

BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of the Portland Public
School District 1J

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FINDINGS OF FACT,
CONCLUSIONS
AND FINAL ORDER
Case No. 19-054-033

I. BACKGROUND

On August 27, 2019, the Oregon Department of Education (Department) received a written request for a special education complaint investigation from a parent (Parent) of a student (Student) residing in the Portland Public Schools District 1J (District). The Parent requested that the Department conduct a special education investigation under Oregon Administrative Rule 581-015-2030. The Department confirmed receipt of this Complaint and forwarded it 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 complainant and the District agree to an extension to engage in mediation or local resolution, or for exceptional circumstances related to the complaint.² This order is timely.

On September 3, 2019, the Department's Complaint Investigator (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 September 17, 2019.

On September 17, 2019, the District submitted a *Response* disputing the allegations and explaining in detail the District's perspective on the issues raised in the Complaint. The District submitted the following items:

1. District response to allegations in case 19-054-033
2. Student IEP Amendment, 01/30/2019
3. Student IEP, 01/30/2019
4. Student IEP, 04/19/2019
5. IEP Meeting Minutes, 11/28/2018
6. IEP Meeting Minutes, 01/30/2019
7. IEP Meeting Minutes, 05/29/2019
8. IEP Meeting Minutes, 06/14/2019
9. Written Agreements between the Parent and the District, 04/18/2019
10. Parent/Guardian Consent for Individual Evaluation, 11/28/2018
11. Prior Written Notice, Notice of Triennial, 11/28/2018
12. Prior Written Notice, 01/13/2019
13. Prior Written Notice, Notice of Eligibility, 01/30/2019
14. Prior Written Notice, 06/14/2019
15. IEP Progress Report—Measurable Annual Goals, 06/06/2019

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

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

16. Eligibility Summary Statement, 01/30/2019
17. Disability Statement, Autism Spectrum Disorder (82) Criteria, 01/30/2019
18. Notice of Team Meeting, Meeting Request, 11/01/2018
19. Notice of Team Meeting, 11/28/2018
20. Notice of Team Meeting, 04/08/2019
21. Notice of Team Meeting, 05/29/2019
22. Notice of Team Meeting, Meeting Request, 06/14/2019
23. Special Education Placement Determination, 06/14/2019
24. Special Education Placement Determination, 01/30/2019
25. <cover page> ODE Case 19-054-033
26. Email: (Student) needs more time
27. Email: re: [external sender] –(Student)
28. Email: [External Sender] -Re: (Student) Re-evaluation planning meeting
29. Email: Meeting reminder
30. Email: (Student)
31. Email: (Student) Three-year Eligibility Review Meeting
32. Email: checking in about (Student's) social communication
33. Email: * and MAP
34. Email: Re: (Student) and CEFI
35. Email: Re: (Student) Meeting Minutes 1/30/19 – Invitation to Edit
36. Email: Social communication Lesson on Monday
37. Email: Safe travels
38. Email: (Student) and student
39. Email: Re: [External sender] -Student (Student)
40. Email: [External Sender] -F/U
41. Email: [External Sender] -
42. Email: (Student) Observations
43. Email: [External Sender] -Re: Thought Record Sheet
44. Email: [External Sender] -checking on (Student)
45. Email: [External Sender] -checking on (Student) -8th grade
46. Email: [External Sender] -checking on (Student)
47. Email: (Student)
48. Email: [External Sender] -checking on (Student)
49. Email: [External Sender] -checking on (Student) -8th grade
50. Email: [External Sender] -checking on (Student)
51. Email: Hope this meets the need...what do you think?
52. Email: [External Sender] -Checking on (Student)
53. Email: (Student) SBAC
54. Email: [External Sender] -Checking on (Student)
55. Email: [External Sender] (Student) missing school
56. Email: (Student) communication eligibility meeting on 5/29
57. Email: [External Sender] -Re: meeting for (Student) on 5/29 at 3:30
58. Email: (Student's) script
59. Email: [External Sender] – IEP
60. Email: (Student)
61. Email: Re: [External Sender] – IEP
62. Email: [External Sender] – IEP and school placement for (Student)
63. Email: [External Sender] – IEP
64. Email: [External Sender] – IEP and school placement for (Student)
65. Email: (Student) signatures!!!

66. Email: [External Sender] – Re: High School Plan
67. Email: [External Sender] – Appeal to Victory academy, letter of complaint
68. Email: Re: DaVinci Student
69. Email: [External Sender] – Re: [External Sender] – Appeal to Victory, letter of complaint
70. Email: [External Sender] – Re: (Student’s) placement paperwork scanned and attached
71. Email: [External Sender] – Re: [External Sender] – Appeal to Victory, letter of complaint
72. Email: [External Sender] – Re: (Student’s) placement paperwork scanned and attached
73. Email: [External Sender] – Re: [External Sender] – Appeal to Victory, letter of complaint
74. Email: IEP
75. Email: [External Sender] -Checking in
76. Email: [External Sender] – Re: [External Sender] – Appeal to Victory, letter of complaint
77. Psychoeducational Assessment—Reevaluation Report, 01/30/2019
78. Functional Communication Assessment, Three Year Re-Evaluation, 01/23/2019
79. Language Assessment, 01/23/2019
80. List of staff knowledgeable about the circumstances in this complaint

The Investigator interviewed the Parent on September 26, 2019. The Investigator determined that onsite interviews were necessary. On October 7, 2019, the Investigator interviewed the Student’s Special Education Teacher (Teacher) and District’s Legal Counsel. The Investigator reviewed and considered the previously described documents, interviews, and exhibits in reaching the findings of fact and conclusions of law contained in this order.

II. ALLEGATIONS AND CONCLUSIONS

The Department has jurisdiction to resolve this Complaint.³ The Parents’ allegations and the Department’s conclusions are set out in the chart below. The 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 August 28, 2018, to the filing of this Complaint on August 27, 2019.

	Allegations	Conclusions
1.	<p><u>When IEPs Must Be In Effect</u></p> <p>The Parent alleged that the District violated the IDEA when it neglected to appropriately inform or educate each regular and special education teacher of their specific responsibilities for implementing the Student’s IEP, and the specific accommodations, modifications, and supports that must be provided for, or on behalf of the Student in accordance with the IEP. The Parent alleges that as a result of this failure, they had to remind teachers of their responsibilities for implementing the Student’s IEP,</p>	<p><u>Not Substantiated</u></p> <p>The Parent and District staff discussed when and how specific interventions were provided to the Student. The record supports that the District adequately communicated staff responsibilities for implementing the Student’s IEP, and further that the Student’s IEP was implemented as written.</p>

³ 34 CFR §§ 300.151-153; OAR 581-015-2030.

	<p>specifically behavioral interventions.</p> <p>(34 CFR §§ 300.323, 300.324; OAR 581-015-2220)</p>	
2.	<p><u>Placement of the Student</u></p> <p>The Parent alleges that the District violated the IDEA when the Student’s placement was not based on, or did not take into consideration, any potential harmful effect on the Student or on the quality of services which the Student requires; specifically whether other programs in the District offered the specialized program and staffing required to accommodate the Student’s needs. The Parent alleges that this failure resulted in a material worsening of the Student’s mental health, up to and including self-injurious behavior and suicidal ideation.</p> <p>(34 CFR §§ 300.116, 300.327; OAR 581-015-2250)</p>	<p><u>Not Substantiated</u></p> <p>While the Student did exhibit frustrations and challenging behaviors in the District placement, the Student also successfully utilized skills and resources to verbalize the underlying issues and make progress in the school environment.</p>
3.	<p><u>Parent Participation</u></p> <p>The Parent alleges that the District violated the IDEA when it disregarded the Parent’s input regarding the Student’s placement. The Parent alleges that this violation resulted in an educational placement that was not appropriate for the Student’s unique needs.</p> <p>(34 CFR §§ 300.500, 300.327, and 300.501(b); OAR 581-015-2190)</p>	<p><u>Not Substantiated</u></p> <p>The IEP Team discussed and considered the Parent’s request and reasons for a change in placement. After reviewing the Student’s needs and considering the Parent’s input, the IEP Team decided the proposed placement to be too restrictive for the Student’s needs.</p>

III. FINDINGS OF FACT

1. The Student in this case is in the ninth grade. The Student was found eligible for special education under the category of Autism Spectrum Disorder. The Student is enrolled in a Communication-Behavior (CB) Team program, attending five out of six periods a day in general education with some adult support in general education math. The Student receives specially designed instruction in the areas of writing, social/emotional skills, and communication. The Student participates in drama classes, stage craft, and enjoys martial arts classes outside of school.

2. An Individual Family Service Plan (IFSP) was developed for the Student beginning at age three. The Student was initially provided communication services, adaptive behavior strategies, and social and emotional supports.
3. At a young age, the Student exhibited behaviors when frustrated that included “pounding [the Student’s] hands on the table or verbalizations,” speaking in self-deprecating language. In kindergarten, District staff noted that the Student “is sensitive and easily frustrated if things do not go [their] way but has made gains in being able to ‘regroup’ quicker than in the past year.”
4. Part of the materials reviewed in this matter included a Speech/Language Evaluation for the Student completed when the Student was nine years old. At that time the evaluator noted that the Student “has significant issues with expressing [] feelings of frustration.” The evaluator further observed the Student’s difficulties engaging with peers.
5. Similarly, a psychoeducational report conducted in 2016 when the Student was in fifth grade noted that the Student suffered from high anxiety, was easily frustrated, was triggered by unexpected noise and can shut down or have tantrums when exposed to lots of noise. The evaluator noted that the Student had been eligible under the category of Autism Spectrum Disorder (ASD) since 2007. The behaviors and information gathered by the evaluator led them to conclude that the behaviors observed were continued manifestations of ASD.
6. The Student’s ability to self-regulate and manage emotions (anxiety or stress) within the classroom setting fluctuates. When stressed about workload, the Student may bang their head against a desk or wall, make self-deprecating comments, attempt self-harm, or cry. The District has observed that this behavior does not happen frequently and that the Student has made progress in seeking assistance from District staff to discuss behaviors and feelings. The Student has also made progress communicating about behavior triggers and reactions.
7. The Student’s August 24, 2018 Individualized Education Program (IEP) included observations of the Student’s behavior triggers that included the following: other student’s behaviors that annoy the Student, preference for working independently versus group work, and frustration over failed science experiments when they do not go as planned.
8. To address these concerns, the District provided classroom accommodations and modifications for the Student, including the following: Adult prompts to support task completion, behavioral expectations and emotional regulation, binder check, break assignments into manageable parts with visuals to support organization, check for understanding after non-preferred tasks are assigned, extended time to complete assignments and tests, preferential seating near quiet and focused peer, and when sensory breaks are needed, a quiet break space.
9. On November 28, 2018, the Parent was provided with Prior Written Notice of the District’s intent to perform a reevaluation for the Student’s Triennial review of eligibility, along with the required consent forms.
10. On December 7, 2018, the Student made statements about self-harm while at school. The

Student's Teacher sent an email to the Parent later in the day reporting the incident to the Parent. The Teacher wrote: "[The Student] was very agitated today. Two teachers reported to me that [the Student] made statements like, 'I want to kill myself.' Normally when students say things like that we have a follow up with a safety protocol because we are worried about students self-harming themselves. Please let me know if you think we should follow through with that or if we can chalk this up to [the Student] feeling sick and thereby grumpy. [The Student] is normally very responsive to my re-directions to filter [the Student's] negative comments but today [the Student] was not able to do so."

11. The Student's January 30, 2019 IEP indicated placement in one of the District's schools with Cognitive Behavioral Therapy (CBT) supports as part of the services offered. The Student had been placed in this program during sixth grade. Part of the support structure offered to the Student was the ability to leave frustrating or triggering scenarios and go to a different room to speak with a Special Education Teacher about the Student's feelings and better utilize strategies for regulating behavior and emotions.
12. The Student's January 30, 2019 IEP includes the concerns of the Parent. The Parent expressed concerns about manifestations of the Student's disability drawing the attention of peers, social skills with peers, and concerns regarding the Student's transition to high school. The Parent voiced a preference for "1-on-1 CBT versus small group instruction." Also the Parent was notified of the potential for enrollment in other schools outside the District by the Student's community Case Worker.
13. The Student's January 30, 2019 IEP contains the following measurable annual goals: (1) Communication goals focused on praise/compliments and feedback/criticism, communicating each calmly and politely without negative responses; (2) Social/Emotional goals to address self-regulation/coping strategies focusing on positive interventions rather than negative/self-deprecating ones; and (3) Writing skills to help the Student develop strengths in writing with focus on rewriting, trying new approaches and addressing an audience in writing assignments.
14. On January 30, 2019, the District sent the Parent a Prior Written Notice noting that the District would provide special education services to the Student in conformity with the Student's attached IEP.
15. Also on January 30, 2019, the District provided the Parent with a "Disability Statement" that summarized the evaluation data utilized by the District, along with observations in the areas of communication and behavior indicative of Autism Spectrum Disorder over other eligibility criteria.
16. The Student's January 30, 2019 IEP contains the Parent's concerns regarding the Student's behavior when the Student becomes frustrated or anxious. The Parent was concerned that behaviors exhibited when the Student is anxious or frustrated causes the Student to stand out to peers.
17. On March 7, 2019, the Parent inquired about the Student's progress at school following an incident where a classmate blew air into the Student's ear. This behavior by a peer triggered the Student to use profanity and cry. The Teacher related another incident where during the creation of appreciation cards for staff the Student began to bang their head and verbalize such emotions as "my life sucks, I want to kill myself." The Teacher noted

that the Student was receptive to redirection, capable of verbalizing the reason for their frustration, and ultimately returned to the activity without further incident. The Teacher did express concern that the Student's behavior and reactions to situations appeared to escalate more dramatically and that the Student was more dysregulated than the previous school year. In the same email, the Teacher notes that the incident with the peer likely occurred because "there was a sub that day so their interactions went unmonitored."

18. On March 8, 2019, the Parent provided the Teacher with observations from the Student's therapist where the therapist noted that the Student was triggered during the same class period or by the same peer. In response, the Teacher noted that the Student, "has a pattern of picking a student to dislike and demonstrating little tolerance for that student's behavior. Last year, it was a student [the Student] is fine being around this year."
19. In response to these email communications around the Student's behavior and triggers, the Parent opined that the opposite was true, that peers picked up on the Student's behaviors and communication challenges and "pick on" the Student.
20. On March 12, 2019, the Teacher alerted the Parent that following receipt of a poor grade on a class assignment, the Student ripped up the paper and threw it in the garbage. The Teacher believed the Student was embarrassed by their behavior. In response, the Student "was trying to cut off air to [their] lungs with the strap on [their] binder. [The Student] was honestly struggling to breath[e] until I got the strap off from around [their] neck." In response the Parent noted, "Yes [the Student] had done it before as [they] are letting you know how bad [they] are feeling at that moment that [they] want to be dead. I don't think [they] had the skills to tell anyone that [they] are sorry for what had happened, then [they] act[] out in the worst way possible." The Parent and Teacher went on to discuss strategies to address the behavior and help the Student better communicate their feelings.
21. On April 3, 2019, the Parent sent an email to the Teacher with concerns that the Student had not completed an exercise to help deal with the Student's frustration and negative thinking. The Teacher responded that there were two days the Student did not participate in this particular exercise—on one day the Student was working with a Speech Language Pathologist, and on the other the Teacher was not present. The Parent contends that District staff were not trained to implement the behavior supports the Student required. In response, the Teacher explained that District staff were trained to provide appropriate interventions to the Student even if they were not themselves cognitive behavioral therapists
22. The Student's IEP includes supports related to communication to assist the Student with accepting praise/compliments, and feedback/criticism. The Student's IEP also includes social/emotional goals "utilizing positive self-talk, deep breathing, using fidgets, to relieve stress, take a break, etc."
23. On April 10, 2019, the Parent sent an email to the Teacher suggesting that the Student be paired with a peer to act as a positive reinforcement, but also to help address the Student's shyness, which the Parent worried contributed to the Student's struggles with social communication.
24. The Teacher responded the same day, noting that the Student was being paired with a peer in one class and that they would explore utilizing the same strategy in other classes.

The Teacher further noted that they would consider finding a new space away from triggering peers for the Student to take breaks. The Parent raised concerns to the Investigator whether such break spaces were not further contributing to the Student's social isolation.

25. On May 2, 2019, the Teacher sent an email to the Parent informing them of an incident where a peer ran into a classroom where the Student was doing classwork, laid on the floor next to the Student, then broke a stool. Experiencing the peer's behavior was very triggering to the Student, and it took the Student longer than usual to regain their composure afterward. The Teacher noted that the Student's dislike for this peer had increased as a result of the incident. The following day the Teacher provided the Parent with the strategy the District had come up with to help reduce the Student's interactions with the peer, especially during transitions and break times.
26. On May 17, 2019, the Parent suggested a private school as a more appropriate placement for the Student in a conversation with the Teacher. The Teacher noted that the Student "...frequently comments that [they are] depressed. [The Student] takes more breaks than usual which is a good thing because they seem to keep [the Student] regulated." In response, the Parent expressed a desire for a meeting.
27. On May 29, 2019, an IEP Team Meeting convened in response to the Parent's request. Present for the meeting was the Parent, two Speech Language Pathologists, CB Team Teacher, and Special Education Program Administrator.
28. The Parent requested a change of placement to a private school outside of the District that offered a program dedicated to students with Autism that the Parent felt was more beneficial for the Student. The Parent preferred this placement over the District high school the Student was scheduled to attend during the 2019-2020 school year. The Parent had specific concerns about the impact the larger school setting and larger student population would have on the Student. The Parent requested that the District pay for the Student to attend the private school.
29. After a discussion about the Parent's requested placement change, the District refused it, "as data indicated [the Student] does not need that restrictive setting in order to make progress with the general education curriculum at this time." The IEP notes the Student was making academic progress in all their courses and a placement in the private school would be more restrictive than necessary due in large part to the fact that attendance at the private school would leave the Student without access to non-disabled peers.
30. The IEP Team did revise the Student's IEP at the meeting, adding 1-on-1 CBT therapy over small group instruction. Also, the IEP Team added additional checks for understanding in class to help address the Student's challenges with communication.
31. The Team also updated information regarding the Student's preset levels of academic performance. The Student did not meet benchmarks on standardized tests in English/ Language Arts or Math. The Student also took the Measure of Academic Performance (MAP) test, "which is a high-quality, nationally-normed assessment that adjusts to each student's responses, creating a personalized assessment experience that accurately measures performance. Students take the MAP test three times yearly, in both reading and math." The Student scored in the 68th percentile in reading, and the 44th percentile

in math. The Student scored more highly in writing, but the team indicated that the Student could continue to benefit from supports.

32. Following the May 29, 2019 IEP Team Meeting, the Parent brought additional materials to the District office for consideration. Among these items was a letter written by the Student. In the letter, the Student expressed frustration with life, and a desire to do themselves harm. The Parent reported having found the letter among the Student's school materials.
33. In a letter dated May 30, 2019, the Parent provided the District with a letter from the Student's mental health provider outside of school. The provider noted they had worked with the Student since December 2018 and had been notified by the Parent and the Student about incidents at school where the Student had "become severely escalated," some of which resulted in "statements of suicide and self-harm." The counselor expressed an opinion that the Student would benefit from a learning environment with "a smaller student/teacher ratio" to better support the Student with implementing skills gained in therapy.
34. On August 27, 2019, the Department received this Complaint.

IV. DISCUSSION

A. When IEPs Must Be In Effect

The Parent alleges that the District violated the IDEA when it neglected to appropriately inform or educate each regular and special education teacher of their specific responsibilities for implementing the Student's IEP. The Parent alleges that as a result of this failure, the Parent had to remind teachers of their responsibilities for implementing the Student's IEP, specifically behavioral interventions. At the beginning of each school year, a school district must have an IEP in effect for each child with a disability within its jurisdiction.⁴ The school district must provide special education and related services to children with disabilities in accordance with the IEP.⁵ As soon as possible following the development of the IEP, special education and related services must be made available to the child in accordance with their IEP.⁶ The district must ensure that each regular and special education teacher is informed of their responsibilities for implementing the IEP.⁷

The Parent alleges that on occasion they had to remind District teachers and staff of their responsibilities under the IEP. The Parent points to this as evidence of the District's failure to appropriately train staff regarding their responsibilities. The Parent highlighted two emails where staff training or awareness of the Student's specific IEP goals and interventions were discussed. In a March 8, 2019 email exchange the Teacher discusses a behavior incident where a substitute teacher did not monitor the interaction between the Student and a peer in the same manner as would the teacher normally assigned to the class. In an April 10, 2019 email the Teacher thanks the Parent for their suggestions about pairing the Student with peers supportive of the Student's behavior and communication goals. During the Department's interview with District staff, the Teacher recalled a conversation with the Parent where they understood the Parent may have thought that the school's program using dialectical behavior

⁴ OAR 581-015-2220(1)(a).

⁵ OAR 581-015-2220(1)(b).

⁶ OAR 581-015-2220(2)(b).

⁷ OAR 581-015-2220(3)(b).

therapy techniques meant that all staff were trained dialectical behavior therapists. The Teacher recalled that the Parent was disappointed to learn the distinction. The Parent, both in written communication and during the interview with the Investigator, pointed to specific IEP goals and interventions as acting to segregate the Student from peers. However, the Student's IEP contains a goal that specifically provides that when the Student, "becomes upset, frustrated, or disappointed, [the Student] will use a self-regulating/coping strategy (i.e. utilizing positive self-talk; deep breathing...take a break)."

The Parent and District staff discussed when and how specific interventions were provided to the Student. And the record supports that the District adequately communicated staff responsibilities for implementing the Student's IEP, and further that the Student's IEP was implemented as written during the Complaint period. The Department does not substantiate this allegation.

B. Placement of the Student

The Parent alleges that the District violated the IDEA when the Student's placement was not based on, or did not take into consideration, any potential harmful effect on the Student or on the quality of services which the Student requires. The Parent alleges that this failure resulted in a material worsening of the Student's mental health, up to and including self-injurious behavior and suicidal ideation. The educational placement of a child with a disability is determined by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of evaluation data, and placement options.⁸ Such placement decisions must be made in line with the IDEA's least restrictive environment requirements.⁹ To the maximum extent appropriate, children with disabilities should be educated with children who do not have disabilities.¹⁰ Separate schooling or removal of children with disabilities from the regular educational environment should occur only if the nature and severity of the disability is such that education in regular education classes cannot be achieved satisfactorily.¹¹

The Student has a history of using self-deprecating language, especially when frustrated or disappointed in their academic performance. The Student's use of self-deprecating language has been consistent over time, with some increase during the Student's eighth grade year. This increase included verbalization regarding self-harm and suicidal ideation. The record includes communications between District staff and the Parent where the Parent explained that "Yes [the Student had] done it before as [they] are letting you know how bad [they] are feeling at that moment that [they] want to be dead. I don't think [they] had the skills to tell anyone that [they] are sorry for what had happened, then [they] act out in the worst way possible." District staff the Teacher acknowledged significant concern regarding these behaviors and verbalizations. The Teacher noted that in each instance the Student could verbalize their frustration, sought out assistance, and successfully talked through their frustration regarding the triggering incident. The Teacher observed that these were the exact skills taught and fostered through the Student's IEP that the Student successfully utilized. In response to the Parent's request that the Student be placed in a private school focusing on students with Autism Spectrum Disorder, the Team pointed out that there would be new challenges presented to the Student meeting IEP goals focused on social engagement with peers.

⁸ OAR 581-015-2250(1)(a).

⁹ OAR 581-015-2250(1)(b).

¹⁰ OAR 581-015-2240(1).

¹¹ OAR 581-015-2240(2).

While aspects of the Student's behavior are concerning and require continued attention and appropriate interventions, the Student has successfully utilized methods and services in the Student's current placement to address and talk through frustrating and triggering events. The investigative record indicates that the Student has and can continue to make progress in their current educational placement. The Department does not substantiate this allegation.

C. Parent Participation

The Parent alleges that the District violated the IDEA when it disregarded the Parent's input regarding the Student's placement. The Parent alleges that this violation resulted in an educational placement that was not appropriate to meet the Student's unique needs.

School districts must provide parents with an opportunity to participate in meetings with respect to the identification, evaluation, IEP and educational placement of their child, and the provision of a free appropriate education to the child.¹² As part of this requirement, a school district must provide written notice of the time and purpose of meeting, and allow the parent to bring others knowledgeable about the child.¹³ The educational placement of a child with disabilities is determined by a group of persons, including the parents, and others knowledgeable about the child and relevant evaluation data.¹⁴ Such decisions are made in conformity with the IDEA's least restrictive environment provisions.¹⁵

In response to Parent's request, the District provided the Parent with a notice of an IEP team meeting to convene on May 29, 2019. The Parent attended the meeting, along with members of the Student's IEP Team such as the Teacher, general and special education teachers, and Speech-Language Pathologist. The stated purpose of the meeting was to discuss placement and changes to the Student's IEP based on recent evaluation data. During the meeting the Parent advocated for the Student's transfer from the District to a private school that specialized in serving students with Autism Spectrum Disorder. The IEP and placement team was receptive to the Parent's input and concerns, particularly the Parent's concern for the Student's transition to a larger high school campus with a more sizeable student body. The team weighed and discussed potential placements, ultimately deciding that a change in placement was not warranted, due in large part to the fact that attendance at the private school would leave the Student without access to non-disabled peers.

The IEP and placement team was receptive to the Parent's concerns about placement. The Team noted that the Student was performing well academically, had made progress on IEP goals, and that such a restrictive environment would be counterproductive for the Student. The Department does not substantiate this allegation.

¹² OAR 581-015-2190(1).

¹³ OAR 581-015-2190(2)(a) & (2)(b).

¹⁴ OAR 581-015-2250(1)(a).

¹⁵ OAR 581-015-2250(1)(b).

V. CORRECTIVE ACTION¹⁶

*In the Matter of Portland Public School District IJ
Case No. 19-054-033*

The Department does not order corrective action in this matter.

Dated this 25th Day of October 2019

Candace Pelt, Ed.D

Candace Pelt, Ed.D.
Assistant Superintendent
Office of Enhancing Student Opportunities

Mailing Date: October 25, 2019

Appeal Rights: Parties may seek judicial review of this Order. Judicial review may be obtained by filing a petition for review within sixty days from the service of this Order with the Marion County Circuit Court or with the Circuit Court for the County in which the party seeking judicial review resides. Judicial review is pursuant to the provisions of ORS § 183.484. (OAR 581-015-2030 (14).)

¹⁶ 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)).