

<p>(a) The IEP does not include the “Present level of developmental and functional performance (including the results of the initial or most recent evaluation)”;</p> <p>(b) The IEP does not include “How the Student’s disability affects involvement and progress in the general education classroom”;</p> <p>(c) The IEP does not include a social management goal as promised;</p> <p>(d) The IEP does not accurately describe the Student’s present level of academic achievement and functional performance, required to allow the IEP team to assess whether the Student is progressing toward the annual goals;</p> <p>(e) The annual goals in the IEP are not measurable goals;</p> <p>(f) Much of the content of the Student’s IEP is outdated (for example, the IEP now in place refers to a speech therapist who is no longer with the District).</p> <p>Relevant Law: OAR 581-015-2200, 34 CFR 300.323 and 34 CFR 300.324.</p>	<p>meetings and reviewing the existing IEP with the parent to address any concerns. Therefore, the content of the informal documents produced at the planning and review meetings are not subject to the IEP content standards set forth in OAR 581-015-2200.</p>
<p><u>Proposed Corrective Action:</u></p> <p>The complainant requests:</p> <p>The District and particular staff, to be monitored by ODE to ensure the District’s policies and implementing procedures are aligned with IDEA as implemented through Oregon Administrative Rules.</p>	

III. FINDINGS OF FACT

1. The Student in this case is presently nine years old and is eligible for special education as a student with an Emotional Disturbance.
2. Following a previous complaint filed with the Department concerning the Student's December 13, 2012 IEP, the District scheduled a new IEP meeting for January 31, 2013.
3. The IEP team did not complete its review of the Student's IEP during an IEP meeting on January 31, 2013 and scheduled an additional IEP meeting for February 11, 2013. At the February 11, 2013 IEP meeting, the IEP team again did not complete its review of the Student's IEP and scheduled another IEP meeting for March 7, 2013.

IV. DISCUSSION

The complaint alleges that the District violated the IDEA by issuing an IEP on January 31, 2013 the contents of which violate the IDEA in several respects. However, the document provided to the parent and complainant on January 31, 2013 is a draft IEP which had not been finalized. Additionally, the complainant noted in the response that the district had put out "several draft IEPs" and the complainant also confirmed that the IEP was not even discussed at the January 31 meeting. The documents in the record reflect that the meetings in question were not formal IEP meetings. The document dated December 11, 2012 and discussed at the meeting is clearly labeled "Draft Behavior Intervention Plan." The functional behavior assessment document is dated December 10, 2012.

The Student's last annual IEP meeting was held on October 3, 2012. Currently this IEP shows that revisions were made to the document on December 13, 2012. These revisions were indicated on the IEP. The meeting notes and the meeting notice from the December 13, 2012 meeting clearly indicate the purpose of the December meeting was to review the IEP and placement for the child. The notes also reflect that the team addressed parental concerns during this meeting.

Detailed meeting notes from the January 31, 2013 meeting indicate that the Student's behavior, behavior management strategies, and the FBA and BIP were discussed during the January meeting in question. Nothing in the record indicates that this was a full IEP meeting or that an IEP was completed for the Student during this meeting. The February 11, 2013 meeting notes were signed by all parties, including the parent, and indicated that the agenda of the meeting was to discuss parental concerns. The records submitted to the Department also reveal that as of March 7, 2013, the IEP team remained engaged in the task of modifying the Student's IEP, and the team was continuing to review and work with the Student's behavior needs. A notice of team meeting was sent to the parent on February 13, 2013 and this notice clearly stated that another IEP meeting was scheduled for March 7, 2013 to develop or review the IEP.

Overall, the District held five IEP team meetings from the date of the October annual IEP meeting until March 2013, to review the Student's behavior and the existing IEP, to discuss a draft IEP and the parent's concerns, and ways to address the Student's needs. Therefore, it is evident that the District is responding to the parent's concerns for the Student, given the number of meetings held during this time frame. The record indicates that the parent participated in each of these meetings. There is nothing in the record to indicate that the existing annual IEP was replaced during any of these meetings nor that the documents in question were anything other than draft IEPs. The Office of Special Education Programs at the US Department of Education has stated that a District may prepare a draft IEP which does not include all of the required IEP components, but such a document

may be used only for purposes of discussion and may not be represented as a completed IEP.³ Additionally, a parent will not receive a completely new IEP document after every team meeting held to discuss parental concerns or the needs of the child. Informal planning meetings may be held to discuss the ongoing needs of a student, and these meetings will not generate a new IEP document each and every time discussion occurs. The October 2012 IEP was still in effect during this time while the Student planning meetings and draft IEPs were being discussed.

Oregon Administrative Rule 581-015-2200 is at issue in this case, and it provides a list of items that an IEP must include. However, the Department finds that the determination of whether an IEP meets the requirements of this rule may not be made until the IEP team has actually issued a complete and/or revised IEP. No IEPs were issued during these meetings in question. Therefore, the Department will not further investigate the IEP content allegations of this complaint. If the IEP team ultimately issues a finalized IEP that the complainant believes fails to comply with the requirements of the IDEA, the complainant may file a complaint so alleging if and when applicable. The Department does not sustain the allegations made in this complaint.

V. CORRECTIVE ACTION⁴

*In the Matter of Warrenton-Hammond School District 30
Case No. 13-054-005*

The Department does not order any Corrective Action resulting from this investigation.

Dated: March 22, 2013



Sarah Drinkwater, Ph.D.
Interim Assistant Superintendent
Office of Student Learning & Partnerships

Mailing Date: March 22, 2013

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.

³ See *Letter to Helmuth*, 16 IDELR 503

⁴ 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)).