

**BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION**

In the Matter of the Oregon City School )  
District No. 62 )  
)  
)

FINDINGS OF FACT,  
CONCLUSIONS,  
AND FINAL ORDER  
Case No. 12-054-028

**I. BACKGROUND**

On October 12, 2012, the Oregon Department of Education (Department) received a faxed five-page letter of complaint from a complainant (Complainant) on behalf of a student (Student) residing in and attending school within the Oregon City School District (District). The Complainant requested that the Department conduct a special education investigation under OAR 581-015-2030. The Department confirmed receipt of this complaint and forwarded the request to the District by email and by US mail on October 17, 2012.

On October 19, 2012, the Department sent a *Request for Response* (RFR) to the District identifying the specific allegations in the complaint that the Department would investigate. The District provided its timely *Response* to the Department and to the Complainant on November 1, 2012, along with approximately 524 pages of documents in support of its *Response* and pursuant to the request contained in the RFR.<sup>1</sup> The Complainant did not submit a formal Reply or any additional documents by the due date of November 8, 2012.

The Department's complaint investigator determined that on-site interviews were required. On November 14, 2012, the Department's investigator interviewed the District special services director, the District's high school special education coordinator, the high school learning specialist/Teacher on Special Assignment (TOSA), the District's McKinney-Vento liaison, two high school associate principals, a middle school principal, and a school psychologist. On November 15, 2012, the Department's investigator interviewed the following staff of a District sponsored public charter school (Charter School) operated within the District at a former District elementary school: the principal, a special education teacher, a school counselor and an instructional assistant. In addition, on November 15, 2012, the Department's investigator interviewed the administrator and a teacher of a private alternative education school (Alternative School) operated within the District at a District owned house. On November 19, 2012, the Department's investigator received a two-page letter from the parent of the Student.<sup>2</sup> On November 23, 2012, thirteen pages of documents, most of which duplicated documents previously provided, were received from the Student's parent via the Alternative School, and were sent to the District the same day. The Department's complaint investigator reviewed and considered all of these documents, exhibits, and interviews.

Under federal and state law, the Department must investigate written complaints that allege IDEA violations that occurred within the twelve months prior to the Department's receipt of the

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<sup>1</sup> The District provided a total of approximately 524 pages of exhibits. A portion of those documents were general documents applicable to Case Nos. 12-054-028, 12-054-029 and 12-054-030, while the balance of the documents were specific to each individual case.

<sup>2</sup> The Department's investigator provided a copy of the letter dated October 21, 2012 to the District and the Department on November 20, 2012.

complaint and issue a final order within 60 days of receiving the complaint.<sup>3</sup> The Department may extend the timeline if the District and the Complainant agree to an extension to participate in local resolution, mediation, or if requisite exceptional circumstances are present.<sup>4</sup> This order is timely.

## II. ALLEGATIONS AND CONCLUSIONS

The Department has jurisdiction to resolve this complaint under 34 CFR 300.151-153 and OAR 581-015-2030. The Parent's allegations and the Department's conclusions are set out in the chart below. These conclusions are based on the Findings of Fact (Section III) and the Discussion (Section IV). This complaint covers the one-year period from October 13, 2011 to the filing of this complaint on October 12, 2012.<sup>5</sup>

	Allegations	Conclusions
	The written complaint alleges that the District violated the IDEA in the following ways:	
1.	<p><b><u>Child Find:</u></b></p> <p>Not locating and identifying all children with disabilities located within the boundaries of the school district by appropriate consultation with representatives of charter and private schools.</p> <p>(OAR 581-015-2080, OAR 581-015-2085, OAR 581-015-2480, OAR 581-015-2485, 34 CFR 300.111, 34 CFR 300.131, 34 CFR 300.134, 34 CFR 300.136, and 34 CFR 300.137)</p>	<p><b>Substantiated</b></p> <p>The District had sufficient notice to suspect that the Student was qualified under State Child Find laws.</p>
2.	<p><b><u>Special Education Evaluations:</u></b></p> <p>Not identifying and initiating special education evaluations regarding the Student for Special Education Eligibility when the District should have suspected that the Student was in need of special education services.</p> <p>(OAR 581-015-2080, 581-015-2085, 581-015-2100, OAR 581-015-2105 through</p>	<p><b>Substantiated</b></p> <p>The District should have initiated the special education eligibility process on or about September 11, 2012. Since the complaint was filed, the District has initiated the special education evaluation process.</p>

<sup>3</sup> OAR 581-015-2030(12) and 34 CFR §300.151

<sup>4</sup> OAR 581-015-2030(12)

<sup>5</sup> See 34 CFR § 300.153(c); OAR 581-015-2030(5)

	OAR 581-015-2120, 34 CFR 300.303, 34 CFR 300.111, 34 CFR 300.131, and 34 CFR 300.157)	
3.	<p><b><u>Denial of FAPE:</u></b></p> <p>Not providing a Free and Appropriate Public Education (FAPE), including special education and related services, to the Student.</p> <p>(OAR 581-015-2040)</p>	<p><b>Not Substantiated</b></p> <p>The Student has not been found eligible for special education or related services, and therefore has not been denied a FAPE.</p>

1.	<p><b><u>Requested Corrective Action:</u></b></p> <p>A. The District evaluate the Student for special education eligibility; and</p> <p>B. The Department investigates whether the District is systemically failing to identify students whom it suspects are eligible for special education services but instead are placing those students at another location that operates within the District without locating and identifying all children with disabilities.</p>	<p>See Corrective Action</p>
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### III. FINDINGS OF FACT

#### **Background**

1. The Student is currently fourteen years old and attended school within the District from 2004 until January 2011. The Student was determined eligible for special education as a student with a Communication Disorder in January 2007, received speech and language services until November 2007, when the Student's IEP team terminated the Student's special education eligibility. In January 2011, the Student moved out of the District boundaries, residing in two different Portland area school districts, until the Student enrolled in a District private alternative education school (Alternative School) operated within the District in November 2011.

#### **2011-12 School Year- Eighth Grade**

2. At the beginning of the school year, while enrolled in one of the neighboring school districts, the Student's attendance records show that the Student attended school

approximately 25% of school days. Noted in this neighboring district's records is a reference to "anxiety/panic attacks" as "other medical information." The exact date that the District requested and received the adjacent district's records is not available; however, the adjacent district printed the records on November 7, 2011. District practice is to request records within ten days of enrollment and receive those records within ten days of request. District records have not been located to identify how, or when, the Student was referred to the Alternative School.

3. Records from the Alternative School reflect the Student attended the Alternative School beginning November 28, 2011. From November 28, 2011 to March 8, 2012, a total of 53 school days, the Student was present 32 days and absent 21 days. For the March 12 to June 7, 2012 period, a total of 50 school days, the Student was present at the Alternative School for 33 days and absent 17 days. The Student had received services during the school year from the District's McKinney-Vento homeless liaison.

### **2012-13 School Year- Ninth Grade/Freshman**

4. On September 8, 2012, the Student and one of the Student's parents went to the District high school to enroll the Student in the District at the start of the school year in anticipation of returning to the Alternative School. A District administrative staff member informed the Parent that the District was not referring new students to the Alternative School.<sup>6</sup> The parent understood the District staff member to say that credits from the Alternative School were not transferable to the District high school.<sup>7</sup> The Student was referred to one of the District sponsored charter schools ([Charter School]).The Student completed an application form and attended an orientation for the Charter School, but was unable to stay for the complete orientation due to a "severe panic attack."
5. On September 10, 2012, the Student and the Student's parent met with a different District administrative staff member than the staff member they met with on September 8, 2012. The staff member filled out an "Alternative Placement Referral Form." The referral form identified the Student having "severe anxiety issues document (sic) by Dr."<sup>8</sup> The District staff member referred the Student to a District online program (OCAP) housed within the District special program office.<sup>9</sup> The intake was scheduled for the following day. The District administrator believed that the Student would attend the District chosen placement. The parent cancelled the intake meeting.
6. On September 11, 2012, staff at the Alternative School called a third District staff member to request special education evaluations on this Student and another student. The District staff member informed her supervisor of the request for the evaluations and replied to the Alternative School staff member by giving her the name and phone number of the supervisor. Alternative School staff replied that she would contact the District "ASAP" but that the Alternative School was waiting for additional referrals from the

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<sup>6</sup> While the Student was not new to the District, the Student was an entering high school student and treated as if the Student were "new", since the Student was not yet enrolled in one of the District's schools.

<sup>7</sup> During on-site interviews, District staff explained that credits from the Alternative School were transferable, but only as "elective" credits.

<sup>8</sup> While the staff member requested a copy of those records, and the Student's parent said she would provide them the next day, the District never received any documents confirming the Student's anxiety diagnosis.

<sup>9</sup> During on-site interviews, District staff explained that OCAP is located on the Jackson campus and is an off-site alternative program operated under the auspices of the District high school.

District high school before making the formal referral for a special education evaluation for this and another student.

7. The Student then contacted the District's McKinney-Vento liaison to find out why the District would not refer the Student back to the Alternative School. The liaison inquired with another District staff member who informed her that the District high school was no longer referring students to the Alternative School because it had lost its accreditation. Upon further inquiry, the liaison learned that the Alternative School was accredited, but the District had concerns about the school's academic "rigor" in its core classes and credits would not necessarily transfer back into core subjects if a student returned to high school.
8. On September 18, 2012, the District's McKinney-Vento homeless liaison met with the Student and toured OCAP. The Student expressed a desire to attend only the Alternative School.
9. The Student's parent called the District Superintendent in mid-September, leaving a message, and called again a few days later. She understood that the District would not refer the Student to the Alternative School, became frustrated and expressed intent to home school the Student.
10. On September 18, 2012, The Student's parent sent the Education Service District (ESD) a "Notification of Intent to Home School."
11. On September 20, 2012, the District's special education coordinator received a phone call from an Alternative School staff member requesting a referral for the Student to be placed at the Alternative School. In the call, the Alternative School staff member raised that the Student was not on an IEP but has anxiety issues "that impact [the Student's] ability to attend school." In the return telephone call to the Alternative School on September 24, 2012, the District staff left a message at the Alternative School that the Student's parent would need to meet with the District administrator to request a placement outside of OCAP. In addition, since the Student "is not an IEP identified student, [the District] would not participate in the process until a request is made requesting consideration for IEP services... which [the Alternative School] can't do since [the Student] is not a student there."
12. The Student's District administrator was the District staff member referred to in Paragraph 5 above and who completed the District's Alternative Placement Referral Form for the Student. She was copied with the email documenting the September 24, 2012 message left at the Alternative School. The administrator believed that the parent had to request a special education evaluation referral.
13. On November 6, 2012, the Student's other parent requested the District approve an inter-district transfer to a neighboring school district. The District approved the transfer on November 7, 2012, sending a certified letter to the parent's address and offering to

evaluate the Student for special education eligibility.<sup>10</sup> As of November 14, 2012, the District has not received notification that Student's parent had picked up the certified letter, or that the neighboring district has accepted the inter-district transfer.

14. The Student's evaluation planning meeting has not been scheduled.

### **District Policies**

15. The District maintains written policies regarding locating, identifying and evaluating all children birth to age 21 residing within its jurisdiction who have disabilities and who need special education services. The District's policy, consistent with state and federal regulations, includes all children, including highly mobile, such as migrant and homeless children; children suspected of having disabilities even though they have not failed, been retained in a course or a grade, and are advancing from grade to grade; are home schooled; or are attending a private or charter school located within the District.

16. The District's written policies reflect implementation of its child find obligation through public awareness, including but not limited to providing information to public and private facilities and public charter schools, to private schools located within the boundaries of the district, and for home-schooled students by collaboration with the ESD.

17. The District maintains a list of alternative education programs approved annually by the School Board. Private alternative education programs must be registered with the Department in order to be approved by the Board. District policies state that students, upon parental request, may be placed in an alternative education program if the District determines that the placement serves the student's educational needs and interests and assists the student in achieving or exceeding district and state academic content standards.

18. The District School Board approved the Alternative School as an Alternative School for the 2009-10, 2010-11, and 2011-12 school years, as well as the current 2012-13 school year. The Alternative School is also registered with the Department for the same years. The Department has not approved the Alternative School to provide special education services.<sup>11</sup> The Northwest Accreditation Commission formally accredited the Alternative School during a site visit in April 2012 as a "non-public special purpose school."

19. The District maintains a policy establishing a homeless liaison to assist students in homeless situations be admitted to District schools if the student is actually living within the District.<sup>12</sup> Services comparable to those services offered to non-homeless students shall be offered to homeless students including transportation services and special education services.

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<sup>10</sup> The Student's address used for initial enrollment in September 2012 is different from the address used for the inter-district transfer. This may be due to a change of the Student's residence, residing with one of the Student's two parents, each of whom reside at different addresses within the District, and/or it may be related to prior or current homelessness.

<sup>11</sup> Approval by the District's School Board is a different "approval" than the Department's "approval" to provide special education services. See OAR 581-015-2270.

<sup>12</sup> "Students in a Homeless Situation" is defined as individuals who lack a fixed, regular and adequate nighttime residence. See OAR 581-015-2000 (13) and section 725 of the McKinney-Vento Act, 42 USC 11434a(2).

20. The District sponsors four charter schools. ODE records identify two of these as high schools; a third as a K-12 school, and the fourth as a K-4 school. The contract between the District and one of the District's public charter schools includes the following provisions:

4.N. (v) The funds from the Oregon Department of Education representing the Average Daily Membership weighted (ADMw) for special education for [Charter School B] special education students shall be retained by the District, if the student is a resident of the District.

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4.N. (xi) [Charter School B] shall notify the student's resident district if a student may need special education services.

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4.N. (xii) If, after a student is enrolled and attending [Charter School B], staff and employees of [Charter School B] suspect a student is eligible for special education and related services under IDEA [Charter School B] shall comply with the District practices and policies for referral of the student for evaluation.

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4.N. (xiv) The District remains responsible for offering and providing a FAPE to all resident special education students who attend [Charter School B]. The District is responsible for the provision of all specially designed instruction to resident special education students who attend [Charter School B]; unless an alternative instructional arrangement is mutually agreed upon by the District and [Charter School B].

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9. The District shall be the employer of all employees of [Charter School B] Public Charter School.

21. The "Contract for Educational Services" between the District and the Alternative School for the 2011-12 school year include the following provisions.<sup>13</sup>

1. [Alternative School] will meet the standards of the State Department of Education (ODE) necessary to be approved and renewed as a registered alternative program per OAR 581-021-0072.
2. [Alternative School] will continue to meet the standards necessary to maintain ODE approval as an agency to serve IDEA students per OAR 581-015-2270 and be approved by ODE as a special education provider.

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8. [Alternative School] will employ a licensed special education teacher who will provide services to special education students as required by each student's IEP.
9. [Alternative School] will operate special education programs and maintain policies and procedures in compliance with applicable state and federal regulations.

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<sup>13</sup> The District and the Alternative School have not yet signed a contract for the 2012-13 school year, although the draft contract is essentially the same as the contract for the 2011-12 school year.

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22. The District will hold harmless [Alternative School] from any claim made because of the District's failure to comply with the State Department of Education regulations.

22. The District's cohort graduation rates for 2010-11 (the most recently reported data available) are reported separately for the District's high school and its charter schools. Student's placed at Alternative Schools or programs within the District are included in the District high school's data reporting and are not currently required by ODE to be separately reported. Although the alternative education data are not an independent part of public reporting, the District is able to identify these data.

#### IV. DISCUSSION

##### 1. & 2. Child Find and Special Education Evaluations:

The Complainant alleges that the District failed to identify, locate and evaluate the Student when the District suspected, or should have suspected, the Student's special education eligibility. The issue is whether the District complied with the required procedures related to "child find" under the IDEA. A primary obligation of school districts in Oregon under the IDEA is to "identify, locate and evaluate all resident children who may have a disability, regardless of the severity of the disability, who are in need of...special education services, including: Highly mobile children with disabilities (such as migrant and homeless children)."<sup>14</sup> This includes, among other categories, "children who are suspected of having a disability even though they are advancing from grade to grade, children enrolled in public charter schools, children who are home schooled, and children above the age of compulsory school attendance who have not graduated with a regular high school diploma."<sup>15</sup> A school district's obligation to evaluate a student is triggered when the district suspects that the child may be a child with a disability.<sup>16</sup> Pursuant to State law, the district in which the charter or private school is located is responsible for conducting child find activities.<sup>17</sup>

The child-find obligation is an affirmative duty imposed upon the District, and not dependent upon a parent's request for an evaluation.<sup>18</sup> A parent's failure to make such a request does not relieve a District of its child-find obligation.<sup>19</sup> In cases where a mental or cognitive disability may be "invisible" or not manifest itself until some years after the beginning of school, there is a greater expectation that parents and others may assist schools in identifying children in need of special services, so Districts do not have to "guess" which children have disabilities.<sup>20</sup>

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<sup>14</sup> OAR 581-015-2080

<sup>15</sup> OAR 581-015-2080 and 34 CFR 300.111

<sup>16</sup> *Letter to Anonymous*, 21 IDELR 998 OSEP (1994)

<sup>17</sup> OAR 581-015-2080(3) & (4)

<sup>18</sup> ODE Final Order 05-054-017, citing *Robertson County School System v. King*, 24 IDELR 1036 (6th Cir. 1996)

<sup>19</sup> *Robertson County School System*, *id*

<sup>20</sup> *Independent School District No. 625*, 22 IDELR 920 (MN SEA 1995); *Huntsville City Board of Education*, 22 IDELR 931 (AL SEA 1995)

A District's lack of awareness of a student's possible disability and need for special education and related services will not relieve the District of its child find obligation if it should have suspected that a student might have a disability. Failing to meet child find requirements is a matter of serious concern that can deprive FAPE to a student who should have been identified.<sup>21</sup>

In this case, the Student's registration records from the school district the Student attended immediately before enrolling during the 2011-12 school year include a reference to the Student's medical condition of "anxiety/panic attacks." These records gave the District notice of a potential need for special education when paired with the student's significantly low attendance rates. While the District might engage in a period of observation and data gathering for a newly enrolled student, the record of a potential medical or emotional condition should have alerted school officials of the need to consider a special education evaluation. The Student's attendance after enrolling in the District during the 2011-12 school year improved over the year, but was never more than 66% of school days. The Student was served by the District's McKinney-Vento liaison as a homeless student during the 2011-12 school year and the Student's continued contact with the District's liaison during in the 2012-13 school year thus having sufficient contact with District staff who knew of the Student and were aware of the Student's ongoing attendance issues and anxiety.

When the Student tried to enroll for the 2012-13 school year, the Student and the Student's parent received information that was not entirely accurate. While the Student attended the Alternative School the prior year, the District treated the Student as a "new" student since the Student was an entering freshman in ninth grade. The District would not refer the Student back to the Alternative School the Student previously attended, although both the Student and the Student's parent requested that the Student continue at the same school. The parent, whether through misunderstanding or through inaccurate information from District staff, was informed that the Alternative School was no longer accredited and that credits may not transfer back to a high school. The District, instead, referred the Student to one of the District sponsored charter schools.

The Student was unable to complete the orientation at the District sponsored charter school due to a "panic attack." The Student returned to the District in a few days, completed the "Alternative Placement Referral Form" with another District staff member who referred the Student to the District's off-site, on-line alternative program operated under the auspices of the District high school. The Alternative Placement Referral Form reflected that the Student has "severe anxiety issues" allegedly documented by the Student's doctor, although the District never received documentation of this diagnosis. The parent allegedly told the District she would bring the note from the doctor to the counselor's office, but the parent did not do so. The District did not seek further information from the physician.

The Alternative School next contacted the District on September 11, 2012 to discuss a special education referral, but never made a direct, specific request for such an evaluation until just before this complaint was filed with the Department. However, the Alternative School staff member raised that the Student was not on an IEP but has anxiety issues "that impact [the Student's] ability to attend school" during a phone call to District staff made on September 20, 2012. The District's McKinney-Vento liaison tried to assist the Student to enroll in the off-site, on-

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<sup>21</sup> *Robertson, supra*; *Department of Educ. v. Cari Rae S.*, 35 IDELR 1036 (D. Hawaii 2001); *Lakin v. Birmingham Pub. Schs.*, 39 IDELR 152 (6th Cir. 2003)

line, alternative program operated under the auspices of the District high school, but the Student was not interested in attending school at that location. When the Student's parent tried to contact the District's Superintendent, the Student was told that the Student needed a referral from the Student's assigned administrator in order to attend anywhere other than the schools indicated in the two prior referrals.

The parent asked the Alternative School to request a referral from the District, but the staff member at the Alternative School was told that the Student needed to go back to the Student's administrator. The District informed the Alternative School staff that the school could not refer the Student for a special education evaluation because the Student was not enrolled at the Alternative School. The Student's parent ultimately became frustrated with this process and the subsequent lack of results and notified the District of her intent to home school the Student.<sup>22</sup> Later, the Student's other parent requested the District to approve an inter-district transfer, which the District approved.

The District had notice of the Student's anxiety issues from the prior district's records and the Student's poor attendance during the 2011-12 school year at the prior district as early as November 2011. During the 2012-13 school year, the Student reportedly was unable to attend the initial referral orientation process due to the Student's anxiety. The Student also reported to the District the Student's anxiety when the District completed the Alternative Placement Referral Form. The previously attended Alternative School, where the Student attended the prior year, stated that the Student had anxiety issues affecting the Student's ability to attend school. When the Alternative School staff contacted the District's high school special education coordinator, they were told that they could not make a special education referral because the Student was not enrolled there. Student enrollment is not a requirement for a District's Child Find obligations under State and Federal law. While enrollment may be necessary for initiating and managing student information by District practice, lack of enrollment should not preclude availability of a referral for special education consideration.

The regulations state that a parent or public agency may initiate a request for an initial evaluation to determine if a child is a child with a disability.<sup>23</sup> An initial evaluation must be conducted when the District suspects or has reason to suspect that the child has a disability that has an adverse impact on the child's educational performance and the child may need special education services as a result of the disability.<sup>24</sup> District policy states that its child find policy is implemented through public awareness and outreach. The District contract with the Charter School attempts to delegate to the Charter School the obligation of notifying the District of any student who it suspects is subject to child find. However, as noted above, child find duties remain an affirmative District obligation. The issue here is not whether the Alternative School could initiate a special education referral. Rather, for this allegation, the issue is whether the District may have had suspicion of the child's eligibility for special education and related services, thus initiating the District's obligation of locating, identifying and evaluating children within the District boundaries. The District has not yet evaluated the Student for special education, although the District has clearly offered to complete the evaluations in its November 7, 2012 letter. Whether the Student's living situation has made it difficult for the District to reach

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<sup>22</sup> The parent made clear to District staff that she wanted the Student to attend the Alternative School. District policy states that at parent request and subject to District staff determination of the child's best educational interests, the District would determine a referral of the student to an alternative education setting.

<sup>23</sup> 34 CFR 300.301(b)

<sup>24</sup> OAR 581-015-2105

the Student, or for other reasons, the District stands ready to evaluate the Student. The issue here is whether there was sufficient notice to the District to raise its suspicion that the Student may be eligible for special education services. The Department finds that not later than September 24, 2012, the District had sufficient notice to suspect that the Student may be eligible for special education and should have offered to evaluate the Student. Therefore, the Department finds that the District did not discharge its obligation to offer to evaluate the Student and substantiates this allegation.

### **3. Denial of FAPE**

Under the IDEA, school districts must develop and implement an IEP for each eligible child that is designed to ensure that the child receives a free appropriate public education (FAPE).<sup>25</sup>

FAPE is defined as “special education and related services” that are: provided at public expense; meet state standards; include an appropriate preschool, elementary or secondary education; and are provided in conformity with an IEP.<sup>26</sup> A school district meets its obligation to provide FAPE for an eligible child by complying with the procedural requirements of the IDEA and implementing an IEP reasonably calculated to enable a child to receive educational benefits.<sup>27</sup>

A denial of FAPE cannot be supported merely because the District has sufficient suspicion of special education eligibility and failed to evaluate the Student. Not only must the Student’s parent consent to the evaluation, or have an exception to parental consent apply,<sup>28</sup> the Student must qualify as a child with a disability in one of eleven eligibility categories *and* must need special education and related services.<sup>29</sup> Eligibility in one of the categories of disability, without the need for special education and related services, is not sufficient for the Student to be entitled to the protections of IDEA. Furthermore, the parent must consent to initial placement in special education.<sup>30</sup>

There is no showing, at present, that the District has denied FAPE. Currently, there is no determination that the Student is eligible as a child with a disability and needs special education or related services. If there is a determination of eligibility, then this issue may be revisited. However, the Department does not substantiate this allegation at this time.

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<sup>25</sup> 34 CFR 300.341

<sup>26</sup> See 34 CFR 300.17

<sup>27</sup> See *Hendrick Hudson Cent. Sch. Dist. v. Rowley*, 458 US 176, EHLR 553:656 (1982)

<sup>28</sup> OAR 581-015-2095

<sup>29</sup> See OAR 581-015-2020 and OAR 581-015-2130 through 581-015-2180

<sup>30</sup> OAR 581-015-2090

**CORRECTIVE ACTION<sup>31</sup>**  
*In the Matter of Oregon City School District*  
 Case No. 12-054-028

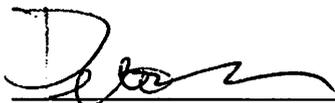
No.	Actions Required	Submissions <sup>32</sup>	Due By
1.	<p><b><u>Evaluation:</u></b></p> <p>Comprehensive Evaluation of the Student, with requisite parent consent, to be completed by January 29, 2013.</p>	<p>Copy of any meeting notices, prior written notices, consent forms, and eligibility determination documents provided to the parent in conjunction with this evaluation.</p>	<p><b>February 8, 2013</b></p>
2.	<p><b><u>Policy and Procedure Review:</u></b></p> <p>The District has in effect appropriate policies related to child find, evaluation, and eligibility determination. Based on the investigation's findings, the District's procedures for implementing these policies in unique settings (i.e. alternative education, charter schools, home schooling, homeless students, and in inter-district transfers) and for students who move between these settings are not adequate. District maintains oversight and supervisions responsibilities for these students pursuant to State and Federal law and must ensure the compliance of Charter and Alternative schools. Therefore, for each of the educational settings listed below develop, in consultation with ODE:</p> <p>a. procedures implementing child find, including, evaluation, and</p>	<p>Develop and submit proposed timeline for procedure development.</p> <p>Submit completed training and informational materials to ODE.</p>	<p><b>December 21, 2012</b></p> <p><b>February 8, 2013</b></p>

<sup>31</sup> The Department's order shall include any necessary corrective action as well as documentation to ensure that the corrective action has been completed (OAR 581-015-2030(13)). The Department expects and requires the timely completion of corrective action and will verify that the corrective action has been completed as specified in any final order (OAR 581-015-2030(15)). The Department may initiate remedies against a party who refuses to voluntarily comply with a plan of correction (OAR 581-015-2030(17) & (18)).

<sup>32</sup> Corrective action submissions 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](mailto:raeann.ray@state.or.us); fax number (503) 378-5156.

	<p>eligibility determination; and</p> <p>b. Training materials for staff and information for parents explaining the procedures including, but not limited to, procedures for those who are moving between these settings and for children who may be homeless.</p> <p>*Educational Settings</p> <ul style="list-style-type: none"> <li>• Charter Schools</li> <li>• Private Alternative Education Programs</li> <li>• Inter-district transfers</li> </ul>		
3.	<p><b><u>Staff Training:</u></b></p> <p>Following ODE approval of revised procedures and training materials in 1. a. and b. above, provide training on the District's revised and adopted procedures and parent information to alternative education, charter school, and other staff who may be involved in referrals for comprehensive special education evaluation or responding to parent inquiries.</p>	<p>Detailed agenda Copies of procedures and parent information presented in training Attendee information: name, position, assignment, (i.e. Charter school administrator), and signed attendance log</p>	<p><b>March 15, 2013</b></p>

Dated: This 11th day of December 2012



Petrea Hagen-Gilden  
Interim Assistant Superintendent  
Office of Student Learning & Partnerships

Mailing Date: December 11, 2012

**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.

Additionally, the Department of Education will not reconsider complaints after the Final Order has been issued pursuant to OAR 581-015-2030 (14)(b).