

BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of Beaverton SD

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FINDINGS OF FACT
CONCLUSIONS AND
FINAL ORDER
Case No. 15-054-009

I. BACKGROUND

On March 12, 2015, the Oregon Department of Education (Department) received a written request for a special education complaint investigation from a parent (Parent A) of a student (Student) residing in the Beaverton SD (District). Both parents share educational custody of the Student. Parent A is the complainant for this case, and Parent B is the other custodial parent. Parent A 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 March 13, 2015.

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. This timeline may be extended if Parent A and the District agree to the extension in order to engage in mediation or local resolution of the complaint; or for extenuating circumstances.

On March 18, 2015, 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 April 1, 2015.

On April 9, 2015, the District submitted a *Response* indicating they disputed the first allegation in the complaint, but did not dispute the second allegation of Parent A's complaint. In total, the District provided these materials;

- A. District Response Letter;
- B. IEP, 3/18/2014;
- C. Meeting Notice for IEP meeting on 3/4/2015;
- D. IEP, 3/4/2015;
- E. Prior Written Notice, 3/4/2015;
- F. Emails between the District and Parent A, February—March, 2015;
- G. Meeting Notice for IEP meeting on 3/16/2015;
- H. Emails between the District and Parent A, March, 2015;
- I. Meeting Notice for IEP meeting on 3/31/2015;
- J. Meeting Minutes from IEP meeting on 3/31/2015, and;
- K. Email between District staff, April, 2015;

On April 22nd and 23rd, Parent A submitted a packet of materials for the Department's investigator to review. In total, Parent A provided these materials:

- A. Intake Application for Development Disability services;
- B. Psychological Summary Report, 5/27/2014;
- C. Child Psychiatric Evaluation, 12/03/2001;

- D. Child Psychological Evaluation, 9/19/2000;
- E. Pediatric Development Report, 12/22/2000;
- F. Parent's Cell Phone Records, 3/10 and 3/11, 2015;
- G. Parent's Response to District's Response packet;
- H. Emails between Parent A and District, 12/11 & 12/12, 2014;
- I. Meeting Notice for IEP meeting, 4/21/2015;
- J. Email between Parent A and District, 4/20/2015;
- K. Modified Diploma Determination/Agreement;
- L. PWN dated 4/21/2015, and;
- M. Emails between Parent A and District, July, August and December, 2014.

During the on-site interviews, District staff gave the complaint investigator additional materials. These documents were paper copies, and included:

- 1. The Student's current Transcript;
- 2. Modified Diploma Determination/Agreement;
- 3. Meeting Notice for IEP meeting, 4/21/2015;
- 4. Meeting Minutes from IEP meeting, 4/21/2015;
- 5. IEP, 4/21/2015;
- 6. PWN, 4/21/15;
- 7. Picture Interest Career Survey;
- 8. Sample Lesson from 10th Grade Advisory Class;
- 9. Support from Counselors Document, and;
- 10. Various Transition materials the Student has completed during 9th and 10th grades.

The investigator scanned and forwarded these new documents to Parent A via email.

On March 20, 2015, the Department extended the investigation timeline by 8 days due to unavailability of key District staff for on-site interviews over the District's spring break. On April 28, 2015, the Department extended the investigation timeline again for 8 days due to exceptional circumstances. This established a new due date of May 26, 2015 for issuance of the Final Order.

The Department's complaint investigator determined that on-site interviews were needed. On April 23, 2015, the complaint investigator interviewed Parent A by telephone.¹ On May 7, 2015, Department's complaint investigator interviewed a Special Education Teacher; the District Special Education Legal Counsel; a High School Assistant Principal; a High School Counselor and a District Special Education Facilitator. 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. Parent A'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 March 12, 2014 to the filing of this complaint on March 12, 2015.

¹Parent A is facing surgery later in May and was not able to meet in person.

	Allegations	Conclusions
1.	<p><u>Content of IEP:</u></p> <p>a. Parent A alleges that the District violated the IDEA when it did not discuss and include a Transition Services Plan in the Student's IEP.</p> <p>OAR 581-015-2200 (2) & 34 CFR 300.320(b)</p>	<p><u>Not Substantiated:</u></p> <p>The record shows the District did discuss transition services at the IEP meeting in question. Transition requirements were also included in the IEP in effect at this time. The District met its responsibility to address the transition issue as part of the IEP review and update. Therefore the Department does not substantiate this allegation and orders no corrective action.</p>
2.	<p><u>Parent Participation Requirements for IEP and Placement Meetings:</u></p> <p>a. Parent A alleges the District violated the IDEA when it did not inform Parent A of a scheduled IEP meeting; and when it did not offer Parent A the opportunity to participate in the meeting using a conference phone call format.</p> <p>OAR 581-015-2195, OAR 581-015-2190, & 34 CFR 300.322</p>	<p><u>Not Contested:</u></p> <p>The District does not dispute the allegation that the District failed to invite Parent A to the IEP meeting. The District stated in its <i>Response</i> that even though the Case Manager and Parent A had communicated about a meeting date, when the date was finally set for March 4, 2015, the Case Manager inadvertently failed to contact one of the custodial parents about the meeting, though Parent B was contacted and did attend the IEP meeting. The District held two other IEP meetings with the Parent A who is the complainant in order to discuss Parent A's concerns about the transition planning for the Student.</p>

III. FINDINGS OF FACT:

Background Information:

1. The Student is 16 years old, and in the 10th grade at a District high school. The Student is eligible for special education services as a student with an Other Health Impairment (OHI), specifically, Attention Deficit Hyperactivity Disorder (ADHD). This eligibility was established on June 3, 2014.
2. The Student's Parents share custody and both Parents traditionally have participated in the Student's IEP meetings.
3. Currently, the Student has a cumulative GPA of 1.550, and has earned 8.875 credits of the 24 credits needed for graduation.

4. This semester, the Student is taking Academic Coaching; Chemistry 1; Advisory Class; Ceramics/Sculpture 1; Health 2; Literature and Composition 2; Algebra/Geometry II; Academic Seminar 10; and, World History 10.
5. When the Student started 10th grade, the IEP in effect had been written on March 18, 2014. The team noted that the Student had not yet met any benchmarks in Science, Math, or Reading. The Student scored 234 (240 meets) in the Science benchmark test; 218 (234 meets) in 8th grade Math benchmark test; and, 230 (236 meets) in the Reading benchmark test.
6. Under the transition heading of the March 18, 2014 IEP, the team noted that the Student had not yet taken the Career Interest Survey (CIS), but that the Student had expressed interest in becoming a marine biologist. Additionally, the team wrote that the Student would like to eventually attend a two or four year college, needed to include Chemistry and regular Biology in the course of study, and would like to live independently.
7. In the District high school attended by the Student, all students take an "Academic Coaching and Advisory" class. This class meets 89 minutes every other day. For most of each month, the purpose of this class is Academic Coaching. Students receive help in their subject area classes, or if needed, they receive specially designed instruction in IEP specified areas. Twice monthly, this time is used for Advisory Class. On its website, the high school describes this as a time when students can complete their "Student Education Plan and Profile—the District's College and Career Readiness Program." There is an articulated curriculum for this plan for each of the four years of high school. During the 10th grade year, students learn about learning styles, complete the CIS, to develop a four-year plan of classes for graduation, and make a plan for post high school. Students also participate in activities relating to personal and social skills for the workplace, effective communication and collaboration skills, and they also complete a resume and job application.
8. On February 23, 2015, the District Case Manager wrote an email to Parent A and suggested some dates for an IEP meeting for the Student. Parent A responded by email the same day, and informed the Case Manager that Parent A needed to attend by telephone due to health issues. On February 24, 2015, the Case Manager wrote back to Parent A and told Parent A that the District was waiting to hear from the other custodial parent. On March 4, 2015, Parent A wrote again asking if a date had been set for the meeting.
9. Parent A wrote again on March 9, 2015 informing the Case Manager that Parent A could possibly come to the school for a one-hour IEP meeting. The Case Manager did not reply to this email, so Parent A wrote the next day, March 10, 2015, to the Counselor asking if the Counselor knew when the IEP meeting was scheduled. The Counselor replied the next day, March 11, 2015, and told Parent A that the IEP meeting had been held on March 4, 2015, and that Parent B and the Student had attended. An Assistant Principal attended the meeting for a short period of time, and a General Education Teacher, and a Counselor also attended. During interviews, District staff told the Department's investigator that not inviting Parent A to the March 4, 2015 IEP meeting was "inadvertent".
10. Parent A contacted one of the District's Special Education Facilitators and expressed unhappiness that the IEP meeting had been held without Parent A.² Parent A filed the state IDEA complaint that same day.

² Note, Parent B did attend the meeting in question.

11. When the Student's IEP team met on March 4, 2015 to review and update the Student's IEP, the team members discussed several transition issues with Parent B and the Student. The Counselor reviewed possible diploma options, the team reviewed the Advisory Class and then discussed some other options for helping the Student stay on track; i.e., after-school homework club. The Student told the team that the Student wants to do a church mission after graduation and then attend college to become a marine biologist. The team also reviewed a template for the IEP that the District has created to inform the transition discussion with eligible students. The template includes transition assessments, graduation, further education or training, recommended course of study, employment, independent living, living accommodations, personal life/community involvement, and clubs or social activities. The team noted that the Student had completed the CIS inventory, is exploring colleges for a marine biology education, has volunteered with serving the homeless and also has experience in babysitting. The team also discussed that the Student would like to live independently, learn to utilize the bus system and that the Student participates in church activities.
12. The team wrote a goal for transition. This transition goal on the IEP reads, "The Student will participate in career related assessment activities presented by Special Education staff and through Advisory Class." The team did not specify any specially designed instruction in transition.
13. On March 11, 2015, the Special Education Teacher offered to hold another IEP meeting for Parent A to discuss Parent A's concerns and to review the IEP written on March 4, 2015 with Parent A. Parent A met with the Case Manager and an Assistant Principal on March 16, 2015. At this meeting, Parent A expressed concern that the Transition Specialist was not at the March 4, 2015 meeting and that transition had not been fully discussed. Parent A also informed the staff that Parent A had completed an Intake Application for Developmental Disability services for the Student.
14. In response to Parent A, the District held two more IEP meetings with both Parents and the Student. As a result of these two meetings, held on March 31, 2015 and April 21, 2015, one of the District's Transition Specialists met with the Student and conducted another Career Interest Inventory. The Transition Specialist attended both meetings.³ The Team also decided to change the Student's diploma track to a Modified Diploma.

IV. DISCUSSION

1. Content of the IEP:

Parent A alleges that the District violated the IDEA when it did not discuss and include a Transition Services Plan in the Student's IEP. Under OAR 581-015-2200 (2) & 34 CFR 300.320(b), a District must construct and implement an IEP that enables the child to be involved in and make progress in the general education curriculum. Additionally, for purposes of transition, the District must include specific transition components,

"...beginning not later than the first IEP to be in effect when the child turns 16, or younger, if determined appropriate by the IEP team, and updated annually thereafter:

³ The District has two Transition Specialists for approximately ten high schools. They are not able to attend IEP meetings for all eligible students. They do attend most meetings for students on the Modified Diploma track.

(A) Appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills; and

(B) The transition services (including courses of study) needed to assist the child in reaching those goals.

(b) Beginning at least one year before a student reaches age 18, or when the district obtains actual knowledge that within one year the student will marry or become emancipated before age 18, a statement that the district has informed the student that procedural rights will transfer to the student upon age 18, marriage or emancipation, whichever occurs first.”

Here, the record shows that the District conducted an IEP meeting on March 4, 2015, and reviewed the Student’s needs related to transition. The record further notes that the District also explained the transfer of rights provision to the Student at this meeting. The IEP document notes that a parent expressed concerns about the Student related to the Present Levels of Academic Achievement and Functional Performance (PLAAFP) at the meeting, particularly related to getting work done in class. The PLAAFP statement also indicates the Student has adequate functional skills and there are no concerns with communication or motor skills.

The March 4, 2015 IEP has two pages devoted to transition. The documentation shows that the team discussed the transition assessment and concluded that the CIS inventory met the Student’s transition assessment needs. The document lists the Student’s volunteer and work experience. The notes also reflect that the Student participated in the meeting, sharing with the team that the Student wanted to complete a church mission and perhaps study marine biology. Team members, who included a custodial parent, agreed that a recommended course of study for Student included additional Science classes as well as Reading, Writing, and Math classes necessary to be able to collect data and share information with others. The March 4, 2015 IEP states in the Transition Statement that “....Student should....focus on Reading and Writing skills in order to be successful in college classes.” The Student reported to the IEP team an interest in living independently or with friends and wanting to learn to use the city transportation system. Finally, the IEP team agreed that the Student should continue to work toward a regular diploma and wrote a transition goal that states the Student would participate in career related assessment activities presented by Special Education staff and through Advisory Classes. The March 4, 2015 IEP also includes a written language goal which states that “Given a topic in any class, Student will write an expository or persuasive essay based on facts from either fictional or factual text.” This goal has three related short-term objectives and a measurable criteria and evaluation procedures.

By conducting this discussion at the IEP team meeting, and reviewing all elements of the Student’s transition plan, the District met its responsibility to address the transition issues as part of the IEP review and update. Therefore the Department does not substantiate this allegation and orders no corrective action.

2. Parent Participation Requirements for IEP and Placement Meetings:

Parent A alleges the District violated the IDEA when it did not inform Parent A of a scheduled IEP meeting; and when it did not offer Parent A the opportunity to participate in the meeting using a conference phone call format.

The District does not dispute the allegation that the District’s Special Education Teacher failed to invite Parent A to the IEP meeting, although the District did have Parent B at the IEP meeting.

The District stated in its *Response* that even though the Case Manager and Parent A had communicated about a meeting date, when the date was finally set for March 4, 2015, the Case Manager inadvertently failed to contact Parent A about the meeting. Parent B was contacted about the meeting, and attended on behalf of the Student.

As a corrective action and local resolution effort for this violation the District proactively held two additional IEP meetings with Parent A in order to discuss Parent A's concerns about transition planning for the Student.

CORRECTIVE ACTION

*In the Matter of Beaverton School
District
Case No. 15-054-009*

No Corrective Action is ordered in this case, as any potential noncompliance was already remedied.

Dated: this 21st Day of May, 2015



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

Mailing Date: May 21, 2015