

## BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of )  
Portland School District 1J ) FINDINGS OF FACT,  
Case No. 22-054-033 ) CONCLUSIONS OF LAW, AND  
STIPULATED CORRECTIVE ACTION

### I. BACKGROUND

On September 20, 2022, the Oregon Department of Education (Department) received a request for a special education complaint investigation from the parent (Parent) of a student (Student) residing within the Portland Public School District 1J (District). The Parents 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 federal and state 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.<sup>1</sup> This timeline may be extended if the Parents and the District agree to the extension in order to engage in mediation or local resolution or for exceptional circumstances related to the complaint.<sup>2</sup>

On September 26, 2022, the Department's Complaint Investigator (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 October 6, 2022.

In their Complaint, the Parent alleged a number of IDEA violations including failure to provide accurate IEP progress reports for the Student, failure to develop an appropriate statement of the Student's present levels of academic achievement and functional performance, failure to review and revise the Student's IEP, and failure to consider the Parent's concern about literacy instruction.

On September 30, 2022, the District submitted to the Department a *Response* to the Complaint. The Response stated:

"The District has carefully reviewed the allegations and, while it does not entirely agree with them, has decided not to contest the allegations described in the complaint. Rather, the District proposes corrective action it believes will address the Parents' concerns raised in the complaint and move the parties forward in a collaborative manner to support [the Student] at school."

The Complaint Investigator discussed the nature and content of a Stipulated Corrective Action and the District's proposal with the Parent on October 5, 2022.

<sup>1</sup> OAR 581-015-2030(12) and 34 CFR § 300.152(a)

<sup>2</sup> OAR 581-015-2030(12) and 34 CFR § 300.152(b)

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 Parent's allegations and the Department's conclusions are set out in the chart below.

<b>Allegation</b>	<b>Conclusion</b>
<p><b>When IEPs Must Be In Effect</b></p> <p>The Complaint alleged that the District violated the IDEA by not providing special education and related services in accordance with the Student's IEP. The Parent alleges that the District did not provide the Parent with accurate IEP progress reports as required by the Student's IEP.</p> <p><i>(OAR 581-015-2220; 34 CFR §300.323)</i></p>	<p><b>Not Contested</b></p> <p>The District does not contest this allegation.</p>
<p><b>IEP Content</b></p> <p>The Complaint alleged that the District violated the IDEA by not developing an IEP that included an appropriate statement of the Student's present levels of academic achievement and functional performance.</p> <p><i>(OAR 581-015-2200; 34 CFR §300.320)</i></p>	<p><b>Not Contested</b></p> <p>The District does not contest this allegation.</p>
<p><b>Review and Revision of IEPs</b></p> <p>The Complaint alleged that the District violated the IDEA by failing to review and revise the Student's IEP, despite a lack of expected progress towards the annual goals and in the general education curriculum.</p> <p><i>(OAR 581-015-2225; 34 CFR §300.324(b))</i></p>	<p><b>Not Contested</b></p> <p>The District does not contest this allegation.</p>

Allegation	Conclusion
<p><b>Parent Participation</b></p> <p>The Complaint alleged that the District violated the IDEA by failing to provide the Parent with an opportunity to participate in decisions with respect to the identification, evaluation, IEP and educational placement of the child, and the provision of a free appropriate public education to the child. The Parent alleges that the District failed to consider the Parent’s concern about literacy instruction.</p> <p><i>(OAR 581-015-2190; 34 CFR §300.322)</i></p>	<p><b>Not Contested</b></p> <p>The District does not contest this allegation.</p>

**REQUESTED CORRECTIVE ACTION**

- Staff training
  - Provide training to the special education team and general education teacher to make sure they implement [the Student’s] IEP.
  - Provide training for district special education staff regarding:
    - providing appropriate literacy instruction using progress monitoring data;
    - development of academic and functional performance to include the initial or most recent evaluation; and
    - progress monitoring and providing accurate IEP progress reports when reporting progress on IEP goals.
- Facilitated IEP meeting
  - Hold a facilitated IEP meeting to:
    - develop an IEP for the Student that has accurate present levels of academic and functional performance so appropriate goals and services can be developed to provide educational benefit for the Student; and discuss where the Student is currently with their goals and review current progress monitoring data that was shared.
- Ensure the Student’s IEP progress reports provide accurate information and data during progress reporting periods.

**III. FINDINGS OF FACT**

1. The Student is 11 years old and a 6<sup>th</sup> grade student at a district school.
2. The Student is eligible for special education as a child with a Specific Learning Disability (SLD) and Other Health Impairment (OHI).

3. The District has not contested the allegations made in the Complaint in this matter and the Complainant has been informed of the Stipulated Corrective Action, as set forth in the Corrective Action table, below.

#### IV. DISCUSSION

The Complaint alleged several IDEA violations, which the District did 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 ACTION<sup>3</sup>

*In the Matter of Portland School District 1J  
Case No. 22-054-033*

Action Required	Submissions	Due Date
<p>The parties have agreed to participate in an ODE-Facilitated IEP Meeting to:</p> <ul style="list-style-type: none"> <li><b>a)</b> review [the Student's] present levels and goals;</li> <li><b>b)</b> review progress monitoring;</li> <li><b>c)</b> determine whether compensatory education is appropriate and, if so, in what amount; and</li> <li><b>d)</b> address any other concerns of the Parents or District members of the IEP team.</li> </ul>	<p>The District will submit to the Department all documents and materials related to the Student's, including:</p> <ul style="list-style-type: none"> <li>1) Agenda</li> <li>2) Meeting minutes</li> <li>3) Revised IEP</li> <li>4) Prior Written Notice for each District proposal or refusal</li> </ul>	<p><b>January 15, 2023</b></p>

Action Required	Submissions	Due Date
The District will complete a Functional Behavioral Assessment (FBA), to be conducted by a District Board Certified Behavior Analyst (BCBA).	The District will submit to the Department all documents and materials related to the Functional Behavioral Assessment.	<b>March 30, 2023</b>
Update [the Student]'s existing Behavioral Support Plan (BSP) and/or Safety Plan as is warranted based on the completed FBA.	<p>The District will submit to the Department a copy of the all documents and materials related to the updated BSP and/or Safety Plan.</p> <p>The District will specify needed changes or additions the BSP may require in the Student's IEP goals, specially designed instruction, related services, modifications and accommodations, and support for personnel.</p>	<b>April 15, 2023</b>
Provide training to the relevant members of the elementary school staff regarding FBA requirements and best practices.	<p>The District will submit to the Department documents and materials related to the training, including:</p> <ol style="list-style-type: none"> <li>1. Training materials</li> <li>2. Attendance list</li> </ol>	<b>April 30, 2022</b>

<sup>3</sup> 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)).

Dated: this 8<sup>th</sup> day of November 2022



Tenneal Wetherell  
Assistant Superintendent  
Office of Enhancing Student Opportunities

Emailing date: 11/8/22

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).)