

BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of
Fern Ridge School District No. 28J

)
)
)
)

FINDINGS OF FACT,
CONCLUSIONS,
AND FINAL ORDER
Redacted
Case No. 08-054-015

I. BACKGROUND

On April 10, 2008, the Oregon Department of Education (Department) received a letter of complaint from the parents of two students attending school and residing in the Fern Ridge School District (District). The students are identified in this Order as Student #1 (the oldest student) and Student #2. The parents requested that the Department conduct a special education investigation under OAR 581-015-2030.

Under federal and state law, the Department must investigate written complaints that allege violations of the Individuals with Disabilities Education Act (IDEA) and issue a final order within 60 days of receiving the complaint, unless exceptional circumstances require an extension.¹ On April 28, 2008, the Department sent a *Request for Response* to the District identifying the specific allegations in the complaint to be investigated. On May 13, 2008, the District timely submitted its *Response* to the allegations and sent the parents a copy. The parents provided a reply to the District’s Response, by e-mail, on May 21, 2008, and supplemented that reply with documents on May 22, 2008.

The Department’s complaint investigator reviewed the information submitted by the District and determined that on-site interviews were needed. On May 22, 2008, the investigator conducted on-site interviews with one of the parents, and with the District’s special education director, a regular education teacher, an educational assistant, an assistant principal and two special education teachers. The District also provided additional documents after the on-site investigation, at the investigator’s request. The Department’s investigator reviewed and considered all of the documents and interviews.

II. ALLEGATIONS AND CONCLUSIONS

The Department has jurisdiction to resolve this complaint under OAR 581-015-2030 and 34 CFR 300.151-153. The allegations and the Department’s conclusions are set out in the chart below. The Department based its conclusions on the Findings of Fact (Section III) and the Discussion (Section IV).

¹ 34 CFR 300.151-153.

No.	Allegations	Conclusions
1.	<p><u>Individualized Education Program (IEP) Meetings and Prior Written Notice</u></p> <p>The parents allege that the District unreasonably delayed Student #1's IEP meeting (a meeting at which the parents wanted to discuss their concerns with the student's November 13, 2007 IEP) to April 7 2008. The parents also alleged that the District did not provide prior written notice that the April 7, 2008, would not be an IEP meeting.</p>	<p><u>Substantiated in part</u></p> <p>The delay in scheduling the April 7, 2008, IEP meeting was not unreasonable and was due to an initial disagreement about the use of a Department facilitator, and the need to allow time for the facilitator to prepare.</p> <p>The Department finds that the District should have provided a prior written notice to the parents of the district's decision not to hold an IEP meeting. See Corrective Action.</p>
2.	<p><u>IEP Content - Nonacademic Services</u></p> <p>The parents allege that Student #2 is sent home early on assembly days and no effort has been made to provide for the student's inclusion in assemblies. The parents alleged that the District is precluding Student #2 from attending assemblies, despite the student's history of successfully attending assemblies.</p>	<p><u>Not substantiated</u></p> <p>The student's IEP does not indicate the student is removed from participation in assemblies. District records indicate Student #2 missed one assembly prior to February, 2008 and none since then.</p>
3.	<p><u>IEP Implementation and Accessibility of IEP</u></p> <p>The parents allege that the district has not implemented several components of the student's IEP.</p> <p>a. <u>Social Skills Instruction</u></p> <p>The parents allege that Student #1's November 14, 2006, IEP (still in effect at the beginning of the 2007-2008 school year) states that the student "has need for instruction in social skills as well as participation in peer social group and integration of these skills</p>	<p><u>Not substantiated</u></p> <p>Student #1's November 14, 2006, IEP did not contain goals, instruction or any related services in social skills. The Department does not substantiate the allegation concerning social skills.</p>

No.	Allegations	Conclusions
	<p>among typically developing peers". The parents allege that the District did not timely provide social skills instruction to Student #1, and failed to do so until January of 2008.</p> <p>b. <u>Progress Reports</u> The parents allege that the District failed to provide to the parents progress reports for both students in November of 2007, as required in the students' IEPs in effect at the beginning of the school year. The parents further allege that Student #1's November 14, 2006 IEP required progress reports quarterly for each goal, and that Student #2's current IEP still requires progress reports quarterly. The parents allege that they received a progress report concerning Student #2 in June of 2007 and that the next progress received for Student #2 was dated January 25, 2008 and received on February 8, 2008. The parents also allege that the District provided a progress report for Student #1 dated November 19, 2007, but this was not provided until February 22, 2008. The parents also allege a discrepancy, in that a progress report dated January 25, 2008 and provided by the District to the Department's complaint investigator on February 19, 2008 is different from the progress report also dated January 25, 2008 given directly to the parent by the District.</p> <p>c. <u>Specially Designed Math Instruction</u> The parents allege that the District failed to implement Student #2's</p>	<p><u>Substantiated</u> The Department substantiates the allegation that the District failed to provide a November, 2007 progress report for Student #2 to the parents in a timely fashion. See Corrective Action.</p> <p><u>Substantiated</u> The Department substantiates the allegation, and concludes that the District provided only 160 minutes</p>

No.	Allegations	Conclusions
	<p>September 13, 2006, IEP, as amended on May 22, 2007 by excusing Student #2 from his third period math class 14 minutes earlier than is specified in the IEP. The parent alleges that Student #2 is experiencing a substantial cumulative loss of education time. (This issue was discussed in the Department's order in the previous investigation (07-054-056), but not reached at that time because the parents had not specifically alleged a lack of IEP implementation relating to the time this student was removed from third period.</p> <p>d. <u>Accommodation</u> The parents allege that Student #1's current IEP provides that he is not to be in the locker room and is not required to dress down. The parents allege that on December 10, 2007, Student #1 was told by the P.E. teacher to wait in the locker room before P.E. started, and that this violates the IEP provision that Student #1 is not to be in the locker room due to his having been bullied in the locker room the previous year. The parent also alleges that it is not clear whether the P.E. teacher had a copy of Student #1's IEP in her possession or simply failed to follow the IEP.</p> <p>e. <u>Accessibility of IEP</u> The parents allege that on December 10, 2007, when discussing Student #1's IEP with the assistant principal, the assistant principal stated that she did not have a copy of the student's IEP</p>	<p>per week of specially designed instruction in math rather than the required 200 minutes. See Corrective Action.</p> <p><u>Not Substantiated</u> d. The Department does not substantiate these allegations. Student #1's IEP does not provide that he is not to be in the locker room, but provides that he is to dress down in the office restroom. The evidence does not support that the teacher told Student #1 to wait in the locker room before P.E. The evidence also shows that the P.E. teacher is in possession of Student #1's IEP and is familiar with the contents of Student #1's IEP.</p> <p><u>Not Substantiated</u> The Department does not substantiate these allegations. The evidence does not Support a finding that the assistant principal did not have access to a copy of Student #1's IEP. The assistant principal did not attempt</p>

No.	Allegations	Conclusions
	<p>and was not able to access a copy of the student's IEP. The parents allege that the assistant principal oversees discipline and did not have access to the student's IEP when she attempted to discipline Student #1. When his behavior was the direct result of the failure of the District to provide the accommodations provided in the student's IEP (concerning P.E. and dressing down).</p>	<p>to discipline Student #1. Although the assistant principal did receive the disciplinary referral she did not choose to initiate any discipline as a result of the referral.</p>
4.	<p><u>Prior Written Notice:</u></p> <p>a. The parents allege that the District cancelled Student #1 and Student #2's IEP meetings on March 10 and March 6, 2008, without providing prior written notice.</p> <p>b. The parents allege that the District did not send a Prior written notice following the parents' letter of January 9, 2008 in which the parents requested an amendment to Student #1's IEP and requested that changes made without IEP team approval be rescinded. The parents also allege that the District failed to provide prior written notice when the District reduced service hours and decreased the frequency of progress reports in Student #1's IEP.</p>	<p><u>Not Substantiated</u></p> <p>The District did not need to provide prior written notice when it cancelled and then rescheduled Student #1 and Student #2's IEP meetings on March 10 and March 6, 2008. Prior written notice is not required in this situation.</p> <p><u>Substantiated</u></p> <p>The District should have issued a prior written notice of its refusal to amend the November 13, 2007 IEP. See Corrective Action.</p>
5.	<p><u>Access to Records; Content of Records:</u></p> <p>a. The parents allege that the District did not provide the parents copies of all of the educational records of both Student #1 and Student #2, as requested in writing on</p>	<p><u>Substantiated in Part</u></p> <p>The District provided copies of Student #1 and Student #2's files. The evidence does not support a finding that the parents were denied the right to inspect records</p>

No.	Allegations	Conclusions
	<p>December 18, 2007, by the parents. Generally, the parents allege that although documents were received from the District in December, they did not receive from the District notes between district staff members or e-mail messages concerning both students. The parents also allege that they did not receive from the District disciplinary referrals concerning Student #1. The parents also allege that they were denied the right to inspect records prior to Student #2's February 4, 2008 IEP meeting. The parents allege that as of the date of the initial complaint on April 10, 2008, these documents have still not been received by the parents from the District.</p> <p>b. The parents allege that 18 documents provided to the Department during the investigation of complaint 07-054-056 were not provided to the parents in response to the parent's written request for the education records of both students, and were not provided to the parents with their copy of the District's response in that prior ODE case.</p> <p>c. The parents allege that the District failed to directly provide to the parents a progress report dated November 2, 2007 and an "IEP document" dated October 3, 2007, both concerning Student #2. The parents allege the District first provided these documents to the Department's complaint investigator during the previous investigation,</p>	<p>prior to Student #2's February 4, 2008 IEP meeting. The parents should make a follow up request for e-mails, specifying time period and personnel involved. The District must provide copies of disciplinary referrals for Student #1.</p> <p><u>Not Substantiated</u> A district must provide complete copy of all documents submitted to Department to parents to ensure that parents have opportunity to review all evidence relating to their complaint. The Department could not determine whether eighteen documents were not provided to parents.</p> <p><u>Substantiated</u> The Department finds that Student #2's progress report was not provided to the parents by the District, but by the Department's complaint investigator in the previous complaint, in January or February of 2008. See Corrective Action.</p>

No.	Allegations	Conclusions
	<p>but never directly to the parents. The parents state that the Department's complaint investigator provided these documents to the parents in February of 2008. The parents also allege that the October 3, 2007 IEP document was created after the fact, as indicated by the inclusion of a case manager not hired until October 15, 2007 and inclusion of the District's behavior specialist who was not present at the meeting.</p>	
6.	<p><u>Parent Participation</u></p> <p>a. <u>Parental input</u> The parents allege that changes were made to Student #1's November 13, 2007, IEP without parental input and without IEP team discussion. Specifically, the parents allege that the District changed the November 13, 2007 IEP without their input to require progress reporting only twice a year instead of quarterly and decreased the number of service minutes in the area of study skills and academic support from 240 minutes to 150 minutes per week.</p> <p>b. <u>Copy of IEP</u> The parents allege that the District failed to provide a copy of Student #1's November 13, 2007 IEP until December 21, 2007, when the District provided a copy with a missing page. The parents allege that the District did not provide a copy of the IEP until February 28, 2008.</p>	<p><u>Not Substantiated</u> The parents attended and participated in the IEP meeting on November 13, 2007. Review of the meeting notes show that the parents and district staff discussed the proposed changes to the IEP and do not show any objections by the parents.</p> <p><u>Substantiated</u> The Department substantiates the allegation that Student #1's November 13, 2007 IEP was not provided to the parents in a timely fashion, and that the missing page was provided about two months later. See Corrective Action.</p>
7.	<p><u>Parent's Request to Make Amendment to Education Record</u></p>	<p><u>Not Substantiated</u> The District refused to make the</p>

No.	Allegations	Conclusions
	<p>The parents allege that the District failed to comply with the parents' request to make the January 9, 2008 letter an attachment to Student #1's IEP in the educational records</p>	<p>January 9, 2008 letter part of the Student #1's IEP stating that the January 9, 2008 letter did not include any substantive issues to what occurred at the IEP meeting but did make the letter part of the educational record.</p>
8.	<p><u>Corrective Action Plan Compliance</u> The parents allege that because of the District's failure to timely resolve the issue concerning payment by the Department for the use of a facilitator, the District did not comply with the Department's Corrective Action Plan issued in response to the parents' previous complaint, Case No. (07-054-056). The parents allege that the District failed to hold an IEP and placement meeting for Student #2 by March 12, 2008, as required, and did not hold the meeting until April 1, 2008.</p>	<p><u>Not substantiated</u> Due to a difference between the parties concerning the use of a facilitator and to the agreement between the District and the parents to delay Student #2's March 6, 2008 IEP meeting to provide time for the facilitator to prepare. The Department does not substantiate this allegation.</p>

III. FINDINGS OF FACT

Background:

1. Student #1 is [] years old, in [] grade and eligible for special education as a student with autism. Student #2 is [] years old, in [] grade and is also eligible for special education as a student with autism. Student #1's current IEP (dated November 13, 2007) provides a placement of "regular classroom with resource room support", and calls for specially designed instruction in "speech/language" for 30 minutes once each week. Student #1's IEP also includes various supplementary aids/services, modifications and accommodations in all of the student's regular education classes, including more time for completion of assignments and tests, shortened assignments, grading on completed portion of assignments, pass/no pass if below a "C", grade on effort and attitude, preferential seating away from distractions, use of restroom as needed, retake/revise tests in resource room and frequent checks for understanding and accuracy in agenda. Student #1's IEP also provides "modify activities for level of fitness, frequent breaks and dress down in office restroom" in the student's physical education classes.

2. Student #2's current IEP (dated April 18, 2008) provides a placement of "resource room classes with access to general ed classes where appropriate", and calls for specially designed instruction in math and reading (150 minutes each week for both subjects), social behavior/emotional behavior (30 minutes each week) and in written language (150 minutes each week). Student #2's IEP also includes, under the related services category, behavior support assistance (15 minutes per day) and various supplementary aids/services, modifications and accommodations in all of the student's "general ed/resource classroom", including modified class schedule, "give first cue, wait a few minutes, then give second cue", preferential seating away from distraction, frequent breaks, extra time for completion, access to shared instructional assistant and behavior support plan. At the beginning of the 2007-2008 school year, Student #2 attended school for three periods, increasing to four periods in February of 2008, adding lunch in March of 2008, and adding fifth period in April of 2008.

IEP Meetings and Prior Written Notice:

3. On January 9, 2008, the parents provided a letter to the District concerning Student #1's November 13, 2007 IEP. In this letter, the parents expressed concern that changes had been made in the IEP, specifically that the related service of "study skills/academic support" had been decreased from 240 minutes per week to 150 minutes per week. The parents stated that the IEP team had not made a decision to decrease these related services. The parents' letter also addressed a change from Student #1's prior IEP concerning shortened assignments. The parents' letter also addressed the absence of short term objectives and the decrease in turning in assignments from 100% to 80% under a "study skills" goal. The parents also noted that their copy of the IEP, received on December 21, 2007, was not a complete copy.
4. After receiving the January 9, 2008 letter, the special education director contacted a member of Student #1's IEP team to ask for a response to the letter. The team member advised that all points in the parents' January 9, 2008 letter concerning the November 13, 2007 meeting had been discussed and agreed upon at the November 13, 2007 IEP meeting. During the on-site interview, this team member recalled explaining at the IEP meeting about the change in the total minutes for the related service of "study skills/academic support". The team member explained that the student's prior case manager had expressed the maximum amount of time possibly available, but that the appropriate way to express the minutes for a particular related service is to express the actual minutes provided to the student. No further discussion of this change occurred at the November 13, 2007 IEP meeting. No reduction of actual services to Student #1 occurred as a result of this change. The team member also recalled there was concern that the expectation for the study skills goal for turning in of assignments should be reduced from 100% to 80%. The team member recalled no further discussion or objection to this change, and believed that the IEP team, including the parents, agreed to this change. The

meeting minutes of the November 13, 2007 meeting, which states “Goals – same all level except assignments turned in”.

5. On February 13, 2008, during a meeting to address communication issues between the parents and District staff, the parents and District staff determined to schedule a meeting to discuss Student #1’s transition to high school next year. On February 26, 2008, the District issued a notice scheduling an IEP meeting for Student #1 on March 10, 2008. On March 10, 2008, the District issued a Prior Notice of Special Education Action stating that the meeting would be rescheduled for April 7, 2008. The notice states that “the parents and district agreed to the use of a facilitator for the next two meetings and this delay would allow the facilitator to do preparation for the meetings.” The notice also states that the rescheduling of the meeting is based upon “the verbal agreement between the parents and the district at the meeting on March 6, 2008.” The reference to the March 6, 2008 meeting is to a meeting concerning Student #2.
6. On April 2, 2008, the parents sent an e-mail requesting a meeting to review, and revise if necessary, Student #1’s IEP. On April 3, 2008, the special education director sent the parents an e-mail stating that “Given that the IEP is already written and that all we are going to discuss is the clarification of your original questions, it really doesn’t seem necessary to hold a two hour meeting. Also, keep in mind that we will have to hold a transition meeting with the high school folks fairly soon as well. Can we try for an hour from 3:00-4:00 p.m. and then see how it goes? Between the two of us we should be able to come up with a pretty tight agenda and then we can stick to it. Does that work for you?”
7. On April 7, 2008, the parents, two of Student #1’s special education teachers and the special education director met. The meeting participants discussed the parents’ concerns expressed in the January 9, 2008 letter.

IEP Content and Implementation and Accessibility of IEP

8. At the beginning of the 2007-2008 school year, Student #2 attended school on a reduced schedule, attending only three periods. The District first extended Student #2’s schedule, to include fourth period, in February of 2008. On September 17, 2007, the parents sent an e-mail message to Student #2’s case manager about extending Student #2’s school day. The parents also mentioned in that e-mail message that the IEP team had not discussed what to do on assembly days and early release days. The parents also stated that because Student #2 is in school for only 2.5 hours on a regular day, “he needs to remain at school his full time, as long as other students are present.” The records in this case contain no mention of any discussion of assembly attendance by Student #2 at any IEP meetings. District staff stated during the on-site investigation that Student #2 would not have been able to attend assemblies before February, 2008 due to the student’s three period schedule.

District staff also stated that they are aware of only one assembly missed by Student #2 prior to February of 2008. Additionally, District staff stated that the parents would be aware of upcoming assemblies because that information would be written on the daily notes sent home with Student #2. District staff also stated that on some occasions they would go to Student #2's classroom and ask the students if they wished to attend certain activities, including assemblies at which a speaker would be present, and that the students in that classroom, including Student #2 could individually decide whether to attend a particular activity. On at least one occasion, Student #2 did choose to attend, but asked to leave shortly after the activity began. The parents acknowledge that after the District increased Student #2's schedule in February of 2008, Student #2's teacher made a concerted effort to include Student #2 in non-academic activities such as assemblies.

9. Student #1's November 14, 2006 IEP did not provide for social skills instruction in either the "specially designed instruction" portion of the IEP or as a related service.
10. Student #1's November 14, 2006 IEP, in effect at the beginning of the 2007-2008 school year, states that the District would provide progress reports on the student's goals quarterly. Student #1's November 13, 2007 IEP states that the District will provide progress reports at the end of each semester, in January and June. Student #1's IEP dated October 6, 2006, in effect until November 13, 2007, required, during the 2007-2008 school year, progress reports in November of 2007. Student #1's November 13, 2007 IEP requires an additional progress report in January of 2008. The records provided in this case show a progress report for Student #1 dated November 19, 2007, but the parents did not receive the report until February 22, 2008. The District advised the investigator that any delay in providing the progress report was due to a transition in Student #1's case managers in the fall of 2007. The District provided a progress report for Student #1, dated January 25, 2008.
11. Student #2's October 3, 2007 IEP states that the District would provide progress reports on the student's goals quarterly, four times per year. Student #2's current IEP dated April 18, 2008 states that the District is to provide progress reports on the student's goals at the end of each semester. Student #1's IEP dated October 3, 2007, in effect until April 18, 2008, required, during the 2007-2008 school year, progress reports in November of 2007 and January of 2008. The records provided in this case show a progress report for Student #2 dated November 2, 2007, but the report was not received by the parent from the District but from the complaint investigator who investigated a prior complaint against the District filed in 2007. The parents acknowledge that on February 8, 2008, they received a progress report dated January 25, 2008 for Student #2.
12. Student #2's September 13, 2006 IEP, in effect at the beginning of the 2007-2008 school year, as well as Student #2's October 3, 2007 IEP provide for 200 minutes per week of specially designed instruction in math. Student #2's third period class is 48 minutes long. Until February of 2008, the student attended only three class

periods, with math being Student #2's third and final period of the school day. The District does not dispute that Student #2 left third period 14 minutes early, from the beginning of the 2007-2008 school year until the District added fourth period to Student #2's schedule in February of 2008. The Department's final order in a previous investigation involving Student #2 (ODE case no. 07-054-056) states that the student left school early to take the bus to return home at the end of the student's shortened school day. During the on-site investigation, the special education director acknowledged that the bus Student #2 took home arrived right at the time of dismissal of third period, requiring the student to be ready to go at that time in order to take that bus. The special education director also advised that the early release allowed time that Student #2 needed to transition from the student's school day to the bus ride home. The math teacher also stated that his goal during the 48-minute class periods was to require 30 minutes of instruction and work by his students. Approximately the last 12 minutes of math consisted of a free activity time given to all students as a reward-based instructional tool.

13. Student #1's current IEP (dated November 13, 2007) does not prohibit Student #1 from being in the locker room, but does provide, as an accommodation, that Student #1 is to "dress down in office restroom". Approximately a week before December 4, 2007, one of Student #1's teachers found Student #1 unsupervised in an area of the school where Student #1 did not have permission to be. This occurred approximately four minutes before the end of the school day, at the end of Student #1's physical education class at a time while other students in the physical education class were in the locker room changing into their street clothes. At that time, the teacher told Student #1 he was to stay in the gym where he could be periodically supervised and if not able to do that he would need to stay in the locker room. On December 4, 2007, the same teacher again found Student #1 unsupervised in an area of the school where Student #1 did not have permission to be. The teacher made the disciplinary referral when she saw the student again in an area of the school where he did not have permission to be under the school policy that no student may be in unsupervised areas during class time. This teacher is a member of Student #1's IEP team and had received Student #1's IEP at that time and demonstrated familiarity with Student #1's IEP during the on-site investigation.
14. The assistant principal who oversees discipline for Student #1 does have access to Student #1's IEP. The evidence does not support a conclusion that the assistant principal stated otherwise to the parent on or about December 4, 2007 following the disciplinary referral by the P.E. teacher. Additionally, the assistant principal ultimately did not attempt to discipline Student #1 following receipt of the disciplinary referral.

Prior Written Notice:

15. The District rescheduled Student #2's March 6, 2008 IEP meeting following agreement between District staff and the parents; it was agreed by District staff and

the parents that a facilitator would be provided and that the meeting would be rescheduled to allow time for the facilitator to prepare for the meeting.

16. The District rescheduled Student #1's March 10, 2008 IEP meeting following agreement on March 6, 2008 that a facilitator would be provided and that the meeting would be rescheduled to allow time for the facilitator to prepare for the meeting.
17. The District did not send a Prior written notice following the April 7, 2008 meeting denying the parents' request to rescind certain changes made during Student #1's November 13, 2007 IEP meeting. The changes made during the November 13, 2007 IEP meeting were discussed and were not contested by the parents.

Access to Records; content of records:

18. On December 18, 2007, the parents requested in writing a copy of the education records of both students. The District provided a copy of the education records of both students in response to that request. After the on-site investigation, the District provided to the complaint investigator copies of documents showing delivery of certified mail to the parents on January 23, 2008 and on February 8, 2008 (which the District states were documents mailed to the parents), along with four documents showing receipt by the parents of particular documents on February 5, 2008, April 3, 2008, April 8, 2008 and April 23, 2008. These documents do not reveal whether the District provided documents to the parents in response to the parents' written records request of December 18, 2007. The parents, however, acknowledge receipt of some documents from the District on or about December 18, 2007, in response to an earlier, verbal records request made on December 12, 2007. The parents assert that notes and e-mail messages concerning both students were not provided in the documents provided by the District to the parents.
19. The evidence does not support a finding that the parents were denied the right to inspect records prior to Student #2's February 4, 2008 IEP meeting.
20. The Department cannot determine whether the District failed to provide to the parents 18 documents provided to the Department during a previous investigation. The complaint investigator in the prior investigation of the complaint filed on December 17, 2007, provided to the parents copies of all documents provided to the Department on January 24, 2008. The previous complaint investigator stated in an email message that he copied and provided all documents provided with the District's response rather than attempt to determine which documents the parents had or did not have.
21. The District failed to provide a copy of Student #1's November 13, 2007 IEP until December 21, 2007, and then provided a copy of that IEP with a missing page. The parents mentioned the missing page of the IEP in their January 9, 2008 letter to the

District. The District did not provide the missing page from Student #1's November 13, 2007 IEP until February 28, 2008. The District's policy is to provide a copy of the complete IEP within 5 days of the IEP meeting.

22. The District did not timely provide to the parents a progress report for Student #2 dated November 2, 2007. The District did provide Student #2's November 2, 2007 progress report to a complaint investigator during a prior complaint investigation, and the investigator provided the progress report to the parents in either January or February of 2008.

23. The "IEP" document dated October 3, 2007, concerning Student #2, is an incomplete, draft IEP that was never submitted to the IEP team.

Parent Participation:

24. The District made the parents' January 9, 2008 letter part of Student #1's education record, but did not attach the letter to the IEP as requested. The parents believed that "parents no longer have the ability to make an attachment or addendum to the IEP to explain what might be an inaccuracy or unaddressed concern".

IV. DISCUSSION

1. IEP Meetings and Prior Written Notice

The parents allege that the District unreasonably delayed Student #1's IEP meeting until April 7, 2008 and then failed to ensure the attendance of the required members of the IEP team. The parents also allege that the District failed to provide prior written notice that the meeting was not an IEP meeting.

On April 7, 2008, the parents, two of Student #1's special education teachers and the special education director met to discuss the parents' concerns about the changes that had been made during the November 13, 2007 IEP meeting. No general education teacher was present. The parents were told when they arrived at the meeting that the District was not going to conduct an IEP meeting.

The Department finds that the District should have issued a prior written notice notifying the parents of its decision not to hold an IEP meeting on April 7, 2008. The parents had expressly requested on April 2, 2008 that the upcoming April 7th meeting be used to revise and review Student #1's IEP. The parents already had received two earlier notices indicating that the April 7th meeting was to be an IEP meeting. The District issued an IEP meeting notice on February 26, 2008 scheduling an IEP meeting for Student #1 on March 10, 2008. On March 10, 2008, the District issued a prior written notice confirming the agreement between the parents and the District to use an ODE facilitator and to reschedule the March 10th IEP meeting to April 7, 2008. The District, however, in its Response, stated that the goal of the April 7th meeting was not to rewrite the November 13, 2007 IEP but to clarify the parents' concerns about changes that had been made during the November 13, 2007 IEP meeting. Here, the District should have

issued a prior written notice to inform the parents of its decision not to hold an IEP meeting and the reason for its decision. The Department substantiates the parents' allegation.

The Department does not find that the District unreasonably delayed the meeting with the parents concerning Student #1's IEP until April 7, 2008. The delay in scheduling the meeting resulted from the initial disagreement over whether the district would agree to the use of an ODE facilitator for the IEP meetings with the parents and the need to allow time for the facilitator to prepare. During this time, the District and parents were addressing upcoming transition issues for Student #1 and communication issues between district staff and parents.

2. IEP Content - Non Academic Services

The parents allege that Student #2 is sent home early on assembly days and no effort has been made to provide for the student's inclusion in assemblies. The parents allege that the District is precluding Student #2 from attending assemblies, despite the student's history of successfully attending assemblies.

OAR 581-015-2070 provides:

“Nonacademic Services”

“(1) School districts must take steps, including the provision of supplementary aids and services determined appropriate and necessary by the child's IEP team, to provide nonacademic and extracurricular services and activities in a manner to afford children with disabilities and equal opportunity for participation in those services and activities.

“(2) Nonacademic and extracurricular services and activities may include meals, recess periods, counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the school district, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the school district and assistance in making outside employment available.”

The records in this matter do not show that the District intentionally precluded Student #2 from assemblies. Rather, Student #2's shortened, three-period schedule from the beginning of the 2007-2008 school year to February of 2008 effectively prevented Student #2 from attending assemblies taking place towards the end of the regular school day. There is nothing to contradict District staff's belief that Student #2 only missed one assembly prior to February of 2008, and assembly attendance does not appear to be a problem since February of 2008. The Department does not substantiate the allegations concerning assembly attendance.

3. IEP Implementation and Accessibility of IEP

A written IEP must be in effect for each eligible child at the beginning of each school year.² School districts must implement the services, modifications and accommodations identified on each student's IEP.³

a. Social Skills Instruction

The parents allege that the District failed to implement social skills training as required in Student #1's November 14, 2006 IEP. However, Student #1's IEP contains no goals, accommodations or modification related to social skills. The Department does not substantiate the allegation concerning social skills instruction.

b. Progress Reports

The parents allege that the District failed to provide progress reports for both students in November of 2007, as required in the students' IEPs. The parents further allege that Student #1's November 14, 2006 IEP required progress reports quarterly for each goal, and that Student #2's current IEP still requires progress reports quarterly. The parents allege that they received a progress report concerning Student #2 in June of 2007 and that the next progress report received for Student #2 was dated January 25, 2008 and received on February 8, 2008. The parents also allege that the District provided a progress report for Student #1 dated November 19, 2007, but this was not provided until February 22, 2008.

The Department finds that both the 2006 and the 2007 IEPs for Student #1 required a progress report in November, 2007. The District did not timely provide to the parents a progress report for Student #1 in November of 2007, but provided a progress report dated November 19, 2007 on February 22, 2008. The District advised the investigator that any delay in providing the progress report was due to a transition in Student #1's case managers in the fall of 2007. The Department also finds that the District did not provide a progress report in November, 2007 for Student #2 as required in the IEP. The District did provide Student #2's November 2, 2007 progress report to a complaint investigator during a prior complaint investigation, and the investigator provided the progress report to the parents. The Department thus substantiates the allegations that the District failed to provide November, 2007 progress reports for Students 1# and Student #2 to the parents in a timely fashion. See corrective action.

c. Specially Designed Math Instruction

The parents allege that the District is failing to implement Student #2's September 13, 2006, IEP, as amended on May 22, 2007, by excusing Student #2 from his third period math class 14 minutes earlier than is specified in the IEP. The parent alleges that Student #2 is thus experiencing a substantial cumulative loss of education time.

Under Student #2's IEP in effect from the beginning of the 2007-2008 school year to February, 2008 when the district added fourth period to the student's schedule, Student #2 must receive a total of 200 minutes per week or an average of 40 minutes of

² OAR 581-015-0064(1)

³ OAR 581-015-0064(2)

specially designed instruction during the 48 minute math period. Student #2's IEP required student to attend school from 8:45 a.m. until 11:34 a.m. The District dismissed Student #2 from math class fourteen minutes earlier than specified in the IEP to take the school bus. The District maintains that the student experienced no actual loss of education time by missing the last 14 minutes of the class, because the student left after direct instruction had been delivered. Approximately, the last 12 minutes of the 48-minute class consisted of free activity time instituted by the math teacher as an instructional tool following delivery of academic instruction for all students. The math teacher's goal of a total of thirty minutes of instruction during each 48 minute class period was being met with Student #2. It appears that had Student #2 remained in the classroom for the entire 48 minutes he still would not have received more instruction, other than the free activity time.

The Department substantiates the allegation, and finds that the District failed to implement the full 200 minutes of specially designed instruction in math per week as required in the IEP; Student #2 missed eight minutes per day or forty minutes per week. There was a material failure on the part of the District to implement the IEP as the amount of math instruction provided by the District fell significantly short of the amount of instruction required by the IEP.⁴ The Department determines that the loss of educational time to this student is both material and substantial.

The Department finds that Student #2 is entitled to compensatory education as a result of the District's failure to provide the full 200 minutes of specially designed math instruction from the beginning of the 2007-2008 school years until February of 2008. The District must offer twelve hours of compensatory education for Student #2 which is based on 40 minutes per week of math instruction not provided over an eighteen week period. See Corrective Action.

d. Implementing Modifications and Accommodations

The parents allege that Student #1's current IEP provides that the student is not to be in the locker room and is not required to dress down. The parents allege that on December 10, 2007, Student #1 was told by the P.E. teacher to wait in the locker room before P.E. started which violates the IEP provision that Student #1 is not to be in the locker room due to his having been bullied in the locker room the previous year. The parent also alleges that it is not clear whether the P.E. teacher had a copy of Student #1's IEP in her possession or simply failed to follow the IEP.

The Department does not substantiate these allegations. Student #1's IEP does not prohibit the student from being in the locker room, but provides that he is to dress down in the office restroom. The school's policy is that no student whether a regular or a special education student may be in unsupervised areas during class time. Additionally, the evidence does not support that the P.E. teacher told Student #1 to wait in the locker room before P.E., but that the teacher told the student just before the final bell that he was to be in the gym during the last few minutes of P.E. The P. E. teacher then

⁴ Van Dunn ex rel, *Van Duyn v. Baker Sch.* Dist 5J, 502 F.3d 811, (9th CIR. 2007), 47 IDELR 182.

advised the student that if he left the gym while the other students were changing into their street clothes that he would have to wait in the locker room. The evidence also shows that the P.E. teacher is in possession of Student #1's IEP and is familiar with the provisions of Student #1's IEPs.

e. Accessibility of IEP

The parents allege that on December 10, 2007, when discussing Student #1's IEP with the assistant principal, the assistant principal stated that she did not have a copy of the student's IEP and was not able to access a copy of the student's IEP. The parents allege that the assistant principal, who oversees discipline, did not have access to the student's IEP when she attempted to discipline Student #1 when his behavior was the direct result of the failure of the District to provide the accommodations required in the student's IEP (concerning P.E. and dressing down).

School districts must ensure that: (a) the IEP is accessible to each regular education teacher, special education teacher, related service provider and other service provider who is responsible for its implementation, and (b) inform each teacher and provider of his or her specific accommodations, modifications and supports that must be provided for or on behalf of the child in accordance with the IEP.⁵

The Department does not substantiate these allegations. The evidence does not support a finding that the assistant principal did not have access to a copy of Student #1's IEP. Additionally, the assistant principal did not attempt to discipline Student #1. Although the assistant principal did receive the disciplinary referral, she did not choose to initiate any discipline as a result of the referral.

4. Prior Written Notice

A prior written notice must be given to the parent within a reasonable period of time before a school district proposes to initiate or change, or refuses to change the identification, evaluation or educational placement, or the provision of a free and appropriate public education. The notice must be given after a decision is made and a reasonable time before the decision is implemented.⁶

- a. The parents allege that the District cancelled IEP meetings for Student #1 and Student #2 on March 6 and March 10, 2008 without providing prior written notices. Both IEP meetings were then rescheduled. The Department does not substantiate the parents' allegations. Prior written notices are not required in this situation.
- b. The parents allege that the District did not send a prior written notice following the parents' letter of January 9, 2008 in which the parents requested an amendment to Student #1's IEP to rescind changes made during November 13, 2007 IEP meeting.

⁵ OAR 581-015-2220

⁶ OAR 581-015-2310

The Department concludes that the District should have issued a prior written notice in response to the parents' January 9, 2008 letter requesting that the changes made during the November 13, 2008 IEP meeting be rescinded. The purpose of the prior written notice is to give parents information about the decision made by the school district and an opportunity to contest the school district's action if they disagree. Here, the district is refusing to amend the November, 13, 2007 IEP as requested by the parents. The Department substantiates the parents' allegation.

5. Access to Records; content of records

School districts must give parents of children with disabilities "an opportunity to examine all student educational records in accordance with OAR 581-021-0220 through 581-021-0440⁷. Districts must comply with a records request from the parent without unnecessary delay, before any meeting regarding an IEP, and not "more than 45 days after the request has been made."⁸ The definition of educational records "means those records that are directly related to a student and maintained by an educational agency or institution or by a party acting for the agency or institution."⁹ Generally, any record that includes any personally identifiable information such as a name, student identification number or other information that would connect the document to the individual is an educational record. FERPA also defines a record as any information recorded in a variety of ways "including but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm and microfiche."¹⁰ Educational records do not include "[r]ecords of instructional, supervisory, and administrative personnel and educational personnel ancillary to those persons that are kept in the sole possession of the maker of the record, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record."¹¹

The Family Compliance Office, the federal agency charged with interpreting FERPA and FERPA complaints, has stated that:

"While a district would be required to conduct a reasonable search for educational records, it is the responsibility of the parent to clearly specify the records to which he or she is seeking access. {If} a parent makes a 'blanket' request for a larger portion of her child's educational records and the parent believes that she has not been provided certain records which were encompassed {by} that request, she should submit a follow-up request clarifying the additional records she believes exists."¹²

- a. The parents allege that the District did not provide the parents copies of all of the educational records of both Student #1 and Student #2, as requested in writing on December 18, 2007 by the parents. The parents allege that a hand delivered written

⁷ OAR 581-015-2300

⁸ OAR 581-021-0270(2)

⁹ OAR 581-021-0220

¹⁰ 20 USC Sec. 1232 g (a)(4); 34 CFR 99.3

¹¹ OAR 581-021-0220

¹² Letter to Carey High School (Family Policy Compliance Office, November 30, 2000)

request was presented to the District for each student on December 18, 2007 asking for “all personally identifiable records, including “medical records, tests, special education records, formal and informal correspondence, discipline records, tests, evaluations and notes between staff members.” The parents allege that although documents were received from the District on December 18, 2007 they did not receive from the District notes between District staff members or e-mail messages concerning both students. The parents also allege that they did not receive from the District disciplinary referrals concerning Student #1. The parents also allege that they were denied the right to inspect records prior to Student #2’s February 4, 2008, IEP meeting. The parents allege that as of the date of the initial complaint on April 10, 2008, the parents still had not received these documents from the District.

The Department finds that the District did provide the parents with a copy of Student #1 and Student #2’s educational records. The evidence does not support a finding that the parents were denied the right to inspect records before Student #2’s February 4, 2008, IEP meeting. The Department also finds that the District must comply with the parents’ request for access to emails provided these items contain the student’s name, information about the student and are maintained and used by the District. The parents should make a follow-up request to the District clarifying which emails they are requesting from the District. The District should provide the parents with copies of disciplinary referrals on Student #1. The Department substantiated in part the parents’ allegation.

- b. The parents allege that 18 documents provided to the Department during the investigation of complaint 07-054-056 were not provided to the parents in response to the parent’s written request for the education records of both students, and were not provided to the parents with their copy of the District’s response in that prior ODE case. OAR 581-015-2030 (6)(b) requires that Districts involved in the special education complaint process provide a copy to the parents of the records sent to the Oregon Department of Education. Districts must provide parents with accurate copies of records submitted to the Department to ensure that parents have an opportunity to review all the evidence involved in the complaint investigation. In the first complaint, the complaint investigator received more documents than were provided to the parents. The complaint investigator in the prior investigation provided the parents with copies of all documents received by the investigator with the District’s Response. The Department cannot determine accurately whether these eighteen documents were not provided to the parents in response to their records request on December 18, 2007. The Department does not substantiate the allegation.
- c. The parents allege that the District failed to directly provide to the parents a progress report dated November 2, 2007, and an “IEP document” dated October 3, 2007, both concerning Student #2. The parents allege the District first provided these documents to the Department’s complaint investigator during the previous investigation, but never directly to the parents. The parents state that the Department’s complaint investigator provided these documents to the parents in

February of 2008. The parents also allege that the October 3, 2007 IEP document was created after the fact, as indicated by the inclusion of a case manager not hired until October 15, 2007 and inclusion of the District's behavior specialist who was not present at the meeting.

The Department concludes that Student # 2's progress report was not provided to the parents by the District, but by the Department's complaint investigator in the previous complaint, in January or February of 2008. The Department thus substantiates the allegation that the District failed to timely provide this progress report to the parents. The Department concludes that the District did not provide the document dated October 3, 2007 to the parents. This document was an incomplete draft of an IEP not intended to be distributed. The Department does not substantiate the allegation that the October 3, 2007 IEP draft should have been provided to the parents.

6. Parent Participation

OAR 581-015-2190 provides:

“Parent Participation - General

- (1) School districts must provide one or both parents with an opportunity to participate in meetings with respect to the identification, evaluation, IEP and educational placement of the child, and the provision of a free appropriate public education to the child.
- (2) Meeting Notice:
 - (a) School districts must provide parents with a written notice of the meeting sufficiently in advance to ensure that one or both parents will have an opportunity to attend.
 - (b) The written notice must:
 - (A) State the purpose, time and place of the meeting and who will attend;
 - (B) Inform the parent that they may invite other individuals whom they believe have knowledge or special expertise regarding the child;
 - (C) Inform the parent that the team may proceed with the meeting even if the parent is not in attendance; and
 - (D) Inform the parent of whom to contact before the meeting to provide information if they are unable to attend.
- (3) The school district must take whatever action is necessary to ensure that the parent understands the proceedings at a meeting, including arranging for an interpreter for parents who are deaf or whose native language is other than English.

- (4) A meeting does not include informal or unscheduled conversations involving school district personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision if those issues are not addressed in the child's IEP. A meeting also does not include preparatory activities that public agency personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting.
- (5) Conducting a meeting without a parent in attendance: A meeting may be conducted without a parent in attendance if the school district has given the parent notice under subsection (2), or, for IEP or placement meetings, in accordance with OAR 581-015-2195.
- (6) Transfer of rights:
 - (a) The right to parent participation transfers to an adult student under OAR 581-015-2325.
 - (b) After the transfer of rights to an adult student under OAR 581-015-2325, the school district must provide written notice of meetings to the adult student and parent, if the parent can be reasonably located. A parent receiving notice of a meeting under this subsection is not entitled to attend the meeting unless invited by the adult student or by the school district.”

a. Parental Input

The parents allege that changes were made to Student #1's November 13, 2007 IEP without parental input and without IEP team discussion. Specifically, the parents allege that the District changed the November 13, 2007 IEP to require progress reporting only twice a year instead of quarterly and decreased the number of service minutes in the area of study skills and academic support from 240 minutes to 150 minutes per week.

In this case, the parents attended and participated in the IEP meeting on November 13, 2007. The IEP meeting notes reflect that the parents were present at the November 13, 2007 IEP meeting where the changes to the IEP were discussed and agreed upon. The fact that the IEP team made a decision with which the parents disagreed does not dictate a finding by the Department that the parents were not allowed to meaningfully participate in the IEP team meeting. The Department does not substantiate the parents' allegation.

b. Copy of IEP

The parents allege that the District failed to provide them with a copy of Student #1's November 13, 2007 IEP until December 21, 2007, when the District provided a copy with a missing page. The parents allege that the District did not provide a full copy of the IEP until February 28, 2008.

OAR 581-015-2195 requires the school district to give the parent a copy of the IEP at no cost to the parent. The District responded to the parents' allegations by stating the District staff person handling Student #1's November 13, 2007 IEP had only been in her position for three weeks and was new to the District's electronic program used to complete IEPs. The Department substantiates the parents' allegation that Student #1's November 13, 2007 IEP was not provided to the parents in a timely manner, and that the missing page was provided about two months later. In this case, the district's delay in providing a complete copy of the November 13, 2007 IEP interfered with the parents' right to review the written IEP to ensure that its contents accurately represented what had been agreed upon at the IEP meeting. See Corrective Action.

7. Parent or Eligible Student's Request for Amendment of a Student's Educational Record

The parents allege that the District failed to comply with the parents' request to make the January 9, 2008 letter an attachment to Student #1's IEP in the educational records.

OAR 581-021-0300 provides:

A Parent or Eligible Student's Request for Amendment of a Student's Educational Records

- (1) If a parent or eligible student believes the education records relating to the student contain information that is inaccurate, misleading, or in violation of the student's rights of privacy or other rights, he or she may ask the educational agency or institution to amend the record.
- (2) The education agency or institution shall decide whether to amend the record as requested within a reasonable time after the agency or institution receives the request.
- (3) If the educational agency or institution decides not to amend the record as requested, it shall inform the parent or eligible student of its decision and of his or her right to a hearing under OAR 581-021-0310.

Parents have the right under OAR 581-021-0300 to ask the district to correct or amend their child's educational record if they believe it contains misleading or inaccurate information. OAR 581-021-0300, however, does not define the terms "misleading" or "inaccurate." Therefore, districts have substantial discretion to determine whether or not a parents' request for amendment of an educational record meets the criterion for misleading or inaccurate.

In the January 9, 2008 letter, the parents requested that changes made during the November 13, 2007 IEP meeting on the frequency of progress reporting and the calculation of service hours be rescinded. The parents also requested that the January 9, 2008 letter expressing disagreement with these changes be added to the November 13, 2007 IEP as an amendment. The District refused to attach the letter to the IEP as an amendment stating that the letter did not include any substantive issues relating to what

occurred at the IEP meeting. However, the District did make the January 9, 2008 part of Student #1's educational record. The Department does not substantiate the parents' allegation.

8. Corrective Action Plan Compliance

The parents allege that because of the District's failure to timely resolve the issue concerning payment by the Department for the use of a facilitator the District did not comply with the Department's Corrective Action Plan issued in the previous investigation (07-054-056). The parents allege that the District failed to hold an IEP and placement meeting for Student #2 by March 12, 2008, as required, and did not hold the meeting until April 1, 2008.

The Department concludes that the District did not unreasonably fail to hold a new IEP meeting for Student #2 by March 12, 2008. Due to a disagreement concerning the use of a facilitator, and the agreement between the District and the parents to reschedule Student #2's March 6, 2008 IEP meeting to provide time for the facilitator to prepare, Student #2's IEP meeting was delayed until April 1, 2008. The Department does not substantiate this allegation.

V. CORRECTIVE ACTION¹³

In the Matter of Fern Ridge School District 28J
Case No. 08-054-015

#	Action Required	Submissions	Due Date
1.	<u>Compensatory education services:</u> a. The District shall offer 12 hours ¹⁴ of math instruction to Student #2 to be completed by December 31, 2008. See (e). b. The District shall confer with the parents to develop a plan for implementation of the compensatory education services. The District shall reasonably accommodate	Submit a copy of the plan that addresses items (a) through (f) to the Department and the parent.	July 15, 2008

¹³ 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).

¹⁴ The calculation of 12 hours is based on 40 minutes per week times 18 weeks which compensates student #2 for time lost due to early dismissal from math class.

#	Action Required	Submissions	Due Date
	<p>parent and student preferences for scheduling these services.¹⁵</p> <p>c. The District shall provide transportation as necessary for the student to access these services.</p> <p>d. The District does not have to provide make-up sessions for sessions scheduled but missed due to student absence. The District shall provide make-up sessions for services scheduled but cancelled due to provider illness or unavailability.</p> <p>e. The District shall complete the provision of compensatory education services by December 31, 2008.</p> <p>f. Compensatory services shall be provided by qualified staff.</p> <p>g. The District and parent may agree in writing to modify any of the provisions (a) through (e).</p>	<p>Submit evidence of completed compensatory education services to the Department.</p>	<p>January 30, 2009</p>
<p>2.</p>	<p><u>Progress Reports</u> <u>Student #1 and Student #2</u></p> <p>a. Provide reports on the progress each child based on any IEP in effect between September 1, 2008 and January 31, 2009.</p>	<p>For each student submit to the Department and to the parent a calendar¹⁶ of progress reporting dates based on the student's IEP in effect at the beginning of school.</p>	<p>September 10, 2008</p>

¹⁵ To develop a mutually agreeable plan, parent and district may confer by phone, by exchange of drafts, or in a meeting to develop a mutually agreeable plan.

¹⁶ OAR 581-015-2200 (1)(c) and §300.320 (a)(3)(ii): When periodic reports on the progress the child is making meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided.

#	Action Required	Submissions	Due Date
		<p>If the progress reporting schedule in an IEP changes, submit a new calendar to the Department and the parent.</p> <p>Submit to the department and to the parent district evidence that the progress report has been sent to the parent at the scheduled times.</p>	<p>As needed, within 10 days of changes in reporting time</p> <p>10 days following each progress reporting date specified in the calendar(s) or any revised calendar.¹⁷</p>
3.	<p><u>IEP and Prior Written Notice Student #1 and Student #2</u></p> <p>a. If the student's IEP is developed, revised, or modified through a written agreement, provide parents a full copy of the IEP that includes the changes and any prior written notices developed as a result of any IEP meeting or agreement to modify the IEP.</p> <p>b. When the district proposes or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE, send a prior written notice meeting the content requirements of OAR 581-015-2310 and 34 CFR §300.503.¹⁸</p>	<p>Submit to the Department and to the parent a complete copy of any IEP developed, revised, or modified between September 1, 2008, and January 31, 2009, and copies of any prior written notices that result from these meetings.</p> <p>Between September 1, 2008 and January 31, 2009, submit a copy¹⁹ of any prior written notice²⁰ affecting Student #1 and Student #2 to the Department and the parent within seven</p>	<p>Within 7 days of a district decision that prior written notice is required.</p> <p>Within 7 days of the IEP meeting date.</p>

¹⁷ If the progress reporting schedule in an IEP changes, submit a new calendar to the Department and the parent.

¹⁸ OAR 581-015-2310; 34 CFR §300.503

¹⁹ Do not include in this corrective action prior written notices submitted as part of the corrective action in (3)(a).

#	Action Required	Submissions	Due Date
		days of the district's decision.	

Dated: June 9, 2008

Nancy J. Latini, Ph.D.
Assistant Superintendent
Mailing Date: June 9, 2008

Office of Student Learning & Partnerships

APPEAL RIGHTS: You are entitled to judicial review of this order. Judicial review may be obtained by filing a petition for review within 60 days from the service of this Order with the Marion County Circuit Court or with the Circuit Court for the County in which you reside. Judicial review is pursuant to the provisions of ORS 183.484.

²⁰ The District may send a letter of prior written notice instead of a form as long as the letter meets prior written notice content requirements.