and Rehabilitative Services, *Letter to Colleague*, 113 LRP 25708, June 19, 2013.

3. Confidentiality of Student Education Records:

The Parent alleges the District violated the IDEA when staff discussed the Student in front of other students in the special education classroom.

Under OAR 581-015-2300 and 34 CFR 300.610 and 34 CFR 300.622 a school district must obtain parental consent before personally identifiable information⁸ is disclosed to anyone other than officials of participating agencies who are providing services to a student with a disability, unless the information is contained in education records, and the disclosure is authorized pursuant to the Family Educational Rights and Privacy Act (FERPA).

In this case, District staff reportedly started conversations with other staff in front of students and used the telephone in an area where students could overhear their conversations. The only specific instance of such a conversation that was verified by the investigator was one in which one teacher started a conversation about the Student's general progress in a curricular area while other students were present. However, another teacher quickly stopped the conversation and it is not confirmed that personally identifiable information or protected special education information was disclosed at this time. In another instance, the Student believed the Student overheard conversation in which the special education teacher discussed another student. However, this was not verified and the matter of conversation could not be confirmed. The Student did state that the student feels the teachers discussed the Student's needs openly; and, thus, the student believes the student is known to others as "the blind student". However, the record did not show evidence of student record or confidentiality violations in this regard.

The Department therefore finds that the District did not violate the Student's right to confidentiality of personally identifiable information under the IDEA. However, the Department recommends the District carefully review the laws and policies governing students with disabilities rights to confidentiality under IDEA and FERPA with all District staff.

4. Failure to Provide FAPE:

The Parent alleges that as a result of the violations alleged above, the District has failed to provide the Student with a Free and Appropriate Public Education (FAPE). (OAR 581-015-2040 and 34 CFR 300.101)

A District meets its obligation to provide FAPE to a student with a disability when it provides, at no cost to parents, special education and related services, in conformity with an individualized education program (IEP). The specially designed instruction, related services, supplementary aides and services, modifications and accommodations must be provided to the student in accordance with the IEP.⁹ 34 CFR §300.114 mandates that District have in effect policies and procedures that ensure that students with disabilities will only be removed from the regular educational environment when the use of supplementary aids and services will not help the

⁸ Personally Identifiable Information. The term includes, but is not limited to—(a) The student's name;(b) The name of the student's parent or other family members;(c) The address of the student or student's family;(d) A personal identifier, such as the student's social security number, student number, or biometric record;(e) Other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name;(f) Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or(g) Information requested by a person who the educational agency or institution reasonably believes knows the identity of the student to whom the education record relates. (See: 20 U.S.C. 1232g; OAR 581-015-2000 (23).

⁹ 34 CFR §300.101

student achieve satisfactorily. IEP teams must ensure that children who are blind or who are visually impaired are provided with the Braille instruction they need in order to receive FAPE and to ensure their meaningful access to the general education curriculum offered to nondisabled students.¹⁰

Here, the District acknowledges that it did not provide identified specially designed instruction in Language Arts. It did not provide the Least Restrictive Environment when it changed the Student's placement from a general education classroom to a one-to-one setting in a special education classroom. It did not provide accommodations (Braille translations of general education curriculum and tests) in a timely, consistent manner. The Department notes that it planned, in effect, a change in placement from the local school district to an out of state, public specialized school for students with visual impairments; although the most current IEP describes a placement in the general education setting in the local school for more than 21% of the day. Finally, the PLAAFP does not provide any information about the Student's academic achievement as demonstrated by the Student's most recent performance on State or district-wide assessment.¹¹ Consequently the goals are minimally measurable. Even though the Student has a 3.37 GPA, the District defines the Student's graduation document as an alternative document but does not specify what kind of document. The team notes that it "discussed" a modified diploma.

While some of these issues are not specifically part of the Parent's allegations per se; they must be considered as part of the overall discussion on whether or not the Student was provided a FAPE. Taken together, the facts in this case present a very blurred picture of the exact plan the IEP team has outlined for the Student's education. The two substantive errors in IEP implementation and violations of the LRE, which were not contested by the District, further illustrate a denial of FAPE for this student.

This Student did not receive key IEP components or Braille instruction necessary for student literacy in a timely or consistent fashion. The Student's placement was changed to a more restrictive environment due to IEP implementation issues. The Parent was not given appropriate notice of all of these actions. For all of these reasons, the Department substantiates this allegation and orders Corrective Action.

¹⁰ OSEP *Letter to Colleague*, 113 LRP 25708, June 19, 2013

¹¹ While this was not part of the allegations, the absence of measurable information related to the student's Academic Achievement in the IEP further contributed to the denial of FAPE.

CORRECTIVE ACTION¹²

*In the Matter of Glendale School District #77
Case No. 13-054-017*

	Actions	Submissions ¹³	Due By
1.	As part of its application for IDEA funds, the District submitted a signed assurance to ODE on May 7, 2013, that it will provide accessible instructional materials, including materials in Braille, to blind persons or other persons with print disabilities in a timely manner.	Submit to ODE a copy of the written process the District uses to obtain curriculum materials in Braille in a timely manner.	August 15, 2013
2.	Develop a plan to train staff in the use of Bookshare and other technologies for students who are blind or visually impaired. See OSEP June 19, 2013 Letter to Colleagues for additional information ¹⁴ . The District must contact ODE staff for assistance in developing this plan.	<p>a. Submit to Department plan for staff development in assistive technologies for visually impaired students to be completed before the first day of school.</p> <p>b. Submit to ODE verification, signed by the parent and a District official, that accessible materials were provided to the student on the first day of the 2013-2014 school year.</p>	<p>a. August 15, 2013</p> <p>b. September 9, 2013</p>
3.	Provide training to all staff on the following: I. Accessible Instructional Materials: a. Use of District process and assistive technologies (Bookshare, etc.) to provide accessible materials in a timely manner. II. IEP Content and Parent Participation: a. Development, review, and revision of the IEP (OAR 581-015-2225)	<p>Submit to ODE a copy of the:</p> <p>a. Agenda</p> <p>b. Signed attendance sheet</p> <p>c. Copy of all materials and training session notes</p>	I. September 6, 2013

¹² The Department's order shall include any necessary corrective action as well as documentation to ensure that the corrective action has been completed (OAR 581-015-2030(13)). The Department expects and requires the timely completion of corrective action and will verify that the corrective action has been completed as specified in any final order (OAR 581-015-2030(15)). The Department may initiate remedies against a party who refuses to voluntarily comply with a plan of correction (OAR 581-015-2030(17) & (18)).

¹³ Corrective action submissions and related documentation as well as any questions about this corrective action should be directed to Rae Ann Ray, Oregon Department of Education, 255 Capitol St. NE, Salem, Oregon 97310-0203; telephone — (503) 947-5722; e-mail: raeann.ray@state.or.us; fax number (503) 378-5156.

¹⁴ <http://michaelhingson.com/wp-content/uploads/2013/06/brailledcl-6-19-13-3.pdf>

<ul style="list-style-type: none"> b. Required content of the IEP (OAR 581-015-2200) c. IEP team considerations and consideration of special factors (OAR 581-015-2205); and d. Determination of placement based on the IEP (OAR 581-015-2250 and -2255); e. Meeting notices, prior written notices, and parental involvement related to IEP and placement decisions. (OAR 581-015-2190 and OAR 581-015-2195) 	<ul style="list-style-type: none"> a. Agenda b. Signed attendance sheet c. Copy of all materials and training session notes 	<p>II. September 27, 2013</p>
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Dated this 18th day of July 2013

Sarah Drinkwater
Sarah Drinkwater, Ph.D.
Assistant Superintendent
Office of Student Learning & Partnerships

Mailing Date: July 18, 2013