

BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of Beaverton School District)
48J)
)
) **FINDINGS OF FACT,**
) **CONCLUSIONS, AND**
) **STIPULATED CORRECTIVE ACTION**
) Case No. 22-054-006

I. BACKGROUND

On February 8, 2022, the Oregon Department of Education (the 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 February 14, 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 28, 2022.

The Complaint alleged that the District violated the IDEA when the District failed to provide speech and language services to the Student from October 2021 to the time of the complaint (February 8, 2022).

The Student was eligible for special education due to a Communication Disorder and the March 17, 2021 IEP included specially designed instruction (SDI) in the area of speech-language for one hundred twenty (120) minutes per month.

The Student received speech-language services from District personnel during September and October 2021. In November of 2021, the District did not have consistent personnel available to provide the Student with the required speech-language services and has been unable to confirm that the Student received all the required speech-language services, as described in the March 17, 2021 IEP, from November 1, 2021 – February 8, 2022.

In reviewing available records, the District has attested that 9, 30-minute speech-language sessions were not provided to the Student during the period November 1, 2021 – February 8, 2022, for a total of 270 minutes of SDI.

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

On February 25, 2022, the District submitted a Response to this complaint and did not contest the allegations. The Response provided an explanation, documents in support of the District's position, and a proposal for stipulated corrective action.

The District submitted the following relevant items:

1. District Response, 3/3/22
2. Declaration of Assistant Special Education Director, 3/2/22
3. Declaration of Speech Language Pathologist, 3/2/22
4. Meeting Minutes, re: eligibility, 3/17/21
5. Daily Attendance, 2/17/22
6. Student's Individualized Education Program, 3/17/21
7. Schedule, no date

The Parents submitted a *Reply* on February 17, 2022, providing documents in support of the Parents' position. The Parents submitted the following relevant items:

8. Email re: IEP meeting 2/14
9. Email re: Case No. 22-054-006, 2/16/22
10. Email re: IEP violation, 2/15/22
11. Email re: IEP Violation and Concerns, 2/15/22
12. Email re: IEP Student, 2/15/22
13. Texts, 2/1/22
14. Email re: investigation evidence, 2/15/22
15. Request for Complaint Investigation form, 2/8/22
16. Email re: IEP violation and Concern, 2/15/22
17. Email re: complaint investigation, 2/15/22
18. Request for Complaint Investigation form, 2/8/22 (duplicate)
19. Letter, re: changes to speech/language services, no date
20. Special Education Progress Notes for Student, 2/15/22

The Complaint Investigator discussed the nature and content of a Stipulated Corrective Action and the District's proposal with the Parent on March 14, 2022.

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 February 9, 2021, to the filing of this Complaint on February 8, 2022.

Allegations	Conclusions
<p><u>Failure to implement the Student's IEP</u></p> <p>The Parents allege that the District violated the IDEA when the District failed to provide speech and language services to the Student from October 2021 to the time of the complaint.</p> <p>(OAR 581-015-2220(1)(b); 34 CFR §§ 300.320, 300.323, 300.324)</p>	<p>The District does not contest this allegation.</p>

REQUESTED CORRECTIVE ACTION
<ul style="list-style-type: none"> • The District should provide compensated services for each missed session. • The school needs to be honest about how many sessions were truly missed and inform parents about each missed session.

III. FINDINGS OF FACT

1. The Student is five years old and is currently enrolled in kindergarten at an elementary school located within the District.
2. On February 8, 2022, the Parents filed this Complaint.
3. The District does not contest the allegations made in the Complaint and the Parent has been apprised of the nature and content of the Stipulated Corrective Action, as set forth in the Corrective Action table, below.

IV. DISCUSSION

The Complaint alleges an IDEA violation with the District does not contest.

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

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

V. STIPULATED CORRECTIVE ACTION³

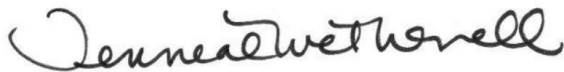
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³ The Department's order shall include any necessary corrective action as well as documentation to ensure that the corrective action has been completed (OAR 581-015-2030(13)). The Department expects and requires the timely completion of corrective 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)).

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

Action Required	Submissions	Due Date
1. The District will provide 270 minutes of compensatory speech and language services to the Student through District or District-contracted staff, and will make every effort to deliver these services in-person, as the Parent prefers. The District will also prepare and review guidance for its contracted service providers to ensure that IEP services are delivered and documented.	The District will submit documentation of the completion of compensatory services to the Student. The District will submit a copy of the guidance provided to its contracted service providers to ODE.	By the end of the 2021-22 school year. May 15, 2022

Dated: this 5th Day of April, 2022



Tenneal Wetherell
Assistant Superintendent
Office of Enhancing Student Opportunities

E-mailing Date: April 5, 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).)