

BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of Gresham-Barlow SD 10J)
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FINDINGS OF FACT,
CONCLUSIONS,
AND FINAL ORDER
Case No. 15-054-030

I. BACKGROUND

On August 17, 2015, the Oregon Department of Education (Department) received a letter of complaint from the Parent (Parent) of a student (Student) residing in the Gresham-Barlow School District (District). The Parent requested that the Department conduct a special education investigation under OAR 581-015-2030. The Department confirmed receipt of this complaint on August 17, 2015 and provided the District a copy of the complaint on August 17, 2015.

The parties agreed to local mediation on or about August 28, 2015. Based on this agreement to mediate, the timeline for this complaint was extended for twenty-eight (28) days. On September 14, 2015, the Department received notice that the local attempt at mediation had been unsuccessful. The Department's investigation went forward based on a request from the Parent.

On September 15, 2015, the Department sent a *Request for Response* (RFR) to the District identifying the specific allegations in the complaint to be investigated and establishing a *Response* due date of September 30, 2015. The District completed its *Response*, which was made available to the Investigator, on September 30, 2015. The District also submitted its *Response* to the Parent. The District's *Response* included a narrative response, exhibit listing, and the following documents:

1. The Student's 5th grade IEP dated November 13, 2012;
2. Medical Statement of Health dated January 6, 2013;
3. Authorization to use and/or disclose educational and health information dated January 6, 2013;
4. Speech and Language Evaluation dated January 30, 2013 and March 13, 2013;
5. ASD Observation Form dated February 11, 2013;
6. Psychological Evaluation dated February 25, 2013;
7. Eligibility statement dated March 19, 2013 regarding ASD;
8. Eligibility statement dated March 19, 2013 regarding Communication Disorder;
9. The Student's transitional meeting IEP dated May 22, 2013;
10. Disciplinary Record for the Student from December 13, 2013 through April 20, 2015;
11. IEP Progress Report – Annual Goal dated March 7, 2014;
12. IEP Progress Report – Annual Goal dated June 13, 2014;
13. The Student's 6th grade IEP dated May 19, 2014;
14. Team Meeting Notice dated November 4, 2014;
15. Emails between District and Parent beginning October 16, 2014 through May 14, 2015;
16. Personal Statement and chronology created by Special Education teacher including emails dating between November 2, 2014 and May 15, 2015;
17. Student's grades for school year 2014-2015;
18. Team Meeting Notice dated March 10, 2015;
19. Team Meeting Notice dated March 30, 2015;

20. IEP Meeting Notes dated April 3, 2015;
21. Team Meeting Notice dated May 5, 2015;
22. IEP Meeting Notes dated May 18, 2015;
23. Prior Written Notice dated May 18, 2015;
24. The Student's 7th grade IEP dated May 18, 2015;
25. IEP Progress Report – Annual Goal dated June 9, 2015;
26. IEP Meeting Agenda and Notes dated September 14, 2015;
27. Written Statement of the Student Management Specialist dated September 25, 2015 concerning the June 8, 2015 incident;
28. Accommodation listing created by Special Education Teacher.

During the in-person interviews with the District, the District submitted the following documents at the request of the investigator:

1. The District's Student Safety and Discipline Handbook dated January 2015;
2. The section entitled, "Behavior" from the District's Special Education Handbook;
3. The section entitled "Student Discipline" from the District's Special Education Handbook;
4. An electronic version of the District's Special Education Handbook to the investigator.

The parent submitted the following documents in response to the District's submission:

1. Special Education Placement Determination dated May 19, 2015;
2. Student's IEP dated May 19, 2014;
3. Notes for IEP meeting dated September 14, 2015;
4. Meeting notes for IEP dated May 18, 2015;
5. Prior Written Notice dated May 18, 2015;
6. IEP dated May 18, 2015.

During the in-person interview, the Parent submitted the following documents at the request of the interviewer:

1. Student's report card for school year 2012-2013;
2. Student's Annual Measurable Goals for school year 2012-2013;
3. Student report card for school year 2013-2014;
4. Prior Written Notice of Special Education Action dated May 19, 2014;
5. Meeting notes from May 19, 2014 IEP meeting;
6. Notice of Team Meeting dated March 30, 2015 for IEP meeting scheduled for April 3, 2015;
7. Notice of Team Meeting dated May 5, 2015 for IEP meeting scheduled for May 18, 2015;
8. IEP Progress Report – Annual Goal dated June 9, 2015;
9. District Conduct Referral dated April 20, 2015;
10. Student report card for school year 2014-2015.

The Department's complaint investigator determined that on-site interviews were required. On October 16, 2015, the Department's investigator interviewed three District employees and also interviewed the Parent on the same day. The Department's investigator reviewed and considered all of these documents, interviews, and exhibits in reaching the Findings of Facts and Conclusions of Law contained in this order.

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 complaint and 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 in order to participate in

mediation, or if exceptional circumstances require an extension.¹ 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 in Section III and the Discussion in Section IV. This complaint covers the one year period from August 18, 2014 through August 17, 2015.

	Allegations	Conclusions
1.	<p><u>Parent Participation</u></p> <p>The Parent alleges that the District violated the IDEA because it did not respond to requests for an IEP meeting, failed to schedule a timely IEP meeting and denied the Parent the ability to attend the IEP meeting in person and conducted the meeting without the Parent.</p> <p>OAR 581-015-2190, OAR 581-015-2195, 34 CFR 300.322(a)(2), 34 CFR 300.372 and 34 CFR 503(c)(4).</p>	<p>Substantiated.</p> <p>Despite multiple requests from the parent, the District failed to hold an IEP meeting to review and/or revise the Student's IEP beginning on October 4, 2014 and continuing through the school year until the Parent made a second IEP review request on March 1, 2015. An informal meeting in November of 2014 at a Parent/Teacher Conference did not meet the requirements of an IEP meeting. Further, the District should not have held the May 18, 2015 IEP meeting without the Parent to ensure parental participation.</p>
2.	<p><u>IEP Team</u></p> <p>The Parent alleges that the District violated the IDEA by failing to have the appropriate team members attend the April 3, 2015 IEP meeting.</p> <p>OAR 581-015-2210(1)(c-e); 34 CFR 300.321(a)(2-4) and 34 CFR 300.324(3).</p>	<p>Substantiated.</p> <p>The District failed to include a general education teacher in the Student's April 3, 2015 IEP meeting. This is a violation of the IDEA's mandate that if a child is participating in the general education program, a general education teacher must be present at the IEP meeting or, if excused, must give the parent information prior to the meeting regarding the child's participation in the general education curriculum.</p>

¹ OAR 581-015-2030 (12)

3.	<p><u>IEP Content and Implementation</u></p> <p>The Parent alleges that the District violated the IDEA by failing to properly implement the Student's IEP, specifically the accommodations and specially designed instructions regarding the Student's organizational skills.</p> <p>OAR 581-015-2220, 34 CFR 300.530.</p>	<p>Substantiated in part.</p> <p>The District had the Student's accommodations properly in place in the Student's general education classes during the 2014-2015 school year, hence this portion of the allegation is not substantiated. However, the District failed to provide a second Special Education class which had been provided for in the Student's IEP, violating the IDEA by failing to provide special services to the Student regarding organizational and study skills.</p>
4.	<p><u>Failure of notice under disciplinary process</u></p> <p>The Parent alleges that the District violated the IDEA by failing to give notice of the discipline given to the Student on June 8, 2015.</p> <p>OAR 581-015-2405(2)(b), 34 CFR 300.530.</p>	<p>Substantiated.</p> <p>The District violated the IDEA by failing to give the Parent notice of the three day suspension of the Student as required by District Policy, which requires that a letter be sent to the parents any time that a student is suspended.</p>
	<p>REQUESTED CORRECTIVE ACTION:</p> <p>Parent requests a full team meeting with grade appropriate teacher(s) so that the team can work together on an IEP for the Student. The Parent does not want an IEP "pieced together" from various meetings when only part of the team is present. The Parent requests a meeting in which both she and the Student can participate, said meeting also including a "district representative" who is not the teacher. The Parent requests a full complement of IEP team participants and wants to have full participation herself.</p>	

III. FINDINGS OF FACT

1. The Student is 13 years old and resides in the Gresham-Barlow School District. The Student recently completed 7th grade at Gordon Russell Middle School. The Student has opted to complete the 8th grade year through online school, more specifically ORCA, for school year 2015-2016.

2. The Student had initially become eligible for Special Education services on April 6, 2010. The Student qualified for services under Autism Spectrum Disorder (ASD) and Communication Disorder (CD). The Student was also found to exhibit behaviors that impeded the Student's ability to learn. The District completed a Functional Behavioral Analysis (FBA) and wrote a Behavioral Intervention Plan (BIP) at that time.
3. An annual IEP meeting for the Student occurred on May 19, 2014. Under the May 19, 2014 IEP, the Student's Special Services and Accommodations were as follows:

<u>Service Area</u>	<u>Provider</u>	<u>Role</u>	<u>Anticipated Location</u>	<u>Time</u>	<u>Frequency</u>	<u>Start Date</u>	<u>End Date</u>
Social Skills	LEA	SPED Teacher provider	SPED Classroom	90 min	Per week	5/19/14	6/13/14
Study Organizational skills	LEA	SPED Teacher provider	SPED Classroom	90 min	Per week	5/19/14	6/13/14
Social Skills	LEA	SPED Teacher provider	SPED Classroom	180 Min	Per week	9/8/14	5/18/15
Study Organizational Skills	LEA	SPED Teacher provider	SPED Classroom	180 Min	Per week	9/8/14	5/18/15
Related Services							
Transportation Services	LEA	Other	Bus	60 Min	Daily	9/4/14	11/12/14
Supplementary Aids/Services, Modifications							
<u>Description</u>	<u>Provider</u>	<u>Role</u>	<u>Anticipated Location</u>	<u>Time</u>	<u>Frequency</u>	<u>Start Date</u>	<u>End Date</u>
Access to private location to change for PE	LEA	Gen Ed teacher	School Wide	30 min	Per week	5/19/14	5/18/15
Access to breaks	LEA	Gen Ed Teacher	School Wide	180 min	Every month	5/19/14	5/18/15
Accommodation for interactive notebooks such as eliminating tasks of gluing and cutting	LEA	Gen Ed Teacher	Gen Ed Classroom	10 min	Per week	5/19/14	5/18/15
Break apart packets into single pages	LEA	Gen Ed Teacher	Gen Ed Classroom	10 Min	Per week	5/19/14	5/18/15
Substitute teachers to give Abby space and allow her to determine own level of participation	LEA	Gen Ed Teacher	Gen Ed Classroom	180 min	Every month	5/19/14	5/18/15

<u>Description</u>	<u>Provider</u>	<u>Role</u>	<u>Anticipated Location</u>	<u>Time</u>	<u>Frequency</u>	<u>Start Date</u>	<u>End Date</u>
Folder or other space in each classroom to keep work in	LEA	Gen Ed Teacher	Gen Ed Classroom	10 min	Per week	5/19/14	5/18/15
Break down large assignments to one step at a time	LEA	Gen Ed Teacher	Gen Ed Classroom	10 min	Per week	5/19/14	5/18/15
Copies of notes provided	LEA	Gen Ed Teacher	Gen Ed classroom	10 min	Per week	5/19/14	5/18/15
May stop seatwork when demonstrates mastery	LEA	Gen Ed Teacher	Gen Ed Classroom	10 min	Per week	5/19/14	5/18/15
Given copy of notes when absent	LEA	Gen Ed Teacher	Gen Ed classroom	10 min	Per week	5/19/14	5/18/15
Access to Word processor	LEA	Gen Ed Teacher	School wide	90 min	Per week	5/19/14	5/19/15
Support for School Personnel							
Description of Supports	Provider	Role		Time	Frequency	Start Date	End Date
Consultation	LEA	SPED Teacher		60 min	Every year	5/19/14	5/18/15
Consultation	LEA	Speech Language Pathologist		60 min	Every year	5/19/15	5/18/15

4. The Student's frequency of removal from general education classes was set to increase in the 2014-2015 school year, going from one Special Education class in 6th grade to two Special Education classes per day during the Student's 7th grade year (i.e. the Student would spend 75% of the day in general education with 25% of the day being spent in Special Education classes). Pursuant to the May 19, 2014 IEP, the District noted that the Student no longer had exhibited behaviors that impeded learning, although the Student was still eligible under ASD but not under a Communication Disorder. There was no discussion regarding a Functional Behavioral Analysis or Behavioral Intervention Plan in the May 19, 2014 IEP.
5. On October 4, 2014, the Parent contacted the District regarding her concerns with the Student's educational program. The Parent became concerned because according to the May 19, 2014 IEP, the Student should have been in two (2) Special Education classes, one for social skills and the other for organizational skills; the extra class was supposed to be in lieu of PE or Art.
6. The Parent emailed the District on October 16, 2014 and asked for an IEP meeting after receiving no response to her October 4, 2014 IEP review request. On October 21, 2014, an administrator at Gordon Russell contacted other educators regarding a response to the

Parent. On October 29, 2014 the Parent once more contacted the District and inquired as to whether teachers had been given a listing of the Student's accommodations. Two of the Student's teachers responded to the Parent stating they had the IEP accommodations and that those accommodations were in place. Further, one teacher explained that he had talked to the Student personally about any concerns the Student had in that particular class.

7. On November 2, 2014, a District employee forwarded the Parent's email request for an IEP to the Student's Special Education Teacher who had been on bereavement leave from September through November 2, 2015. On November 6, 2015, the Special Education Teacher contacted the Parent regarding the Parent's request for an IEP meeting. The Teacher suggested speaking at the Parent/Teacher Conferences (November 10, 2014) rather than having a full on IEP meeting, but still sent out a Notice of Team Meeting indicating that matters related to the Student's IEP would be discussed. The Parent and Teacher did have a brief meeting during Parent/Teacher Conferences but no IEP was reviewed or amended.
8. On March 1, 2015, the Parent emailed the District once more requesting an IEP meeting, noting that the Student's actual IEP date had historically been held in November. On March 7, 2015, the Student's Special Education Teacher responded to the Parent's request by tentatively scheduling the IEP meeting for March 16, 2015 and generated an invitation for the IEP meeting to anticipated team members. The IEP meeting was subsequently rescheduled for March 30 at the Parent's request due to illness. Ultimately, the IEP meeting was scheduled for April 3, 2015.
9. On April 3, 2015, the Student, the Parent, a member of the Student's family familiar with the Student, and the Special Education Teacher attended the IEP meeting. There was no general education teacher at that meeting.
10. After the April 3, 2015 meeting, the Special Education Teacher asked the Parent if the Parent would be willing to have a phone conference with the general education teacher so that the District could complete the IEP process. The Special Education Teacher then emailed the Parent on April 27, 2015 and asked the Parent if she could either: (1) convene an IEP meeting over the phone, (2) reschedule an in person IEP meeting or (3) if the Parent would sign a waiver, after the fact, relieving the general education teacher from attending the April 3, 2015 IEP meeting. The Parent explained to the Special Education Teacher that any IEP meeting would be difficult for her to attend in person because the Parent had recently been involved in a car accident. The Parent, however, did not want to schedule a telephone conference because she wanted personal interaction with all the team members, especially the general education teachers.
11. On May 5, 2015, the District scheduled the IEP meeting for May 18, 2015, although the Parent still gave notice that she could not attend. The Special Education Teacher was aware that May 18 was the date for the Student's annual IEP meeting and regardless of the Parent's ability to attend, did not reschedule.
12. The District held the Student's IEP meeting on May 18, 2015 without the Parent and with two participants: the Special Education Teacher and one of the Student's general education teachers.
13. The Student's Accommodations and Services in accordance with the May 18, 2015 IEP were as follows:

<u>Service Area</u>	<u>Provider</u>	<u>Role</u>	<u>Anticipated Location</u>	<u>Time</u>	<u>Frequency</u>	<u>Start Date</u>	<u>End Date</u>
Social Skills	LEA	SPED Teacher provider	SPED Classroom	180 min	Per week	5/18/15	5/17/16
Study Organizational skills	LEA	SPED Teacher provider	SPED Classroom	180 min	Per week	5/18/15	5/17/16
Related Services							
Transportation Services	60 min per week	Bus	9/4/2013	11/12/13	LEA	5/18/15	5/17/16
Supplementary Aids/Services, Modifications							
<u>Description</u>	<u>Provider</u>	<u>Role</u>	<u>Anticipated Location</u>	<u>Time</u>	<u>Frequency</u>	<u>Start Date</u>	<u>End Date</u>
Preferential seating	LEA	Gen Ed Teacher	Gen Ed Classroom	30 min	Per week	5/18/15	5/17/16
Access to Word processor	LEA	Gen Ed Teacher	School wide	20 min	Per week	5/18/15	5/17/16
Break down large assignments to one step at a time	LEA	Gen Ed Teacher	Gen Ed Classroom	10 min	Per week	5/18/15	5/17/16
Designated spot in every classroom for [he Student] to pick up missing work when absent	LEA	Gen Ed Teacher	Gen Ed Classroom	10 min	Per week	5/18/15	5/17/16
Access to class notes on quizzes/tests as needed	LEA	Gen Ed Teacher	Gen Ed Classroom	10 min	Per week	5/18/15	5/17/16
Shortened length of assignment to demonstrate mastery of a specific skill or standard versus a set amount or length when possible	LEA	Gen Ed Teacher	Gen Ed Classroom	15 min	Per week	5/18/15	5/17/16
Access to private location to change for PE	LEA	Gen Ed Teacher	School Wide	30 min	Per week	5/18/15	5/17/16

<u>Description</u>	<u>Provider</u>	<u>Role</u>	<u>Anticipated Location</u>	<u>Time</u>	<u>Frequency</u>	<u>Start Date</u>	<u>End Date</u>
Access to a copy of class notes	LEA	Gen Ed Teacher	Gen Ed Classroom	20 min	Per week	5/18/15	5/17/16
Support for School Personnel							
<u>Description of Supports</u>	<u>Provider</u>	<u>Role</u>	<u>Time</u>		<u>Frequency</u>	<u>Start Date</u>	<u>End Date</u>
Special Education consult	LEA	SPED teacher	60 min		Every year	5/18/15	5/17/16

14. On June 8, 2015, the Student was sent home with all of the Student's educational materials and personal belongings and told not to return to school for disciplinary reasons. The Student was extremely upset, threw a chair and was exhibiting unsafe behaviors. The Parent retrieved the Student from school but did not receive any written notice of disciplinary action.

15. The last day of school for students attending Gordon Russell Middle School was June 10, 2015.

IV. DISCUSSION

Section 1: Parent participation.

The Parent alleges that the District violated the IDEA by failing to respond to a request for an IEP meeting, by failing to schedule a timely IEP meeting, and by denying the Parent an opportunity to attend the May 18, 2015 IEP meeting.

A. Meeting Request

Pursuant to OAR 581-015-2225(1), an IEP must be reviewed at least annually but may also be reviewed periodically to determine whether the child's annual goals are being achieved and to revise the IEP as appropriate.

Beginning in October 2014, the Parent began contacting the District to review the Student's IEP and perhaps revise said IEP. The Parent expressed concern that the Student was not obtaining all the services and accommodations, especially regarding organizational skills. The Parent contacted the District at least twice (October 4, 2014 and October 16, 2014) before anyone at the District responded to the Parent on October 29, 2014. However, that response was only to reassure the Parent that the Student's accommodations were in place, at least in regard to Language Arts and Math. The Parent still had not received a response to her request to review the Student's IEP. Not until November 6, 2014, when the Special Education Teacher returned from leave, did the Parent receive any response from the District's Special Education program.

B. Timely scheduling.

Although the Student's Special Education Teacher was on leave from approximately September

10 through November 2, 2014, the District still had an affirmative duty to respond to the Parent's request and have an IEP review meeting. An IEP meeting may be held so long as a Special Education teacher or service provider in the District who has either taught or provided services for the child in the past is in attendance at the IEP meeting.

However, even after the Student's Special Education Teacher returned in November, the District still failed to schedule an IEP meeting with the Parent, opting instead to discuss the Student's progress at the fall Parent/Teacher Conference, despite the fact that the Notice of Team Meeting dated November 4, 2014 specifically stated that IEP concerns would be addressed. An informal meeting or conference does not rise to the standard of an IEP meeting. OAR 581-025-2190(4).

After the Special Education Teacher failed to adequately address the Parent's concerns at the Parent/Teacher Conference, the Parent again requested a review of the Student's IEP on March 1, 2015. The District responded on March 2, 2015 and scheduled an IEP meeting, and the meeting was held on April 3, 2015.

Therefore, this particular portion of the allegation is not substantiated.

C. Opportunity to participate in IEP meeting

Pursuant to OAR 581-015-2190, a district must provide one or both parents with an opportunity to participate in IEP meetings. School districts have an affirmative duty to schedule an IEP meeting with the parents of a child with a disability at a "mutually agreed on time and place." 34 C.F.R. 300.322(a)(2).

Because the April 3, 2015 meeting did not meet the legal criteria to constitute a formal IEP review, the Parent and District attempted to reschedule the Student's IEP meeting. However, during the latter part of April the Parent was involved in an auto accident and requested to hold the IEP meeting on another date. The Parent refused the accommodation of a phone conference as she wanted to fully participate in the IEP process, in person, with the Student's general education teachers.

Because the District did not make any efforts to accommodate the Parent's attendance, this portion of the allegation is substantiated and corrective action is ordered.

Section 2: IEP TEAM

The Parent alleges that the April 3, 2015 IEP meeting violated the IDEA because the District failed to have the appropriate team members present at that meeting.

Pursuant to OAR 581-015-2210(1)(c), if a Special Education student is participating in the general education curriculum, a general education teacher must be present at the student's IEP meeting. Further, the general education teacher must participate in the IEP insofar as developing, reviewing and revising (as appropriate) the student's IEP. OAR 581-015-2210(4).

In the instant case, the April 3, 2015 IEP meeting did not have the requisite participants because no general education teacher was present at the meeting. At the time of the meeting, the Special Education Teacher could have presented the Parent with a waiver of the general education teacher's attendance under OAR 581-015-2210(3)(b) so long as the general education teacher had submitted information about his or her input concerning the IEP development to the Parent prior to the IEP meeting. OAR 581-015-2210(3) (b)(B). There is no

record that the Parent was presented with a waiver excusing the general education teacher's attendance at the April 3, 2015 IEP meeting, and no evidence that the Parent had received any input from any of the Student's general education teachers regarding the Student's IEP.

This allegation is substantiated and corrective action is ordered.

Section 3: IEP Content and Implementation

Parent alleges that the District failed to properly implement the accommodations and services from the Student's IEP, specifically the District failed to implement the accommodations and specially designed instruction regarding the Student's organizational skills.

Pursuant to OAR 581-025-2220(3)(b), a district must inform each teacher and provider of his or her specific responsibilities for implementing the child's IEP and the accommodations, modifications and supports that must be provided for or on behalf of the child in accordance with the IEP. The failure to fully implement an IEP does not arise to a violation of the IDEA if there are minor discrepancies between the services provided and those called for in the IEP.

In the instant case, the record reflects that the Student's teachers received notice of the Student's accommodations and that those accommodations were implemented. More specifically, the Student's Language Arts Teacher emailed the Special Education Teacher and Parent reassuring both that she had received the IEP and was following said IEP. Further, the Student's Math Teacher had implemented the Student's accommodations in his class and had a very positive experience with the Student. Therefore, the Student's IEP accommodations were in place during the 2014-2015 school year.

This portion of the allegation is not substantiated and no corrective action is ordered.

However, the Student was also to receive special services according to the May 19, 2014 IEP. More specifically, the Student was to have at least two (2) class periods devoted to Special Education services: the first was a socialization class and the second was to be a Special Education class based in organizational skills, somewhat akin to a study hall. The Special Education class was to take the place of either Art class or PE class. However, in reviewing the Student's grades for the school year 2014-2015, the Special Education class for the Student was "Social Skills" taught by the Special Education Teacher. There is no evidence that the Student was given any classes in organizational skills. According to the Student's 2014-2015 grades, the Student had two classes based in Language Arts, the Student's core classes of Science, Math and Writing and then one Art class and the Special Education social skills class. Finally, it should be noted that the Student never had an organizational skills Special Education class during the 2014-2015 school year. The Student originally started 7th grade in PE class but then was removed from that class based upon the request of the Special Education Teacher to administration and placed in an Art class, once more failing to place the Student in the Special Education organizational class according to the Student's IEP.

Therefore, because the Student never had a second Special Education class for organizational skills pursuant to the May 19, 2014 IEP, this allegation is substantiated and corrective action is ordered.

Section 4: Discipline

The Parent alleged that the District violated the IDEA by failing to give notice of the discipline imposed on the Student on June 8, 2015.

Pursuant to OAR 581-015-2405(1), a district may remove a child with a disability from school who has violated a code of conduct for up to ten (10) days and with the same notice as a child without a disability. Under OAR 581-015-2405(2), a district is not required to determine whether the violation is a manifestation of the child's disability if the removal is for less than ten (10) days.

In the instant case, the Student was removed for three (3) days from school. According to the District calendar, the 2014-2015 school year ended on June 10, 2015. Since the Student was removed from school on June 8, 2015 and told not to return, this was, in effect, a three (3) day suspension. As such, OAR 581-015-2405(1) applies because the suspension was for less than ten (10) days. Therefore, the Student and Parent should have been given the same notice regarding the disciplinary violation and suspension as a non-disabled student.

Under the District's Student Safety and Discipline Handbook dated January 2015, a suspension from middle school requires that "[t]he principal or designee must initiate suspensions and recommendations for expulsions. All in-school and out-of-school suspensions require a letter to the parents and a copy of the student's CUM file. If the student is Special Education, a copy of the letter will need to be sent to SSSO. A re-entry meeting needs to be scheduled after an out-of-school suspension."

In this case, the District never produced a letter, nor gave any reasoning in writing to the Parent regarding the Student's three day suspension. Because the District did not follow its own guidelines for providing written notice of suspension to the Parent, the District failed to comply with OAR 581-015-2405(1).

Therefore this portion of the allegation is substantiated.

V. CORRECTIVE ACTION²

*In the Matter of Gresham Barlow School District
Case No. 15-054-030*

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

	Action Required	Submissions³	Due Dates
1.	Provide training to Gordon Russell Middle School staff regarding; <ul style="list-style-type: none"> • Responding to parent requests for an IEP meeting; 	Submit draft agenda to ODE for review and approval.	January 30, 2016

² The Department's order shall include corrective action. Any documentation or response will be verified to ensure that corrective action has occurred. OAR 581-015-2030(13). The Department requires timely completion. 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).

³ 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; fax number (503) 378-5156

	<ul style="list-style-type: none"> • Requirements for IEP team membership, including excusals; • Ensuring that IEP team decisions related to special education services are scheduled and implemented; • Ensuring that parents of students who are suspended, including students with disabilities, are provided the appropriate notice. 	Submit evidence of completed training – (Agenda, signed attendance list identifying name/position.)	February 19, 2016
2.	The District shall hold an IEP meeting with the Parent and required members of the IEP team, including a current general education teacher, to determine if compensatory services are required related to the study/organization skills class not provided during the 2014-15 school year. If determined necessary, the IEP team will revise the IEP and develop a schedule for service provision.	Submit to ODE and the Parent: Copies* of the complete IEP, the IEP team meeting notice; and notes or meeting minutes; and any prior written notices (PWN) resulting from this meeting. *Submissions may be sent electronically to ODE by secure file transfer.	January 15, 2016

Dated: 10th Day of November 2015



Sarah Drinkwater, Ph.D.
Assistant Superintendent
Office of Learning/Student Services

Mailing Date: November 10, 2015