

BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of)
Bethel School District 52) FINDINGS OF FACT,
) CONCLUSIONS, FINAL ORDER, AND
) STIPULATED CORRECTIVE ACTION
) Case No. 21-054-011

I. BACKGROUND

On May 17, 2021, the Oregon Department of Education (Department) received a written special education complaint (Complaint) against Bethel School District (District) from an interested individual (Complainant). The Complainant alleged a systemic violation of the Individuals with Disabilities Act (IDEA) affecting 15 named students (Students) and requested that the Department conduct a special education investigation under Oregon Administrative Rule (OAR) 581-015-2030. The Department confirmed receipt of the Complaint and forwarded the request to the District on May 17, 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 Based on the date the Department received the Complaint, the relevant period for this Complaint is May 18, 2020 to May 17, 2021. The projected completion date for a final order associated with this Complaint is July 16, 2021.

On May 20, 2021, the Department's Complaint Investigator sent to the District a *Request for Response (RFR)* specifying three allegations of IDEA violations and establishing a *Response* due date of June 3, 2021.

The District submitted a *Response* on June 2, 2021. The *Response* did not dispute the first allegation but disputed the other two allegations. The District submitted to the Investigator 1815 pages of documents, including:

1. All IEPs and IEP amendments for 14 of the named students in effect at any point during the 365 days before the Department received the Complaint;
2. IEP meeting notes related to the submitted IEPs and other meetings for the named students;
3. Prior written notices for special education actions affecting the named students;
4. Speech language pathology service logs and lesson plans for November 2020-May 2021; and,
5. Email communications relating to the alleged IDEA violations.

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)

The Complaint Investigator reviewed all of the documents and submissions provided by the parties. The Complaint Investigator interviewed the Complainant and key District staff knowledgeable about the circumstances leading to the Complaint. In the Complaint Investigator’s final staff interview, the District’s Special Services Director said that the District would no longer contest the allegations in the Complaint. On its own initiative, the District had already begun to rectify the situation, and those efforts are currently in progress.

The Complaint Investigator discussed with both parties the nature and content of a Stipulated Corrective Action, and the parties agreed to that resolution of the Complaint.

This order is timely.

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 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.

The written Complaint alleges that the District violated the IDEA in the following ways:

Allegations	Conclusions
<p>1. <u>When IEPs Must Be In Effect (IEP Implementation)</u></p> <p>The Complaint alleges that, for an indefinite period of time beginning at least as far back as December 2019 and continuing to the present, the District has violated the IDEA by not delivering speech language pathology (SLP) services to 15 District Students in accordance with their IEPs, all of which provided for SLP services.</p> <p>(OAR 581-015-2220(1)(b); 34 CFR §300.323(c)(2))</p>	<p>The District does not contest this allegation.</p>
<p>2. <u>Prior Written Notice (PWN)</u></p> <p>The Complaint alleges that the District did not at any time notify parents of the 15 Students that the District would not provide SLP services in accordance with the Students’ IEPs.</p> <p>(OAR 581-015-2310(2)(a); 34 CFR §300.503(a))</p>	<p>The District does not contest this allegation.</p>
<p>3. <u>Free Appropriate Public Education (FAPE)</u></p> <p>The Complaint alleges that the 15 named Students were deprived of the Free Appropriate Public Education to which they are entitled</p>	<p>The District does not</p>

under the IDEA when the District did not deliver SLP services in accordance with the Students' IEPs. (OAR 581-015-2040; 34 CFR §300.101)	contest this allegation.
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III. FINDINGS OF FACT

The Students named in the Complaint were all receiving special education services at a District middle school or high school during the one-year complaint period.

The District does not contest 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 alleged three 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 ACTION⁴

*In the Matter of Bethel School District
Case No. 21-054-011*

Action Required	Submissions ⁵	Due Date
1. The District will: a. Meet with parents or guardians of all 15 Students who did not receive speech-	The District will submit documentation of agreements between parents or guardians and the District, including the type and amount of compensatory speech-language services that each	September 30, 2021 In progress as of June 30, 2021

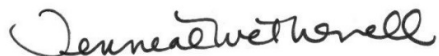
⁴ The Department's order shall include any necessary corrective action as well as documentation to ensure that the corrective action has been completed (OAR 581-015-2030(13)). The Department expects and requires the timely completion of corrective action and will verify that the corrective action has been completed as specified in any final order (OAR 581-015-2030(15)). The Department may initiate remedies against a party who refuses to voluntarily comply with a plan of correction (OAR 581-015-2030(17) & (18)).

⁵ Corrective action submissions and related documentation as well as any questions about this corrective action should be directed to Mike Franklin, Oregon Department of Education, 255 Capitol St. NE, Salem, Oregon 97310- 0203; telephone – (503) 947-5634; e-mail: mike.franklin@ode.state.or.us, fax number (503) 378-5156.

<p>language services in accordance with their IEPs.</p> <p>b. Explain the students' loss of speech-language services.</p> <p>c. Reach agreement with parents or guardians about the type, amount, and scheduling of compensatory services.</p> <p>d. Give parents or guardians prior written notice of the compensatory speech-language services.</p>	<p>affected Student has received or will receive.</p>	
<p>2. The District will:</p> <p>a. Develop written procedures for monitoring compliant implementation of all IEPs.</p> <p>b. Establish written procedures for special education staff to communicate with administrators about interruptions or other problems in delivering services prescribed in students' IEPs.</p> <p>c. Disseminate procedures to all special education staff and administrators.</p>	<p>The District shall submit to the Department the written procedures and evidence of dissemination of these materials.</p>	<p>October 31, 2021</p>
<p>3. Staff training for speech-language pathologists</p> <p>a. Write present levels of academic and</p>	<p>The District shall submit a training plan to the Department, complete the training according to the approved plan, and submit evidence of completed training,</p>	<p>October 31, 2021</p>

<p>functional performance based on student-specific data that establish a baseline.</p> <p>b. Write measurable annual goals linked to baselines established in present levels of academic and functional performance.</p> <p>c. Ensure that the content and amount of specially designed instruction is based on each student's individual needs.</p> <p>d. Prepare periodic progress reports that are clearly linked with present levels of academic and functional performance and measurable annual goals.</p>	<p>materials, agenda, and sign-in sheets.</p>	
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Dated: this 30th day of June 2021



Tenneal Wetherell
Assistant Superintendent
Office of Enhancing Student Opportunities

Mailing date: July 1, 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)).