

determination that it is unauthorized to investigate alleged violations of OAR 581-21-0062 through the special education complaint investigation process.

The Department’s complaint investigator determined that on-site interviews were required. On December 10 and 11, 2009, the Department’s investigator interviewed the District special education director, two special education teachers, a speech/language pathologist, a school psychologist, a principal, and a general education teacher. The District provided additional materials during the interview process. On December 11, 2009, the Department’s investigator interviewed the parents and their attorney. The Department’s complaint investigator reviewed and considered all of the relevant documents, interviews, and exhibits in reaching the findings of facts and conclusions of law contained in this order.

During the interview with the parents and their attorney, the attorney informed the Department’s complaint investigator that the parents were withdrawing the first two allegations. The attorney stated that the alleged change of placement actually occurred in the Fall of 2007 and not the Fall of 2008.²

Under federal and state law, the Department must investigate written complaints alleging violations of the IDEA that occurred within the twelve months prior to the Department’s receipt of the complaint and must issue a final order within 60 days of receiving the complaint; the timeline may be extended if the District and the parent agree to extend the timeline to participate in mediation or if exceptional circumstances require an extension.³

The Department has jurisdiction to resolve this complaint under 34 CFR § 300.151-153 and OAR 581-015-2030. The parents’ 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 October 31, 2008 to the filing of this complaint on October 30, 2009.⁴

	Allegations	Conclusions
	Allegations to be investigated. The written complaint alleges that the District violated the IDEA in the following ways:	
1.	<u>Placement of the Child</u> The parents allege that the District changed the student’s placement without following IDEA-compliant procedures when it changed the student’s amount of time in school to half days on or around September 27, 2008.	Withdrawn by parents.
2.	<u>Criteria for Approving School District Special Education Programs</u>	Withdrawn by parents.

² The attorney stated that these allegations had been mistakenly included in the original complaint.

³ OAR 581-015-2030(12).

⁴ See 34 CFR § 300.153(c) (2009); OAR 581-015-2030(5).

	<p>The parents allege that the District denied the student the same rights and privileges provided to other students by allowing the student to attend school for only half-days from approximately September 27, 2008 to December 10, 2008.</p>	
<p>3.</p>	<p><u>Disciplinary Removals of More than 10 School Days (Pattern or Consecutive)</u></p> <p>The parents allege that the District did not provide the student FAPE when it failed to follow the provisions of OAR 581-015-2415. Specifically, the parent alleges that the District erred when it did not conduct a manifestation determination or functional behavioral assessment after the student was removed for more than 10 days during the 2008-2009 school year.</p>	<p>Not Substantiated.</p> <p>The Department concludes that, during the 2008-2009 school year, the student was not removed for more than ten days for disciplinary reasons; therefore, this allegation is unsubstantiated.</p>
<p>4.</p>	<p><u>Review and Revision of IEPs</u></p> <p>The parents allege that the District did not provide the student FAPE when it failed to revise the student's IEP to develop and include a measureable annual behavior goal.</p>	<p>Substantiated.</p> <p>The Department concludes that the District violated the IDEA by failing to review and revise the student's IEP to include behavior goals and mechanisms for measuring the student's behavioral progress. This allegation is substantiated.</p>

	<p>Requested Corrective Action. The parents are requesting that the District:</p> <ol style="list-style-type: none"> 1. Provide the student with compensatory education for the period the District denied the student FAPE; 2. Be required to adopt seclusion and restraint policies and procedures that fully comply with the relevant Oregon Administrative Rules; 3. Be required to provide training for staff members on the use of physical restraint and seclusion; and, 4. Be monitored by ODE to ensure District compliance with physical restraint and seclusion regulations in the future. 	
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III. FINDINGS OF FACT

Background Information on the Student

1. The child is a resident of the District, is seven years old, in the second grade and is eligible for special education services as a child with a communication disorder. The child currently attends a nonprofit psychiatric day treatment program that contracts with the State of Oregon to provide services to children with behavioral and emotional difficulties. The program is located in the District. The parents and the District made a joint decision to place the student in this program.
2. During the 2008-2009 school year, the student was placed in a Structured Learning Center in a District elementary school. On March 18, 2009, the parents withdrew the student from this placement, and on April 14, 2009, the student began attending the day treatment program.
3. The student's school-age eligibility as a child with a communication disorder was established on February 28, 2008, during the student's kindergarten year. After being referred for behavioral concerns, the student was evaluated for educational disabilities in the areas of specific learning disability, autism, emotional disturbance, and communication disorder.
4. During the student's kindergarten year, District staff wrote and used several behavior management programs and strategies to attempt to help the student maintain appropriate behavior in school. Many of these were not successful, and the student attended half instead of full-day kindergarten for portions of the school year.
5. The student's initial school-age IEP was written on March 7, 2008. This IEP included statements that the student had communication needs and that the student exhibited behavior that impeded learning in the classroom. In the Present Level of Academic Achievement and Functional Performance statement, staff noted that the student was unable to complete the Clinical Evaluation of Language Fundamentals test and showed physical stress as a result. Staff also wrote that the student "will need strategies to deal with behavior at school." In addition, this IEP contains goals in reading, written language, and speech and language. Specially designed instruction in reading and written language skills was to be delivered in the resource room for 30 minutes, four times per week. Specially designed instruction in social communication⁵ skills was to be provided in the speech room for 200 minutes per month. Counseling was to be provided 60 minutes per month in the Child Development Specialist's office. All accommodations and modifications were to be provided in the general education classroom. The IEP indicated that the student was to be removed from the general education setting for 200 minutes per month for communication and 60 minutes four times per week for literacy and 60 minutes per month for counseling.
6. The team chose a placement of a regular classroom with pull-out services for academics and communication less than 20% of the day.

⁵ In interviews, some staff referenced this as the goal written to support the student's behavioral needs because of the connection between the student's communication disorder and behavior. However, this point of view was not universally supported.

7. On April 29, 2008, the student was evaluated at Oregon Health and Science University's Child Development and Rehabilitation Center (CDRC).⁶ The student was evaluated by a pediatrician, an occupational therapist, and a psychologist. The CDRC team did not endorse a diagnosis of autism; instead, the team noted an Axis I diagnosis of Attention Deficit Hyperactivity Disorder, combined type, provisional; with Mixed Receptive and Expressive Language Disorder—and ruled out an anxiety or mood disorder. The team also noted an Axis IV diagnosis of Delayed Adaptive Skills. The CDRC team made multiple recommendations, including that the school team should conduct an evaluation for Attention Deficit Disorder.⁷ In addition, the team recommended a number of strategies and resources for both the parents and school personnel. Recommendations from the CDRC team included parent education about ADHD; medication consideration; mental health counseling; a highly structured behavior management program at home and at school; continued speech and language services; provision of opportunities where the student experienced success; a multimodal treatment program; and, involving the student in creating self-monitoring and self-reinforcement systems.

8. On August 29, 2008, the parents met with the principal and the special education teacher to discuss the start of the school year. The group discussed a three-point behavior scale that the special education teacher used in the special education classroom. The scale is outlined in the table below.

Level	(Student) Behavior	Staff Response
1 Green	<ul style="list-style-type: none"> • Engaged • Redirectable • Calm • Pleasant 	<ul style="list-style-type: none"> • Verbal praise • Physical praise • Rewards on chart • Remain with group • Redirect with short simple expectations • 2 reminders of choice to take a break
For [student]	<u>If you are:</u>	<u>THEN you can:</u>
Green	<ul style="list-style-type: none"> • Working • Following directions • Maintaining space • Safe hands and feet • Kind words • Asking for help with problem • Stating what is bothering you 	<ul style="list-style-type: none"> • Earn rewards • Make friends • Learn • Get special jobs • Think happy thoughts • Take a break • *Have a recess on time
Level	(Student) Behavior	Staff Response
2 Yellow	<ul style="list-style-type: none"> • Repeated Disruptions • Non-compliance • Refusal—saying No • Shouting • Cursing • Wandering • Threatening • Knocking things off • Single episode of aggression 	<ul style="list-style-type: none"> • Set limits: Offer 2 positive choices/2 consequences • Teacher-Directed Break: 1 verbal ("Breakroom") 1 visual (Break Card) • Herding to breakroom

⁶ The parents asked their primary care physician to make the referral because they were concerned the student might have autism.

⁷ This report was shared with the school sometime in May of 2008 but was not formally considered by the IEP team in an IEP meeting.

For [student] Yellow	<u>If you are:</u> <ul style="list-style-type: none"> • Saying No • Loud • Unkind words • In other's space • Not where you should be • Not working • Pushing away from work • Beginning to have unsafe hands and feet 	<u>THEN you can:</u> <ul style="list-style-type: none"> • Make a good choice • Return to a 1 • Go to break room on own or when asked • Deep breathing • Count to 10 • Rub legs
Level	(Student) Behavior	Staff Response
3 Red	<ul style="list-style-type: none"> • Repeated physical aggression toward self or others • Danger to self or others 	<ul style="list-style-type: none"> • "Code: Round Up" to Office • Room Clear with radio • NCI with safety team • Transport/restraint to seclusion • Maintain visual monitoring • Adult determination of de-escalation (to a 1) • Seclusion/Restraint form
For [student] Red	<u>If you are:</u> <ul style="list-style-type: none"> • Non-stop- hurting others or self 	<u>THEN you can:</u> <ul style="list-style-type: none"> • Be assisted to break room until return to 1 • Deep breathing • Count to 10 • Rub legs

9. In September 2008, the student started first grade. In accordance with the IEP, the student spent most of the school day in the first grade classroom with a special education assistant available to monitor behavior and provide other assistance as needed.

10. At some point in the fall term, the special education assistant was assigned to supervise another child in a different classroom on a part time basis.

11. On October 21, 2008, the parents and staff met to discuss a Positive Behavior Support Plan. The group drafted a plan as outlined below:

- a. Desired Behaviors
 - i. To follow teacher directions
 - ii. To be safe with staff and students
 - iii. To use safe strategies when frustrated
- b. Intervention Strategies (school, home, community)
 - i. Positive behavior reward chart to reinforce desired behaviors and extinguish negative behaviors
 - ii. Support during transitions to reinforce desired behaviors
 - iii. Provide "Break" safe area for student to use with no consequence
- c. Skills to be taught
 - i. Resolving conflict safely
 - ii. Line up hallway expectations
 - iii. Social stories
 - iv. "STOP", then go to "Break" area—Problem solve with adult afterward
- d. Positive incentives

- i. Daily rewards for filling reward—chart
 - ii. Computer—choice activity—treasure box
 - iii. Daily sticker rewards
 - iv. Dazzling dolphins
- e. Procedures for managing inappropriate behavior
 - i. Do not engage in a control battle, but use limit setting
 - ii. Offer choices with reward and consequences
 - iii. Walk away—give student time to choose
 - iv. Re-state choice—offer reward for good choice
- f. Safety support plan (if necessary)
 - i. Do not touch student or try to physically move the student unless the student or someone else is in immediate danger.
 - ii. Clear room if needed
 - iii. Continue to offer the student a safe place
 - iv. Call for safety team support as discussed
 - v. Call parent and police if needed if student leaves school grounds
 - vi. Use restraint/seclusion if danger to self or others.

12. After the meeting, school staff asked the parents to take home a copy of the draft of the plan and, after they had had time to review it, return it with any questions or disagreements. The parents stated that they wrote “NO” next to item f.vi., which authorized the District to restrain or seclude the student, of the plan and returned it to the school. The District extracted the Safety Plan section from the Positive Behavior Support Plan and further expanded it. It is outlined below:

Safety Plan

For use if [student] demonstrates physical aggression or runs away (classroom or playground) and will not respond to prevention strategies:

Physical Aggression:

1. Remove student being harmed to a safe area
2. Conduct Room/playground area clear of all students to a safe area if needed
3. Call office for safety team support
4. If [student] continues to hurt self or someone else: Use seclusion or restraint if necessary to prevent danger to self or others
5. *Call Police, *Call Parent to pick up.

Running out of supervision/off campus:

1. Follow/monitor at a safe distance. Do not chase. Encourage [student] to go to a safe break area.
2. Call office for safety team support.
3. If [student] leaves campus and is in immediate danger: Use seclusion or restraint.
4. *Call Police, *Call Parent to pick up

If [student] is unable to return to class and be available to learn after 2 previous safety incidents: *Call Parent to pick up.

13. The parents stated that they never saw a typed copy of the Safety Plan until they requested the student’s records on March 18, 2009. Though the parents had objected to the inclusion of restraint and seclusion provisions in the initial behavior support plan, the final safety plan included such a provision.

14. In the first two months of school, until October 31, 2008, the student received 20 Behavior Referrals⁸ for such behaviors as kicking, hitting, spitting, threatening, punching and being defiant. The parent was called twice to pick the student up and take the student home; the student was suspended in school for one day. Additionally, the classroom had to be cleared one time during this period due to the student's unsafe behavior.

Chronology of Events

15. The student received many Behavioral Referrals from October 31, 2008 to March 17, 2009. None of the Behavior Referrals issued with regard to the student during the time under investigation are signed by the parents, and the parents stated that they never saw copies of these referrals until they inspected the student's record on March 18, 2009.
16. On October 31, 2008, the student received a Behavior Referral for hitting.
17. On November 6, 2008, the student was deemed to be out of control and the parent picked the student up at school and took the student home at the request of staff.
18. On November 7, 2008, the student received three separate Behavior Referrals for incidents of hitting, pushing, and defiance.
19. On November 14, 2008, the student destroyed another student's art project.
20. On November 20, 2008, the student kicked the art teacher and spit on another teacher and the classroom had to be cleared.
21. On November 25, 2008, the student received a Behavior Referral for refusing to talk to a teacher during a conflict.
22. On November 26, 2008, the student received two separate Behavior Referrals and was assigned to In-School Suspension for the remainder of the day after pushing, punching, and fighting.
23. On December 1, 2008, the student was defiant and punched and spit at others. The parent picked the student up and took the student home at the request of staff.
24. On December 2, 2008, the student received a Behavior Referral for being defiant and for pushing and injuring a teacher.
25. On December 8, 2008, the student threw bark chips at a teacher and another student and physically attacked the other student. The parent picked the student up at school and took the student home at the request of staff.
26. On December 9, 2008, the parents and District staff met in an IEP meeting and discussed the student's behavior. After discussion about the student's inability to manage frustration and the student's use of aggression to express frustration, the team decided to change the student's placement. The student's placement was revised and is described as: ""Regular

⁸ The Behavior Referral form is completed by the staff member who witnesses the inappropriate behavior. Various checklists are provided on the form so that the staff member can choose what type of behavior occurred, what consequence was given, and on what day and at what time the behavior occurred. There is also space for the parent to sign the referral.

Classroom less than 40% of the day [Student Service Center] instruction". Although all parties agree that the student's placement was 100% of the time in the special education classroom, District staff stated in interviews that there were additional opportunities for the student to participate in general education activities. The parents disagree about the availability of such opportunities. The team also discussed, but did not select, a placement in a day treatment program.

27. On December 9, 2008, the District sent the parent a Prior Notice of Special Education Action which stated that the student "will receive special education services in the Student Service Center (SSC) for 100% of the day, from 12/10/2008 through 1/16/2009." In addition, the notice stated that the District would schedule an observation and consultation with staff from the day treatment center and that, "Parents agree to support SSC placement by removing the student from school if refuses to comply/disrupts/leaves the SSC."
28. On December 10, 2008, the school called the parent and requested that the parent come and get the student. The parent picked the student up and took the student home after the student refused to comply with directions and refused to take a break when directed.
29. On December 12, 2008, the student was deemed to be out of control, the classroom had to be cleared, and the parent picked up the student and took the student home at staff request.
30. On January 6, 2009, staff recorded that the student was hitting and kicking an assistant. The assistant removed the student's shoes and left the area but continued to supervise from the outside. Staff recorded that the student then spent the remainder of the day on the computer and stated, "We did not want to force a huge fight, so we allowed that."
31. On January 12, 2009, the student was hitting and kicking and the parent picked the student up and took the student home at staff request.
32. On January 30, 2009, the student kicked another student.
33. On February 17, 2009, the student was placed in the break room for three hours after acting out in the classroom, including destroying a tunnel and breaking eyeglasses.
34. On March 2, 2009, the student was placed in the break room for one hour and twenty minutes after acting out in the classroom—hitting staff with pieces of a tunnel bracket and throwing sticks at staff.
35. On March 4, 2009, the student was placed in the Break Room for hitting and kicking staff. The amount of time in the break room is not recorded.
36. On March 6, 2009, the special education director approved a request from the team that the team meet all day on March 18, 2009 to begin designing a comprehensive behavior plan for the student based on the "Ziggurat" model⁹.
37. On March 6, 2009, the student threw things in the teacher's office and was assisted to the break room. The amount of time in the break room is not recorded.

⁹ The Ziggurat model is a commercially designed product that facilitates team discussion and planning of comprehensive behavior interventions for individuals with autism spectrum disorder. It is used with other individuals with disabilities as well.

38. On March 6, 2009, the team met to do the annual update to the student's IEP. This IEP included statements that the student had communication needs and that the student exhibited classroom behaviors that impeded the student's learning. In the Present Level of Academic Achievement and Functional Performance statement, staff noted that the student's communication deficits impact all academic and social areas. In addition, this IEP contains goals in reading, written language, math, speech and language, and social/emotional skills. Specially designed instruction in reading and written language skills was to be delivered in the resource room for 30 minutes, four times per week. All specially designed instruction was to be provided in the self contained class. Counseling was to be provided 60 minutes per month in the Child Development Specialist's office. All accommodations and modifications were to be provided in the self-contained class. The IEP indicated that the student was to be removed from the general education setting for 100% of the day.
39. The team identified the student's placement as more than 69% of the day in resource room or special class.
40. On March 10, 2009, the student threw things in the teacher's office and was taken to the break room. The amount of time in the break room is not recorded.
41. On March 11, 2009, the student hit and kicked staff and broke a staff member's eyeglasses. The student was taken to the break room. The amount of time in the break room is not recorded.
42. On March 12, 2009, the student tried to leave the play area and refused to follow directions. The parent picked the student up at staff request and took the student home.
43. On March 17, 2009, the student kicked and hit staff and was taken to the break room. After the student tried to throw objects over the top of the break room walls into the classroom, the student was restrained and moved so that the student would not hurt the staff member who was in the break room. In the process, the student sustained some bruises on the back. When the parents discovered the bruises, they removed the student from the school and began the process of enrolling the student in an alternative setting.
44. On April 14, 2009, the student began attending the day treatment center program.

IV. DISCUSSION

A. Review and Revision of IEPs

The parents allege that the District failed to comply with the IDEA by failing to review and revise the student's IEP to address a lack of expected progress related to the student's behavior at school. Specifically, the parents allege that the District failed to develop measurable annual goals in the area of behavior despite the student's continued displays of inappropriate behaviors at school. The Department concludes that, although the District did address the student's behavior needs on multiple occasions, the District failed to follow established IDEA procedures when developing and implementing special education and related services addressing the student's behavior.

A school district provides a student with a free and appropriate public education when it follows the procedural requirements of the IDEA and provides students with educational programs reasonably calculated to provide educational benefit. The educational planning process required by the IDEA is intended to identify all of the needs of the student that result from the student's disability. To that end, OAR 581-015-2200 requires IEP teams to consider a number of special factors related to the student's education. One of those special factors concerns whether the student's behavior impacts the learning of the student or others. In this case, the student's initial referral for special education was based on concerns about the student's behavior. Additionally, the student's IEP team indicated, on both the 2008 and 2009 IEPs, that the student's behavior did impact his learning.

Despite the IEP team's acknowledgement of the student's behavioral needs, the student's March 2008 IEP did not include any behavioral goals. Nonetheless, the District employed a number of measures to address the behavioral needs of the student before and after the student was determined eligible for special education. Though the student's March 2008 IEP did not include a behavioral goal, it did include a number of services, modifications, and accommodations related to the student's behavior. The district and the parents also met in April of 2008 to discuss a three-point behavior scale that the District had implemented to assist the student in the special education classroom.

During the next school year, the student's first grade year, the District again made a number of adjustments to the student's educational program in response to the student's inappropriate behaviors; many of these changes were not memorialized on the student's IEP. In October of 2008, the parents and the District created a Positive Behavior Support Plan for the student. On December 12, 2008, the student's IEP team met and changed the student's placement from the general education classroom to a self-contained classroom. In March of 2009, the annual review and revision of the student's IEP took place. Though the new IEP team did not include a behavioral goal, a social/emotional goal was added.

Under OAR 581-015-2225, school districts are required to convene a student's IEP team to review and, if necessary, revise the student's educational program when the student fails to make expected progress on educational goals. From the outset of the student's involvement in special education, the District has acknowledged that the student's behavior is an impediment to the student's educational progress. In response, the District and the parents worked together on several occasions during the 2008-2009 school year to create an educational program that addressed the student's educational needs and allowed the student to access educational services, to the maximum extent possible, in a general educational setting. Throughout the time period under review, the District, in consultation with the parents, took numerous measures to address the student's behavioral needs, but those measures were not always developed and implemented in compliance with the requirements of the IDEA. Specifically, those changes were never recorded on the student's IEP.

In brief, the special education planning process outlined in the IDEA requires the student's IEP team to identify the educational impact of the student's disability, to establish measurable goals designed to meet the student's educational needs, to define how progress towards the goals will be measured, to implement special education and related services that assist the student in attaining the goals, and to review the student's progress and revise the plan as necessary. In this case, the District identified the educational impact of the student's disability and implemented a number of services, accommodations, and modifications designed to allow the student to access the curriculum. Additionally, the District and the parent identified, to a limited extent, a number of behavioral goals in the student's October 21, 2008 Positive Behavior Support Plan. However, the District failed to include measurable goals related to the student's behavior or to establish how progress towards those goals would be measured on the student's 2008 and 2009 IEPs.

The Department substantiates the parents' allegation that the District violated the IDEA by failing to review and revise the student's IEP despite the student's lack of expected progress with regard to behavior management. Specifically, the Department finds that, with respect to the student's behavioral needs, the District failed to include appropriate, measurable annual goals or to identify how the student's behavioral progress would be measured on the student's IEP.

Though the District did not comply with the IDEA with regard to the review and revision of the student's IEP, the Department concludes that the District's non-compliance did not have a direct and material impact on the student's receipt of a free and appropriate special education. Despite the lack of clearly documented goals and progress monitoring mechanisms, the District's actions throughout the 2007-2008 and 2008-2009 school years indicate that the District was aware of the student's behavioral needs and provided services, accommodations, and modifications designed to address the student's behaviors so that the student could remain in the least restrictive environment. See *Corrective Action*.

B. Disciplinary Removals of More than 10 School Days (Pattern or Consecutive)

The parents allege that the District did not comply with the IDEA provisions related to the discipline of students with disabilities. The parents assert that the District erred by not holding a manifestation determination within ten days of the District's decision to effect a disciplinary change of placement.

The Department concludes that the District did not violate the IDEA in its response to the student's behavior. A disciplinary change of placement occurs when a student is removed from school for disciplinary reasons for more than ten days in a school year and those removals constitute a pattern. Within ten days of the decision to change a student's placement, the school district must hold a manifestation determination to consider whether the behaviors that precipitated the removals were a manifestation of the student's disability.

In this case, the student was removed from his classroom on numerous occasions for disciplinary reasons during the 2008-2009 school year, when the student was in first grade. The District used two basic strategies for responding to the student's disruptive and potentially dangerous behavior: sending the student home with a parent for the remainder of the school day and requiring the student to remain in a break room until the student is able to manage his conduct and appropriately communicate his desires. Both of these strategies were included on the student's October 21, 2008 Positive Behavior Support Plan; however, the Department concludes that those instances in which District staff requested that a parent take the student home from school constitute disciplinary removals.

Nonetheless, the Department concludes that the District did not violate the disciplinary provisions of the IDEA because the student was never subject to a disciplinary change of placement during the 2008-2009 school year. The record in this case establishes that the student was picked up by a parent on two occasions prior to October 31, 2008 and again on November 6, 2008; December 1, 8, 10, and 12, 2008; January 12, 2009; and March 12, 2009. The record also establishes that, on at least three of those occasions, the parent picked up the student after mid-day so that any resultant disciplinary removal would have been only a half-day removal. Assuming that the remainder of the removals were for full days, the student was removed for 7.5 days due to parental pick-up at District request.

The student was also subject to in-school suspension on two occasions during the 2008-2009 school year – once prior to October 31, 2008 and once on November 26, 2008. Assuming that both of these suspensions were for full days and constituted removals under OAR 581-015-

2400(3), the student would have been removed for a total of 9.5 days for disciplinary reasons. Therefore the disciplinary protections contained in the IDEA were never triggered in this case, and the student was not entitled to a manifestation determination.

The Department does not substantiate the allegation that the District violated the IDEA by failing to conduct a manifestation determination.

V. CORRECTIVE ACTION¹⁰

In the Matter of Lincoln County School District
Case No. 09-054-041

Action Required	Submissions ¹¹	Due Date
The District will convene the student's IEP team to consider the inclusion of behavioral goals on the student's current IEP.	A copy of the student's IEP after review and, if necessary, revision by the IEP team.	February 8, 2010
Provide training and information to district staff and administrators concerning the review and revision of IEPs and the formation of measurable annual goals and progress monitoring mechanisms.	Submit evidence of completed training, including agenda, names of presenter(s), meeting materials, and sign-in sheets.	March 8, 2010

Dated: 24th day of December 2009

Nancy J. Latini, Ph.D.
Assistant Superintendent
Office of Student Learning & Partnerships

Mailing Date: December 24, 2009

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.

¹⁰ 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).

¹¹ Corrective action plans and related documentation as well as any questions about this corrective action should be directed to Rae Ann Ray, Oregon Department of Education, 255 Capitol St. NE, Salem, Oregon 97310-0203; telephone – (503) 947-5722; e-mail: raeann.ray@state.or.us; fax number (503) 378-5156.