

BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of Beaverton
School District 48J

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FINDINGS OF FACT,
CONCLUSIONS
AND FINAL ORDER
Case No. 17-054-015

I. BACKGROUND

On May 30, 2017, the Oregon Department of Education (Department) received a written request for a special education complaint investigation from the parent (Parent) of a student (Student) residing in the Beaverton School District 48J (District). The Parent 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.

Under state and federal law, the Department must investigate written complaints that allege violations of the Individuals with Disabilities Education Act (IDEA) and issue an order within sixty days of receipt of the complaint.¹ This timeline may be extended if the Parent and the District agree to the extension in order to engage in mediation or local resolution or for exceptional circumstances related to the complaint.²

On June 2, 2017, the Department's Complaint Investigator sent a *Request for Response* to the District identifying the specific allegations in the Complaint to be investigated and establishing a *Response* due date of June 16, 2017. The District asked for an additional week to complete its *Response* due to the summer break.

On June 23, 2017, the District submitted a *Response* indicating they disputed the allegations in the Parent's Complaint. In total, the District submitted the following items:

1. District's written response
2. Student's psychological evaluation, 03/12/2014
3. Student's 1st Grade easyCBM
4. Medical Statement or Health Assessment Statement, 06/12/2015
5. Statement of Eligibility for Special Education, 04/16/2014
6. Notice of Team Meeting, 09/11/2015
7. Prior Notice about Evaluation/Consent for Evaluation, 09/17/2015
8. Meeting minutes, 09/17/2015
9. WIAT-III Clinician Report, 10/2/2015
10. Academic Evaluation, 10/05/2015
11. Notice of Team Meeting, 10/16/2015

¹ OAR 581-015-2030(12) and 34 CFR § 300.152(a)

² OAR 581-015-2030(12) and 34 CFR § 300.152(b)

12. Brief Functional Behavioral Assessment (FBA)
13. Psycho-Educational Evaluation, 11/13/2015
14. Notice of Team Meeting, 11/13/2015
15. Statement of Eligibility for Special Education, 11/13/2015
16. Meeting Minutes, 11/13/2015
17. Prior Notice of Special Education Action, 11/13/2015
18. Student 12/04/2015 IEP
19. Meeting Minutes, 12/04/2015
20. Prior Notice of Special Education Action, 12/04/2015
21. Behavior Support Plan, 01/19/2016
22. Daily Break Plan, 04/07/2016
23. Notice of Team Meeting, 01/22/2016
24. Student 12/04/2015 IEP
25. Meeting Minutes, 02/12/2016
26. Student Safety Plan, 02/12/2016
27. Prior Notice of Special Education Action, 02/12/2016
28. Notice of Team Meeting, 04/27/2016
29. Behavior Support Plan, 05/02/2016
30. Student Behavior Sheet
31. Behavior Support Plan (with edits), 05/02/2016
32. Student Daily Behavior Sheet,
33. Written Agreement between the Parent and the District, 05/02/2016
34. Student 12/04/2015 IEP, Amended 05/19/2016
35. Prior Notice of Special Education Action, 05/02/2016
36. Student 12/04/2015 IEP, Amended 05/02/2016
37. Meeting Minutes, 05/19/2016
38. Prior Notice of Special Education Action, 05/19/2016
39. Special Education Progress Notes for Student, 06/16/2016
40. Written Agreement between the Parent and the District, 10/12/2016
41. Student 12/04/2015 IEP, Amended 10/12/2016
42. Prior Notice of Special Education Action, 10/02/2016
43. Behavior Support Plan, 10/13/2016
44. Notice of Team Meeting, 10/12/2016
45. Student 10/27/2016 IEP
46. Meeting Minutes, 10/27/2016
47. Written Agreement between the Parent and the District
48. Student 10/27/2016 IEP, Amended 12/05/2016
49. Prior Notice of Special Education Action, 12/05/2016
50. Notice of Team Meeting, 01/20/2017
51. Student 10/27/2016 IEP
52. Meeting Minutes, 01/25/2017

53. Physical Restraint and/or Seclusion Incident and Debriefing Report, 02/21/2017
54. Notice of Team Meeting, 02/24/2017
55. Written Agreement between the Parent and the District, 03/02/2017
56. Student 10/27/2016 IEP, Amended 02/28/2017
57. Prior Notice of Special Education Action, 03/02/2017
58. Physical Restraint and/or Seclusion Incident and Debriefing Report, 03/17/2017
59. Special Education Progress Notes for Student, 03/08/2017
60. Student 10/27/2016 IAP, Amended 03/25/2017
61. Meeting Minutes, 03/15/2017
62. Prior Notice of Special Education Action, 03/15/2017
63. Notice of Team Meeting, 04/04/2017
64. Special Education Progress Note for Student, 04/07/2017
65. Physical Restraint and/or Seclusion Incident and Debriefing Report, 04/14/2017
66. Physical Restraint and/or Seclusion Incident and Debriefing Report, 05/02/2017
67. Student 05/10/2017 IEP
68. Meeting minutes, 05/10/2017
69. Prior Notice of Special Education Action, 05/11/2017
70. Special Education Progress Notes for Student, 10/27/2016
71. Physical Restraint and/or Seclusion Incident and Debriefing Report, 05/24/2017
72. Data on Student referrals
73. Summary of Data for Student, 06/01/2017
74. Email thread: Parent notification to District of Complaint Investigation, 05/24/2017
75. Email thread: "Re: Missing Specials" 05/08/2017—05/17/2017
76. Email thread: "Student in PE" 05/15/2017
77. Email thread: "Re: clarification" 02/23/2017—02/24/2017
78. Email thread: "Re: Last night" 05/02/2017
79. Email thread: "Re: aunt" 05/02/2017—05/03/2017
80. Email thread: "Re: dentist appointment" 05/03/2017—05/05/2017
81. Email thread: "Re" Breakfast" 05/11/2017
82. Email thread: "Re: Lunch question" 05/12/2017
83. Email thread: "Re: Specials" 05/08/2017—05/11/2017
84. Email thread: "Re: ODE" / "Re: specials" 05/08/2017—05/15/2017
85. Email thread: "Re: Shoes" 05/17/2017
86. Email thread: "problem solving about specials" 05/17/2017
87. Email thread: "Fw: books: 05/31/2017
88. Email thread: "shirt" 06/02/2017
89. Email thread: "Re: Swimming" 06/05/2017
90. Email thread: "Student in PE" 05/13/2017—05/15/2107
91. Email thread: "problem solving about specials" 05/17/2017—06/05/2017
92. Email thread: "Re: Shoes" 05/17/2017—05/17/2017
93. Email thread: "ODE" 05/12/2017—05/15/2017

94. Email thread: "Re. Specials: 05/08/2017—05/11/2017"
95. Email thread: "Re: Breakfast" 05/11/2017
96. Email thread: "Re: 'Student'" 03/01/2017—03/02/2107
97. Email thread: "Re: vm" 01/26/2017
98. Email thread: "Re: Negative Balance Notification" 01/09/2017—01/10/2017
99. Email thread: "Re: appts this Thursday" 01/04/2017—01/05/2017
100. Email thread: "Re 'Student' –here now" 01/04/2017
101. Email thread: "Re: Today" 11/2/2016
102. Email thread: "Re: Meeting" 09/10/2015
103. Email thread: "Re: Draft IEP" 10/01/2015—12/04/2015
104. Email thread: "Recess Plan" 12/18/2015
105. Email thread: "General judgment/adoption approval" 01/05/2106
106. Email thread: "Re: IEP Meeting" 01/20/2016—01/25/2016
107. Email thread: "Revision" 02/16/2017—02/17/2016
108. Email thread: "Re: Follow up to today" 04/12/2016
109. Email thread: "Re: 4/21/16" 04/21/2016—04/22/2016
110. Email thread: "Re:" 04/22/2016—04/27/2016
111. Email thread: "Today" 05/17/2016
112. Email thread: "Re: Re-entry Meeting" 06/06/2016
113. Email thread: "Re: Kids' behavior chart article" 09/15/2016
114. Email thread: "Re: Sharing Table in Cafeteria" 09/26/2016
115. Email thread: "Re: Some difficulties today..." 10/13/2016
116. Email thread: "Re: Update on today's behavior" 11/1/2016
117. Email thread: "Re: IEP" 11/8/2016
118. Email thread: "Re: Today" 11/22/2016
119. Email thread: "Re: Social growth classroom" 11/7/2016—12/6/2016
120. Email thread: "Re: [Student]" 12/4/2016
121. Email thread: "Re: Update" 1/19/2017—1/22/2017
122. Email thread: "Weebly Blog Comment" 9/15/2016
123. Email thread: "Re: Sharing Table in Cafeteria" 09/26/2016
124. Email thread: "Re specials schedule" 10/4/2016
125. Email thread: "Re: Conference" 10/3/2016—10/7/2016
126. Email thread: "Re" Bricks4Kidz Class information—McKinley" 10/10/2016
127. Email thread: "Re: Some difficulties today..." 10/10/2106—10/13/2016
128. Email thread: "Re: birthday invitations" 10/19/2019
129. Email thread: "Update on today's behavior" 11/1/2016
130. Email thread: "Re: appointment tomorrow" 11/3/2016
131. Email thread: "Fw. Lice" 11/9/2016
132. Email thread: "Purple sheet for science project" 11/15/2016
133. Email thread: "Re" Science 'supplies'" 11/16/2016
134. Email thread: "Re: marshmallow" 11/18/2016

- 135. Email thread: "Re: today" 11/22/2016
- 136. Email thread: "Re: small video of [Student] ziplining"
- 137. Email thread: "Re: [Student]"
- 138. Email thread: "apt this Thursday" 1/4/2017
- 139. Email thread: "Re: Negative Balance Notification" 1/9/2017—1/10/2017
- 140. Email: 02/10/2017, Important Information

The Parent submitted a Response on July 6, 2017. The Complaint Investigator interviewed the Parent on July 6, 2017. At that time, the Parent provided a copy of the Complaint as well as emails between the Parent and the District. The Complaint Investigator determined that onsite interviews were needed. On June 11, 2017, the Complaint Investigator interviewed the Special Education Teacher and School Psychologist with the District's Legal Counsel in attendance. The Complaint Investigator reviewed and considered all of these documents, interviews, and exhibits in reaching the findings of fact and conclusions of law contained in this order. 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. The 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 May 31, 2016 to the filing of this Complaint on May 30, 2017.³

	<u>Allegations:</u>	<u>Conclusions:</u>
1	<p><u>IEP Implementation</u></p> <p>The Parent alleged that the District violated the IDEA when the Student's placement was changed from participation in Special Education classes in favor of non-educational activities, without conducting an IEP meeting.</p> <p>(OAR 581-015-2220; 34 CFR 300.323, 300.324)</p>	<p><u>Not Substantiated</u></p> <p>The Student's schedule was modified and the Student was kept out of "specials" for approximately one month, but this modification did not affect the provision of Special Education and related services delineated in the Student's IEP.</p>
2	<p><u>Content of the IEP</u></p> <p>The Parent alleged that the District violated the IDEA when it did not formulate an IEP that addressed the Student's disability. Specifically, the Parent alleges that the IEP formulated by</p>	<p><u>Not Substantiated</u></p> <p>The District modified the Student's IEP on numerous occasions, including changing the Student's placement to address behavior exhibited by the</p>

³ This order does include some facts that are relevant to the case and that happened before November 1, 2015.

	<p>the District does not address the Student's needs in the areas of behavior, leading to repeated physical restraint of the Student and removal of the Student from the educational environment.</p> <p>(OAR 581-015-2200(1)(b)(A) & (B); 34 CFR 300.320)</p>	<p>Student. By the end of the school year the Student appeared to show a reduction in disruptive behaviors, including those behaviors requiring staff intervention.</p>
3	<p><u>Placement and Requirement for Least Restrictive Environment</u></p> <p>The Parent alleges that the District has violated the IDEA by removing the Student from the classroom to work alone; specifically, to engage in non-educational activities with an electronic device.</p> <p>(OAR 581-015-2240, OAR 581-015-2250(1)(b); 34 CFR 300.114)</p>	<p><u>Substantiated</u></p> <p>The Student's schedule was modified for approximately one month, during which the Student did not have access to general education peers during specials; instead the Student was permitted to use a tablet for entertainment. This decision was made without the Parent's knowledge and without any input from the IEP Team.</p>

III. FINDINGS OF FACT

Background

- 1) The Student in this case is a 10-year-old elementary-school student residing in the Beaverton School District 48J. The Student is eligible for Special Education under the category of Specific Learning Disability (90) and Emotional Disturbance (60).
- 2) The Student's post-traumatic stress disorder (PTSD) manifested in the Student fleeing certain confrontations or redirections from adults. The Parent in this case completed the Student's adoption approximately 2 years prior to filing this Complaint. The Parent noted similar behaviors at home as those reported at school.
- 3) On October 5, 2015 the District completed an academic evaluation, finding that the Student displayed deficiencies in Reading, Writing, and Math. The evaluator noted that the Student experienced a variety of setbacks due to family situations prior to entering the District.

Background on Behavior in School

- 4) On November 10, 2015, the Student's IEP Team met to review the Student's behavior issues. The Functional Behavioral Assessment (FBA) conducted at that

time indicates that the Student displayed physical aggression toward peers and displayed verbally defiant anger, such as yelling at the teacher when asked to do something the Student did not want to do, particularly Math.

- 5) On November 13, 2015, the District conducted a psycho-educational evaluation of the Student. That evaluation included observations of the Student's behavior throughout the day, interactions with peers, and cognitive testing. The Student displayed weakness in the area of memory, and comparative strength in auditory processing. The Parent gauged the Student as having high scores in aggression, depression, and withdrawal.
- 6) On December 4, 2015, the Student's IEP Team met. The Student was found eligible for Special Education under the primary disability of Specific Learning Disability (90). The Student received Specially Designed Instruction (SDI) in Reading, Writing, Math, emotional regulation, and problem solving. The Student also received such supplementary aids and services such as preferential seating, visual aids, checks for understanding, extended time to complete assignments, word lists, having assignments or tests read, and breaks among others. The Student was scheduled for removal from the general education classroom to the resource room for support in Reading, Writing and Math. The Student was scheduled for removal for 40 minutes per month for behavior instruction.
- 7) At the end of the 2015-2016 school year, the Student had a Behavior Support Plan (BSP) in place. Behaviors of concern included leaving the classroom and hiding from staff both inside and outside of the building. Supports included escorts, monitoring, and scheduled breaks. On May 2, 2016, the BSP was amended to include additional protocols around recess, additional breaks, additional unscheduled breaks, and teacher initiated breaks, recognizing that additional breaks contributed to the support of the Student's behavior goals. Such breaks included the utilization of "break cards" whereby the Student could opt to utilize breaks such as going to the resource room for a 20-minute nap.

The Student's IEP was also amended to address recent increases in behavior issues, such as leaving the classroom without permission, running away from staff outside the building, and physical altercations with peers. Additional strategies and goals were added to address these behaviors. The IEP Team also increased the amount of psychiatric services the Student received.

- 8) During the 2016-2017 school year, the Student continued to exhibit behavior that distracted from the learning environment. On October 12, 2016, the IEP Team met to draft a new IEP for the Student. Specifically, the Student was reported to bully, and assault peers. The Student had not exhibited the running behaviors observed at the end of the previous school year. The Student's IEP included strategies around self-calming and specific triggers, and also addressed the Student's aggressive behaviors toward peers. The IEP Team also modified the BSP by adding a provision in the "Safety Plan for escalations with peers" section of the BSP which provided an opportunity for the Student's closest friends to have "restorative conversations" with the Student to suggest that the Student seems to need a break.

when they notice the Student becoming aggressive. The BSP was also amended to allow the Student to have lunch and afternoon recess with peers.

- 9) On December 5, 2016, the Student's IEP Team met to address continued behavioral issues exhibited by the Student. These included refusing to work, frequent oppositional/defiant behaviors disruptive of the classroom, and verbal and physical aggressions toward peers. The Student's IEP was amended to add additional self-calming strategies and psychological services. It was noted that given the limited amount of data gathered on the Student's progress with the current IEP, the interventions would be continued with increased support of the Student's community counselor who observed increased anxiety around issues at home.

Move to ECG Classroom

- 10) On January 25, 2017, the Student's IEP Team met to revise the IEP and change the Student's placement to address ongoing behavior issues. At that meeting, the IEP Team agreed that the Student needed the support of a smaller classroom and group learning. The Student's placement was changed to the Emotional Growth Classroom (EGC), which had no more than ten students at any time along with one teacher and two aides. This resulted in the Student being removed from the general education curriculum 80% or more of the time. Data gathered to that point showed that the Student was accomplishing approximately 10% of academic work in the general education setting. One hundred (100) minutes of SDI for behavior were added to the Student's IEP, along with a de-escalation space for the Student.
- 11) Initially, after being placed within the EGC classroom, the Student's behavior escalated, necessitating physical restraints. However, the Student showed improvement in physical aggressions and made other improvements over time. In all during 2017, the Student was physically restrained five times, on February 21, 2017, March 17, 2017, April 17, 2017, May 2, 2017, and May 24, 2017. Physical restraints were generally the result of the Student resisting being redirected by staff, especially when the Student attempted to leave the classroom to flee stressors/triggers.
- 12) The IEP Team continued to adjust the Student's supports and interventions to address the Student's behaviors. The Student's IEP Team, including the Parent, understood these behaviors as a manifestation of traumas experienced by the Student's early in life prior to adoption. This has made it challenging to select interventions to use with the Student that will not inadvertently re-traumatize the Student.
- 13) On May 8, 2017, the Parent sent an email to the Student's Special Education Teacher. The Student had reported to the Parent that the Student was no longer attending "specials" such as physical education, music class, and Spanish class. The Parent wanted to know if this was correct, and if so, why this adjustment was made.

- 14) On May 9, 2017, the Special Education Teacher responded that the Student often refused to go to specials, resulting in behavior incidents such as running and hiding from staff. The Special Education Teacher said that an agreement was made with the Student that the Student would remain in the classroom when the rest of the class went out for specials. The Special Education Teacher indicated that this has resulted in fewer incidents of the Student running and hiding. At the time of this email exchange, the Special Education Teacher estimated that the Student had stayed out of specials for approximately the past month.
- 15) During an interview with the Complaint Investigator, the Special Education Teacher explained that while the Student did utilize a tablet computer for entertainment during this time, it also provided a space in which the Student and the Special Education Teacher developed a closer relationship, resulting in fewer behavior events. It was the Special Education Teacher's belief that the modification was reasonable to alleviate stressors on the Student.
- 16) On May 10, 2017, the IEP Team, including the Parent, met to discuss the Student's attendance at specials and other issues. The IEP Team discussed additional supports and interventions and moving the Student to a different EGC classroom with additional therapeutic supports for the 2017-2018 school year. The Student began attending specials again following this IEP Meeting.
- 17) On May 30, 2017, the Department received this Complaint.

IV. DISCUSSION

1. IEP Implementation:

The Parent alleges that the District violated the IDEA when the Student's placement was changed from participation in Special Education classes, in favor of non-educational activities, without conducting an IEP meeting.

A district must ensure that at the beginning of each school year that an IEP is in effect for each child with a disability within the district's jurisdiction.⁴ Districts must provide Special Education and related services to a child with a disability in accordance with an IEP.⁵ Following the development of an IEP, the District must make Special Education and related services available to the student as soon as possible.⁶

The Student's IEP placement was in the Emotional Growth Classroom (EGC), a self-contained Special Education classroom. All academic services in the Student's IEP are delivered in that classroom. The Student was removed from the general education environment for 80% of the Student's instruction. The remaining portion of the Student's general education curriculum consisted of classes such as physical education, music,

⁴ OAR 581-015-2220(1)(a)

⁵ OAR 581-015-2220(1)(b)

⁶ OAR 581-015-2220(2)(b)

and Spanish language instruction. However, for approximately one month, the Student was held back in the Special Education classroom during the time the Student's peers interacted with general education peers.

The change made by the Special Education Teacher to the Student's schedule did not affect the provision of the Special Education and related services delineated in the Student's IEP. The Student continued to receive the Specially Designed Instruction that was part of the Student's IEP.

The Department does not substantiate this allegation.

2. Content of the IEP

The Parent alleges that the District violated the IDEA when it did not formulate an IEP that addressed the Student's disability. Specifically, the Parent alleges that the IEP formulated by the District does not address the Student's needs in the areas of behavior, leading to repeated physical restraint of the Student and removal of the Student from the educational environment.

A student's IEP is required to have specific content. Among these requirements is that the IEP meet the needs that result from the child's disability to enable the child to be involved in, and make progress in the general education curriculum.⁷ In addition the IEP must meet the child's other educational needs that result from his or her disability.⁸

The Student has struggled with behavior regulation since starting school. Many of the behaviors that the Student exhibits are believed to be manifestations of traumas the Student experienced prior to the Parent adopting the Student. The Parent voiced concern that despite modifications to the Student's IEP and changing the Student's placement to the Emotional Growth Classroom, the Student's behaviors appear to have increased, especially those resulting in physical restraint.

During the 2016-2017 school year, the Student's IEP Team met numerous times to address the Student's behavioral needs. In January 2017, the Student's placement was changed to a more restrictive yet more supportive setting, the Emotional Growth Classroom (EGC). However, the Student has continued to have behavior problems. There is evidence that the Student's behavior has improved since being moved to the EGC. The District noted that for a student in the EGC, the Student exhibited comparatively few incidents resulting in restraint. A different placement was being considered for the Student for the 2017-2018 school year.

The Department does not substantiate this allegation.

3. Placement and Requirement for Least Restrictive Environment

The Parent alleges that the District has violated the IDEA by removing the Student from

⁷ OAR 581-015-2200(1)(b)(A)

⁸ OAR 581-015-2200(1)(b)(B)

the classroom to work alone; specifically, to engage in non-educational activities with an electronic device. The Parent alleges that when the class was scheduled to participate in activities outside of the classroom, with general education peers, such as physical education, music, and Spanish classes, that the Student remained in the classroom with the Special Education Teacher.

School districts must ensure that to the maximum extent appropriate, children with disabilities are educated with children who do not have disabilities.⁹ Districts must ensure that special classes, separate schooling or other removal of children with disabilities from the regular educational environment occurs only if the nature and severity of the disability is such that education in regular classes cannot be achieved satisfactorily.¹⁰ Districts must also ensure that the educational placement decisions for students with disabilities are made in conformity with the provisions around least restrictive environment.¹¹ The least restrictive environment provisions require that the District ensure the participation of students with disabilities, to the greatest extent possible, in educational and extracurricular activities with their non-disabled peers.¹² Moreover, Districts must ensure that placement decisions are made by a group of persons, including the parents, and other persons knowledgeable about the child.¹³

In order to determine whether a change in placement for Special Education eligible students occurs, the Office of Special Education Programs (OSEP) has identified four factors that must be considered: whether the educational program set out in the child's IEP has been revised; whether the child will be able to be educated with nondisabled children to the same extent; whether the child will have the same opportunities to participate in nonacademic and extracurricular services; and whether the new placement option is the same option on the continuum of alternative placements.¹⁴

The educational program set out in the Student's IEP was not revised. Nor did the Student change schools; therefore, the new placement option is the same option on the continuum of alternative placements. Therefore, it must be determined whether the Student was able to be educated with nondisabled children to the same extent and whether the Student had the same opportunities to participate in nonacademic and extracurricular services as the Student had prior to being removed from "specials."

In the present case, the Student's Special Education Teacher, in conjunction with the Student, determined that the Student would no longer attend specials, which dramatically limited the Student's exposure to non-disabled peers and also limited the Student's opportunities to participate in nonacademic and extracurricular activities. The Department concludes that based upon these factors, the Student's placement was changed.

The decision to change the Student's placement was not only made without the input of

⁹ OAR 581-015-2240(1)

¹⁰ OAR 581-015-2240(2)

¹¹ OAR 581-015-2250(1)(b)

¹² *Id.*

¹³ OAR 581-015-2250(1)(a)

¹⁴ Letter to Fisher, 21 IDELR 992 (OSEP 1994)

the Student's IEP Team; it was also made without the knowledge of the Parent, resulting in a denial of the Parent's ability to participate in the educational placement of the Student required by OAR 581-015-2190. The Student's IEP Team also never determined that the nature or severity of the Student's disability is such that the Student could not be educated in specials with the use of supplementary aids and services, as required by OAR 581-015-2245. While the Special Education Teacher observed that the Student often verbalized a preference for not attending specials and noted a correlation between elevated behaviors following the Student's return from specials, the Special Education Teacher lacked the authority to withhold the Student from specials without the involvement of the Parent and other IEP Team members. In its *Response*, the District characterized this as a "break" for the Student, which is permitted by the Student's IEP. However, this modification was applied consistently rather than in response to the behavior of the Student.

The Department substantiates this allegation.

V. CORRECTIVE ACTION¹⁵

*In the Matter of Beaverton School District #48J
Case No. 17-054-015*

The Department orders the following Corrective Action resulting from this investigation.

Actions	Submissions ¹⁶	Due By
<p><u>Placement and Requirement for Least Restrictive Environment</u></p> <p>In conjunction with ODE staff, the District will provide professional development for the special education staff at the school the Student attends, including related service personnel who provide services at the school (i.e., SLP, OT).</p>	<p>Provide draft agenda and materials for professional development to ODE for approval</p>	<p>September 15, 2017</p>

¹⁵ 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)).

¹⁶ 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.

<p>The training will include:</p> <ul style="list-style-type: none"> a) Procedures to follow when making changes to a student's IEP, including the changes to schedules that impact 'nonparticipation justification', b) Requirements related to placement determinations and, c) Parent participation requirements related to IEP meetings, changes or modifications to the IEP, and placement determinations. 	<p>Provide documentation of training by sending to ODE copies of all training materials, and sign-in sheet of participants and their positions.</p>	<p>October 13, 2017</p>
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Dated: this 24th Day of July 2017



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

Mailing Date: July 24, 2017