

BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of Greater Albany
School District # 8J

)
)
)
)

FINDINGS OF FACT,
CONCLUSIONS
AND FINAL ORDER
Case No. 16-054-029

I. BACKGROUND

On September 20, 2016, 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 Greater Albany School District 8J (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.

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 District agree to the extension in order to engage in mediation or local resolution or for exceptional circumstances related to the complaint.²

On September 26, 2016, 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 October 10, 2016.

On October 6, 2016, the District submitted a *Response* indicating they disputed most of the allegations in the Parent's Complaint. In total, the District submitted the following items:

Table of Contents of Documents Provided in *Response* to RFR

1. Letter responding to each allegation in the Request for Response
2. Meeting Minutes, 10/25/2013
3. Student IEP, 04/22/2014
4. Calendar invites, "Parent requested mtg.-GL" 10/1/2014
5. Parent Concerns Meeting Minutes, 10/07/2014
6. IEP Meeting Minutes, 04/21/2015
7. Calendar invites, "Annual IEP 04/21/2015
8. Student IEP, 04/21/2015
9. IEP Meeting Minutes, 04/22/2015
10. IEP Revision Meeting Minutes, 09/02/2015
11. Special Education Notice of Team Meeting, 02/05/2016
12. Medical Statement or Health Assessment, 02/23/2016
13. Prior Notice about Evaluation/Consent for Evaluation, 02/23/2016
14. Student Assessment List, 02/23/2016
15. Student Referral, 02/23/2016

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

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

16. Assessment Planning, 02/23/2016
17. Meeting Minutes, 02/23/2016
18. Calendar invites, "Planning for re-eval.", 02/23/2016
19. Planning Meeting, 02/23/2016
20. Special Education Notice of Team Meeting, 03/31/2016
21. Three Year Re-Evaluation, 04/15/2016
22. Elig./IEP Meeting Minutes, 04/18/2016
23. Calendar invites, "Annual IEP and Re-Elig." 04/19/2016
24. Prior Notice of Special Education Action, 04/19/2016
25. Statement of Eligibility for Special Education, 04/19/2016
26. Meeting Minutes, Eligibility Meeting, 04/19/2016
27. IEP signature page, 04/21/2016
28. Email: "Need support", 04/29/2016
29. Special Education Notice of Team Meeting, 05/09/2016
30. Prior Notice of Special Education Action, 05/26/2016
31. Prior Notice about Evaluation/Consent for Evaluation, 08/19/2016
32. Prior Notice of Special Education Action, 09/02/2015
33. Meeting Minutes, 09/02/2015
34. Functional Communication Assessment by SLP
35. SLPA Clinical Interaction / Supervision logs, 2013—2016
36. Evaluation Tracking Form, 2015/2016
37. Section 504 Eligibility Determination and Student Accommodation Plan
38. Email: "Writing Score"
39. List of Students Exited from SpEd leaving 8th grade and entering HS
40. Selected [] Middle School Students: Special Education Notices of Team Meetings
41. Remaining Greater Albany Students' Special Education Notices of Team Meetings
42. Special Programs Organizational Chart

The Complaint Investigator interviewed the Parent and Parent's Legal Counsel on October 17, 2016. The Parent submitted additional information at that time.

1. Student IEP, 04/21/2015
2. Meeting Minutes, planning meeting, 02/23/2016
3. Special Education Notice of Team Meeting, 03/31/2016
4. Email: from District to Parent, 04/14/2016
5. Three Year Re-Evaluation, 04/15/2016
6. Statement of Eligibility for Special Education 04/19/2016
7. Eligibility Meeting Minutes, 04/19/2016
8. Meeting Minutes, 04/21/2016
9. Email: Re: Elig/mtg.amendment, 05/02/2016
10. Email: From District to Parent, "Writing Score" 05/20/2016
11. Meeting Minutes, 05/24/2016
12. Prior Notice of Special Education Action, 05/26/2016
13. Letter from Parent to Superintendent, 06/01/2016
14. Email: Re: Receipt of Complaint 06/14/2016
15. Email: From Parent to District 07/07/2016
16. Email: From Parent to District 07/14/2016
17. Student Grade Report, 07/30/2016
18. Student Grade Summary, 09/29/2016
19. Email: Re: "Student", 10/13/2016
20. IRCA Diagnostic Report 10/14/2016

21. Measurable Annual Goals/Objectives
22. Various Student Writing Samples
23. Records Release Authorization
24. Email: Re: "Student" and the Greater Albany School District
25. Email: From District to Parent, regarding writing samples
26. Email: From District to Parent, Attachments: Writing protocols
27. Parent's Reply to District Response
28. List of evaluations completed on student
29. Email: Re: "Student"
30. Student "Written Expression" assessment, tests, and scores
31. Parent Letter to District
32. Student Test Score Form
33. Section 504 Eligibility Determination and Student Accommodation Plan
34. Functional Communication Assessment
35. Teacher Report Form
36. Teacher Input Questionnaire
37. Email: Among District staff regarding Parent

The Complaint Investigation determined that onsite interviews were needed. On October 25, 2016, the Complaint Investigator interviewed the District's Special Program's Director, the Student's Counselor, Language Arts Teacher, Special Education Teacher, Special Education Teacher/School Support Specialist, Speech Language Pathologist, and Speech Language Pathology Assistant.

Additional document submitted by District during interviews:

1. Meeting Minutes, 10/25/2013
2. Student IEP, 04/22/2014
3. Parent Concerns Meeting Minutes, 10/07/2014
4. Student IEP, 04/21/2015
5. IEP Meeting Minutes, 04/21/2015
6. IEP Meeting Minutes, 04/22/2015
7. IEP Revision Meeting Minutes, 09/02/2015
8. Planning Meeting, 02/23/2016
9. Elig./IEP Meeting Minutes, 04/18/2016

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. This order is timely.

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 Section IV. This Complaint covers the one-year period from September 21, 2015 to the filing of this complaint on September 20, 2016.³

³ This order does include some facts that are relevant to the case and that happened before September 21, 2015.

	<u>Allegations:</u>	<u>Conclusions:</u>
1	<p><u>IEP Team:</u></p> <p>(a) The Parent alleges that the District violated the IDEA when a representative of the District did not attend the Student's IEP Meeting.</p> <p>(b) The Parent further alleges that the District violated the IDEA when it failed to provide a District Representative for all IEP meetings during the spring of 2016, where students were no longer found eligible for Special Education.</p> <p>(OAR 581-015-2210(1)(e) and 34 CFR 300.344, 300.321, 300.234(a)(3) & (b)(3))</p>	<p><u>Not Substantiated</u></p> <p>(a) A Representative of the District was present at the IEP Meeting in question.</p> <p>(b) The proper District staff members were present at the various meetings in the Spring of 2016.</p>
2.	<p><u>Evaluation Planning:</u></p> <p>The Parent alleges that the District violated the IDEA when pertinent evaluation data was discarded or destroyed ahead of the IEP Meeting, depriving the IEP Team of the possibility of reviewing pertinent evaluation data ahead of the IEP Meeting.</p> <p>(OAR 581-015-2115(1)(a)(A), (a)(B), and (a)(C), and 34 CFR 300.305)</p>	<p><u>Not Substantiated</u></p> <p>Testing protocols are not part of a student's educational record. Test and assessment data were provided to the Parent and IEP Team members for consideration prior to the District considering changing the Student's eligibility.</p>
3.	<p><u>Determining Eligibility:</u></p> <p>The Parent alleges that the District violated the IDEA when it determined whether the Student was a student with a disability without properly preparing an evaluation report describing the evaluation data considered.</p> <p>(OAR 581-015-2120(2)(b)(A), and 34 CFR 300.306, 34 CFR 300.308, 34 CFR 300.111)</p>	<p><u>Not Considered</u></p> <p>The Parent's Legal Counsel informed the Complaint Investigator that this allegation should not have been included in the <i>Request for Response</i> and was therefore not investigated.</p>
4.	<p><u>Interpretation of Evaluation Data</u></p> <p>The Parent alleges that the District violated the IDEA when it did not carefully consider evaluation data, because evaluation data was missing or had been destroyed.</p>	<p><u>Not Substantiated</u></p> <p>While specific test protocols were not presented at IEP Meetings because they had been destroyed, summative reports that included and interpreted test results were</p>

	(OAR 581-015-2125(2), and 34 CFR 300.306)	presented for the team to consider.
5.	<p><u>Placement of the Child</u></p> <p>The Parent alleges that the District violated the IDEA when the District determined the Student's eligibility for Special Education ahead of a meeting and without the Parent's input.</p> <p>(OAR 581-015-2250(1)(a), and 34 CFR 300.116, 300.327)</p>	<p><u>Not Substantiated</u></p> <p>The fact that a service provider mentioned to the Student that this would "probably" be their last session working together is not in and of itself evidence of predetermination. There is no evidence that the District determined the Student's placement ahead of the Student's eligibility meeting and that the Parent did not have meaningful input into this decision.</p>
6.	<p><u>Parent Participation</u></p> <p>The Parent alleges that the District violated the IDEA when it interfered with the Parent's ability to participate in meetings related to the Student's identification, evaluation, IEP, and educational placement, discouraging attendance by:</p> <p>(a) including discussions of the Parent's work performance in communications regarding the Student's records;</p> <p>(b) sending staff concerns and opinions about the Parent to the Parent ahead of meetings;</p> <p>(c) sending staff concerns and opinions about the Parent's choice of advocate to the Parent ahead of meetings; and</p> <p>(d) sending staff concerns to the Parent about the Parent potentially sending emails regarding the Student during work hours, ahead of meetings.</p> <p>(OAR 581-015-2190(1), and 34 CFR 300.500, 34 CFR 300.327, & 34 CFR 300.501(b))</p>	<p><u>Not Substantiated</u></p> <p>There is no evidence that the Parent's ability to participate in meetings related to the Student's identification, evaluation, IEP, and educational placement were restricted by the District. The evidence presented and issues underlying this allegation are related to the Parent's employment with the District and are outside the scope of the IDEA.</p>
7.	<p><u>Content of the IEP</u></p> <p>The Parent alleges that the District violated the IDEA when it did not formulate an IEP that addressed the Student's disability. Specifically</p>	<p><u>Not Substantiated</u></p> <p>Meeting notes from IEP meetings and prior IEPs show that the Student made steady progress toward IEP goals. Services were</p>

	<p>the Parent alleges that the IEP formulated by the District did not address the Student's needs in the areas of: Writing, Self-Management, Social Communications, and Language Arts.</p> <p>(OAR 581-015-2200(1)(b)(A) & (B), and 34 CFR 300.320)</p>	<p>adjusted to meet the Student's reduced need for Specially Designed Instruction (SDI). The Student's performance continued to improve until the Team found the Student no longer eligible for Special Education.</p>
8.	<p><u>When IEP's Must Be In Effect</u></p> <p>The Parent alleges that the District violated the IDEA when:</p> <p>(a) Speech Language Pathology staff assigned to teach the Student were unqualified; and</p> <p>(b) the District did not provide teachers with access to the Student's IEP.</p> <p>(OAR 581-015-2220(1)(b), (3)(a) & (3)(b), OAR 581-015-2200(1)(d), and 34 CFR 300.323, & 34 CFR 300.324)</p>	<p><u>Not Substantiated</u></p> <p>Speech Language Pathology staff were properly licensed and supervised while providing services to the Student.</p> <p>The Student's teachers reported having access to, and being familiar with, the Student's IEP.</p>

III. FINDINGS OF FACT

Background

- 1) The Student in this case is a 15 year-old high school freshman residing in Greater Albany School District 8J. The Parent is employed by the District in the area of Special Education.
- 2) The Student was determined to be eligible for Special Education services because of Autism Spectrum Disorder (82). The Student previously displayed difficulty in written language, and previously received services in speech/language skills, problem solving in friendships, and nonliteral language.
- 3) On April 19, 2016, the IEP Team found that the Student was no longer eligible for Special Education services.

IEP History

- 4) On April 21, 2014, the District held an IEP Meeting for the Student. The Student was then in the 6th grade. In attendance were members of the IEP Team including the Parent.
- 5) On April 22, 2014 the District produced the Student's IEP. The Student was found eligible for Special Education due to Autism Spectrum Disorder (82).
- 6) The Student's standardized test scores showed that the Student was achieving at or nearly at grade level: 6th grade Math OAKS score was 225 (227 meets 6th grade benchmark standards);

6th grade Reading OAKS score was 227 (226 meets 6th grade benchmark standards). The Student scored A's in all classes other than Writing and Social Studies where the Student scored C's.

- 7) The Student's April 22, 2014 IEP included the following measurable annual goals/objectives:
- a) The goal for Written Language stated, "Given a topic, and access to a keyboard, [the Student] write and organize multiparagraph paper editing for punctuation, capitalization and spelling with 80% accuracy. [The Student] will write a 5 paragraph paper when given a topic that will score 3 or higher in the areas of ideas/content, sentence fluency, organization, and conventions."
 - b) The goal for Speech/Language stated, "[The Student] will demonstrate appropriate peer relations and assertiveness during social situations in the following ways." The criteria section references "4/5 opportunities," and there are four measurable short-term objectives listed.
 - c) The goal for self-management states, "[The Student] will be able to identify when [the Student] needs help with a personal situation, and will go to an adult at school for help or comfort."

The Student received Specially Designed Instruction in the areas of communication—social (120min/mo), self-management (50min/wk), and written language (60min/wk), and the related service of transportation to and from school. The Student received additional supplementary aids/services, modifications and accommodations.

- 8) On April 21, 2015, the Student's IEP Team met to review the April 22, 2014 IEP. During this meeting the IEP Team noted that the Student was performing at grade level and discussed removing SDI, while leaving accommodations and modifications in place. The IEP Team agreed to remove written language goals but keep supports.
- 9) The Student's April 22, 2015 IEP included the following measurable annual goals/objectives:
- a) [the Student] will be able to identify when [the Student] needs help with a personal situation, and will go to an adult at school for help or comfort.
 - b) [the Student] will demonstrate independent sequencing, main idea, and compare/contrast language skills through both written and verbal presentation across all school settings.

The Student continued to receive SDI in the areas of communication—social (120 min/mo), self-management (50 min/wk), and written language (60 min/wk), and continued to receive transportation to and from school. The Student also received numerous additional supplementary aids/services, modifications and accommodations.

- 10) On September 2, 2015, the IEP Team met to discuss possible revisions to the Student's IEP. The Parent expressed concern about the Student's grades. The District noted that the Student's grades were "representative of most students." The IEP Team decided to set-up a peer for lunch for the Student, change Speech services to be more like a "friendship group", submit a mental health referral to Lane County Mental Health, and await the observation of the effectiveness of these steps before moving forward with any changes.
- 11) On February 23, 2016, a meeting was held to plan for the Student's upcoming annual IEP Meeting. The Student's Parent noted that the Student "made huge gains". The Parent noted that the Student continued to have obstacles with "social understanding and self-care at home". The IEP Team Members highlighted the Student's strengths and improvements in various areas. The Parent signed consent for evaluations of the Student.

- 12) On March 1, 2016, the District sent the Parent a Special Education Notice of Team Meeting. The Notice provided the time, date, and location of the next meeting regarding the Student. The Notice lists the purpose of the meeting as to review existing information about the Student, to determine whether or not the Student would continue to be eligible for Special Education, and/or to develop or review an IEP."

Latest IEP Team Meeting and Recent Events

- 13) On April 14, 2016, the Parent sent an email to the Student's Special Education Case Manager inquiring about a conversation between the Speech Language Pathology Assistant (SLPA) and the Student, where the SLPA discussed the Student's "upcoming Eligibility/IEP mtg. regarding whether [the Student] will continue to receive speech services or not; asking has [the Student] talked to... [the Parent] about this; what does [...Parent] think? Etc. Today though, and this is my reason for writing you, during their speech time [...the SLPA] told [the Student] that their session today would most likely be their last speech session together since the IEP mtg. will take place on Tuesday of next week, and that [...the SLPA] feels that [the Student] no longer needs speech. My understanding of an eligibility/IEP mtg. is that it is a 'team' decision and those decisions are made 'together as a team including the parent.' I would hope that as [the Student's] parent I am included in the decision making process..."
- 14) On April 14, 2016, the Student's Special Education Case Manager responded to the Parent's email, "Thank you for letting me know about your concerns regarding this conversation between [the Student] and [the SLPA]. You are absolutely correct in that [the Student's] IEP/Eligibility meeting on Tuesday is a team decision and your input is appreciated!"
- 15) On April 15, 2016, the District's Autism Consultant completed the Student's Three Year Evaluation. The report showed that the Student's Teacher rated the Student overall in the mild range for social responsiveness, while the Student's Parent rated the Student in the severe range. The Parent and Teachers rated the Student differently in areas such as peer socialization, adult socialization, and behavioral rigidity, "...which would infer that [the Student's] struggles occur in the community and unstructured environments." The Autism Specialist concluded that, "[the Student] appears to be more impacted at home and in the community than at school. [The Student] does continue to demonstrate characteristics in all four areas of concern, but the impact at school appears to be slight. The IEP Team decides if these characteristics are discrepant with [the Student's] other development and intense enough in their manifestation, as well as, whether they are impacting [the Student's] education and if [the Student] needs to have an Individualized Education Program."
- 16) A Functional Communication Assessment was completed ahead of the April 19, 2016 Eligibility Meeting. The Speech Language Pathologist (SLP) who completed the assessment made observations in the areas of Semantics and Pragmatics. For Semantics, the SLP reported the following: "[The Student] has no concerns in the area of language understanding. [The Student] has a history of services in the areas of articulation and pragmatics. [The Student] has consistently met benchmarks in reading, has passed classes and is able to correctly use domain specific vocabulary from [the Student's] science and social studies classes."

The Pragmatics section of the Functional Communication Assessment indicates that "[The Student] had difficulty with the back and forth of shifting topics that occur in conversation, closing topics and joining others topics when [the Student] arrives on the scene. [The Student] is somewhat ego-centric in these areas, drawing others into [the Student's] preferences. The

Student's] ability to code-switch; that is to discern what topics and language are used with familiar adults, unfamiliar adults, peers, friends, etc: was reduced. [The Student] appears to talk to everyone the same." The SLP concluded that "[the Student]...has the basics of conversation, interacting and making friends. However, [the Student] is delayed in [the Student's] ability to verbally problem solve, show interest in the conversation of others and maintain friendships through perspective taking and social negotiation of the middle school environment."

- 17) At the April 19, 2016 Meeting, the Parent voiced concerns regarding the Student's needs related to the Student's upcoming transition into high school. The IEP Team discussed accommodating those needs through a 504 Plan. The Student's IEP Team determined that the Student would best be served by a 504 Plan to provide specific accommodations for the Student, including allowance of breaks when the Student was upset or needed to problem solve; providing access to laptop/computer for writing assignments/projects; notes provided by classroom instructors; extra set of textbooks; consistent staff check-in/check-out provided by support teacher; communication of schedule changes/fire drill schedule; allowing sunglasses to be worn indoors due to migraine triggers.
- 18) On April 19, 2016, the District produced a Statement of Eligibility for Special Education (Autism Spectrum Disorder 82), documenting that the Student's disability does not have an adverse impact on the Student's educational performance and that the Student does not need SDI. The following members of the Student's IEP Team signed this document indicating agreement with this finding: the Autism Consultant, School Support Specialist, School Counselor, Special Education Teacher, and Regular Education Teacher.
- 19) On April 26, 2016, the Parent sent an email to the Student's Special Education Case Manager, stating in relevant part: "I have talked with a number of special education professionals and [the Student's] child psychiatrist about the outcome of the eligibility/IEP mtg. that took place for my [Student]...on 4-19-16. I felt coerced and intimidated (reduced to tears) by the school support personal [sic] into agreeing that my [Student] no longer is eligible for special education services and I would like to amend my response to 'disagree'."
- 20) On April 28, 2016 the District emailed the Parent and informed the Parent that they could not amend the eligibility form.
- 21) On April 28, 2016, the Parent responded via email that, "I had a consultation with [] who is the Family Support Program Co-Director Service in Eugene and we feel that the evaluation for determining eligibility was incomplete. I am requesting that evaluations in writing be completed and the Team reconvene. If as a team we can agree to this I will postpone my request for an Independent Education Evaluation from the District, I would like to propose that we re-consider [the Student's] eligibility under Other Health Impaired. Especially in light of the transition to high school next year and the lack of support a 504 would afford [the Student]. My hope is that we really can work together and avoid the need for an IEE. Please let me know what you decide."
- 22) On April 29, 2016, the School Support Specialist sent an email to the Director of Special Programs and Special Programs Coordinator voicing concerns about the Parent and requesting assistance with the meeting to develop the Student's 504 Plan both for herself and for the School Counselor, who reportedly felt unequipped to respond to the Parent's requests. The School Support Specialist listed numerous concerns, including the Parent having made "offensive" claims about the School Support Specialist, the Parent's claim that the Parent had been "intimidated and coerced," and the fact that the Parent was sending these emails during the Parent's work hours. The School Support Specialist also stated that she was concerned about

the presence of parties that the Parent had invited to the meeting. This meeting was scheduled to occur on May 2, 2016. However, it appears that the meeting never occurred.

- 23) On May 9, 2016, the Parent was sent notice of an IEP Team Meeting scheduled for May 25, 2016.
- 24) On May 20, 2016, the Parent and the Special Programs Director exchanged emails regarding the Parent's request for a copy of the Student's writing assessment. The Special Program Director responded in relevant part, "Here is the score from [the Student's] writing assessment. [The Student] scored an 89 which is slightly below [the Student's] age level but is still considered within the average range. We will discuss this at our meeting next Wednesday but let me know if there is anything I can clarify for you before then. Also it sounds like you had a conversation with [the Special Education Secretary] that leads me to believe you need some training around meeting notices, and specifically the required and invited team members. I will be in touch with [Staff] to get that arranged and make sure you are addressing them correctly at [your assigned school building]."
- 25) On May 24, 2016, a meeting took place between the Parent, the Special Education Director, the School Support Specialist, the Student's Regular Education (Language Arts) Teacher, a friend of the Parent's, the School Counselor, and the Special Education Teacher. The meeting was requested by the Parent to discuss the Parent's concerns about the IEP Team's determination that the Student was no longer eligible for Special Education services. The meeting minutes indicate that a number of concerns were addressed, including the Parent's desire that the Student be reevaluated for Special Education eligibility. The possible content of a 504 Plan for the upcoming school year was also discussed.
- 26) On May 26, 2016, the Parent was sent a Prior Notice of Special Education Action (PWN) documenting the District's refusal to evaluate the Student for Special Education. The PWN noted that the previous IEP Team determined that the Student no longer met criteria for school age eligibility for Autism Spectrum Disorder (ASD). "After initially agreeing, [the Parent] requested a new evaluation. [The Parent] believes [the Student] is still impacted by [the Student's] ASD and needs SPED support for [the Student's] academics. [The Student] is moving to a new school in the fall, the teachers will need time to get to know [the Student's] learning style and [the Student] will need to get acclimated to the new environment."
- 27) On June 1, 2016, the Parent sent a letter to the District Superintendent outlining the Parent's concerns regarding the District exiting the Student from Special Education. The Parent traces errors dating back to 2013, writing, "Since starting...as a sixth grader 9-2013, The special education case manager...has systematically failed to follow the IEP contract beginning with our very first meeting 10-25-13, continuing to this present day, ultimately denying [the Student] special education services all together on 4-19-16. My concerns are so grave from what I can conclude that at best the actions of the Special Education case manager...were due to incompetency or worse case a willful disregard for the IEP contract itself."
- 28) On June 13, 2016, the District Superintendent responded to the Parent writing in relevant part, "...I am directing [the Special Programs Director] to meet with you in August before school starts. I am also asking [the Special Programs Director] to provide services to your [Student] even though [the Student] is not currently on an IEP. This will give a multi-disciplinarily team (MDT) time to look into your concerns in depth and develop either a new IEP or an appropriate 504 plan focused on bringing educational benefit to your [Student]."

- 29) On June 14, 2016, the Parent responded to the District Superintendent in part, "Since 4-19-16, when [the Student] was denied Special Education services, I have followed hierarchy protocol in my efforts to effect restoration of [the Student's] need/right for Special Education as a student with Autism and a communication disorder. This situation should never have happened. [The Student] needs to be able to hit the ground [at the high school] with IEP supports in place, teachers aware of eligibilities, and carefully written IEP goals, objectives, and accommodations. An August meeting is too late to address such a complex matter and provide [the Student] with a smooth and successful transition into High School."
- 30) On June 15, 2016 the District Superintendent responded to the Parent, "I have made my decision and I am going to stick with it given the fact that we are now on the last day of school. Secondly, from a procedural standpoint, I do not have the ability to overrule a team decision regarding special education eligibility. Therefore, I am still asking [the Special Programs Director] to provide support for your [Student] as [the Student] transitions into [high school] and to convene a new team to consider eligibility for SpEd."
- 31) On July 7, 2016, the Parent's Legal Counsel sent the District an email requesting that the 504 meeting be scheduled before the start of the school year, rather than delayed to await the results of an IEE. The Parent's Legal Counsel also requested information on the source of the protocols utilized in the determination that the Student was no longer eligible for Special Education, copies of the Student's writing samples, internal communications among District staff regarding the Parent, and seeking agreement to include Special Education services in the 504 plan.
- 32) On July 14, 2016, the District's Special Programs Coordinator responded to the Parent's Legal Counsel's July 7, 2016 email. The Special Programs Coordinator informed Legal Counsel that the only standardized assessment utilized by the District in the eligibility determination process was the Functional Language Assessment, and that four assessments utilized were created by the Speech Language Pathologist and were not published standardized assessments. The District's Special Programs Coordinator also provided the Parent's Legal Counsel with copies of the May 24, 2016 meeting minutes, a copy of the Parent's April 26, 2016 email to the Student's Special Education Case Manager, the School Support Specialist's April 29, 2016 email to the Director of Special Programs, and Special Programs Coordinator voicing concerns regarding the Parent.
- 33) On August 19, 2016, the Parent was sent a Prior Notice about Evaluation/Consent for Evaluation, to "evaluate for any areas of need for [the Student]. The determination of the appropriate eligibility may be identified after new evaluation data is obtained."
- 34) The 504 Plan was created during a meeting held August 19, 2016, and was implemented on September 6, 2016. The 504 Plan provided such accommodation/supports as: allowing breaks from class to counseling office or designated space when [the Student] is upset or needs to problem solve; access to structured academic support class relevant to school setting; access to laptop/computer for writing assignments/projects; notices provided by instructor; extra set of textbooks; consistent staff check-in/check-out; communication of schedule changed/fire drill schedule; wearing sunglasses inside.
- 35) On September 20, 2016, the Parent filed this Complaint.
- 36) During this investigation, at the Parent's request, the District began evaluating the Student for eligibility for Special Education.

IV. DISCUSSION

1. IEP Team:

(a) The Parent alleged that the District violated the IDEA when a representative of the District did not attend the Student's IEP Meeting. Specifically, the Parent first alleges that the meeting held April 19, 2016, was an IEP Meeting, rather than an Eligibility Meeting, and therefore necessitated that a representative of the District be present. The Parent highlights that the Notice of Team Meeting is ambiguous whether the purpose was an Eligibility Meeting or IEP Team Meeting.

School districts must ensure that the IEP team for each child with a disability consists of, one or both parents, the child where appropriate, at least one regular education teacher of the child, a representative of the school district, and an individual who can interpret the instruction implications of evaluation data presented at the meeting, and other individuals as appropriate.⁴

In the Complaint the Parent alleges that the April 19, 2016 meeting was an IEP Meeting, rather than an Eligibility Meeting. The Parent notes that the March 31, 2016 Meeting Notice states that the purpose of the meeting is to "review existing information about your child" and to determine "whether your child . . . continues to be eligible for special education." The Notice also indicates that an IEP and placement will be developed or reviewed. The Parent also notes that one attendee from the District was not on the original meeting notice.

In its *Response*, the District notes that there were four meetings covered by the time frame of this Complaint; an evaluation planning meeting held February 23, 2016, an eligibility meeting conducted April 19, 2016, and two meetings convened to discuss the Parent's concerns on May 26, 2016 and August 19, 2016. The District asserts that the full IEP Team (Parent, Student, Regular Education Teacher, Special Education Teacher, District Representative, and individual who can interpret evaluation data) was invited to all four meetings. The District notes that it had present at the April 19, 2016 meeting an appropriate team to determine eligibility in accordance with OAR 581-015-2120, which should include the parent, two or more qualified professionals, at least one of whom is knowledgeable and experienced in the evaluation and education of children with the suspected disability.

On October 13, 2016, the Parent's Legal Counsel sent the Complaint Investigator a *Reply* to the District's *Response*, noting that the March 31, 2016 meeting notice lists the meeting as an IEP Meeting, not an Eligibility Meeting, and therefore would require the appropriate members of the IEP Team.

The District utilizes an internal electronic calendar system to schedule and invite staff to meetings. The calendar invitation to the April 19, 2016 meeting included all of the required attendees for an IEP meeting, and included more individuals than listed on the meeting notice received by the Parent. The calendar invitation lists the meeting as "Annual IEP and Re-Elig.—[Student]". As the Parent is a District employee, the Parent received this calendar invitation at the same time as all other District employees invited to the meeting, and saw all invitees. During the Complaint Investigator's interviews with District staff, all stated that they understood the meeting to be an eligibility meeting, but that it is their practice to have the full IEP Team in attendance so that if a child is found eligible, they can decide then to continue into the development of the IEP, or have the option to schedule an IEP meeting for a later date. All pointed to the prior meeting of February 23, 2016 as a planning meeting where the Parent consented to have the Student evaluated to determine the Student's ongoing needs

⁴ OAR 581-015-2210(1)

for SDI given the improvements noted by the IEP Team. The full IEP Team, including the Parent, had the understanding that the next meeting (scheduled for April 19, 2016) would be an Eligibility Meeting.

The Parent's primary concern was that the meeting lacked a District Representative. Fifteen individuals were invited to the meeting through the District's calendaring system, including the Parent. Notes from the meeting show that the meeting was attended by the Parent, the Special Education Case Manager and Teacher, the Autism Spectrum Disorder Consultant, the Student's Counselor, one of the Student's Regular Education Teachers, and the School Support Specialist. The School Support Specialist works under the District's Special Program Coordinator, and functions as the District Representative. While the District maintains that the meeting was an Eligibility Meeting, a District Representative attended the meeting.

The Department does not substantiate this allegation.

(b) The Parent further alleges that the District violated the IDEA when it failed to provide a District Representative for all IEP meetings at the Middle School during the spring of 2016, where students were no longer found eligible for Special Education.

When determining eligibility a district must ensure that a team makes the determination whether a child is a child with a disability.⁵ The team that makes this determination must include the parent in accordance with OAR 581-015-2190, and two or more qualified professionals, at least one of whom is knowledgeable and experienced in the evaluation and education of children with the suspected disability.⁶ The team may be the child's IEP team, but does not have to be the full IEP team. There is no requirement that a district representative be present at an eligibility meeting.

The Complaint Investigator identified nine students at the Middle School exited from Special Education during the spring of 2016, including the Student. The Complaint Investigator reviewed the meeting notices and meeting minutes for those students. The meetings were largely of two types, IEP meetings, and eligibility meetings. At all identified IEP meetings the District provided a District Representative. At all eligibility meetings the appropriate qualified experts were present at the meeting.

The District provided the proper staff at all meetings at the Middle School in the spring of 2016 where students were exited from Special Education.

The Department does not substantiate this allegation.

2. Evaluation Planning

The Parent alleges that the District violated the IDEA when pertinent evaluation data was discarded or destroyed ahead of the IEP Meeting, depriving the IEP Team of the possibility of reviewing pertinent evaluation data ahead of the IEP Meeting. Specifically, the Parent alleges that testing protocols utilized ahead of the Eligibility Meeting, and which the Eligibility Team relied upon in finding the Student ineligible for Special Education, were not available for review. The Parent further notes that testing protocols utilized after the meeting were similarly discarded. The Parent further alleges that these documents were student education records, that these records were destroyed without notice and in violation of 34 CFR 300.624, and that this action by the District interfered with the Parent's ability to participate fully in the April 19, 2016 Eligibility Meeting. The District disputes that the

⁵ OAR 581-015-2120(1)

⁶ OAR 581-015-2020(1)(a)

destruction of these protocols hindered the Eligibility Team in making an informed decision.

As part of an evaluation or reevaluation, the child's IEP team and other qualified professionals must review existing evaluation data on the child including evaluations, current classroom based, local, or state assessments.⁷ Parents may inspect education records related to the identification, evaluation and educational placement of the child.⁸ Personally identifiable information collected, maintained, or used, when no longer needed to provide educational services to student may be destroyed, so long as the district has informed the parent in advance.⁹

The U.S. Department of Education, Family Policy Compliance Office, has addressed this situation. "A test protocol is not generally an education record unless it includes the student's name or other personally identifying information and the student's answers to the questions in the test protocol. Also, a school may destroy education records without notice to the parent unless there is an outstanding request by the parent to inspect and review such records."¹⁰ In this case, the test protocols in question did not contain personally identifiable information about the Student and did not include the Student's responses record. Nor is there evidence that the test protocols were destroyed after the District received a request from the Parent to examine the protocols.

The results of the specific tests identified by the Parent are contained in the reports presented at the April 19, 2016 Eligibility Meeting. The Three Year Re-Evaluation of April 15, 2016 contains the data from the Social Responsiveness Scale, Second Edition (SRS-2), the Autism Spectrum Rating Scales (ASRS), and summaries of all observations of the Student completed for the evaluation. The Functional Communication Assessment conducted by the Speech Language Pathologist utilizes information obtained from unpublished assessments used to examine the Student's use of semantics, pragmatics, nonverbal and general conversation skills, and abstract language. Later assessments conducted on the Student were similarly summarized for Team discussion and consideration. The District disputes that the destruction of the protocols prevented the Team from making informed decisions.

The Department does not substantiate this allegation.

3. Determining Eligibility

On October 13, 2016, the Complaint Investigator received the Parent's *Reply* to the District's *Response*. In the Parent's *Reply*, the Parent's Legal Counsel clarified that the Parent had not made this allegation.

Therefore, this allegation was not investigated as part of this Complaint Investigation.

4. Interpretation of Evaluation Data

The Parent alleges that the District violated the IDEA when it did not carefully consider evaluation data because the evaluation data was missing or had been destroyed. The Parent alleges that the Parent was denied a meaningful opportunity to participate at the April 19, 2016 Meeting where the Student was found ineligible for Special Education because the testing protocols (The Social Responsiveness Scale 2, The Abstract Language Criterion Test, the Pragmatic Language Checklist,

⁷ OAR 581-015-2115(1)(a)(A) and (1)(a)(B)

⁸ 34 CFR §300.562

⁹ *Id.*

¹⁰ Letter to Anonymous, 111 LRP 18281, August 16, 2010.

the Abstract Language Checklist, and the Collaboration Checklist) summarized in the Functional Communication Assessment, upon which the Team relied in making their decision, had been destroyed ahead of the meeting. The Parent later requested additional tracking sheets and writing samples, and was informed that they were either not available, or not available for copying due to being copyrighted.

Part of the Team's duty is to interpret evaluation data in making educational decisions about the Student. In interpreting evaluation data for the purpose of determining if a child is a child with a disability the team must draw upon information from a variety of sources, including but not limited to, aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background and adaptive behavior. Furthermore, the team must ensure that information obtained from all these sources is documented and carefully considered.¹¹

The meeting minutes from April 19, 2016 reflect that the Eligibility Team discussed the assessment data. At the meeting the Parent discussed the Student exhibiting symptoms of Autism Spectrum Disorder at home that were more severe than that observed in school. At the conclusion of the meeting, the Eligibility Team, including the Parent, agreed that the Student's educational performance was greatly improved and that the impact of the Student's ASD on the Student's educational performance no longer warranted finding the Student eligible for Special Education.

In reply to the District's *Response*, the Parent noted that the Student scored "moderate" on a scale of "average, mild, moderate, severe" in the area of social awareness. Meeting notes from the April 19, 2016 meeting documenting the conversation about the assessment state: "significant difference between home and school scores. Home—severe, school—mild." The Parent alleges that this discrepancy demonstrates the importance of the Parent having access to the underlying assessment data to properly consider the information presented at the meeting.

In reviewing the Functional Communication Assessment at the Eligibility Meeting, the Eligibility Team sought to determine whether the Student continued to be eligible for Special Education, or more accurately, whether the Student's disability impacted the Student in such a manner that the Student required SDI. A student's disability must affect the student's involvement and progress in the general education curriculum.

The Student has displayed consistent improvement from 6th through 8th grade as documented by the steady reduction of services required. At the April 19, 2016 Meeting the Eligibility Team determined that while the Student still required supports and accommodations due to ASD, the Student's disability no longer hindered the Student's involvement and progress in the general education curriculum, which would require SDI. The Student clearly continues to be impacted in other areas, which the 504 Plan was crafted to address.

Prior to the April 19, 2016 Meeting the Student was receiving the following SDI: 120 minutes per month of communication services—social and 50 minutes per week of self-management, all provided by the speech-language pathologist. The Parent specifically highlights the Student's needs in the areas of Writing, however Writing was not a separate goal in the Student's April 21, 2015 IEP, having been removed from the previous IEP due to lack of need. The Student continued to receive SDI in Writing as part of Student's other goals, a decision originally made at the Student's April 22, 2014 IEP Team Meeting. The Complaint Investigator interviewed numerous staff members at the District familiar with the Student's progress, all of whom agreed that the Student was not exhibiting a need for the SDI provided at the time of the April 19, 2016 IEP Meeting.

¹¹ OAR 581-015-2125

The Parent cites *M.M. v. Lafayette School District*, 767 F.3d 842, 855 (2014) in support of the contention that without the underlying testing protocols, the Eligibility Team could not make an informed decision regarding the Student's eligibility for Special Education. In *Lafayette*, the Court considered whether the District "drew on a variety of sources and ensured the documentation and consideration of all information," in making determinations regarding eligibility. The *Lafayette* Court noted that because the assessment data was not documented, the entire IEP Team could not properly consider it. In *Lafayette*, the student's "Eligibility Summary form noted corroboration of his [assessment data], the form also directs 'Attach documentation.' The district failed to attached or otherwise share with the entire IEP team any [assessment] documentation."¹²

The present case differs from the fact pattern in *Lafayette*. In this case, the assessment data was summarized and explained in the Functional Communication Assessment prepared by the SLP, and the Three Year Re-Evaluation completed by the Autism Consultant. Therefore, the IEP Team had sufficient information to make a procedurally valid eligibility determination, as required by *Lafayette*.

The Department does not substantiate this allegation.

5. Placement of the Child

The Parent alleges that the District violated the IDEA when the District determined the Student's eligibility for Special Education ahead of a meeting and without the Parent's input. The Parent highlights a conversation between the SLPA and the Student, where the Parent alleges that the SLPA informed the Student that the Student would soon cease Speech services, a conversation that occurred before the Eligibility Meeting where the Eligibility Team found the Student ineligible for Special Education.

Districts are required to ensure that the educational placement of a child with a disability is determined by a group of people. That group must include the parents, and other persons knowledgeable about the child, the meaning of evaluation data and other placement options.¹³

The Parent alleges that on April 14, 2016, the SLPA working with the Student told the Student "that their session today would most likely be their last Speech session together since the IEP mtg. will take place on Tuesday of next week, and that [the SLPA] feels [the Student] no longer needs speech."¹⁴ The Parent inquired of the Student's Special Education Case Manager whether this indicated an eligibility determination had already been made without the input of the Eligibility Team. The Special Education Case Manager responded by email on the same date that the Student's "IEP/Eligibility: meeting on Tuesday is a team decision and your input is appreciated!" The District disputes that eligibility for Special Education was determined ahead of the meeting without the Parent's input.

The Complaint Investigator interviewed those present at the Meeting including the SLPA. The Special Education Case Manager specifically noted that their area of expertise is not Autism so they awaited the presentation of the information to provide input at the Eligibility Meeting regarding eligibility. The SLPA denied telling the Student that their sessions were coming to an end. The SLPA reports discussing with the Student the upcoming Eligibility Meeting and the Student's favorable performance and improvement as a means of encouraging and praising the Student's progress during the provision of Speech services. The SLPA noted that it is outside the scope of an SLPA to discuss goals, nor

¹² *M.M. v. Lafayette School District*, 767 F.3d 843 at 853

¹³ OAR 581-015-2250(1)(a)

¹⁴ 04/14/2016 e-mail from Parent to Special Education Case Manager raising the question initially.

does the SLPA attend IEP or Eligibility meetings, or prepare documents for such meetings. The SLPA was aware of the upcoming meeting because the SLP had collected data from the SLPA on the Student to prepare for the upcoming meeting. The SLPA noted that if a student is found ineligible for Special Education, Speech services cease, and the SLPA and SLP do not have a chance to bid the Student farewell. The SLPA, having worked with the Student for a time, sought to have the conversation with the Student in case the Student was found ineligible and the two did not work together in the future.

The Department does not substantiate this allegation.

6. Parent Participation

The Parent alleges that the District violated the IDEA when it interfered with the Parent's ability to participate in meetings related to the Student's identification, evaluation, IEP, and educational placement, discouraging the Parent's attendance by: (a) including discussions of the Parent's work performance in communications regarding the Student's records; (b) sending staff concerns and opinions about the Parent to the Parent ahead of meetings; (c) sending staff concerns and opinions about the Parent's choice of advocate to the Parent ahead of meetings; and (d) sending staff concerns to the Parent about the Parent potentially sending emails regarding the Student during work hours, ahead of meetings.

Districts must provide parents with an opportunity to participate in meetings with respect to the identification, evaluation, IEP and educational placement of the child, and the provision of a free and appropriate education to the child. Districts must provide parents with a written notice of the meeting sufficiently in advance to ensure that parents will have an opportunity to attend.¹⁵

On May 20, 2016, the Parent sent an email to the Director of Special Programs requesting a review of the Student's "essay writing part of the writing assessment." In response, the Director of Special Programs provided the Parent with the requested documents, and added:

"Also it sounds like you had a conversation with [Special Education Secretary] that leads me to believe you need some training around meeting notices, and specifically the required invited team members. I will be in touch [with staff members] to get that arranged and make sure you are addressing them correctly at [building where the Parent is employed.]"

The Parent alleges that this comment interfered with the Parent's right to meaningfully advocate on behalf of the Student because the Director of Special Programs is the Parent's Supervisor.

The District disputes this allegation, noting that these communications were not part of the Parent's evaluation or performance-related feedback process. The District further notes that the Director of Special Programs is not the Parent's Supervisor, and has supervisory function over a different set of buildings from that where the Parent works. The Special Programs Coordinator has ultimate authority over Special Education programs at the building where the Parent works. The Complaint Investigator interviewed the Parent and the Director of Special Programs regarding this allegation. There exists a difference of opinion regarding the tone of the conversation between the Parent and the Special Education Secretary that gave rise to the email of May 25, 2016.

The Parent also highlights an April 29, 2016 email from the School Support Specialist to the Director of Special Programs and Special Programs Coordinator, which the Parent interpreted as threatening the

¹⁵ OAR 581-015-2190

Parent's job security. Within this email, the School Support Specialist expressed concerns about staff members that the Parent intended to invite to an upcoming meeting as well as frequency of communications that the Parent was sending to the School Support Specialist. In its *Response* to these allegations, the District notes that the email was an internal communication that involved the School Support Specialist contacting supervisors for job support. The Parent was not aware of the communication until June 2016, when the Parent's Legal Counsel obtained it as part of a Records Request. The District further notes that the communication was not used in any evaluation of the Parent or shared with the Parent's supervisors, and in the District's opinion would not have impacted the Parent's advocacy for the Student at the April 19, 2016 Eligibility Meeting.

The Complaint Investigator interviewed the School Support Specialist regarding the email. The School Support Specialist reported the Parent sharing with other District staff a recap of the April 19, 2016 Meeting with which the School Support Specialist disagreed. The email was a way to seek support for these concerns ahead of future meetings.

These email communications did not impact meeting notifications to the Parent or the District's responses to the Parent's inquiries about the Student.

The Department does not substantiate this allegation.

7. Content of the IEP

The Parent alleges that the District violated the IDEA when it did not formulate an IEP that addressed the Student's disability. Specifically, the Parent alleges that the IEP formulated by the District did not address the Student's needs in the areas of Writing, Self-Management, Social Communications, and Language Arts. The Parent further alleges that proper data was not collected to measure the Student's progress toward the Student's IEP goals.

The IEP must include a statement of measurable annual goals, including academic and functional goals designed to meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum.¹⁶ The IEP must also be designed to meet each of the child's other educational needs that result from the child's disability.¹⁷ The IEP must also include a description of how the child's progress toward meeting the annual goals will be measured and when periodic reports on the progress the child is making toward meeting the annual goals will be provided.¹⁸

The District notes that the IEP in effect in the 2015-2016 school year, developed by the IEP Team on April 21, 2015, included the Parent. The April 21, 2015 IEP contained two measurable annual goals: Self-Management and Speech/Language. The Self-Management goal included four short-term objectives, the type of evaluation data to be collected, the manner in which progress would be reported to the Parent (orally and in writing), and when progress would be reported to the Parent (through progress reports, report cards, and at IEP meetings).

The Speech/Language goal included four short-term objectives, the type of evaluation procedures, how progress would be reported to the Parent (orally and in writing), and when progress would be reported to the Parent (progress reports, reports cards, and at IEP meetings). The April 21, 2015 IEP

¹⁶ OAR 581-015-2200(1)(b)(A)

¹⁷ OAR 581-015-2200(1)(b)(B)

¹⁸ OAR 581-015-2200(1)(c)

documents that a progress report would be completed by June 4, 2015, and the specific data that would be collected on the Student's progress.

The Writing goal included in the Student's previous IEP was removed from the Student's IEP following the April 21, 2015 IEP Meeting. The meeting notes from this meeting document that the Student was working at grade level. The IEP Team, including the Parent, agreed to remove the Writing goal, but keep supports for Writing. Those supports were partially incorporated into the April 21, 2015 IEP's Speech/Language goals where the measurable short-term objectives included demonstrating skills both orally in and in writing. The IEP Team noted that removing SDI around Writing would not remove accommodations and modifications. The Student continued to have accommodations for Writing that included: a reduction in the amount of work for writing when writing is technical, completing writing on a laptop when more than a page of writing is expected, and the use of a graphic organizer for use on assessments to help the Student organize thoughts.

The Parent alleges that the Student's Self-Management goal has remained unchanged since 2013. Since there is no tracking data, it is difficult to determine what progress toward the goal the Student made. The Complaint Investigation interviewed the Student's Counselor as part of this matter. The Counselor has been present at past IEP Meetings and worked with the Student through middle school and continues to work with the Student in high school. The Counselor noted that the Student's progress toward the goal was based on the frequency of the Student's utilization of counseling services. The Counselor articulated that the Student's primary needs were for a place to go to talk and a quiet place to process ideas. The Counselor said that Student had made tremendous growth over the years, and that the Student had benefitted from a social skills group where the Student obtained additional skills at reading facial expressions and body language.

The Department does not substantiate this allegation.

8. When IEPs Must Be In Effect

The Parent alleges that the District violated the IDEA when:

- (a) Speech Language Pathology staff assigned to teach the Student were unqualified; and
- (b) The District did not provide teachers with access to the Student's IEP.

The District disputes this allegation noting that the Speech Language Pathologist (SLP) is properly licensed and qualified to supervise the Speech Language Pathologist Assistant (SLPA), who is also licensed. The Complaint Investigator interviewed the SLPA and supervising SLP. The Student's initial SLP was absent part of the year for medical reasons. A replacement SLP took over the supervision duties for the SLPA and prepared the Functional Communication Assessment presented at the Student's Eligibility Meeting on April 19, 2016.

Districts must provide Special Education and related services to a child with a disability in accordance with an IEP.¹⁹ In furtherance of that requirement, a district must ensure that the IEP is accessible to each regular education teacher, special education teacher, related services providers and other service provider who are responsible for implementation.²⁰ The district must also inform each teacher of his or her specific responsibilities for implementing the child's IEP and the specific accommodations, modifications and supports that must be provided for, or on behalf of, the child in accordance with the IEP.²¹

¹⁹ OAR 581-015-2220(1)(b)

²⁰ OAR 581-015-2220(3)(a)

²¹ OAR 581-015-2220(3)(b)

The Parent alleges that the Student's Language Arts Teacher filled out a "Brief Teacher Input Questionnaire" wherein the Teacher reported, "I believe [the Student] has received services as part of an IEP having to do with [the Student's] autism. I am not aware of the exact nature of [the Student's] IEP services or other type of support services." The Parent alleges this statement demonstrates the District's failure to implement the Student's IEP. The Complaint Investigator interviewed the Language Arts Teacher as part of this investigation. The Language Arts Teacher explained that they were aware of the Student's accommodations under the IEP, and also knew how to gain access to that information through TIENet the District's computer systems for managing student data including IEPs. The Language Arts Teacher further explained how Special Education staff personally send information to teachers regarding student IEPs to make them aware of the need, but also noted that they are trained to understand that they have a professional duty to familiarize themselves with student IEPs. The Language Arts Teacher was able to recite many of these accommodations from memory without reference to the Student's IEP.

The Department does not sustain this allegation.

V. CORRECTIVE ACTION²²

*In the Matter of Greater Albany School District #8J
Case No. 16-054-029*

The District is currently reevaluating the Student for eligibility for Special Education. The Department orders no Corrective Action resulting from this investigation.

Dated: this 16th Day of November 2016



Sarah Drinkwater, Ph.D.
Assistant Superintendent
Office of Student Services

Mailing Date: November 16, 2016

²² 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)).