

BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of) FINDINGS OF FACT,
Beaverton School District 48J) CONCLUSIONS, FINAL ORDER, AND
) STIPULATED CORRECTIVE ACTION
) Case No. 21-054-010

I. BACKGROUND

On May 11, 2021, 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 (District). The Parent requested that the Department conduct a special education investigation under Oregon Administrative Rule (OAR) 581-015-2030. The Department confirmed receipt of this Complaint and provided the District with a copy of the Complaint on May 11, 2021.

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 District agree to the extension in order to engage in mediation or local resolution, or for exceptional circumstances related to the complaint.² A complaint must allege a violation that occurred not more than one year before the date the Department received the complaint.³

Prior to submitting a *Response* to the allegations, on June 1, 2021, the District communicated with the Department by email that it is not contesting the allegations made in the Complaint in this matter, and provided proposed Corrective Action, as detailed below. On June 2, 2021, the District provided to the Department by email the following documents:

- 1. The Student’s current IEP, dated October 13, 2020 as amended on May 5, 2021 (18 pages)
- 2. Prior Written Notices (PWNs), dated October 13, 2020; November 19, 2020; January 21, 2021; May 5, 2021; and June 1, 2021 (5 pages)
- 3. Meeting Minutes, dated October 13, 2020; November 19, 2020; May 5, 2021; and October 13, 2020 (4 pages).

On June 8, 2021, the Parent stated in an email that the Parent agrees with the proposed Corrective Action, other than the District’s assertion that the Student’s assignments have already been modified. The Department’s Complaint Investigator determined that further investigation of this matter is not necessary to the stipulated resolution of this Complaint.

The Department’s Complaint Investigator reviewed all of the documents and submissions provided to the Department by the parties. This order is timely.

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

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

³ OAR 581-015-2030(5), 34 CFR § 300.153(c)

II. ALLEGATIONS AND CONCLUSIONS

The Department has jurisdiction to resolve this complaint under 34 CFR §§ 300.151-300.153 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 12, 2020, to the filing of this Complaint on May 11, 2021.

Allegations	Conclusions
<p>1. <u>When IEPs Must Be In Effect (IEP Implementation)</u></p> <p>The Complaint alleges that the District violated the IDEA by failing to implement the Student’s IEP in the following respects:</p> <ul style="list-style-type: none"> a) The Student’s current IEP provides that the Student is on a “modified diploma” track, but the District has now repudiated that decision in a communication with the Parent; b) The District has not provided modified school work for the Student during the Student’s school day and as concerns the Student’s homework; c) The District has placed the Student in only regular education courses; and d) The District has engaged in excessive monitoring of the Student during bathroom breaks and when the Student is in the school hallways following recent resumption of in-person attendance by the Student, which is not consistent with the Student’s IEP. <p>(34 CFR 300.323 & 300.324; OAR 581-015-2220)</p>	<p>The District does not contest these allegations.</p>

III. FINDINGS OF FACT

Background

1. The Student is a sixteen year old, high school student who is eligible for special education services under the eligibility of “Specific Learning Disability”.

- The District has not contested the allegations made in the Complaint in this matter and the parties have consented to Stipulated Corrective Action, as set forth in the Corrective Action table, below.

IV. DISCUSSION

The Complaint alleges a number of IDEA violations which the District does not contest.

The Department does not make a substantive determination on the allegations of the Complaint.

Based on the District not contesting the allegations of this Complaint, the Department orders and the District stipulates to the following Corrective Action:

V. STIPULATED CORRECTIVE ACTION¹

*In the Matter of Beaverton School District
Case No. 21-054-010*

Action Required	Submissions	Due Date
1. Student will be eligible to work toward a modified diploma and that will be reflected on the Student's IEP.	Submit IEPs demonstrating compliance with this corrective action to ODE and the Parent.	Completed (Documentation provided)
2. Student's IEP will reflect modified grades and modified assignments for all classes that require reading, writing or math;	Submit IEPs demonstrating compliance with this corrective action to ODE and the Parent.	Completed (Documentation provided)
3. Student's Case Manager will communicate with each of the Student's general education teachers within the first two weeks of the 2021/22 school year to discuss modifications to student's coursework.	Submit documentation demonstrating compliance with this corrective action to ODE and the Parent.	September 22, 2021

¹ 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)).

<p>4. The District will conduct professional development for the Learning Specialists (Resource Teachers) at [the Student's] High School regarding:</p> <p>a. Requirements and process for selecting a student's diploma type; and</p> <p>b. How to modify general education content for students in special education who require modification.</p>	<p>The District shall submit for review and approval a plan for the training that includes the proposed content for each area of training, when and how the information will be presented, the proposed list of attendees and their positions, and the presenter(s).</p> <p>The District shall complete the training according to the approved plan and submit evidence of completed training, materials, agenda, and sign-in sheets.</p>	<p>Provide outline to ODE by September 15, 2021</p> <p>Provide training and documentation of completion of training no later than October 31, 2021</p>
<p>5. Student will be assigned a different counselor.</p>	<p>Provide to ODE and the Parent documentation of this corrective action.</p>	<p>September 8, 2021</p>
<p>6. An IEP meeting will be convened to:</p> <p>a. Determine if Student requires additional time in special education, in addition to [the Student's] current Learning Strategies class, to make progress on goals; and</p> <p>b. Develop a plan for Student to access breaks during the school day.</p>	<p>Provide documentation to ODE concerning evaluations that will be completed to determine the Student's need for additional time in special education and additional learning strategies.</p> <p>Provide copy of Meeting Notice to ODE prior to the IEP meeting.</p> <p>Provide a copy of the PWN and Meeting Minutes and amended IEP following the IEP meeting.</p> <p>Develop a detailed plan for Student access to breaks during the school day, and provide documentation of this corrective action to ODE.</p>	<p>October 31, 2021</p>

Dated: this 18th day of June 2021

A handwritten signature in cursive script that reads "Sara Green".

Sara Green
Assistant Superintendent
Office of Enhancing Student Opportunities

Mailing date: June 18, 2021

Appeal Rights: Parties may seek judicial review of this Order. Judicial review may be obtained by filing a petition for review within sixty days from the service of this Order with the Marion County Circuit Court or with the Circuit Court for the County in which the party seeking judicial review resides. Judicial review is pursuant to the provisions of ORS § 183.484. (OAR 581-015-2030(14).)