

**BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION**

In the Matter of Eugene  
School District # 4J

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FINDINGS OF FACT,  
CONCLUSIONS  
AND FINAL ORDER  
Case No. 16-054-038

**I. BACKGROUND**

On November 30, 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 Eugene School District 4J (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 on November 30, 2017.

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.<sup>1</sup> 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.<sup>2</sup>

On December 5, 2016, the Department's Complaint Investigator sent a *Request for Response* to the District identifying the specific allegation in the complaint to be investigated and establishing a *Response* due date of December 19, 2016.

On December 21, 2016, the District submitted a *Response* indicating they disputed the allegation in the Parent's Complaint. In total, the District submitted the following items:

1. District's Letter Responding to Request for Response
2. Student Eligibility Summary Statement
3. Disability Statement, Other Health Impairment (80) Criteria
4. Disability Statement, Autism Spectrum Disorder (82) Criteria
5. (FAX) Medical Statement or Health Assessment Statement
6. Email: Re: Called and left a voice message
7. Email: Fwd: (Response from Student family)
8. Email: Student 504 Meeting Notice
9. Email: Called and left a voice message
10. Email: Re: 504 meeting tomorrow at school for Student
11. Student Schedule 2015-2016
12. Email string: Evaluation of Student, 01/27/2016
13. Notice of Referral, 02/05/2016
14. Prior Written Notice, 02/05/2016
15. Email: Student, 02/05/2016

<sup>1</sup> OAR 581-015-2030(12) and 34 CFR § 300.152(a)

<sup>2</sup> OAR 581-015-2030(12) and 34 CFR § 300.152(b)

16. Email string: Requesting your help in determining physical activity/school participation for Student, 02/05/2016
17. Email: Student, 03/16/2016
18. Email: Re: Student, 03/28/2016
19. Email string: Fwd: Student, 04/16/2016
20. Notice of Team Meeting, 04/19/2016
21. Psycho-Educational Assessment Report, 04/29/2016
22. Parent/Guardian Consent for Individual Evaluation, 05/05/2016
23. Prior Written Notice, 05/06/2016
24. Meeting Attendance/Summary, 05/06/2016
25. Prior Written Notice, 05/06/2016
26. Confidential Functional Communication Report, 05/06/2016
27. Notice to Conduct a 504 Meeting, 06/07/2016
28. Notice to Conduct A 504 Evaluation, 06/07/2016
29. Email: Student 504 Meeting Notice, 07/09/2016
30. Student Schedule 2016-2017
31. Period Student Attendance Profile, 2016-2017
32. Student Grade Reports, 2015-2016 & 2016-2017
33. Email: Student Schedule, 09/06/2016
34. Email: Student, 09/15/2016
35. Notice to Conduct a 504 Meeting, 11/21/2016
36. 504 Evaluation Report, 11/30/2016
37. 504 Accommodation Plan, 11/30/2016
38. Request for Complaint Investigation, 11/30/2016
39. 504 Evaluation Report, 11/30/2016
40. 504 Accommodation Plan, 11/30/2016
41. Email: 504 plan, 12/05/2016
42. List of Knowledgeable Staff.

The Parent submitted a *Response* on December 28, 2016. The Complaint Investigator interviewed the Parent on January 3, 2017. The Complaint Investigation determined that onsite interviews were needed. On January 17, 2017, the Complaint Investigator interviewed the District's Director of Student Services, and the District Educational Support Services Administrator who were present at the Student's Special Education Eligibility Meeting and 504 Plan Meetings, and the School Psychologist. 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 allegation and the Department's conclusion are set out in the chart below. This conclusion is based on the Findings of Fact in Section III and the Discussion in Section IV. This Complaint covers the one-year period from December 1, 2015 to the filing of this complaint on November 30, 2016.<sup>3</sup>

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<sup>3</sup> This order does include some facts that are relevant to the case and that happened before November 1, 2015.

	<u><b>Allegations:</b></u>	<u><b>Conclusions:</b></u>
1	<p><u><b>Child Find, Free Appropriate Public Education:</b></u></p> <p>The Complainant alleges that the District violated the IDEA when it failed to evaluate the Student, a child who continues to experience an inability to attend school due to anxiety and depression, including physical panic episodes, and the District has been aware since last spring that the Student is under the care of various medical and mental health professionals, including a pediatric neurologist, pediatric psychiatrist, and a behavioral therapist. The Complainant further alleged that the District should have evaluated the Student under the IDEA category of emotional disturbance and specific learning disability, and has had an ongoing duty to do so when the Student's education issues did not improve.</p> <p>(OAR 581-015-2080, 34 CFR 300.111, 303.302, and 34 CFR 301; OAR 581-015-2040 and 34 CFR 300.101)</p>	<p><u><b>Not Substantiated</b></u></p> <p>The District evaluated the Student in the areas the Parent requested prior to the May 6, 2016 Eligibility Meeting. The Parent alleges that the District failed to evaluate the Student under the category of Emotional Disturbance and Specific Learning Disability despite the fact that the Student continued to struggle with school-related anxiety and attendance issues. However, the District attempted to develop a 504 Plan to address these concerns but never had an opportunity to complete this process to see if the proposed accommodations would satisfactorily meet the Student's educational needs.</p>

### III. FINDINGS OF FACT

#### Background

- 1) The Student in this case is a 14-year-old middle-school student residing in the District. The Student has had a history of difficulty regulating emotions, something that became apparent upon the Student starting public school in 2007. The Student has "emotional meltdowns" manifesting in such behaviors as throwing objects, overturning furniture and hitting teachers and staff. The Student's emotional difficulties were managed with positive behavioral supports in the out-of-state school the Student attended prior to transferring to the District in 2012. The Student's former district advised the Parent to anticipate signs of Asperger's Syndrome.
- 2) Upon transfer to the District, the Student began to exhibit behavioral difficulties, which the Parent attributed to the Student leaving the smaller language immersion program cohort and moving into a larger environment with larger class sizes.
- 3) The Student's symptoms differed when experiencing these emotional difficulties. The Student exhibited anxiety and experienced physical symptoms such as headaches,

nausea, and vomiting. Due to these symptoms the Student had numerous absences from school. According to the Student's Middle School Transcript, the Student had 40 "Days Absences" in the 2014-2015 school year, 70 "Days Absences" in the 2015-2016 school year, and 39 "Days Absences" in the 2016-2017 school year. The Student's absences greatly increased during the second trimester of the 2015-2016 school year. Most of the class periods missed by the Student were either early in the school day or late in the school day. By all accounts, the Student did not exhibit issues related to anxiety or depression in years past.

- 4) The Student was enrolled in the District's French immersion program. The Student performed well academically and appeared well integrated socially with peers.
- 5) On January 26, 2016, the Student's Parent sent an email to the District requesting that the Student be evaluated for Special Education services. "... [the Student], has been unable to attend school for the past few months due to a diagnosed anxiety disorder and possible autism spectrum disorder. We would like [the Student] to be able to return to classes..., but believe [the Student] may need either specially designed instruction under the IDEA, or accommodations under Section 504 of the Rehabilitation Act. Thus, we are requesting that [the Student] be evaluated as to [the Student's] eligibility for instruction, services and/or accommodations under state and federal special education and disability laws."
- 6) On February 5, 2016, the Student's Evaluation Planning Team met to discuss an evaluation plan and possible eligibility categories for assessment. The Student's Parent was part of this Team. The Evaluation Planning Team agreed that the eligibility categories which would be considered would be Other Health Impairment (OHI) and Autism Spectrum Disorder (ASD).
- 7) On February 5, 2016, the Parent signed a Consent for Evaluation, noting that the Student had not been attending school due to anxiety and possible other reasons. The Consent set forth the proposed evaluation procedures, assessments, and tests to be employed.
- 8) On February 16, 2016, the School Psychologist sent the Student's Pediatric Physician a medical statement for completion as part of the evaluation process. The medical statement was returned on March 31, 2016 and indicated that the Student has Major Depressive Disorder, Concussion/Vertigo, and Depression/Anxiety.
- 9) On March 31, 2016, the School Psychologist sent an email to the Student's Parents, "I see that [the Student] has not been attending school; so sorry to hear that. I am trying to figure out how we can move forward with the assessment process for [the Student]. If you two have any ideas please don't hesitate to let me know. If [the Student] is unwilling or unable to attend school, would it be possible for [the Student] to maybe pop in to my office so I can test [the Student]? We would certainly work at [the Student's] pace so can get [sic] the best from [the Student]. I checked in the office, and see that today is day 10, so [the Student] may be attendance dropped. However, I have informed them that truancy should not be pursued, as I am working with [the Student] (and the family)."

- 10) On May 6, 2016, the Eligibility Team met to determine the Student's Special Education eligibility. The Eligibility Team included the Student's Father, the Student's Case Manager, an Autism Consultant, two Regular Education Teachers, a Speech Language Pathologist, two District Administrators, and the School Psychologist.
- 11) Reports assembled for the Eligibility Team's review and discussion included a Functional Communication Report, a Psycho-Educational Assessment Report (which included a KTEA-3), an Asperger Syndrome Diagnostic Scale, an Executive Functioning Assessment, Student observations, and information submitted by the Student's Physician.
- 12) At the May 6, 2016 Eligibility Team Meeting, the Student's Parent provided information about the Student's medical and mental health issues. The Parent described such concerns as concussion, body pains, two weeks of mental fuzziness, joint pain, inability to sleep, and extreme anxiety over a variety of triggers. According to the Parent, the Student wanted to attend school; however the Parent was unable to determine the reason for the Student's absences. The Student's Physician indicated that the Student has Concussion, Vertigo and Anxiety, and that the Student's diagnosis of Major Depressive Disorder was permanent.
- 13) During the May 6, 2016 Eligibility Meeting, it was noted that the Student scored in the 99th percentile in Reading and Writing, and scored in the average range for Mathematics on the Kaufman Test of Educational Achievement, Third Edition (KTEA-3).
- 14) The School Psychologist noted that the Student suffered a fall on or around October 23, 2015 with possible concussion symptoms lasting up to 60 days per Physician medical statement. The School Psychologist noted that the Student's depression and physical symptoms were relatively new and did not appear to impact the Student's educational performance; rather that the Student's anxiety manifested around coming to school or staying at school. The School Psychologist also noted that the Student was able to attend Math classes at the local university without these same difficulties, and that the Student voiced interest in maintaining and continuing interpersonal relationships with peers in the language immersion program.
- 15) The Eligibility Team noted that many of the observations were complicated by the inability to observe the Student in the school environment because the Student was unable to come to school due to anxiety. The Eligibility Team determined that the Student did meet the criteria for OHI and that though this has an adverse impact on the Student's education, the Student does not need Special Education/Specially Designed Instruction (SDI). The Eligibility Team also discussed whether the anxiety and related health issues were something for which SDI or accommodations were required. The School Psychologist stated that a 504 Plan would be preferable because a 504 Plan would be less restrictive.
- 16) These observations led the Eligibility Team to conclude that the Student required accommodations for the Student's anxiety and other health issues rather than curriculum modification. The Eligibility Team decided that a 504 Plan, providing accommodations for the Student, was the most appropriate way to address the students issues.

- 17) During the Eligibility Team Meeting, the Eligibility Team expressed interest in exchanging information with the Student's therapists to construct a full picture of the Student's needs. The School Psychologist noted that the Student may qualify for the Talented and Gifted Program. Observations of the Student by teachers and the District Autism Consultant noted no speech impairment, and no impact on communication in the education environment.
- 18) The Eligibility Team found that the Student did not meet the criteria for eligibility under ASD. The Disability Statement indicates that the Student did not meet any of the minimum criteria for eligibility in this category. All Eligibility Team members signed the Eligibility Summary Statement and expressed agreement with these findings.
- 19) On June 9, 2016, the District sent an email to the Parent informing the Parent that the District had scheduled a meeting for June 14, 2016 to develop a 504 Plan for the Student. Attached with the email were meeting notices for the proposed 504 meeting (also provided to Parent via postal mail). The Parent responded via email, "...we're in the process of requesting/setting up an Independent Educational Evaluation (IEE), so it is probably premature to create a 504 plan for [the Student] at this time."
- 20) On June 12, 2016, the District sent the Parent an email notifying the Parent that the scheduled June 14, 2016, 504 Meeting would proceed in anticipation of the Student's return to school in the fall. The District further informed the Parent that in addition to the 504 Plan, a health plan would be considered to address the Student's concussion diagnosis, and that the school nurse would participate in this discussion. The District also offered home instruction in the regular curriculum and in the French Immersion Program.
- 21) On June 13, 2016, the Parent responded in relevant part: "...I don't see how it's possible to develop accommodations for [the Student] when [the Student] is on school grounds when it's not even possible to get [the Student] into a school building at this time and we don't know if this will change over the summer. This was also the reason behind us declining "home instruction" services, since we were informed...that it would take place at [ ] School. [The Student's] anxiety is not location specific; just sending [the Student] to a different school does not solve the issue of [the Student]'s anxiety impeding [the Student]'s ability to remain in a school setting. Hence our request for an IEE to see what would allow [the Student] to access [the Student]'s education. We have a referral to a pediatric neurologist, and awaiting a referral to a pediatric psychologist with an autism specialty at OHSU. This will likely take place over the summer. I recognize that you were hopeful that [the Student] could finish out the school year at [the Student's current school], but I do think that was an unrealistic hope, given the extent of [the Student's] disabilities."
- 22) On June 13, 2016, the District responded that in light of this new information that the Parent provided, the 504 Plan Meeting would be cancelled in favor of a meeting closer to the start of the next school year.
- 23) On September 6, 2016, the Parent sent the District an email stating that the Student was scheduled to return to school that week. The Parent further informed the District that "We

are currently in the process of putting [the Student's] medical ducks in a row before requesting a re-evaluation or IEE, that process will not be complete until [the Student's] next pediatric appointment in early October. In the meantime, [the Student] would like to attempt to attend classes and while I believe that will be difficult, if not impossible, for [the Student] without specially designed instruction to address [the Student's] behavioral issues, I want to support [the Student] in this attempt. The most important piece I think needs immediate addressing is the means through which [the Student] can remove [the Student's]-self from an anxiety producing situation and either regroup or contact us for a rescue. As long as we have this in place, I think we can come up with further accommodations as we learn what they might be."

- 24) On the same date, the Student's Assistant Principal forwarded via email the Student's upcoming schedule, as the Parent had previously noted that not having the schedule in advance had produced anxiety in the Student.
- 25) The Student missed a significant number of days of school between September 12, 2016 and November 30, 2016. During this timeframe, there were forty-seven days of school. Each school day contained seven periods. Out of a possible 329 periods, the Student missed 198 of these. Sixty-three of these absences were excused by the Parents and 135 were marked as "unexcused."
- 26) On November 1, 2016, the Parent sent the District an email noting; "Although [the Student] started off strong, with few absences, we've seen a rapid disintegration in [the Student's] ability to handle more than a few hours of instruction on campus without a meltdown and request for rescue, or failure to attend until mid-day. [The Student]'s now seen a neurologist...has a referral to [another physician] at OHSU, and a medical diagnosis of severe anxiety disorder from [the Student's] pediatrician...and a Migraine Disorder diagnosis...We've taken it upon ourselves to 'modify' [the Student's] curriculum in math in order to accommodate [the Student's] anxiety regarding group-work required under the CPM curriculum—[the Student] is not enrolled in Math 070 (Introductory Algebra) at the UO, where [the Student] has an 80 average mid-semester (and has missed only a single class.) However, [the Student] misses [the Student's] friends and [the Student's] [language immersion] curriculum, and does not want to be removed from [Student's school]. I know that [the Student] has been determined eligible for a Section 504 Plan—do you have any idea of what that would look like for a student with an anxiety disorder with school avoidance issues due to [the Student's] disability?"
- 27) This email went on to say, "Although [the Student] started off strong, with few absences, we've seen rapid disintegration in [the Student]'s ability to handle more than a few hours of instruction on campus without a meltdown and request for rescue, or failure to attend until mid-day.
- 28) On November 2, 2016, the District sent the Parent an email inquiring about the Parent's availability to attend a 504 Meeting. The District asked the Parent to bring the physicians' diagnoses to the 504 Meeting as well as any recommendations they may have provided for the 504 Team to consider. The District noted that the 504 Meeting would "build on [the Student's] academic area of strength and participation in the [language immersion] Program."

- 29) On November 29, 2016, the District informed the Parent that the District's Legal Counsel would attend the 504 Meeting scheduled for November 30, 2016. The Parent responded that District had not provided appropriate notice for the presence of the District's Counsel at the 504 Meeting.
- 30) On November 30, 2016, the District responded to the Parent's email noting that the District could provide an opportunity for the Parent's Legal Counsel to attend in person or via phone. The email goes on to note, "At this point we have concerns about delaying this meeting any further. We have had this meeting scheduled for a while now, and if [the Student] needs a 504 Plan then we want to get one in place as soon as possible. We certainly believe the meeting will be more productive with you present, but if you choose not to participate today we will still plan on having this meeting without you. Of course, we would be happy to reconvene the 504 Team as soon as possible to meet with you and your attorney to go over anything that is discussed today. That means that we may have the 504 meeting today without you and then have another 504 meeting next week or even late this week when you and your attorney are both able to come. Although we would certainly prefer to have the whole 504 Team (parents included) meet only once, we would prefer to hold two meetings, rather than delay having the conversation about [the Student's] needs. We do feel we need to get the ball rolling on this meeting today so that we don't end up in a situation where [the Student] continues to go without a 504 Plan in place (assuming [the Student] needs one) simply because the parties have been unable to find a time to meet."
- 31) On November 30, 2016, the Parent responded via email, "...thank you for your response. Since the District did not provide adequate notice, I was not able to arrange for my attorney to attend, so I will not be attending. I fully acknowledge that you may hold a Section 504 meeting without parents present. I did notice that of the team members invited, there was no indication that a school psychologist would attend, which is of concern since [the Student's] recognized eligible disabilities are anxiety and depression under OHI. I do hope that if another meeting is held in the future, the District will include an appropriate professional with a mental health background. In the meantime, I am filing a complaint with ODE alleging that the District failed to evaluate [the Student] for special education instruction and services in all areas of suspected disability, including emotional disturbance and specific learning disability."
- 32) The 504 Meeting scheduled for November 30, 2016 took place as scheduled. During this meeting, the 504 Team, absent the Parent, created a 504 Plan at that meeting based on the following data:
- a) Classroom observations: noted that the Student gets anxious and wants to leave class when it gets noisy, especially when the class does group work, but otherwise appears to be a "capable student";
  - b) Medical records from the Student's physician noting: major depressive disorder, concision/vertigo, and depression/anxiety.
  - c) The 504 Evaluation Report stated that, "[the Student] is not able to attend school on a regular basis and this has been due to [the Student's] anxiety and depression. Along with [the Student's] lack of regular attendance, [the Student's] inability to



focus in loud rooms is stopping [the Student] from being able to focus in class. This kind of environment helps exacerbate/trigger [the Student's] anxiety."

33) The Student's November 30, 2016 504 Plan included the following accommodations:

- a) Grading based upon the following criteria:
  - a. If [the Student] is present for 80% of the class [the Student] will be graded on a letter grade
  - b. If not present for 80% or more of the class [the Student] will be graded on a pass/no basis
  - c. Turn in body of work that is reflective of standards.
  - d. Can have extended time on class work.
  - e. Work demand will be adjusted as needed.
  - f. Have the option to retake test/quizzes as needed.
- b) Environmental
  - a. Allow [the Student] to go to a quiet place when needed.
  - b. Allow to go to counselor or office/health room if expressed by [the Student] that it is needed.
  - c. Allow for an alternative place to eat lunch.
  - d. Allow for time to pass in the hallways if needed.
  - e. Allow for the use of earplugs as needed
  - f. Alternative schedule as needed.

34) On November 30, 2016, the Parent filed this Complaint.

35) The Student has not attended school since this Complaint was filed.

#### IV. DISCUSSION

##### 1. Child Find, Free Appropriate Public Education (FAPE):

The Parent alleges that the District violated the IDEA when it failed to evaluate the Student for all areas of suspected disability, specifically Emotional Disturbance and Specific Learning Disability. The Parent notes that the Student continues to experience an inability to attend school due to anxiety and depression, including physical panic episodes and that District has been aware since last spring that the Student is under the care of various medical and mental health professionals, including a Pediatric Neurologist, Pediatric Psychiatrist, and Behavioral Therapist. The Parent further alleges that the District had an ongoing duty to evaluate the Student for eligibility for Special Education services under these categories when the Student's education issues did not improve.

The District is under a continuing obligation to identify, locate and evaluate all children with disabilities for whom they are responsible, who are in need of Special Education services.<sup>4</sup> Furthermore, Districts are required to provide a free appropriate public education to all school-age children with disabilities for whom the district is responsible.<sup>5</sup>

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<sup>4</sup> OAR 581-015-2080(2)

<sup>5</sup> OAR 581-015-2040(1)

Emotional Disturbance is defined as a condition exhibiting one or more characteristics over a long period of time and to a marked degree that adversely affects a child's educational performance.<sup>6</sup> These include an inability to learn that cannot be explained by intellectual, sensory, or health factors, an inability to build or maintain satisfactory interpersonal relationships with peers and teachers, inappropriate types of behavior or feeling under normal circumstances, a general pervasive mood of unhappiness or depression, or a tendency to develop physical symptoms or fears associated with personal or school problems.<sup>7</sup> There is no evidence that this Student's educational performance has been impacted by any of these.

For a student to be found eligible for Special Education services under Specific Learning Disability, the student would need to be found to have difficulty in the following academic areas: basic reading skills, reading fluency skills, reading comprehension, mathematics calculation, mathematics problem-solving, written expression, oral expression, or listening comprehension.<sup>8</sup> Such a finding would be inconsistent with the evidence in this case.

The Eligibility Planning Team, including the Student's Parent, determined that the Student should be evaluated under the categories of OHI and ASD. Following a comprehensive Special Education evaluation process, the Eligibility Team determined that the Student was not in need of Special Education services and that the Student's anxiety-related issues could be most appropriately handled through the creation of a 504 Plan. The evidence presented demonstrates that the District's process in making this determination was appropriate and there is no reason to believe that the Eligibility Team's conclusion was erroneous.

However, following this determination, the Student's Parents repeatedly declined the District's attempts to schedule a 504 Meeting. The Parent informed the District on September 6, 2016 that the Student wanted to try to attend classes and requested that the Parent have an opportunity to get the Student's "medical ducks in a row" prior to requesting an IEE or further evaluation, which would not occur until early October. There was no further discussion between the parties about the 504 Plan or the Student's progress until November 1, 2016. A 504 Meeting was scheduled for November 30, 2016; however, upon being informed on November 29, 2016 that the District's Attorney would be attending the 504 Meeting, the Parent informed the District that the Parent would not be attending the 504 Meeting at that time. The District drafted a 504 Plan for the Student on November 30, 2016, but since the Student has not attended school since that time, the accommodations for this Student to address the Student's anxiety-related issues have never been put in place. Therefore, the District has no more reason or specific information/documentation to suspect that the Student is in need of Special Education services than at the time the eligibility determination was originally made.

The Department does not substantiate this allegation.

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<sup>6</sup> OAR 581-015-2000(4)(d)

<sup>7</sup> OAR 581-015-2000(4)(d)(A)–(E)

<sup>8</sup> OAR 581-015-2170

## V. CORRECTIVE ACTION<sup>9</sup>

*In the Matter of Eugene School District #4J  
Case No. 16-054-038*

The Department orders no Corrective Action resulting from this investigation.

Dated: this 26th Day of January 2017



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

Mailing Date: January 26, 2017

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<sup>9</sup> 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)).