

BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of Eugene School District 4J)	
)	
)	FINDINGS OF FACT,
)	CONCLUSIONS, AND
)	STIPULATED CORRECTIVE ACTION
)	Case No. 22-054-012

I. BACKGROUND

On April 1, 2022, the Oregon Department of Education (the 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.

Under state and federal law, the Department must investigate written complaints that allege violations of the Individuals with Disabilities Education Act (IDEA) and issue an order within sixty days of receipt of the complaint.¹ This timeline may be extended if the Parent and the District agree to the extension in order to engage in mediation or local resolution or for exceptional circumstances related to the complaint.²

On April 22, 2022, the Department’s Complaint Investigator sent a *Request for Response (RFR)* to the District identifying the specific allegations in the Complaint to be investigated and establishing a *Response* due date of May 5, 2022.

The Complaint alleged that the District violated the IDEA when the District failed to properly identify and evaluate the Student for learning disabilities such as those associated with dyslexia and dysgraphia. The Complaint further alleged that the District predetermined the Student’s educational placement, failed to provide prior written notice of the District’s intent to deny evaluating the Student, and that these alleged failures amounted to a denial of FAPE.

The Student previously qualified for special education services in 2016 at the age of 3 under the eligibility category of Communication Disorder due to speech articulation delays. At that time, the Student received specially designed instruction delivered by a speech language pathologist until being exited from special education in March 2020, having mastered the goals outlined in the IEP, and no longer meeting eligibility criteria. Following this, the Student moved to remote instruction as a result of the COVID-19 pandemic.

During the Student’s third grade year, in December 2020, the Parent informed the District that the Student was being evaluated by a private psychologist for dyslexia and requested a meeting to review the results of the psychologist’s report to determine whether the Student was eligible for special education services. The District convened a meeting on March 4, 2021 to consider the results of the referral from the private evaluation and District collected data. The referral review team decided at that time that there was not enough data to suggest the presence of an educational disability that would require a special education evaluation.

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

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

During the Student’s fourth grade year, in December 2021, the Parent requested an evaluation for eligibility under Section 504, having observed that the Student struggled with reading and writing and also had challenges with spelling. The District found the Student eligible for a 504 plan that was finalized on January 28, 2022. The Student’s current 504 plan includes accommodations and support for writing, spelling, and reading tasks.

On January 31, 2022, the Parent requested the District evaluate the Student for eligibility under IDEA for specific learning disability in reading and written expression. The District’s school psychologist initiated a second referral and made observations to the Parent distinguishing between a clinical diagnosis of dyslexia and the educational criteria for special education eligibility. Following a review of the clinical data and Student’s academic and benchmark data, the team did not find the referral warranted, but continued with the evaluation. Parent was notified on April 18, 2022 that the evaluation would be initiated to determine whether the Student is eligible for special education services under IDEA.

On May 4, 2022, the District submitted a Response, explaining the background of the Student’s progress and engagement with the curriculum and District services as well as a proposal for stipulated corrective action.

The District submitted the following relevant items:

1. District Response with proposed corrective action, 5/4/22

The Complaint Investigator discussed the nature and content of a Stipulated Corrective Action and the District’s proposal with the Parent on May 16, 2022.

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. 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 April 15, 2021, to the filing of this Complaint on April 14, 2022.

Allegations	Conclusions
<p>Child Find</p> <p>The Parents alleged that the District violated the IDEA when the District failed to identify and evaluate the Student for learning disabilities such as those associated with dyslexia and dysgraphia.</p> <p>(OAR 581-015-2080; 34 CFR §§ 300.111, 300.302, 301)</p>	<p>Not Contested</p> <p>The District does not contest this allegation.</p>

<p>Parent Participation</p> <p>The Parents alleged that the District violated the IDEA when it:</p> <ul style="list-style-type: none"> (a) Failed to provide the Parents with an opportunity to participate in meetings with respect to the identification, evaluation, and educational placement of the Student; and (b) Predetermined the Student’s educational placement. <p>(OAR 581-015-2190; 34 CFR 300.500, 300.327, & 300.501(b))</p>	<p>Not Contested</p> <p>The District does not contest this allegation.</p>
<p>Prior Written Notice</p> <p>The Parents alleged that the District violated the IDEA when it failed to provide the Parents with prior written notice of its refusal to initiate the identification, evaluation, or provision of FAPE to the Student.</p> <p>(OAR 581-015-2310; 34 CFR 300.503)</p>	<p>Not Contested</p> <p>The District does not contest this allegation.</p>
<p>Free Appropriate Public Education</p> <p>The Parents alleged that the District violated the IDEA in a way that amounted to a denial of FAPE by:</p> <ul style="list-style-type: none"> (a) Not considering the applicability of dyslexia and dysgraphia to the Student’s IDEA eligibility; and (b) Not appropriately identifying and evaluating the Student’s need for special education. <p>(OAR 581-015-2040; 34 CFR 300.101)</p>	<p>Not Contested</p> <p>The District does not contest this allegation.</p>

<p>REQUESTED CORRECTIVE ACTION</p>
<ul style="list-style-type: none"> • The District should provide specialized instruction to help the Student with their dyslexia and dysgraphia. • The District should provide the Student with compensatory education services, such as tutoring and/or summer school. • The District should provide the Student with specialized services to address their dyslexia possibly including appropriate curriculum for the Student’s needs.

III. FINDINGS OF FACT

1. The Student is nine years old and is currently enrolled in fourth grade at an elementary school located within the District.
2. On April 11, 2022, the Parents filed this Complaint.

3. The District provided additional background information relevant to the Student and has considered the allegations made in the Complaint. The Parent has been apprised of the nature and content of the Stipulated Corrective Action, as set forth in the Corrective Action table, below.

IV. DISCUSSION

The Complaint alleges multiple IDEA violations with the District. While the District provided additional information and perspective on the alleged violations, the District indicated a willingness to continue with evaluations of the Student to determine whether the concerns raised by the Parent warrant a finding of eligibility for special education.

The Department does not make a substantive determination in the allegations of the Complaint.

Based on the District not contesting the allegations of this Complaint, the Department orders and the District stipulates to the following Corrective Action:

V. STIPULATED CORRECTIVE ACTION³

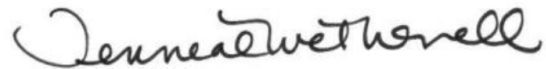
*In the Matter of Eugene School District 4J
Case No. 022-054-006*

Based on the facts provided, the following corrective action is ordered:

Action Required	Submissions	Due Date
1. The District will continue with an evaluation to determine whether the Student qualifies for an IEP as a student with a disability as defined by the IDEA.	The District shall submit documentation of the completion of Student's evaluation.	By the end of the 2021-22 school year.
2. If after the completion of the evaluations District finds that the Student is eligible for an IEP, the IEP team will discuss whether the Student would benefit from compensatory education.	The District shall submit materials related to the initial IEP meeting (e.g., meeting minutes, IEP, and PWN(s)) including the IEP team's decision regarding compensatory education.	Following the initial meeting of the Student's IEP team is required.
3. The District will conduct staff training of licensed and administrative staff at the elementary school regarding Child Find obligations.	The District shall provide the Department with materials covered with staff for this training.	By the end of the 2021-22 school year.

³ 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)).

Dated: this 13th Day of June, 2022



Tenneal Wetherell
Assistant Superintendent
Office of Enhancing Student Opportunities

E-mailing Date: June 13, 2022

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).)