

BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of Gresham Barlow SD

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FINDINGS OF FACT,
CONCLUSIONS,
AND FINAL ORDER
Case No. 16-054-027

I. BACKGROUND

On August 22, 2016, the Oregon Department of Education (Department) received a letter of complaint from the Parent of a 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 23, 2016.

On August 26, 2016, 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 9, 2016. The District completed its *Response* which was retrieved by the Complaint Investigator on September 8, 2016. The District also sent its *Response* to the Parent. The District's *Response* included a narrative response, exhibit listing, and the following documents:

1. Student's IEP dated January 23, 2015
2. Notice re: Provision of Special Education Services dated January 23, 2015
3. Placement Determination dated January 23, 2015
4. Syllabus for SPED/English Lab dated Fall 2015
5. Syllabus Algebra I (first semester teacher) school year 2015-2016
6. Syllabus Algebra I (second semester teacher) 2015-2016
7. Syllabus Woods I (undated)
8. Syllabus English 1-2, school year 2015-2016
9. Syllabus Media Computer Applications Fall Semester
10. Syllabus, rules and permission form Physical Education (undated)
11. Syllabus Physical Science
12. Second semester seating chart Algebra I
13. Email from father to District dated October 29, 2015
14. Handwritten notes from Student's first semester case manager dated October 29, 2015 through November 24, 2015
15. Emails between Parent and SPED teachers, District administration November/December 2015
16. Amendment to Student's IEP created November 18, 2015
17. Prior Written Notice dated November 18, 2015
18. Notice of Team Meeting Dated December 17, 2015
19. Prior Written Notice dated January 14, 2016
20. Student's IEP dated January 20, 2016
21. IEP Agenda and Meeting Notes dated January 20, 2016
22. Special Education Placement Determination dated January 20, 2016
23. Prior Written Notice re: Provision of Special Education Services dated January 23, 2015
24. Teacher responses to SPED director inquiry (undated)
 - a. Algebra I teacher (first semester)
 - b. Algebra I teacher (second semester)

- c. Phys Ed teacher
 - d. Woods I teacher
 - e. English 1-2 teacher
 - f. Media Computer Apps teacher
 - g. Algebra I (summer school teacher)
 - h. Math Lab/ SPED support teacher
 - i. Physical Science teacher
25. Discipline report dated February 23, 2016
 26. Emails between SPED English teacher and parent dated March 29, 2016
 27. Student Incident report dated April 6, 2016
 28. Email between District and Parent regarding discipline dated May 3, 2016
 29. No Contact Agreement dated May 3, 2016
 30. Parent emails to District regarding summer school/credit recovery program dated May 14, 2016
 31. Summer School receipt and class listing dated May 16, 2016
 32. Student incident report dated May 16, 2016
 33. Emails between SPED English teacher and parent dated May 18, 2016
 34. Parent emails to District regarding summer school credit recovery program dated June 6, 2016
 35. IEP Annual Measureable Goal Progress reports dated June 9, 2016
 36. Disciplinary Referral dated July 12, 2016
 37. Email from Parent to District regarding summer school math recovery program dated July 15, 2016
 38. Email from Parent to District regarding summer school math recovery program dated July 20, 2016
 39. Inter-District emails dated July 27, 2016
 40. Email from District to Parent in response to summer school math queries dated August 1, 2016
 41. District contact log for Student (undated)
 42. Grade report containing handwritten notes for IEP meeting (undated)
 43. Final grade report 2015-2016 school year
 44. Interim report cards with teacher comments for school year 2015-2016
 45. Email from SPED teacher responding to District inquiry re: seating dated September 1, 2016
 46. Inter District memo regarding ODE Complaint No. 16-054-027 dated September 2, 2016
 47. Written narrative regarding Summer School 2016 – unknown author, undated
 48. District Policy re: Education Records/ Records of Students with Disabilities Management, readopted November 6, 2014
 49. District Policy re: Special Education - Individualized Education Program

The Complaint Investigator received the following documents from the Parent:

1. Accommodations page of Student's IEP dated January 23, 2015
2. Written Agreement re: IEP dated November 12, 2015
3. Suggested accommodations, undated, signed by "Brent"
4. Email message between Parent and Student's stepfather dated January 30, 2016
5. Physician's notes dated April 28, 2016
6. Edupoint grade results for Student showing final grades for 9th grade year inclusive of summer school grades
7. Saved voice mail message from District to Parent regarding a student in summer school,

dated July 14, 2016¹

The Complaint Investigator then requested more documentation from the District and received:

1. Detailed Progress Report for Credit Recovery Math showing all grades for all assignments through July 14, 2016
2. Student Rights and Responsibilities Handbook for school year 2015-2016
3. Student Code of Conduct for school year 2016-2017
4. Specific instructions to gain online access to the District's policies.

The Department's Complaint Investigator determined that on-site interviews were required. On September 14, 2016, the Complaint Investigator interviewed the Parent and the Student's Stepfather. On September 20, 2016, the Complaint Investigator interviewed the Student's Case Manager during the IEP Meeting on January 20, 2016, the Student's regular Case Manager, the Student's summer school Principal, the Student's summer school Math instructor, and the District's Special Education Director. The Student declined to be interviewed. The Complaint 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.² 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 23, 2015 through August 22, 2016.

No.	Allegations	Conclusions
1.	<p><u>IEP Implementation</u></p> <p>The Parent alleges that the District violated the IDEA because it did not implement the Student's IEP correctly and did not provide the Student with services and accommodations pursuant to the Student's IEP.</p>	<p>Substantiated.</p> <p>Many of the Student's teachers did not utilize seating charts in their classrooms. Therefore, the Student was allowed to choose a seat and was not moved unless the Student became distracted, despite the fact that the Student's IEP calls for preferential seating due to the</p>

¹ Although the voicemail was left for the Student's parents, the content of the voicemail indicates that the summer school principal may or may not have been specifically referring to the Student. There is some confusion in the message between the Student and the other classmate who was similarly disciplined at the same time for the same infraction.

² OAR 581-015-2030 (12)

	<p>(OAR 581-015-2205, 34 CFR 300.323, 34 CFR 300.324)</p>	<p>Student's tendency to get distracted.</p> <p>The Student's IEP also provides for the Student to have an additional school day to complete tests and quizzes and to take tests in an alternate location. The District put the burden to ask for these accommodations on the Student rather than automatically providing them, therefore these accommodations were provided inconsistently, and were not provided at all during summer school.</p> <p>The District also failed to provide class notes to the Student for all classes as required by the IEP. These violations occurred both during the regular school year and during summer school.</p>
<p>2.</p>	<p><u>IEP Accessibility</u></p> <p>The Parent alleges that the District violated the IDEA because it failed to provide, through its Special Education Department, instruction to the Student's general education teachers regarding the Student's accommodations and services as well as failing to ensure the teachers had access to the Student's IEP and were implementing the Student's IEP in the general education classroom.</p> <p>(OAR 581-015-2220, 34 CFR 300.323, 34 CFR 300.324.</p>	<p>Not Substantiated.</p> <p>Because the District provides online access to student IEPs through the Synergy system and because the Student's Case Managers also took the initiative to email the Student's services and accommodations pages to the Student's general education teachers, this allegation is not substantiated.</p>

REQUESTED CORRECTIVE ACTION:

- (a) the Student's 9th grade credits be readjusted to accommodate for teacher's non-compliance of IEP, refunding summer term classes in which IEP was not followed which resulted in failing grades. (The summer term classes were recommended in January 20th IEP meeting).
- (b) school district to fund forward necessary summer term class;
- (c) accountability of teachers following IEP by writing weekly accommodation reports via email and/or parentvue;
- (d) retraining of school staff and teachers on special education rules, responsibilities and roles;
- (e) retraining of school staff and teachers on Anti-Discrimination laws and Oregon State Laws on Anti-Bullying ;
- (f) School Board to provide documentation of the above mentioned trainings;
- (g) Consistent and correct spelling of Student's name on documents and in classes.

III. FINDINGS OF FACT

1. At the time of the filing of the Complaint, the Student was 15 years old. The Student resides in the District.
2. The Student is eligible for Special Education services under the classification of 90 - Specific Learning Disability (SLD). The IEP states that the Student has a SLD in the areas of Reading Comprehension, Math Calculation, Math Problem Solving, and Oral Comprehension.
3. The Student's annual IEP review date was January 22, 2016; however, the Student's IEP was amended and revised on November 18, 2015 to provide more accommodations to assist with the Student's success in a high school environment.
4. Prior to the November 18, 2015 IEP revision, the Student only had two measurable annual goals, one in Math, the other in English. After the November 18, 2015 amendment, an additional goal was added so that the Student could improve self-advocacy. The goal stated that "Given direct instruction, [the Student] will advocate for [the Student's] needs in the classroom when [the Student] is unsure what to do or does not understand (ie (sic) ask for help) in 80% of opportunities as measured by teacher observation.
5. The Student's IEP accommodations specified in the January 23, 2015 IEP were as follows:

Description	Provider	Role	Anticipated Location	Time	Frequency	Start Date	End Date
Extra time for assignments or shortened assignments	LEA	Gen Ed Teacher	Gen Ed Classroom	5 min	Per week	1/23/15	1/22/16
Visual aids paired with instruction	LEA	Gen Ed Teacher	Gen Ed Classroom	10 min	Per week	1/23/15	1/22/16
Frequent check-ins for understanding	LEA	Gen Ed Teacher	Gen Ed Classroom	10 Min	Per week	1/23/15	1/22/16
Repeat key words & Phrases	LEA	Gen Ed Teacher	Gen Ed Classroom	5 min	Per week	1/23/15	1/22/16
Preferential seating away from distractions	LEA	Gen Ed Teacher	Gen Ed Classroom	5 min	Per week	1/23/15	1/22/16
Copies of Notes	LEA	Gen Ed Teacher	Gen Ed Classroom	10 min	Per week	1/23/15	1/22/16

6. On November 11, 2015, the Student's Case Manager contacted the Parent and proposed changes to the Student's IEP and also proposed that the changes be made by amendment rather than holding a formal IEP Team Meeting. These changes were prompted in part by a report from the Student's English Teacher that the Student was talking too much in class and arguing with the teacher.

7. The Parent, via email, assented to the proposed accommodations but requested additional accommodations of: (1) giving presentations in a one-to-one setting rather than to a full class; (2) instituting a "check-in" system should the Student have absences for missed assignments; and (3) shortened assignments so long as it did not affect the Student's ability to obtain a regular diploma as opposed to a modified diploma.
8. The revisions to the Student's Services and Accommodations for the November 18, 2015 IEP were as follows:

Description	Provider	Role	Anticipated Location	Time	Frequency	Start Date	End Date
Preferential seating away from distractions	LEA	General Ed Teacher	General Ed classroom	5 Min	Per week	1/20/16	1/19/17
Visual aids paired with instruction	LEA	General Ed Teacher	General Ed Classroom	10 min	Per week	1/20/16	1/19/17
Frequent check-ins for understanding	LEA	General Ed Teacher	General Ed Classroom	10 Min	Per week	1/20/16	1/19/17
Copies of notes	LEA	General Ed Teacher	General Ed Classroom	10 min	Per week	1/20/16	1/19/17
Repeat key words and phrases	LEA	General Ed Teacher	General Ed Classroom	5 min	Per week	1/20/16	1/19/17
Option for [Student] to give presentations 1-1 with teacher instead of large group in front of class	LEA	General Ed Teacher	General Ed Classroom	20 min	Per session	1/20/16	1/19/17
One additional school day to finish tests and quizzes	LEA	General Ed Teacher	General Ed Classroom	60 min	Per session	1/20/16	1/19/17
Test in alternate location	LEA	General Ed Teacher	General Classroom	60 min	Per Session	1/20/16	1/19/17
Use notes on tests and quizzes except for vocabulary	LEA	General Ed Teacher	General Ed Classroom	60 Min	Per session	1/20/16	1/19/17
Shorten assignments to every other problem when given more than 15 total problems	LEA	General Ed Teacher	General Ed Classroom	50 min	Per day	1/20/16	1/19/17
After absence –	LEA	General Ed	General Ed	30 min	Per	1/20/16	1/19/17

teachers check in with [Student] to make sure [Student] gets missed work		Teacher	Classroom		session		
Extended time of 2 school days for essays of 5 paragraphs for more	LEA	General Ed Teacher	General Ed Classroom	120 Min	Per session	1/20/16	1/19/17

IEP Accessibility

9. On November 19, 2015, after the Student's IEP was amended, the Student's Case Manager emailed the Student's general education teachers with the listing of accommodations.
10. The District uses the "Synergy" program to track student progress and curriculum. When a student has an IEP on file, the Synergy program will display an icon denoting that a Student has an IEP or 504 Plan. When said icon is clicked, a teacher will have access to a student's IEP including but not limited to services and accommodations. All teachers are periodically reminded to review the IEPs of their students, including IEP related documents.
11. The Synergy system cannot track or disclose whether a general education teacher has clicked on the Synergy icon to access a student's IEP, accommodations or services.

IEP Accommodations

12. The Student's annual IEP Meeting was held on January 20, 2016. The Student's accommodations and services remained unchanged from the November 18, 2015 Amended IEP.
13. Under the Student's Present Level section, it is noted that the Student will not ask for help in the regular education classroom. Therefore, an annual measurable goal was added to the Student's January 20, 2016 IEP that stated in part, "[The Student] will advocate for [the Student's] needs in the classroom when [the Student] is unsure what to do or does not understand (ie. Ask for help) in 80% of opportunities as measured by teacher observation."

The Student's first semester grades (2015-16 school year), broken down into six (6) week segments were as follows:

Course	Grade Week 6	Grade Week 12	Final Grade	Comments
English 1-2	F	F	F	
Physical Science	F	F	F	
Algebra I	F	F	F	Has not worked for full potential, has not used class time well, please contact teacher
English Lab 1-2	F	D	C	[Student] could make better use of time

Algebra I Lab	C	C	D	
Woods I	F	F	D	
Media Computer	F	F	F	Missing or incomplete assignments

14. For the second semester of the 2015-2016 school year, the Student's schedule was modified and the Student changed math teachers.

15. The Student's second semester grades, broken down into six (6) week segments were as follows for the 2015-2016 school year:

Course	Grade Week 6	Grade Week 12	Final	Comment
Success Through Technology	D	D	C	Is a pleasure to have in class; Missing or incomplete assignment(s); has not used time well
Physical Science	F	F	F	
English 1-2	F	F	F	
English Lab 1-2	B	C	C	
Algebra I	F	F	D	
Algebra I Lab	C	C	C	[Student is not using class time to get support for core-credit Math – [Student] often stated [Student] has no work to do
PD 1* (PE)	C	C	F	Non-dresses affect grade. Missing or incomplete assignment(s). Has incomplete project or paper.

IEP Implementation – Preferential Seating

16. The Student had preferential seating (front and center) in the second semester Algebra I class as a seating chart was used in that class. The second semester Algebra I teacher also made a point of seating the Student near other classmates who could help the Student when working in groups. The seating in the Student's Physical Science class changed every six (6) weeks with the Student often being placed in the front of the class, and the Student was placed near the teacher's desk in the Student's English class during second semester.

However, in the Student's Algebra I Lab, no formal seating chart was used, nor was a seating chart used in the Student's summer school credit recovery Math class. These two teachers, who did not use formal seating charts, noted that the teachers would move the Student to a different seat to prevent the Student from socializing with classmates or to prevent the Student from accessing technology during instruction times.

IEP Implementation – Class Notes

17. The Student was given class notes for the second semester Algebra I class by the Student Teacher in that classroom. The Student had access to all class notes in Physical Sciences through the Teacher's web page. The Student was not given class notes per se in Physical Education (this class is referred to as PD1 on grade reports) but was given a "Components of Fitness" notebook. No class notes were given in Media Computer Apps because learning is done using software alone and there were no class notes to give, however students were free to take notes. The Student's Math and English labs were part of the Special Education curriculum so there were no class notes as this time was spent working one-on-one or in smaller groups to recoup specific skills. Woods I had a single text book shared with the class. The majority of the grade in Woods I was based on class participation alone. The Woods I final exam and quizzes made up 15% of the total grade. No class notes were given to the Student for English 1-2 as most work was done in class and students were not required to take notes. Notes for any videos or audio presentations were either posted in the classroom or online.

IEP Implementation – Alternate Testing Location

18. The Student took tests in the Special Education Math room on occasion, but not consistently. When the Student performed poorly on a test, the Student, at times, would request a re-take on a test after the Student had checked the class grades or if the Student feared adverse consequences. If the Student did not request a re-take of a Math test, the Math Lab teacher would sometimes obtain a copy of a test and have the Student re-take the test or, at the very least, engage in test corrections for partial credit.
19. The Student's IEP Progress Report – Annual Goal dated June 9, 2016 states that the Student was making progress toward the goal, but the goal had not yet been met. More specifically, the report noted that the Student "continues to be offered supports and gentle reminders for goal acquisition."
20. The Student enrolled in summer school as part of a credit recovery program to recover credits for English 1-2 and for the first semester of Algebra I as the Student had failed both classes. The credit recovery program spanned 13 days from June 27, through July 14, 2016.
21. The credit recovery Math Teacher was aware of the Student's IEP and stated that most of the students with IEPs could be accommodated easily because of the small class sizes.
22. In the credit recovery Math class, the Student had a 71% average up to July 8, 2016. However, the Student earned no points on Quiz #4, administered on July 8, 2016. There is no evidence that the Student asked to re-take Quiz #4 or that any "make up points" were offered for Quiz #4. The Student passed the English recovery class with a "C".
23. The Student did not have any in-class disciplinary issues in the credit recovery Math class from June 27, 2016 to July 13, 2016.
24. On July 14, 2016, during the sixth and final quiz for credit recovery Math, the Student and another classmate were removed from the class and prevented from completing the test by the Teacher. The Teacher removed the Student for disrupting the class during a test because the Student and the classmate would not stop talking. The Teacher had placed the

Student and the classmate apart from each other with an empty desk between them. When the Student and the classmate talked during a test, the Teacher removed both students, sent them to the office, and would not allow them to return to continue to work on the test. The Teacher further stated that the Student had no chance to pass the class and that the Student would not get any more chances because the Student had done no work at all for the last three days of summer school.

25. According to the detailed progress report for the credit recovery Math class, the Student entered the last day of summer school (July 14, 2016) with a 58% and the opportunity to earn 10 more points based on the points available for Quiz #6. The Student earned zero points for Quiz #4 given on July 8, 2016. Over the last three days prior to the July 14 test, the Student had earned 15 out of a possible 31 points.
26. After the disciplinary removal, the Student requested to be allowed to re-enter the class and take the test that very same day (July 14, 2016). The request was denied by the summer school Principal. When the Student was being detained in the summer school office on July 14, 2016, the Student did assert to the summer school Principal that the Student had an IEP. According to the summer school Principal, if a student requested an alternative testing environment, the summer school Principal could have proctored a test in an alternate location.
27. On the last day of summer school, July 14, 2016, the Student's Math Teacher turned in the class's grades, which completed the Math Teacher's summer school duties.
28. The summer school Principal noted as an addendum on the Student's original discipline notice of July 12, 2016 that the Student had been removed from summer school for disciplinary reasons on July 14, 2016. The record contains no evidence that this amended disciplinary report was ever remitted to the Student's Parents.
29. In a voicemail to the Student's Parents on July 14, 2016, the summer school Principal notified the Parents that the Student had been removed from the credit recovery Math class "for behavioral issues and being disrespectful during a test". The Parents were told that since the Student had no chance to pass the credit recovery Math class, the Student was sent home with 50 minutes remaining in the school day. The summer school Principal stated she was aware of the Student's IEP.
30. The Student's Parent began contacting the school beginning July 14, 2016 and continued to contact the school on numerous occasions via telephone and email regarding the summer school credit recovery Math class.
31. On July 27, 2016, the regular school Principal contacted the summer school Principal and asked her to communicate with the Parent regarding the Student and summer school. The summer school Principal refused to contact the Parent because she believed the Parent "want[ed] to throw [the summer school Principal] under an IEP bus." The summer school Principal and the summer school credit recovery Math Teacher never contacted the Parent regarding the Student and the credit recovery Math class.
32. On August 1, 2016 the regular high school Principal contacted the Parent and told the Parent that the summer school Math Teacher would be accessible on August 31, 2016 to answer any questions regarding the summer school Math program.

IV. DISCUSSION

Section 1 - Implementation of IEP

The Parent alleges that the District violated the IDEA because it did not implement the Student's IEP correctly and did not provide the Student with services and accommodations pursuant to the Student's IEP. (OAR 581-015-2205, 34 CFR 300.323, 34 CFR 300.324.

Pursuant to OAR 581-015-2220(3)(a) and 34 CFR 300.324, a district must provide each regular education teacher, special education teacher, and service provider access to a child's IEP if that individual is responsible for implementation of the child's IEP. Further, an IEP must contain a statement of the specific special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child.³

a) Class notes

The Student's IEP provides that copies of notes will be given to the Student. The Student had class notes accessible on line in Physical Science and Algebra I. In the Student's English class, notes were only provided for video and audio presentations, and in the Student's Woodworking and Technology classes, class notes were not provided to the Student. Finally, in PD1, the Student did not have notes but was given a "notebook" for Physical Education

The Department substantiates this portion of the allegation

b) Tests and quizzes – Regular school year

The accommodation for tests and quizzes were not included on the Student's IEP until November 18, 2015; hence the results of tests and quizzes taken by the Student prior to that date are not determinative of whether the Student's IEP testing accommodation was properly implemented.

After the Student's IEP was amended to include alternate test sites and one additional school day to finish tests and quizzes, the Parent expressed a concern that the Student was not given extra time on tests and was not tested in an alternate environment. The record shows that in Algebra I, the Student often re-took tests either after reviewing grades and fearing negative consequences or upon prodding by the Math Lab Teacher who also happened to be the Student's Case Manager. The District remitted no information regarding whether the Student requested alternate tests sites or extra time on tests and the Student did not consent to being interviewed so the record is limited as to the testing accommodations during the regular school year 2015-2016, although the Student's Case Manager reports that on occasion the Student took tests in the Special Education Math room.

The Student's amended IEP included a new annual measurable goal for self-advocacy. It was expected that the Student would ask for help and make needs know to teachers and administrators. However, the duty to follow accommodations include in the IEP is the District's duty, not the Student's.

³ OAR 581-015-2200 (1)(d)

The Department substantiates this portion of the allegation.

c) Tests and accommodations – credit recovery summer school

The Parent contends that the disciplinary removal of the Student and the subsequent failure of the District to allow the Student to return to class to complete a test amount to failure to implement the Student's IEP.

On July 14, 2016, according to the summer school Principal, the Student was removed from credit recovery Math during Quiz #6 for "behavior issues" and "disrespect". The credit recovery Math Teacher removed the Student because of talking during a test.

The Student has an IEP wherein the Student is to be removed from distractions and disruptions and given preferential seating. No seating chart was used in the credit recovery Math class. According to the credit recovery Math Teacher, the Student was seated one desk away from the other student with whom the Student was engaged in conversation with an empty desk between the Student and the classmate. However, the Student was still distracted and engaging in distracting behavior during the test.

Further, the Student's IEP provided for testing in an alternate environment. Any qualified teacher could have proctored a test for the Student in an alternate environment when the Student was either being distracting or engaging in distracting behavior. The credit recovery Math Teacher also had the option of moving the Student to the alternate testing site rather than having the Student forfeit any points the Student could have earned on the last test.

Finally, the Student did advocate, once removed from the classroom, for implementation of the IEP accommodations. Although the Student had been removed, the Student had an accommodation that provided one extra day for tests and quizzes. At the very least, the Student could have taken Quiz #6 the following day under the supervision of an administrator. However, because the credit recovery Math Teacher was no longer under contract and since the summer school Principal chose not to communicate with the Parents, the Student could not take advantage of the accommodations included in the January 20, 2016 IEP.

The Department substantiates this allegation.

d) Preferential Seating – Regular school year 2015-2016

The Student's IEP notes that preferential seating is based on a need to reduce distractions to the Student. The accommodation does not designate a specific area in which the Student must be seated, e.g., in the front of the class, near the teacher, near the door, etc. Some of the Student's teachers utilized a formal seating chart which placed the Student in a preferential location. The teachers that did not utilize a formal seating chart noted that the Student would be moved when necessary to prevent socializing or to prevent the Student from accessing technology.

The practice of moving the Student when necessary to prevent disruptions and accessing technology is reactive in nature and is inconsistent with the purpose of preferential seating. The preferential seating accommodation was included in the Student's IEP to prevent this type of behavior in the first place.

The Department substantiates this allegation.

Section 2 - IEP Accessibility

The Parent alleges that the District violated the IDEA because it failed to provide, through its Special Education Department, instruction to the Student's general education teachers regarding the Student's accommodations and services as well as failing to ensure the teachers had access to the Student's IEP and were implementing the Student's IEP in the general education classroom. (OAR 581-015-2220, 34 CFR 300.323, 34 CFR 300.324).

Pursuant to OAR 581-015-2220, a district must ensure that the IEP is accessible to each regular education teacher, special education teacher, related service provider and other service provider who is responsible for its implementation.

In the instant case, the Student's Case Managers during first semester and second semester emailed the Student's general education teachers copies of the Student's "Services and Accommodations" pages of the Student's IEP. Further, the District utilizes the "Synergy" system which denotes the presence of an IEP in a student's records. More specifically, when a teacher logs into Synergy to enter grades or information regarding any student in the District, if that particular student has an IEP, an icon will pop up on screen notifying the teacher of the presences of an IEP. It is up to the individual teacher to click on the icon to access a student's IEP and to implement the accommodations and services enumerated on said IEP.

The Department does not substantiate this allegation.

V. CORRECTIVE ACTION⁴ *

*In the Matter of Gresham Barlow School District
Case No. 16-054-027*

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

No.	Actions	Submissions ⁵	Due Date
1.	Professional Development Develop and provide a memorandum to all administrators and staff of the Student's school regarding their obligation to implement each student's IEP, including accommodations, as written. The memorandum must	Submit draft document to ODE for review and approval.	November 3, 2016

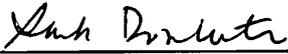
⁴ The Department's order shall include corrective action. Any documentation or response will be verified to ensure that corrective action has occurred. OAR 581-015-2030(13). The Department requires timely completion. OAR 581-015-2030(15). The Department may initiate remedies against a party who refuses to voluntarily comply with a plan of correction. OAR 581-015-2030(17), (18).

⁵ 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: raeannray@state.or.us; fax number (503) 378-5156.

	include an explanation of the purpose of these requirements and information about differentiating a student's goals for self-advocacy from instructional and assessment accommodations.		
	Following ODE review and approval distribute the memorandum electronically to all administrators and staff in the Student's school.	Distribute electronically, to all administrators and staff in the Student's school with a read receipt and copied to ODE staff listed below.	November 15, 2016
2.	Credit Review With the Parent, the Student, the Student's school counselor, and others as determined by the District, review the Student's transcript, verify the number of credits needed to be on track for graduation, and develop a plan for attaining those credits.	Provide a copy of the plan to the Parents and to ODE.	November 10, 2016
3.	IEP Team Meeting Following the transcript review meeting, convene the IEP Team, including the Student, to review and revise, if needed the accommodations to support the Student's achievement in the 2016-2017 school year and notify the Student's teachers and service providers.	Submit to ODE and the Parents, a copy of the completed IEP, the Prior Written Notice, and any notes or minutes related to the meeting.	December 15, 2016
4.	IEP Implementation Monitor and report on the implementation status, by class, of each accommodation in the most current IEP for the Student in this Complaint. Include implementation of any interim changes in	For each of the two reporting periods, submit to ODE, a copy of the services summary that staff access through Synergy, a description of each teacher's specific responsibility in implementing the listed accommodations, and the results of	February 15, 2016

	accommodations made by written agreement.	the verification review.	
5.	Compensatory Education Services and Reimbursement Reimburse the Parents the tuition cost of the 2016 summer school Math class.	Submit evidence of completed reimbursement to ODE, copied to the Parent.	December 15, 2016
	Provide at no cost to the Parent a replacement credit recovery class for the Student as identified through the credit review. ^{6 7}	Submit a copy of the credit recovery plan, signed by the parent. Submit evidence of the completed replacement credit recovery class.	December 15, 2016 August 31, 2017

Dated: this 20th Day of October 2016



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

Mailing Date: October 20, 2016

⁶ The replacement class is not limited to math and will be selected based on the results of the credit review.

⁷ With the parent, develop a plan for providing the credit recovery and the schedule of services.