

BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of Cascade School District 5)
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FINDINGS OF FACT,
 CONCLUSIONS,
 AND FINAL ORDER
Case No. 22-054-004

I. BACKGROUND

On January 28, 2022, the Oregon Department of Education (the Department) received a written request for a special education complaint investigation from the parent (the Parent) of a student (Student) residing in the Cascade School District 5 (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 February 1, 2022, the Department's Complaint Investigator 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 February 15, 2022.

The District submitted a *Response* on February 14, 2021, denying the allegations, providing an explanation, and submitting documents in support of the District's position. The District submitted the following relevant items:

- 1. District Response to Complaint, 2/9/22
- 2. District Response to Complaint, Timeline of Events, 2/9/22
- 3. Meeting Notes, discuss parent concerns, 2/24/no year
- 4. Prior Written Notice, proposal to postpone eval planning meeting (due to COVID), no date
- 5. New District, request for records, 9/22/21
- 6. Polk County, behavioral health report, 2/11/21
- 7. Meeting Notes, discuss parent concerns, 2/24/no year, duplicate
- 8. Prior Written Notice, consent for evaluation, 4/28/21
- 9. Email, re: Student, 5/28/21
- 10. (Outside agency), Mental Health Assessment, 1/31/20
- 11. (Outside agency), Progress Notes from SLP, 1/31/20
- 12. Psychoeducational Report, 6/4/21
- 13. Email, re: IEP program, 9/17/20
- 14. Email, re: observation, 10/14/20
- 15. Email, re: observation, 10/22/20
- 16. Email, re: Student CDRC notes.pdf, 2/1/21

¹ OAR 581-015-2030(12) and 34 CFR §300.152(a)
² OAR 581-015-2030(12) and 34 CFR §300.152(b)

17. Email, re: today's meeting, 2/12/21
18. Email, re: Student form, 3/31/21
19. Email, re: please schedule a meeting with Parent, 4/21/21
20. Email, re: consent for evaluation and parent rights, 4/28/21
21. Email, re: consent for evaluation and parent rights, 5/18/21
22. Email, re: consent from parent, 5/27/21
23. Email, re: consent for evaluation and parent rights, 5/28/21
24. Email, re: Information Needed!, 5/28/21
25. Email, re: meeting date, 7/7/21
26. Email, re: request for recordings from IEP meetings, 8/16/21
27. Email, re: parent concern and meeting opportunity, 8/16/21
28. Email, re: records request, 8/18/21
29. Email, re: TDLR, 9/28/21
30. Email, re: ME 21-15 Cascade/TDR, 9/14/21
31. District's Mediation Information, no date
32. Email, re: left message, 9/27/21
33. Email, re: ME 21-015. Cascade/TDR, 11/1/21
34. Students with Disabilities-Child Identification Procedures, 1/14/19
35. Students with Disabilities-Child Identification Procedures, 5/14/12
36. Education Records/Records of Students with Disabilities, 12/10/12

The District submitted additional documents on February 28, 2022:

1. Email, re: additional information requested, 2/28/22
2. District 2019-2020 school calendar, revised 4/24/20
3. District 2021-2022 school calendar, revised 8/8/21
4. Special Education-Evaluation Procedures, adopted 1/14/19
5. Initial Evaluation Process Checklist, no date
6. Special Education Consultation Regarding Parentally-Placed Private School Students, [Private School], 8/13/20
7. How the RTI Team Process Works, 2011-2012
8. District 2020-2021 school calendar, updated 9/28/20
9. Email, re: [Private School] KG student Dx Autism; loaned weighted vest; need postpone SST to fall, 4/2/20
10. Email, re: weighted vest can one of you guys bring vest to turner tomorrow?/Weighted Vest Question, 3/11/20
11. Email, re: Discovery, 2/17/22
12. Email, re: Parent concern and meeting opportunity, 8/16/21
13. Email, re: Copy of parent rights English; evaluation consent for Student, 5/28/21
14. Email, re: zoom link for meeting, 4/28/21
15. Email, re: Cascade meeting, 4/23/21
16. Email, re: additional reports, 2/12/21
17. Email, re: Student CDRC notes, 2/12/21
18. Email, re: Meeting with Cascade, 2/1/21
19. Email, re: Student, 1/26/21
20. Email, re: Student, 1/17/21
21. Email, re: student observations, 6/7/21
22. Email, re: meeting day/time, 6/7/21
23. Email, re: eligibility report!, 6/4/21
24. Email, re: information needed, 5/28/21
25. Email, re: consent from parent, 5/27/21
26. Email, re: quick question, 5/5/21
27. Email, re: student, 1/17/21

28. Email, re: [Staff at Private School] wants to still borrow that weighted vest agreed upon, 9/23/20
29. Email, re: few questions, 7/27/20
30. Email, re: [Staff at Private School] wants to still borrow that weighted vest agreed upon, 9/23/20
31. Email, re: phone meeting, 9/29/20
32. Email, re: observation, 10/14/20
33. Email, re: change in plans, 11/2/20
34. Email, re: thank you and a question, 11/18/20
35. Email, re: student, 1/17/21
36. Email, re: student, 1/21/21
37. Email, re: meeting with Cascade, 2/1/21
38. Email, re: Student CDRC notes, 2/1/21
39. Email, re: additional reports, 2/12/21
40. Email, re: student form, 3/31/21
41. Email, re: Cascade meeting, 4/21/21
42. Email, re: consent for evaluation and parent rights, 4/28/21
43. Email, re: quick question, 5/5/21
44. Email, re: consent, 5/18/21
45. Email, re: consent for evaluation and parent rights, 5/18/21
46. Email, re: information needed!, 5/28/21
47. Email, re: checking in on student/family, 6/17/21
48. Email, re: meeting date, 7/6/21
49. Email, re: email question, 8/16/21

The Parent submitted the following relevant items on February 16, 2022 and February 24, 2022:

1. Email, re: forward emails, 2/16/22
2. Email, re: our 10 favorite sensory tools, 2/18/21
3. Email, re: update 2/22/21, 2/22/21
4. Email, re: meeting, 3/1/21
5. Email, re: Student's IEP, 3/22/21
6. Email, re: meeting today, 4/7/21
7. Email, re: Cascade meeting, 4/21/21
8. Email, re: zoom link for meeting, 4/28/21
9. Email, re: phone number, 4/28/21
10. Email, re: consent for evaluation and parent rights, 5/28/21
11. Email, re: Student, 5/28/21, duplicate of District email
12. Email, re: Student's IEP, 6/25/21
13. Email, re: meeting, 7/7/21
14. Email, re: Student, 2/17/22
15. Parent Rights for Special Education, 2020-2021
16. Prior Written Notice, consent for evaluation, 4/28/21, duplicate of District document
17. Prior Written Notice, consent for evaluation, 4/28/21, duplicate
18. Email, re: Student, 5/28/21, duplicate of District email
19. Email, re: consent for evaluation and parent rights, 5/28/21, duplicate of District email
20. Meeting notes, re: First IEP meeting, 2/21/21

The Complaint Investigator interviewed the Parent on February 24, 2022. On February 24, 2022, the Complaint Investigator interviewed District and Private School personnel. Virtual interviews were conducted instead of on-site interviews due to the Coronavirus pandemic. 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 January 29, 2021 to the filing of this Complaint on January 28, 2022.

Allegations	Conclusions
<p>Failure to implement consent requirements</p> <p>The Parent alleges that the District conducted evaluations without Parent consent or notification.</p> <p>(OAR 581-015-2080, OAR 581-015-2090 and 34 CFR §§ 300.111, 300.300)</p>	<p>Not Substantiated</p> <p>The District obtained parental consent prior to conducting evaluations. The District was not required to provide notification to the Parent of the specific dates and times that evaluations were to be conducted.</p>
<p>Failure to implement prior written notice requirements</p> <p>The Parent alleges that the District violated the IDEA when the District failed to provide the Parent certain paperwork when an IEP was requested.</p> <p>(OAR 581-015-2310, OAR 581-015-2315 and 34 CFR §§ 300.503, 300.504)</p>	<p>Not Substantiated</p> <p>The District provided the Parent a Prior Written Notice about Evaluation/Consent for Evaluation seeking the Parent's consent to conduct an initial evaluation on April 28, 2021.</p>
<p>Failure to conduct evaluations within the required timelines</p> <p>The Parent alleges that the District violated the IDEA when the District failed to conduct evaluations within the required timeline.</p> <p>(OAR 581-015-2110 and 34 CFR § 300.301)</p>	<p>Not Substantiated</p> <p>The Student moved out of the District prior to the evaluation due date.</p>
<p>Failure to provide the Parent evaluation and eligibility documents</p> <p>The Parent alleges that the District violated the IDEA when the District failed to provide the Parent evaluation results or any type of documents.</p> <p>(OAR 581-015-2120 and 34 CFR § 300.306)</p>	<p>Not Substantiated</p> <p>The District was not required to provide the Parent with the evaluation or eligibility results prior to the meeting, and the Parent did not make a request for such documents.</p>

<p>Failure to provide records when requested by the Parent</p> <p>The Parent alleges that the District violated the IDEA when the District failed to provide the Parent with transcripts or video recordings of meetings.</p> <p>(OAR 581-015-2300 and 34 CFR § 300.613)</p>	<p>Not Substantiated</p> <p>The District provided the Parent with the meeting notes under their custodial authority.</p>
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<p>REQUESTED CORRECTIVE ACTION</p>
<ul style="list-style-type: none"> • The Complaint did not include proposed solutions.

III. FINDINGS OF FACT

IDEA regulations limit complaint investigation to alleged violations occurring no more than one year before the Department’s receipt of the special education complaint. This Complaint Investigation did not consider any IDEA violations alleged to have occurred before January 29, 2021. Any facts listed below relating to circumstances or incidents earlier than that date are included solely to provide context necessary to understand the Student’s disability and special education history.

1. The Student is 8 years old and in the second grade.
2. The Student attended a Private School located within the District’s attendance boundaries during the 2019-20 and the 2020-21 school years.
3. On February 26, 2020, the Private School contacted the District’s special education department via email with information that the Student had recently received a medical diagnosis of Autism and requested assistance in supporting the Student. The District offered to provide the Private School support tools for the Student.
4. On March 3, 2020, the Private School notified the District via email that the Student’s medical diagnosis had been provided to District staff.
5. On March 13, 2020, District schools closed due to the COVID-19 pandemic.
6. On April 2, 2020, the District notified the Private School that an evaluation planning meeting would be scheduled in the fall of the 2020-21 school year.
7. On May 11, 2020, the District generated a Prior Written Notice (PWN) indicating “schools will continue special education processes once the Government [sic] allows such actions”. There is no record of when this PWN was provided to the Parent.
8. On September 17, 2020, the Parent emailed the District requesting assistance with an evaluation for “an IEP program.”

9. The District reports that on September 21, 2020, the Parent was contacted via phone to discuss “the overall special education process, [discuss] current COVID protocols, and [gather] additional information about Student (grade, age, parent concerns). We discussed the importance of giving Student the opportunity to learn. The Student was only able to participate in a half of a year of kindergarten before school was shut down due to COVID.”
10. On October 22, 2020, the District conducted a virtual observation of the Student while the Student was in class at the Private School. The District acknowledged that there is not a record of the District obtaining fully informed and written consent for the District to conduct an observation of the Student. There were no evaluations conducted without parental consent within the time period for this Complaint.
11. On November 17, 2020, the District delivered intervention materials to the Private School for use with the Student.
12. On January 17, 2021, the Private School emailed the District indicating the Parent requested an update on the status of the request for an evaluation.
13. On February 1, 2021, the Private School provided the District with an evaluation report from an outside agency. The report included the following medical diagnosis: “Autism spectrum disorder requiring substantial support (level 2) and ADHD (attention deficit hyperactivity disorder), combined type.”
14. The District reported that on February 21, 2021, the District met with Private School staff and reviewed supports, provided behavior management tips, discussed what was going well in the classroom, and also discussed what other tools may be needed.
15. On February 24, 2021, the District met with the Parent and the Private School Administrator to “review current information and discuss next steps. Plan was for the Parent to send in additional reports that had additional diagnoses...” Meeting notes indicate that the District discussed, “the need for interventions to be in place before determining to evaluate for special education.” “Once reports are received then an SST (Student Study Team) will be scheduled with District and Private School.” During interviews, the District staff recall discussing that the Student was very needy, requiring adult support to complete tasks. The Teacher reported the intervention tools were not being successful and the Student had made very little progress.
16. On March 31, 2021, the District received a second outside behavioral health report that included the following Diagnostic and Statistical Manual of Mental Disorders (DSM) 5 diagnoses: “unspecified Insomnia disorder, adjustment disorders (with anxiety), ADHD (combined type), oppositional defiant disorder, and autistic disorder.”
17. On April 28, 2021, an evaluation planning meeting was held. The District did not provide Parents with written notice of this meeting. The team determined that, “the current intervention data and outside medical reports were sufficient to move forward with the process. The team determined that no additional testing was needed, however, the following items were requested in order to fulfill the requirements of a school-aged eligibility: developmental history, 2 classroom observations, hearing screening, and vision screening.”
18. On April 28, 2021, the District sent the Procedural Safeguards Notice and a Prior Written Notice about Evaluation/Consent for Evaluation seeking the Parent’s consent to conduct an initial evaluation. This PWN states in part, “parents have requested for an evaluation for special education to occur. The team implemented various interventions, consulted with classroom teacher and Private School, and reviewed medical diagnoses and reports. The

team agreed to move forward with an evaluation to determine if Student qualifies for special education in the area of Autism Spectrum Disorder.” “After interventions and consultation, and given the opportunity to access education...after COVID restrictions, the team agreed that it was appropriate to move forward with an evaluation for special education.”

19. On May 28, 2021, the Parent submitted consent for the Student’s initial evaluation via email.
20. On June 4, 2021, the District completed a psychoeducational report. The report, in part, includes the following information:
 - a. Background information details a family history of ADHD.
 - b. The medical history portion of the report states in part: “[The Student] was started on Ritalin and there has been some improvement in behavior, including decrease in talking and increase in general calmness. [The Student] is being referred for assessment for possible ADHD. There are concerns of possible Autism Spectrum Disorder. [The Student] takes medication for ADHD.” An outside evaluation report dated 1/31/20 “indicates Team Diagnostic Impressions of Autism Spectrum Disorder; ADHD, combined type.”
 - c. The educational history portion of the report includes: “[The Student] struggles with attention/the ability to focus, having a diagnosis of ADHD, experiencing difficulty completing tasks and can be distracted or refuses work...has a hard time listening, focusing and following directions. [The Student] can be impulsive, cannot stop talking...”
21. On July 13, 2021, the Private School Administrator informed the Parent that the Student could no longer attend the Private School because the school could not meet the Student’s needs.
22. On August 16, 2021, the Parent requested from the District copies of, “all recordings, meeting notes and transcripts that the District has between the Parent, District’s Special Education Director or any other district representative and the Private School. It is my understanding that our meetings had been recorded and I would like copies of everything the District has.”
23. On August 18, 2021, the District responded to the Parent’s request for records and provided the Parent with one set of meeting notes from the February 24, 2021 meeting. The District did not believe that the Private School recorded any Zoom meetings and, in any event, would not have access to any recordings that the Private School might have made.
24. On August 19, 2021, the Parent filed a Request for Mediation. The Parent later revoked this Request.
25. At the beginning of the 2021-22 school year, the Student enrolled in a District school for three days and then was withdrawn as the Student moved to another school district.
26. On September 24, 2021, the District received a records request from the Student’s new school district.
27. During interviews with the Complaint Investigator, the Parent reports that, at the beginning of virtual meetings, there was a statement that “this meeting is being recorded.” The Private School scheduled the meetings and handled all arrangements for the meetings.
28. During interviews with the Complaint Investigator, representatives from the Private School indicated that virtual meetings with the Parent and District were recorded. The Private School has a standard practice of offering a copy of the recording to parents. All recordings are

deleted after 30 days as part of the virtual meeting platform the Private School uses and the Private School does not retain video recordings. The Private School recalls asking the Parent if they wanted a copy of the video recordings and the Parent declined at the time.

29. During interviews with the Complaint Investigator, District staff reported that an evaluation for ADHD was not conducted because the District believed only Autism was preventing the Student from being successful at school.
30. The District uses a Response to Intervention (Rtl) system as a pre-referral process for special education. The District submitted written materials about the Rtl process; however, the materials only mention academic interventions. These materials state, "while RTI is used only for Specific Learning Disability identification, the information may be useful for any special education referral." During interviews with the Complaint Investigator, the District reported that, in addition to academic concerns, the Rtl process is also used for social and behavior concerns.
31. On January 28, 2022, the Parent filed this Complaint.

IV. DISCUSSION

Failure to implement consent requirements

The Parent alleges that the District conducted evaluations without Parent consent or notification.

Consent means that the parent has been fully informed, in their native language or other mode of communication, of all information relevant to the activity for which consent is sought; and understands and agrees in writing to the carrying out of the activity for which for which their consent is sought. The school district must provide notice and obtain written consent from the parent before conducting an initial evaluation to determine if a child qualifies as a child with a disability.³ School districts must give parents a copy of the Notice of Procedural Safeguards upon initial referral or parent request for evaluation.⁴

The Parent also contends that the District should have provided informed them of when the observations were being completed. The District had written consent from the Parent to conduct the observations for the initial evaluation and was not required to inform the Parent of the specific days and times the observations were going to be conducted.

The Department does not substantiate this allegation.

Failure to implement prior written notice requirements

The Parent alleges that the District violated the IDEA when the District failed to provide the Parent certain paperwork when an IEP was requested.

Within a reasonable period of time before a school district proposes to initiate or change, the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to the child, the district must provide prior written notice

³ OAR 581-015-2090(1)(3)(a)

⁴ OAR 581-015-2315(1)(a)

to the parent of the child.⁵ The prior written notice must contain a description of the action proposed or refused by the school district.⁶ The notice must also explain why the district proposes or refuses to take the action, and a description of each evaluation procedure, assessment, test, record, or report the school district used as a basis for the proposed or refused action.⁷

On April 28, 2021, the District provided the Parent with Prior Notice about Evaluation/Consent for Evaluation and the Procedural Safeguards Notice. On May 28, 2021, the Parent provided consent for the District to conduct the evaluation.

The Department does not substantiate this allegation.

Failure to conduct evaluations within the required timelines

The Parent alleges that the District violated the IDEA when the District failed to conduct evaluations within the required timeline.

An initial evaluation must be completed within 60 school days from written parent consent to the date of the meeting to consider eligibility.⁸

The Parent provided consent for the Student's initial evaluation via email on May 28, 2021. The District completed the remaining assessments and evaluation report on June 4, 2021. Based on the District's 2020-21 and 2021-22 school calendars, the evaluation and eligibility meeting was required to be completed no later than November 10, 2022. The Student was withdrawn from school in September of 2022 and the District received a records request on September 24, 2022 from the new school district for which the Student had enrolled. Once the Student was attending another school district, the District was no longer required to complete the evaluation.

The Department does not substantiate this allegation.

Failure to provide the Parent evaluation and eligibility documents

The Parent alleges that the District violated the IDEA when the District failed to provide the Parent evaluation results or any type of documents.

Upon completing the administration of assessments and other evaluation materials, a team must determine whether the child is a child with a disability and the educational needs of the child. The team must include the parent, and two or more qualified professionals, at least one of whom is knowledgeable and experienced in the evaluation and education of children with the suspected disability. The school district must provide a copy of the evaluation report and the documentation of determination of eligibility to the parent at no cost.⁹ The district must comply with a parent's request to inspect and review records without unnecessary delay and before any meeting regarding an IEP and in no case more than 45 days after the request has been made.¹⁰

The District was not required to provide the Parent with a copy of the evaluation report or eligibility statement(s) until after the eligibility meeting unless the Parent requested such information prior to a meeting. The Student was withdrawn from the District prior to the holding of the eligibility

⁵ OAR 581-015-2310(2), (2)(a)

⁶ OAR 581-015-2310(3)(a),

⁷ OAR 581-015-2310(3)(b), (3)(c), (3)(d)

⁸ OAR 581-015-2110(5)(a)

⁹ OAR 581-015-2120(1)(a)(6)

¹⁰ OAR 581-015-2300(3)(b)

meeting and there is no record that the Parent requested copies of the evaluation report or eligibility statement(s).

The Department does not substantiate this allegation.

Failure to provide records when requested by the Parent

The Parent alleges that the District violated the IDEA when the District failed to provide the Parent with transcripts or video recordings of meetings.

The district must comply with a parent's request to inspect and review records without unnecessary delay and before any meeting regarding an IEP and in no case more than 45 days after the request has been made.¹¹

On August 16, 2021, the Parent submitted a request to the District for copies of all recordings, meeting notes and transcripts. The District did not take meeting or phone conversation notes except for the February 24, 2021 meeting. The District provided the Parent with a copy of the February 24, 2021 meeting notes on August 18, 2021. The Private School reported the meetings with the Parent were recorded and deleted after 30 days. Because the District does not have custodial authority over Private School records, the District is not responsible for the video recordings that were made and then deleted by the Private School.

The Department does not substantiate this allegation.

Additional Findings

During the course of this investigation, the Complaint Investigator discovered the following violations of the IDEA:

Parent Participation

A school district must provide one or both parents the opportunity to participate in meetings with respect to the identification, evaluation, IEP and educational placement of the student, as well as the provision of a free appropriate public education (FAPE) to the student.¹² This includes notifying parents of meetings early enough to ensure they will have an opportunity to attend and scheduling the meetings at a mutually agreeable time.¹³ A school district must provide written notice of the purpose, time and place of a meeting, state who will attend, and inform the parent that they may invite others knowledgeable about the child.¹⁴ The notice must inform the parent that the team may proceed with the meeting even if the parent is not in attendance, and inform the parent of whom to contact before the meeting to provide information if they are unable to attend.¹⁵

A team must determine whether an initial evaluation will be conducted.¹⁶ The team may make this decision without a meeting, but if a meeting is held, parents must be invited to participate.¹⁷

The District held an evaluation planning meeting with the Parent and the Private School on April 28, 2021. The District failed to provide the Parent with written notice of the team meeting.

¹¹ *Id.*

¹² OAR 581-015-2190(1); 34 CFR §300.322(a)

¹³ OAR 581-015-2195(1); 34 CFR §300.322(a)

¹⁴ OAR 581-015-2190(2); 34 CFR 300.322 (b)

¹⁵ *Id.*

¹⁶ OAR 581-015-2105

¹⁷ *Id.*

Child Find

School districts must identify, locate and evaluate all children with disabilities for whom they are responsible, regardless of severity of the disability, who are in need of special education services, including children attending Private Schools located within the boundaries of the school district. The school district's child find activities for parentally-placed Private School children must be similar to, and completed within a comparable time period to, child find activities for public school children with disabilities.¹⁸

During the 2019-20 school year, the District had knowledge that the Student may be a student with a disability who may require special education and related services under IDEA when the Private School emailed the District on February 26, 2020, and on March 3, 2020, when the Private School provided the District with the outside evaluation that included two medical diagnoses. On April 2, 2020, the District notified the Private School that the evaluation planning meeting was going to be delayed until the following school year. On May 11, 2020, the District provided the Parent with a PWN indicating, "schools will continue special education processes once the Government [sic] allows such actions."

On April 27, 2020, the U.S. Department of Education announced that no waivers to the "core tenets of IDEA" would be recommended due to COVID-19.¹⁹ The District failed to meet its child find obligations during the 2020-21 school year when it had knowledge that the Student may be a student with a disability and the District delayed holding an evaluation planning meeting to consider the information provided by the Parent and the Private School.

During the 2020-21 school year, the District continued to receive information that the Student may be a Student with a disability when the Parent contacted the District on September 17, 2020 to inquire about the status of the request for an evaluation. The Private School made a second inquiry on January 17, 2021. On February 1, 2021, February 24, 2021, and March 31, 2021, the District received additional information that the Student may be a Student with a disability. The District communicated to the Parent and the Private School that interventions needed to be implemented prior to the District considering whether a special education evaluation would be conducted. On April 28, 2021, the District conducted an evaluation planning meeting to consider whether an evaluation would take place and what assessments would be administered. The District requested the Parent's consent for a special education evaluation seven months after the Parent made a request for a special education evaluation.

A parent may request an initial evaluation at any time to determine if their child is a child with a disability. "The use of RTI strategies cannot be used to delay or deny the provision of a full and individual evaluation, pursuant to 34 CFR §§ 300.304-300.311, to a child suspected of having a disability under 34 CFR § 300.8."²⁰ The LEA (in this case the District) must either evaluate the child or provide prior written notice to the parent explaining why the LEA refuses to conduct an initial evaluation and the information that was used as the basis for this decision. Further, the District has an affirmative duty under OAR 581-015-2080 to "locate and evaluate all children with disabilities for whom they are responsible, regardless of severity of the disability, who are in need of special education services, including children attending Private Schools located within the boundaries of the school district."²¹

¹⁸ OAR 581-015-2080(2)(i) and OAR 581-015-2085(1)(3)

¹⁹ Secretary DeVos Reiterates Learning Must Continue for All Students, Declines to Seek Congressional Waivers to FAPE, LRE Requirements of IDEA, U.S. Department of Education (April 27, 2020).

²⁰ Memorandum to: State Directors of Special Education, 56 IDELR 50 (OSEP 1/21/2011)

²¹ OAR 581-015-2080

The District did not conduct a comprehensive initial evaluation when it had knowledge that the Student may be a student with a disability.

General Evaluation and Reevaluation Procedures

In conducting an evaluation, a school district must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent that may assist in determining whether the child is a child with a disability under the IDEA. The school district must ensure that “the child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities; the evaluation [must be] sufficiently comprehensive to identify all of the child’s special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified; and the evaluation [must include] assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child.”²²

The psychoeducational report presented on June 4, 2021 provided the District with information about the Student’s ADHD and how this was impacting the Student’s educational performance. This information should have prompted the District to conduct a comprehensive evaluation that included consideration as to whether the Student qualified for special education and related services under Other Health Impairment due to ADHD.

V. CORRECTIVE ACTION²³
In the Matter of Cascade School District 1
Case No. 022-054-004

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

Action Required	Submissions	Due Date
1. The District shall develop a training plan for all District staff responsible for child find and evaluations for any student in the District, including parentally placed private school students, to include the following topics: <ul style="list-style-type: none"> • Parent participation requirements; • Use of Rtl in special education evaluation, especially to ensure that Rtl is not used to delay or deny an evaluation; • When initial evaluations must be conducted; • Evaluation planning; and 	Submit to ODE a copy of training plan Submit to ODE evidence of completion, including date, start/end time, agenda, list of attendees, and materials	June 29, 2022 September 15, 2022

²² OAR 581-015-2110(3)(a)(A)(4)(d)(e)(f)

²³ 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)).

<ul style="list-style-type: none">• Comprehensive evaluations.		
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Dated: this 29th Day of March, 2022



Tenneal Wetherell
Assistant Superintendent
Office of Enhancing Student Opportunities

E-mailing Date: March 29, 2022

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).)