

**BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION**

In the Matter of Portland Public  
School District 1J

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FINDINGS OF FACT,  
CONCLUSIONS  
AND FINAL ORDER  
Case No. 14-054-032

**I. BACKGROUND**

On September 24, 2014, 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 Portland Public School District 1J (District). The Parent requested that the Department conduct a special education investigation under OAR 581-015-2030. The Department confirmed receipt of this complaint and forwarded the request to the District by email on September 26, 2014.

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 school 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> Due to unavailability of key District staff, the complaint investigation timeline was extended through December 8, 2014.

On September 30, 2014, 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 14, 2014. On October 3, 2014, and October 6, 2014, the Department received additional information from the Parent. The Department accordingly amended the complaint on October 7, 2014, and established a new *Response* due date of October 28, 2014.

On October 27, 2014, the District submitted a timely *Response* indicating they disputed all of the allegations in the Parent's complaint. On November 17, 2014, the District submitted additional materials. In total, the District submitted the following items:

- A. District email to Parent dated 9/17/2014;
- B. Notice of IEP Team Meeting 9/18/2014;
- C. Amended IEP for Student dated 9/19/2014;
- D. Prior Notice of Special Education Action dated 9/19/2014;
- E. IEP Team meeting minutes dated 5/2/2013;
- F. Student Transportation Referrals and Notes, 9/12/2014 & 9/10/2014;
- G. Email from District to Parent dated 9/24/2014;
- H. Email from District to Parent dated 9/26/2014;
- I. Prior Written Notice of Special Education Action dated 10/24/2014;

<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)

- J. Descriptive Summary of Triggers/Behaviors for 10/3/2014 IEP/Placement meeting, sent to Parent, 9/25/2014;
- K. Email from District to Parent dated 9/25/2014;
- L. Notice of Team Meeting for 10/3/2014 meeting (adding school resource officer);
- M. Amended IEP, 10/3/2014;
- N. Prior Written Notice of Special Education Action dated 10/3/2014;
- O. IEP Team Meeting Minutes for 10/3/2014 IEP meeting;
- P. Email between District and Parent dated 9/29/2014;
- Q. Notice of IEP Team Meeting dated 9/29/14;
- R. Email between Parent and District dated 9/29/2014;
- S. Prior Notice of Special Education Action dated 2/14/2014;
- T. University of Texas, Charter School Admission Review & Dismissal (ARD);
- U. Oregon Standard IEP 5/20/2014;
- V. Parent's first and second narrative IDEA complaints;
- W. Referral and Incident Reports for Student;
- X. Student Classroom Daily Behavior Sheets;
- Y. Student IEP 5/16/2012;
- Z. IEP Meeting Minutes dated 2/8/2013
- AA. Special Education Placement Determination, 5/16/2012
- BB. Academic Evaluation Report, 2/13/2013;
- CC. Specific Learning Disability Eligibility, Student Progress Monitoring
- DD. Occupational Therapy Assessment, 1/22/2013, and;
- EE. Psychoeducational Assessment, 2/11/2013.

The Parent submitted materials for consideration on November 3, 2013, and November 6, 2014. The Department's complaint investigator determined that on-site interviews were needed. On November 6, 2014, the complaint investigator interviewed the Parent. On November 14, 2013 the complaint investigator interviewed staff from Portland Public Schools; specifically, legal counsel for the District, Student's special education teacher, special education program administrator for the Special School, special education behavior Teacher on Special Assignment (TOSA), special education program administrator, qualified mental health professional, and the Student's prior year's program administrator. Following both sets of interviews the Parent and the District submitted additional materials for review. 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 24, 2013 to the filing of this complaint on September 24, 2014.<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 September 24, 2013.

	<b><u>Allegations:</u></b>	<b><u>Conclusions:</u></b>
1.	<p><b><u>Prior Written Notice:</u></b></p> <p>The Parent alleges that the District did not provide a prior written notice (PWN) related to a change in Student's transportation.</p> <p>(OAR 581-015-2745 &amp; 34 CFR 343.475, and 34 CFR 343.531)</p>	<p><b><u>Not substantiated :</u></b></p> <p>The Department concludes that the District provided appropriate prior written notice for this meeting. The Department does not sustain this allegation.</p>
2.	<p><b><u>Parent Participation—General:</u></b></p> <p>The Parent alleges that the District did not provide timely notice of IEP meetings.</p> <p>(OAR 581-015-2190(2) &amp; 34 CFR 300.500, 34 CFR 300.327, 34 CFR 300.501(b))</p>	<p><b><u>Not Substantiated:</u></b></p> <p>The Department concludes that given the circumstances and ongoing communications regarding Student, the District did provide timely notice of the IEP meetings. The Department does not sustain this allegation.</p>
3.	<p><b><u>IEP Content:</u></b></p> <p>The Parent alleges that the District has failed to provide, and the IEP lacks documentation of, the need for, one-on-one support.</p> <p>(OAR 581-015-2200(1)(b)(A), 34 CFR 300.320)</p>	<p><b><u>Not Substantiated:</u></b></p> <p>The Department concludes that the IEP does lack documentation of the need for one-on-one support, but the lack of documentation is due to the fact that the team determined a one-on-one support is not a suitable solution for the Student, based on the Student's needs. The Department does not sustain this allegation.</p>
4.	<p><b><u>Requirement for Least Restrictive Environment:</u></b></p> <p>The Parent alleges that the District addressed Student's PTSD triggers by placing Student in more restrictive settings.</p> <p>(OAR 581-015-2240(2) and 34 CFR 300.114)</p>	<p><b><u>Not Substantiated:</u></b></p> <p>The Department concludes that Student's change in placement was appropriate given the circumstances. The Department does not sustain this allegation.</p>

5.	<p><b><u>Related Services:</u></b></p> <p>The Parent alleges District has failed to provide services to support Students in transition to transportation at the end of the school day.</p> <p>(OAR 581-015-2200(1)(d), OAR 581-015-2000(28) and 34 CFR 303.600-303.605)</p>	<p><b><u>Not Substantiated:</u></b></p> <p>The Department finds that District provided appropriate services to Student to support the transition to transportation. However, Student's behavior frustrated the delivery of any service at this time of day. The Department does not sustain this allegation.</p>
	<p><b><u>Proposed Corrective Action</u></b></p>	
1.	Do not overly restrain child	
2.	Transfer child to school closer to home so that he is not on the bus for over 2 hours every day and no harness is necessary.	
3.	Address safety concern of child so he feels safe rather than send to more restrictive school setting.	

### III. FINDINGS OF FACT

- 1) The Student in this case is 12 years old and resides in the Portland Public School District 1J.
- 2) Student is eligible for special education services under the categories of Communication Disorder, Emotional Disturbance, and Other Health Impairments,
- 3) Student currently attends a Special School in the Portland Public School District. Student previously attended an elementary school. Student's disability affects involvement in the general education curriculum. Specifically Student's disability affects Student's ability to read, write, and the Student's social communication skills. More recently Student has begun to display unsafe behavior at school.
- 4) Student enrolled in Portland Public Schools on December 2, 2008. Student attended an elementary school through March 6, 2009. Student was then transferred to the Special School where Student attended until January 2, 2012. Student was then transferred to another elementary school from June 3, 2012 through May 22, 2013. During the 2013-2014 school year Student was assigned to yet another elementary school. Parent then removed Student from the District. Student was educated in a mixture of homeschooling and enrollment out of state. Student returned to the District February 26, 2014, enrolling at the last elementary school attended prior to another enrollment at the Special School in October 2014.

- 5) The September 19, 2014 IEP includes information regarding three critical incidents in which Student exhibited unsafe behaviors. These behaviors are described as, "elopement, physical aggression towards staff (hitting, kicking, pushing, biting, spitting), property destruction, yelling, cursing, statements of self-harm, suicidal ideation, actions of self-harm (attempting to run into the street, crawls under bus, eating dangerous items, head banging). Two of these incidents required the use of physical restraint to ensure [Student's] safety."
- 6) The September 19, 2014 IEP also includes information regarding Student's behavior during bus transportation noting that, Student "...had one referral for repeat, unsafe behaviors on the bus (pm) – out of seat, statements of self-harm, 'I will jump out of the window,' threatening to open the rear exit of bus, attempting to take things from (bus) driver (microphone)."
- 7) The same IEP goes on to note that Student "...requires high levels of adult support for...unsafe behavior and academic needs, which impacts Student's ability to participate and progress in the general education setting."
- 8) From the start of the 2014/2015 school year, Student began to display behavior problems that were documented by District. Many of these incidents such as those that occurred on: September 5, 2014, September 10, 2014, September 11, 2014, September 12, 2014, September 15, 2014, and September 19, 2014, involved transition to or from bus transportation. These behaviors could not be correlated to any specific trigger, after District tracked Student's behavior for some time.
- 9) On September 17, 2014, Parent was sent a notice of IEP team meeting. This notice was sent via email from District's Special Education Program Administrator to Parent. The Special Education Program Administrator noted in the message that this IEP meeting would be an emergency IEP meeting, following prior phone conversations about the need for a meeting as the result of Student's recent behaviors on the bus and at school. The meeting was scheduled for September 19, 2014.
- 10) The Prior Notice of Special Education Action attached to the September 17, 2014 email to Parent indicated that the proposed meeting would address behaviors exhibited on the bus including, "crawling around, attempting to open the door, laying on peers, throwing items out the window, all while the bus has been in motion." The IEP team proposed addressing this behavior by adding "psychological services as a related service and a safety harness for [Student's] afternoon trip on the bus."
- 11) Parent participated in the September 19, 2014 IEP meeting by phone due to work schedule. Parent was provided a copy of Student's IEP during the meeting via email. Parent voiced concerns that a safety harness would serve as a trigger for Student's PTSD and cause additional behavior episodes.
- 12) On September 26, 2014 and September 29, 2014, Student's behavior necessitated Parent coming to school in order to calm Student and transport Student home. On September 30, 2014, Student required medical transport from school because of

elevated aggressive behavior.

- 13) On September 29, 2014, District sent Parent a notice of IEP team meeting, for a meeting scheduled for October 3, 2014. On October 2, 2014, an amended notice of IEP team meeting was sent to Parent adding the school resource officer as an additional person who would attend the meeting. District communicated to Parent via email regarding the timing of this meeting, noting on September 26, 2014, that the October 3, 2014 date was the soonest the entire team could meet. On September 29, 2014, Parent asked that the District notice the meeting formally. The October 3, 2014 meeting date was the product of communication with Parent regarding date selection.
- 14) District provided Parent with a list of behavioral indicants involving Student ahead of the October 3, 2014 IEP meeting, which was held to discuss Student's placement. These behavioral incidents included:
  - a) On September 5, 2014, Student wanted an object dropped out of the window of the bus and was told "no". This incident resulted in Student removing seatbelt and demanding to be let off the moving bus, grabbing the door handle, and kicking the glass of the door on the school bus.
  - b) On September 8, 2014, while transitioning from recess back to the class, Student threw items at another student. Student then ran around the classroom, hit and shoved a peer. When Student was removed from the classroom to calm down, Student attempted to run away requiring restraints for safety. The teacher was hit and kicked repeatedly.
  - c) On September 9, 2014, when transitioning from the gymnasium to classroom, Student moved a desk into the space of another student. Student refused to cease this behavior, and the behavior escalated to Student hitting another student. Student had to be removed from the classroom to be calmed by several adults and by speaking with Parent by phone.
  - d) On September 10, 2014, while on bus, Student took the seatbelt off several times, spit on another student, touched other students, and asked inappropriate questions. It is not known what triggered this behavior.
  - e) On September 11, 2014, Student displayed difficulty transitioning from the bus in the morning but otherwise had a productive day.
  - f) On September 12, 2014 Student removed the seatbelt and crawled around the bus floor, lying on another student's lap, and saying Student would kill another student's sister with a knife. It was not known what triggered Student's behavior.
  - g) On September 15, 2014, Student displayed difficulty transitioning to lunch, deliberately stepping on peer's heels. Student spent last hour of the day with the QMHP.
  - h) On September 16, 2014, District staff observed a marked decline in Student' behavior as Student neared the end of the day. The trigger appeared to be Student nearing the end of the school day.
  - i) On September 17, 2014, while transitioning from the playground back to class Student threw another student to the ground. Student spoke with Parent by phone. Student became more upset and Student said Student would not ride the bus that afternoon. Student reacted with suicidal ideation, attempting to wrap cords around Student's neck, placed fingers in electrical sockets, chewed computer wires, and swore at peers and staff. On this occasion, Student required restraints and medical transport to the

hospital.

- j) On September 18, 2014, during the transition to the end of the day, Student began to spit on the floor.
  - k) On September 19, 2014, Student hit and pinched another student. Student received one-on-one support from the QMHP in class to successfully return to the classroom. As the end of the day neared, Student began to throw a toy toward the building's lights. Outside Student threw the toy into a tree, then under the wheels of the bus. Student alternately placed feet and head in front of the bus wheels. Student reentered the building instead of boarding the bus, ultimately missing the bus. Staff waited with Student for 90 minutes until Parent arrived at school to meet Student. Parent came to retrieve Student who then attempted to run towards a busy street.
  - l) Student was absent September 22, 2014 and September 23, 2014.
  - m) On September 26, 2014, following receipt of directions by an adult, Student negatively engaged with peers, including poking a peer with a pencil, and throwing various items. Student spent time with the QMHP and other adults to resolve behavioral issues. Student required close adult support for a time. Student continued disruptive behaviors and display behavior that previously preceded unsafe behaviors. District became concerned that Student could not safely transition to the bus at the end of the day. The QMHP called Parent to pick Student up from school.
  - n) On September 29, 2014, Student asked to get a drink of water, when given permission to do so, Student walked into the path of another a peer and pushed that student. Student returned to class and exhibited disruptive behavior arguing with peers and throwing items. Student began to run the hallway and display behavior disruptive to students inside classrooms. Student then hit, kicked, and bit the teacher. Student's behavior escalated, requiring additional adult response. Upon arrival of police offers Student assaulted police and principal. Parent arrived and was able to calm Student with the assistance of medication.
  - o) On September 30, 2014, Student became upset when a peer was able to play a board game when Student was not. Student was escorted to the office where Parent was called. Student spoke with Parent, and principal informed Parent that Student would be suspended for a time. Student's behavior continued to escalate resulting in Student tearing down window blinds, overturning tables, throwing items, hitting, kicking, spitting, biting, and yelling profanity. Two adults restrained Student. Police responded. Student kicked a police officer in the face, and punched a teacher in the groin. Student was medically transported from school.
- 15) At the October 3, 2014, IEP meeting, the team determined that a change in placement would be the best solution to Student's behavior. Parent preferred Student stay in the current school.
- 16) During observations of Student during September 2014, District staff identified Student's triggers as changing from a preferred activity to a less desirable activity, situations where Student perceived an injustice or unfairness (where another student received something, but Student did not), and preparation to leave school to go home.
- 17) Following the October 3, 2014 IEP meeting, Student was transferred to Special School. Student's behavior has shown marked improvement in this school, Student has not been required to leave the classroom for calming or outside intervention since attending

## Special School.

- 18) On October 24, 2014, an IEP meeting was held regarding Student's changed placement to the Special School. This meeting was announced to Parent on October 13, 2014.
- 19) At this meeting, Parent described Student's behavior as reactions to negative stimuli, primarily bullying by classmates. Parent also thought Student was bullied historically in another school in the District.
- 20) Parent reports that District can contain Student's behavior by not allowing observed negative stimuli to persist to the point where Student reacts through disruptive behavior. Parent reports numerous contacts with District regarding bullying by other students and District not addressing the bullying issue. Parent reports Parent has provided District with names of specific students, but reports that bullying of Student continues.
- 21) Parent reports having requested District appoint a one-on-one aide to Student to help Student avoid bullying, and to recognize and help to deescalate Student's behavior triggers before they become unmanageable. Parent has also reported that they requested that District call Parent to allow Parent to talk Student down when triggered.
- 22) Student is now in a self-contained special education classroom with 10-13 students, one special education teacher and two special education assistants. Multiple strategies have been attempted to locate and isolate Student's trigger before behavior escalated.
- 23) District reports that when possible Student was sent out of the classroom, and the adverse behavior was redirected. Oftentimes, Student would meet with District's Qualified Mental Health Professional (QMHP). The QMHP reports being largely unable to deescalate Student, in order to facilitate Student's reentry into the classroom.
- 24) The QMHP communicated with Student's mental health provider in order to gain greater insight into Student's triggers and needs. District communicated with Parent that any alternations in Student's medications was a decision to be made by Parent and Student's doctor.
- 25) District staff was largely unable to anticipate in advance what situations would trigger Student's behavior, as Student appeared to be triggered by subjective perceptions of situations.
- 26) Student's behavior escalated to suicidal ideation, exhibiting self-harm behavior, and actively causing harm to other students and adults during the 2014-2015 school year. Student required medical transport on several occasions during the first weeks of the school year.



## IV. DISCUSSION

### 1. Prior Written Notice

The Parent alleges that the District violated the IDEA when Parent was not provided prior written notice (PWN) related to a change in Student's transportation. Specifically, District proposed adding a safety harness for Student's afternoon bus ride. This harness was proposed to eliminate documented behaviors that could prove unsafe to Student and all passengers on the bus.

Prior written notice must be given to the parent within a reasonable time before a school district proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.<sup>4</sup> There is no clearly defined standard regarding or quantifying "reasonable time" under the IDEA.

In this case, District did provide prior written notice of the IEP meeting held September 19, 2014 which states that District proposed to initiate a provision of a Free Appropriate Public Education (FAPE), specifically to add psychological services as a related service and to add a safety harness for the afternoon bus ride. The PWN states further that "...Student has been demonstrating unsafe behaviors on the bus, exclusively in the afternoon route.....the behaviors on the bus have become a major safety concern for Student and the rest of the students on the bus...." Also, on September 17, 2014, email communication between District and Parent evidences prior oral communications regarding the need for the meeting, and the reason for the shortened timeframe, namely District's immediate daily safety concerns regarding Student's behavior during bus transportation. A second IEP team meeting was held on October 3, 2014, which was noticed to Parent on September 29, 2014. Email communications, and the surrounding circumstances of Parent responding to school to help deescalate Student's behavior, which on occasion required police assistance and medical transport, display an element of urgency with which Parent was familiar with respect to Student's transportation.

The Department therefore does not sustain this allegation.

### 2. Parent Participation—General

Parent alleges that the District did not provide timely notice of IEP meetings on September 19, 2014 and October 3, 2014. Specifically it is alleged that the short meeting notice did not provide Parent a meaningful opportunity to participate in the resulting IEP meetings.

IDEA regulations relating to parent participation in meetings provide that school districts must take steps to ensure that one or both parents of a child with a disability are present at each IEP placement meeting or are afforded the opportunity to participate.<sup>5</sup> Participation is ensured by notifying parents of the meeting early enough to ensure that they have an opportunity to attend, and scheduling the meeting at a mutually agreed upon time and place.<sup>6</sup>

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<sup>4</sup> OAR 581-015-2310(2)(a)

<sup>5</sup> 34 CFR §300.327, 34 CFR §300.501; OAR 581-015-2190(2)(a)

<sup>6</sup> 34 CFR §300.322(a); OAR 581-015-2195(1)

During the 2014-2015 school year there were IEP meetings held on September 19, 2014 and October 3, 2014. The September 19, 2014 meeting was formally announced to Parent via phone and in writing on September 17, 2014 due to the District's perception that immediate action was needed to address Student's dangerous conduct on the bus. There is an email sent to Parent dated September 17, 2014 that states "an emergency IEP meeting will be held Friday at 10 am due to imminent safety concerns." This meeting was also preceded by telephone conversations with Parent regarding the need for the meeting as noted in the email message.

The October 3, 2014 meeting was held to address District concerns regarding Student's behavior. District sent first notice of this meeting via email on September 24, 2014. The message states that "We will need to have another IEP/ Placement review as soon as possible. The purpose of the meeting will be to share current information, address concerns about [Student's] safety and current needs, and consider placement options. Please give us some dates and times to schedule the meeting." There is another email from District to Parent dated September 26, 2014 which shows District is working with Parent to arrange a mutually agreeable IEP meeting date and time. It states "The soonest we can meet is next Friday at 10:00 am. Will this work for you? Will discuss all options in regard to placement at this meeting."

An email dated September 29, 2014 indicates that a notice of team meeting for October 3, 2014 was sent via email on this date and a "hard copy" would be mailed out "tomorrow". Finally, a Notice of Team Meeting form was completed by District and dated October 2, 2014 for the October 3, 2014 meeting. This form notes the IEP team will review existing information and also states that review of the IEP will occur. The notice clearly states the time and place of the meeting.

Each meeting District held was scheduled with Parent's input and the notes reflect that Parent attended each meeting for Student. District notes that the timing and advance notice of some meetings, especially the September 19, 2014 meeting was not ideal, but attributable to District attempting to address Student's immediate dangerous behaviors as they occurred.

The Department therefore does not sustain this allegation.

### **3. IEP Content**

Parent alleges that the District has failed to provide, and the IEP lacks documentation of need for, one-on-one support. An IEP is a written statement for a child with a disability that is developed, reviewed, and revised in an IEP team meeting and which must include the following general information: a statement of each child's present levels of academic achievement and functional performance, including how the child's disability affects the child's progress in the general education curriculum; a statement of measurable annual goals (including functional and academic goals); a description of how the child's progress for meeting the annual goals will be measured (including when periodic reports on progress will be provided); a statement of the special education and related services and supplementary **aids and services**, based on peer reviewed research to the extent practicable, to be provided to the child and a statement of program modifications or supports to be offered to the child;

an explanation of the extent, if any, to which the child will not be educated in the regular class; a statement of accommodations necessary for state or district wide assessments; the projected date for the beginning of services and modifications and the anticipated frequency, location, and duration of the services and modifications listed on the IEP.<sup>7</sup>

Student's IEPs do not outline a need for one-on-one support for Student. The Student's IEP, IEP meeting notes, and correspondence between Parent and District do not evidence that Parent voiced a desire for Student to have a one-on-one aide, nor that any staff person raised this as a potential solution to Student's behaviors during the IEP team meetings. During the interview with District staff the complaint investigator inquired whether the IEP team considered a one-on-one aide. To the extent possible, Districts must ensure that children with disabilities are educated with children who do not have a disability.<sup>8</sup> District staff considered a one-on-one aide a more restrictive environment<sup>9</sup> for Student and accordingly did not utilize this option. Furthermore, the Qualified Mental Health Provider (QMHP), special education director, and special education classroom teacher were unable to pinpoint a specific behavior or situation that a one-on-one aide would be able to remedy if assigned to work with the Student.

The Department therefore does not sustain this allegation.

#### **4. Requirement for Least Restrictive Environment**

Parent alleges that District has addressed Student's PTSD triggers by placing student in a more restrictive setting.

To the extent possible, Districts must ensure that children with disabilities are educated with children who do not have a disability.<sup>10</sup> The IDEA requires each public agency to ensure that: to the maximum extent appropriate, children with disabilities are educated with children who are nondisabled; and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes, with the use of supplementary aids and services, cannot be achieved satisfactorily.<sup>11</sup>

At the end of October 2014, Student was transferred to Special School. In the new placement Student is in a classroom with fewer students, a shortened school day, and a host of focused supports for special education students. The change in placement followed a October 3, 2014 IEP meeting where District discussed with Parent the inability to support Student's behavioral needs in the current placement. While the meeting was initially scheduled to address Student's needs on the bus, in advance of the meeting Student exhibited additional dangerous behavior the team needed to address, and which the school was unable to accommodate. Specifically this change in placement follows documented incidents of unsafe behaviors on the bus, as well as violent behaviors in school including suicidal ideation,

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<sup>7</sup> See 34 §CFR 300.320

<sup>8</sup> 34 CFR §300.114; OAR 581-015-2240(1)

<sup>9</sup> *Id.*

<sup>10</sup> OAR 581-015-2240(1)

<sup>11</sup> 34 CFR 300.114 (a).

attempted self-harm, running away from school, and incidents requiring police response and medical transport. On some occasions when police responded, Student assaulted the responding officer and school staff present. Student was medically transported to the hospital on occasions when Student could not be calmed on school grounds. Following the change in placement, Student has not had such dramatic behavioral displays. Therefore, due to the nature and severity of the Student's disability the removal from the regular educational environment was appropriate for this student.

The Department does not sustain this allegation.

## **5. Related Services**

Parent alleges that District has failed to provide services to support Student in transition to transportation at the end of the day.

An individualized education program (IEP) must include a statement of the specific special education and related services and supplementary aids and services to be provided to the child.<sup>12</sup> Transportation can be included in one of the services required by a child to assist them in benefitting from special education.<sup>13</sup>

Parent alleges that Student's IEP is deficient for failing to articulate Student's need for additional support when transitioning to the bus at the end of the school day. It is Parent's opinion that with sufficient assistance, especially insulation from peer bullying, Student could transition to, and successfully utilize bus transportation. Interviews with District staff elicited no observed bullying of Student. Student's behavior changed when transitioning at the end of the day to bus transportation. District staff was unable to isolate a specific trigger for Student's behavior. Ahead of an IEP meeting to discuss Student's difficulties transitioning to the bus, and while riding the bus, District provided Parent with a list of observed events and triggers. On numerous occasions Student's behavior could not be correlated to a specific trigger. When a trigger was identified, the resulting behavior was incongruous with the stimuli. District staff were often unable to calm student, and several incidents resulted in police response, injury to staff, and Student's transport to hospital. District was unable to craft a support mechanism to remedy Student's behavioral issues prior to changing Student's placement based on the nature and severity of the disability. However, District did initially offer a safety harness and psychological services to help with afternoon bus trips on September 14, 2014, prior to Student's escalated behavior and needs necessitating a change of placement and services.

The Department therefore does not sustain this allegation.

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<sup>12</sup> 34 CFR §303.600-303.605; OAR 581-015-2200(1)(d)

<sup>13</sup> OAR 581-015-2000(28)

## V. CORRECTIVE ACTION<sup>14</sup>

*In the Matter of Portland Public Schools District #1J  
Case No. 14-054-032*

The Department does not order any Corrective Action resulting from this investigation.

Dated: this 5th Day of December 2014



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

Mailing Date: December 5, 2014

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<sup>14</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)).