

BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of)	FINDINGS OF FACT,
Portland Public School District 1J)	CONCLUSIONS, AND FINAL ORDER
)	Case No. 24-054-027

I. BACKGROUND

On May 8, 2024, the Oregon Department of Education (the Department) received a written Complaint (Complaint) from a parent (Parent), regarding the special education of a child (Student) who resides within the Portland Public School District 1J (District) and attends a District High School (High School). The Parent requested that the Department conduct a special education investigation, as provided by Oregon Administrative Rule (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 The parties agreed to pause the timeline to accommodate their efforts to resolve their disagreement through mediation and IEP facilitation, but they were unable to reach agreement. Due to exceptional circumstances (extraordinary length and complexity of the Complaint and concurrent dispute resolution processes addressing the same issues), the Department extended the timeline.

On May 21, 2024, 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 June 6, later extended to July 12 due to the extraordinary length and complexity of the narrative complaint as well as mediation in process and pending IEP facilitation.

The District submitted a timely *Response* on June 26, 2024 denying all allegations except one, providing an explanation, and submitting the following documents in support of the District's position:

1. The District's 5-page narrative Response to the Complaint
2. An Exhibit List that serves as a Table of Contents
3. Tier I [Therapeutic School] Behavior Support Plan from 09/28/2022
4. [District] Middle School SES Behavior Support Plan (BSP), from "since 09/01/2021"
5. [The Student's] Off Campus Plan, from 05/25/2023

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

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

6. Notice of Team Meeting for 06/12/2023 meeting
7. Notice of Team Meeting for 07/25/2023 meeting
8. Meeting Notices and Minutes
 - a. Notice of Team Meeting 06/05/2023 for meeting June 12, 2023
 - b. Notice of Team Meeting 07/14/2023 for meeting July 25, 2023
 - c. Notice of Team Meeting 07/14/2023 for meeting July 25, 2023
 - d. Notice of Team Meeting 08/14/2023 for meeting August 28, 2023
 - e. Notice of Team Meeting 08/31/2023 for meeting September 12, 2023
 - f. Notice of Team Meeting 09/05/2023 for meeting September 12, 2023
 - g. Meeting Minutes from 07/25/2023
 - h. Meeting Minutes from 08/28/2023
 - i. Meeting A Minutes from 09/12/2023
 - j. Meeting B minutes from 09/12/2023
 - k. Meeting Minutes from 10/02/2023
9. The Student's IEP from 07/25/2023
10. 4246 pages of emails between the Parent and the District during the Complaint period regarding the many Parent concerns about the Student's special education and some concerns that are not special education specific
11. 199 pages of emails related to Student's academic updates
12. Worksheet for Function-based Behavior Support Planning. (Hereinafter Function-Based BSP), from 10/12/2023
13. Jefferson High School-SES Behavior Support Plan (BSP) (Hereinafter High School SES BSP)
14. Prior Notice about Evaluation/consent for Evaluation "to update a Functional Behavior Analysis (FBA) to Inform the Behavior Support Plan (BSP)", with signed Parent consent, from 09/12/2023
15. Prior Notice about Evaluation/consent for Evaluation "to update a Functional Behavior Analysis (FBA) to Inform the Behavior Support Plan (BSP)", with signed Parent refusal of consent, from 09/13/2023
16. Email from Parent to District staff and "home supports" explaining retraction of consent for FBA, from 09/13/2023
17. Student Discipline Profiles
 - a. Many behavior incident reports from before the Complaint period
 - b. Dozens of behavior incident reports and disposition decisions from within the Complaint period, dated between September 7, 2023 and April 30, 2024
18. Prior Written Notices
 - a. from 06/12/2023
 - b. from 06/12/2023
 - c. from 07/25/2023 for ASD Eligibility
 - d. from 07/25/2023 for IEP Review and Revision
 - e. from 09/12/2023
 - f. from 09/12/2023
 - g. from 09/12/2023
 - h. from 09/12/2023
 - i. from 09/15/2023

- j. from 09/15/2023
19. Email thread between Parent and District, 04/26/2023-04/29/2023

On July 15, 2024, the Parent submitted a *Reply* to the District *Response* and submitted the following documents to the Complaint Investigator:

1. A 12-page narrative Reply to the District's Response
2. A 7-page Exhibit List, which indexes 97 written documents and 9 audio recordings of formal and unscheduled meetings
3. A 22-page document titled "IEP Parent Concerns"
4. A 78-page document titled "Document concerns for BSP-IEP Meeting 2024"³
5. Audio recordings from several formal and informal meetings⁴ titled as follows:
 - a. Meet the teacher meeting at Jefferson, 8/28/23
 - b. Jefferson Alternatives to exclusionary discipline meeting, 9/12/23
 - c. 10-2-23 School Meeting plus two excerpts from that meeting, entitled Contract language PAT supersede idea laws and IEP meeting 10_2 copy admit lie about training all
 - d. [High School] met with [Vice Principal] and [Principal]
 - e. Manifestation Meeting #1
 - f. Manifestation #2
6. Numerous emails from Parent to the Complaint Investigator, 05/20/2024-08/25/2024

The Complaint Investigator spoke by phone with the Parent on May 20 to discuss the allegations in the Complaint. The Complaint Investigator met with the Parent in person on August 1 and spoke with the Parent by phone on July 8 and August 25. The Complaint Investigator spoke with the District's Senior Legal Counsel by phone on May 22 and July 11. The Complaint Investigator interviewed the Vice-Principal of the Student's school and the District's Special Education Program Administrator on July 29 (Director) and the District's Special Education Director on August 15. On August 21, the Complaint Investigator sent several follow-up questions to the District, and the District sent written replies via email. 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.

On August 26, 2024, the Parent filed a due process hearing request involving the same allegations as those in this Complaint, so the investigation was set aside pending action on the hearing request. The Due Process Complaint was dismissed on September 13th, and the Complaint investigation resumed.

II. ALLEGATIONS AND CONCLUSIONS⁵

³ All content in this document relates to events that occurred after the complaint period, therefore the investigation does not include findings of fact and discussion of allegations to these events.

⁴ The Complaint Investigator had the meeting recordings transcribed electronically.

The Department has jurisdiction to resolve this Complaint under 34 CFR §§ 300.151-153 and OAR 581-015-2030. The Complainant’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 9, 2023, to the filing of this Complaint on May 8, 2024.

Allegations	Conclusions
<p>Parent Participation</p> <p>The Complaint alleges that the District violated the IDEA by preventing meaningful parent participation. Specifically, the Complaint alleges that the District:</p> <ul style="list-style-type: none"> a. Scheduled meetings without coordinating with the Parent to find a mutually agreeable time; b. Scheduled meetings without inviting the persons with special knowledge and expertise about the Student selected by the Parent; c. Staff met to discuss the Student’s special education services without inviting the Parent to participate; d. Staff frequently did not respond to the Parent’s emails; e. Imposed time, place, and conduct limitations on the Parent’s visits to the Student’s school; f. Excluded the Parent from development or revision of a behavior support plan; g. Did not allow the Parent to provide or participate in staff training on in-person “managing escalating behavior” training; h. Conducted online training prepared by a District board certified behavior analyst (BCBA) and distributed to District staff via email without the parent’s input about what works for the Student; 	<p>Not Substantiated</p> <p>The Parent had continuous participation in all aspects of the Student’s special education planning and meetings.</p> <p>Not Substantiated</p> <p>Not Substantiated</p> <p>Not Substantiated</p> <p>Not Substantiated</p> <p>Not Substantiated</p> <p>Not Substantiated</p> <p>Not Substantiated</p> <p>Not Substantiated</p>

⁵ Investigation of special education complaints is limited to alleged violations of the IDEA during the one-year complaint period. The 100-page complaint in this case includes numerous allegations that do not state a violation of the IDEA. The Parent has been directed to other potential avenues of redress for non-IDEA concerns.

<p>i. Did not provide accommodations to the Parent to facilitate the Parent[s] meaningful participation in meetings; and</p> <p>j. Did not consider recommendations that the Parent shared from providers outside the District.</p> <p>(OAR 581-015-2210; 34 CFR §300.321) (OAR 581-015-2190, 581-015-2195; 34 CFR §300.322) (OAR 581-015-2110, 581-015-2115; 34 CFR §300.301, §300.305) (OAR 581-015-230534; CFR §300.502) (OAR 581-015-2120(1)(a); 34 CFR §300.306(a)(1)) (OAR 581-015-2250(1)(a); 34 CFR §300.327) (OAR 581-015-2000(5), 581-015-2090; 34 CFR §300.9, §300.300(a), §300.300(b), §300.300(c))</p>	<p>Not Substantiated</p> <p>Not Substantiated</p>
<p>IEP Team Considerations and Special Factors</p> <p>The Complaint alleges that the District violated the IDEA by not identifying the causes of the Student’s disability related behaviors and adopting positive behavior supports that would enable the Student to access and make progress in the general curriculum. Specifically, the Complaint alleges that:</p> <ol style="list-style-type: none"> The District refused to adopt non-violent communication and a collaborative problem solving model; and The District developed a “Function Based Behavior Support” plan based on existing information rather than determining what is most effective for addressing the Student’s specific disability-related behaviors. <p>(OAR 581-015-2205; 34 CFR §300.324(2)(i))</p>	<p>Not Substantiated</p> <p>The District developed a BSP based on available data because the Parent refused consent for a Functional Behavior Assessment (FBA). The District attempted to implement the BSP. Because of the Student’s chronic misconduct and absences from the classroom and from school, the BSP was not effective.</p> <p>The IDEA does not require districts to adopt a parent’s recommended methodologies absent evidence that no other methods would benefit a student with a disability.</p>

<p>Content of IEP</p> <p>The Complaint alleges that the District did not include needed content in the IEP. Specifically, the Complaint alleges that the District omitted from the Student’s 2023-24 IEP necessary content, including:</p> <ul style="list-style-type: none"> a. A transition plan; b. A positive behavior support plan that is individualized and effective for the Student; c. Access to Bluetooth headphones and a cell phone; d. Food available to the Student in class every 2-3 hours; e. Parent training; f. Personnel training. <p>(OAR 581-015-2200; 34; CFR §300.320) (OAR 581-015-2000(28)34 CFR §300.34) (OAR 581-015-2000 (39); 34 CFR §300.434) (OAR 581-015-2000(36); 34 CFR §300.42)</p>	<p>Substantiated in Part</p> <p>The IEP nominally includes all required IEP components, but neither the present levels statements nor the goals were current. The IEP indicates that the Student had already reached many of the annual goals at the Therapeutic School.</p> <p>Not Substantiated. IDEA did not require a transition plan at the Student’s age</p> <p>Not Substantiated. The Parent refused consent for an FBA to assist the IEP Team in developing an BSP, the District developed an BSP using existing information, which does not require parent consent.</p> <p>Not Substantiated. The District provided both.</p> <p>Not Substantiated. The IDEA does not require school districts to provide food on demand.</p> <p>Not Substantiated. The IDEA does not require, and the team did not include parent training.</p> <p>Not Substantiated. There is no evidence that the District failed to provide personnel training.</p>
<p>Extended School Year (ESY)</p> <p>The Complaint alleges that the District violated the IDEA provisions for ESY by:</p> <ul style="list-style-type: none"> a. not determining whether the Student needs ESY for the summer of 2024; and b. providing only generic ESY services rather than ESY based on the Student’s IEP goals. <p>(OAR 581-015-2065; 34 CFR §300.106)</p>	<p>Not Substantiated</p> <p>During spring 2024, when the IEP team would have considered the Student’s need for ESY, the Parent was unwilling to attend IEP meetings. Because the IEP team could not address the Student’s need for ESY, it also had no opportunity to determine what ESY services the Student might need.</p>
<p>When IEPs Must be in Effect</p> <p>The Complaint alleges that the District violated the IDEA by not providing services as determined by the IEP Team and included in</p>	<p>Not Substantiated</p> <p>The District fully implemented the Student’s IEP as developed on July 25, 2023.</p>

<p>the Student's IEP, including:</p> <ul style="list-style-type: none"> a. A behavior support plan, as developed by the IEP Team in the Student's previous school; b. Math specially-designed instruction; c. Food accommodations; and d. IEP progress reports. <p>(OAR 581-015-2220; 34 CFR §300.323)</p>	<p>Not Substantiated. The IDEA does not require adoption of a BSP from a previous school, and the District did not do so.</p> <p>Not Substantiated. The math SDI was offered, but the Student did not always accept.</p> <p>Not Substantiated. There is no evidence that the District failed to provide food per the IEP.</p> <p>Not Substantiated. The District provided more progress reporting than the IDEA requires and the IEP provided for.</p>
<p>Placement of the Child (Disciplinary Removals of More than 10 School Days (Pattern or Consecutive))</p> <p>The Complaint alleges that the District has violated the IDEA by changing the Student's placement without required processes through repeated suspensions and frequent informal removals.</p> <p>(OAR 581-015-2250(1)(a); 34 CFR §300.327) (OAR 581-015-2415; 34 CFR §300.530)</p>	<p>Substantiated</p> <p>The Student engaged in repetitive behaviors that disrupted the learning environment for the Student and for others. This behavior did not respond to the positive behavior supports included in the IEP, and the District suspended the Student repeatedly, amounting to an unacknowledged change in placement. The District did not follow required processes until May 8, 2024.</p>
<p>Access to Student Education Records</p> <p>The Complaint alleges that the District has repeatedly violated the IDEA by not providing the Student's special education records when requested. The Complaint specifically alleges that, while the District provided some of the requested records, staff advised the parent to file a public records request.</p> <p>(OAR 581-015-2300; 34 CFR §300.501(c))</p>	<p>Not Substantiated</p> <p>The Parent received timely access to the Student's special education records pursuant to IDEA regulations.</p>
<p>Prior Written Notice</p> <p>The Complaint alleges that the District has repeatedly violated the IDEA by not providing prior written notice as required whenever the District proposed or refused to initiate or change anything about the Student's special education identification, evaluation, educational placement, or the provision of a</p>	<p>Substantiated</p> <p>The District issued PWNs only in association with IEP meetings and issued no PWNs in response to the Parent's many requests outside of meetings.</p>

free, appropriate public education (FAPE). (OAR 581-015-2310; 34 CFR §300.501, §300.503)	
Free Appropriate Public Education (FAPE) The Complaint alleges that the District has violated the IDEA entitlement to a FAPE. Specifically, the Complaint alleges that by not training staff, not listening to the Parent, and the failure of the IEP Team to discuss the Parent's request for accommodations, the Student lost a year of FAPE. (OAR 581-015- 2040-2070; 34 CFR §300.17, 34 CFR §300.101)	Substantiated Although the Department did not substantiate the Parent's specific denial of FAPE allegations, the Department concludes that the Student's chronic misconduct and failure to make progress toward IEP goals demonstrated a need for IEP review and revision. The Parent's refusal to participate in IEP revision does not absolve the District of the responsibility to provide FAPE to the Student.

REQUESTED CORRECTIVE ACTION
<p>The Parent requested District actions to resolve this complaint too numerous to itemize but summarized below. They include but may not be limited to the following:</p> <ul style="list-style-type: none"> • Change meeting procedures, including but not limited to: coordinating with the Parent and the Student's non-District WRAP team, provide sufficient advance notice, provide relevant documents in advance, allow adequate time for meeting. • Remove all restrictions on the Parent's communication with District staff. • Remove all limitations on and threats of trespass for the Parent's visits to the Student's school. • Commit to a facilitated IEP meeting to address deficiencies in the Student's IEP, including SDI, related services, accommodations, supplementary services. • Provide a BCBA for Student to work on behavior skills in classroom and non-classroom settings. • Adopt methods of communication and behavior supports for the Student as recommended by the Parent and others who know the student well, including Restorative Justice (RJ), Collaborative Problem Solving (CPS), Dialectical Behavioral Therapy (DBT), and five language level chart. • Provide "managing escalation training" in collaboration with the Parent to all staff who interact with the Student. • Maintain the Student's placement through high school graduation. • No suspensions except in circumstance involving weapons, drugs. • Implement all decisions from the 2020 mediation. • Provide all requested student educational records. • Allow the Parent to record all meetings. • Copy the Parent and all members of the WRAP team on all email related to the Student.

- Compensatory education.

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 May 9, 2023. 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 fifteen years old and was a 9th grade student at a District high school during the Complaint period. The Student is eligible for special education as a child with autism spectrum disorder (ASD), emotional behavioral disability (EBD), and other health impairment (OHI).
2. The Student reportedly does not struggle with academics but, throughout their schooling experience, has exhibited behavior that interfered with learning. The Student's maladaptive behaviors include offensive language, impulsivity, classroom disruption, difficulty establishing positive peer relationships, noncompliance with school rules, defiance of school authorities, etc. Except for a single academic goal for Math in the IEP in effect during the Complaint period, the Student's IEP goals focused on social-emotional skills, study and organizational skills, and behavior support.
3. Three years before the beginning of the Complaint period, the Parent obtained an independent psychological evaluation from a private provider. The Parent often refers to this report in expressing preferences for IEP content and school practices and procedures.
4. The May 20, 2020 Confidential Psychological Assessment Report describes the student as "a verbally skilled and cognitively intact 11-year-old, who really struggles to contain [...] impulses, to maintain [...] attention, and to regulate [...] emotional and behavioral presentation without consistent and reliable external support." Academic achievement testing placed the Student "solidly in the average range" except for math numerical operations, where the Student scored in the 9th percentile. Other assessments indicated depression, anxiety, difficulties with attention, impulse control, executive function, and "a growing personality organization characterized by irritable, hostile, and negative acting-out behaviors coupled with pervasive conduct problems".

The report includes several pages of recommendations, including but not limited to avoidance of exclusionary discipline and adopting "an elaborate system of relational repair and a team [to assist the Student] in identifying and completing identified steps to offer repair and to show support and caring toward other people". The report asserts

that "[the Student] "is likely to make progress when the focus is on building [...] controls, rather than [...] insights; identifying short-term and specific treatment goals; and strengthening [the Student's] coping repertoire."

5. The Student attended a private Therapeutic School during the 2021-22 and 2022-23 school years. The Therapeutic School describes itself as:

"[A] special education program with a primary focus on emotional and behavioral growth. Our program prioritizes academic learning (EDUCATION), progress on individual treatment goals (MENTAL HEALTH), preparing for future success (TRANSITION), and the development of life-long health practices (WELLNESS)"

6. On February 27, 2023, the Student's IEP team reviewed and revised the Student's IEP as summarized below:

- a. Concerns of the Parent: The Parent provided input that included extensive quotes from the May 20, 2020 Confidential Psychological Assessment Report.

- b. Present Levels:

- i. The IEP describes the Student's Present Levels of Academic Achievement primarily in descriptive terms without presenting test scores, but states that the Student reads at grade level and, as an 8th grader, was at 5th-6th grade level in math. When given staff support and pre-coaching of expectations, the Student demonstrated a high level of executive functioning and organizational skills.
- ii. The IEP described the Student's Present levels of functional performance in positive terms but described the Student's disruptive and profane behavior and challenges in recognizing the perspective of others. The only numerical data about the Student's functional performance states that the Student:

"demonstrates safety across all settings (academic and non-academic) in 100% of opportunities. When upset or frustrated, he selects and uses a personally effective coping strategy (e.g., quiet activity, break outside of the classroom) in 99% of opportunities. [the Student] uses pro-social communication strategies (school-appropriate language and topics of conversation) when interacting with peers and staff in 99% of opportunities".

- c. Measurable Annual goals: The IEP includes measurable annual goals in self-management, executive functioning, social skills and mathematics.
- d. Specially-Designed Instruction: The IEP provided for SDI in:
 - i. Self-Management, 30 minutes/daily
 - ii. Executive Functioning, 15 minutes/daily
 - iii. Social Skills, 20 minutes/daily
 - iv. Mathematics, 20 minutes/daily

- e. Related Services:
 - i. Transportation, 60 minutes/daily
 - ii. Occupational Therapy, 60 minutes/daily
 - f. Accommodations: The IEP includes an extensive list of accommodations
 - g. Non-Participation Justification:
 - i. Extent to which the Student would not participate with nondisabled students, 100%
 - ii. Explanation: “[The Student] has social, emotional, behavioral challenges that are being addressed in an out-of-district therapeutic school. In a larger general education setting the increased noise levels, amount of movement, reduced structure, and expected levels of independence present challenges that exceed his skill levels at this time.”
7. The February 28, 2023 IEP did not include a placement determination page.
 8. At the Parent’s request, the Student moved from the Therapeutic School to a District High School (High School) for the 2023-24 school year.
 9. The Student has a large Wraparound Team consisting of both Parents, a Native American Rehabilitation Association (NARA) Case Manager, a Case Manager from the Therapeutic School, a Native American Youth and Family Association (NAYA) Youth Advocate, a Multnomah County Developmental Disability Service Coordinator (DD Service Coordinator), the Student’s Private Therapist. The Parent asked District staff to copy the Student’s Wraparound Team on all emails.
 10. Throughout the Complaint period, the Parent sent frequent emails to High School staff, to District special education administrators, and to District administrators in non-special education departments. Most of the emails were addressed to several people, sometimes even to dozens of people. Some of the Parent’s email were several pages long, and the Parent preferred to add new emails to previous emails on related topics, resulting in lengthy email threads that sometimes stretched over several months. District staff found it difficult to keep up with the Parent’s emails because of their frequency, length, and complexity. Many of the emails were reiterations of grievances expressed in previous email. Some District staff felt insulted by the Parent’s criticisms and/or threatened by implied or expressed intention to file various kinds of complaints, including complaints to professional licensing agencies (TSPC, OSB).
 11. The Parent has disagreed with many aspects of the Student’s special education services and placement over the years, and the Parent has made use of IDEA complaint and dispute resolution mechanisms several times prior to this Complaint. (Parent interview) In 2020, the parent filed a Due Process Complaint and then withdrew the request for a hearing after reaching a mediated settlement agreement on January 13, 2020. Much of the mediation agreement names particular schools and dates, none of which are related to the time and circumstances of this Complaint. To the extent that may be relevant to

the Parent's allegations in this Complaint, the mediation agreement included an agreement to generate two short documents helping explain the Student's strengths, challenges, IEP, and behavior plan. Further, the agreement specifies:

"One document, to be approximately 1-2 pages, will be designed to quickly inform all adults likely to encounter Student at school ... The other document, to be approximately three pages, will be designed to more fully (but still relatively quickly) inform those adults most directly involved with Student. ... District Staff will review Student's current Plan for Managing Escalating Behavior, Person Centered Plan, etc. and prepare draft documents to Parents by Feb. 16, 2020, after which Parents and school staff will collaborate ... to finalize those documents, with the goal of distributing them 1-2 weeks after that."

Although this mediated agreement dates from more than three years before the beginning Complaint period, and its terms refer to specific elementary and middle schools, the Parent has repeatedly asserted to the District and to the Complaint Investigator that the mediated agreement does not have an expiration date, and it continues to constrain the District's decisions and limit the authority of the Student's IEP Team to change IEP components, especially IEP accommodations and BSP.

12. During spring and early summer 2023, District staff, Therapeutic School staff, and the Parent communicated at length about transitioning the Student to the High School and began collecting assessment data for an evaluation to determine whether the Student met special education eligibility criteria for Autism Spectrum Disorder (ASD). The Parent explained to the Complaint Investigator that an ASD eligibility was necessary because the Student was not getting the right services for a child with autism. With an ASD eligibility, the Parent believed that the Student would get services and accommodations more appropriate for their individual needs.
13. On June 5, 2023, the District sent the Parent a Notice of Team meeting scheduled for June 12 to:
 - a. Develop or review an IEP and placement for the Student; and
 - b. Review existing information about the Student and decide whether the Student is eligible or continues to be eligible for special education.
14. The District's Multi-Disciplinary Autism Spectrum Assessment Report dated June 6, 2023, was prepared by a School Psychologist, an Occupational Therapist (OT), and a Speech Language Pathologist (SLP). The Assessment Report was based on a records review; three observations; two interviews with the Student; and a standard battery of questionnaires, checklists, and assessments. The Report concluded that:

"[The Student] does not present with behavioral characteristics often associated with, but not necessarily exclusive to, an Autism Spectrum Disorder. Rating scales

indicate that [Student]’s impulsive behavior and executive functioning needs are consistent with [a] diagnosis of AD/HD and Generalized Anxiety Disorder."

15. The District gave the Parent Prior Written Notice (PWN) on June 12, 2023 which states in its entirety:

“DESCRIPTION OF ACTIONS PROPOSED OR REFUSED BY THE DISTRICT:
Identification To reconvene at a later date this summer to continue to determine eligibility.

Explanation of why the District proposes or refuses to take the action:
The meeting time went over time and eligibility was not able to be determined.

Description of each evaluation procedure, record, or report used as a basis for the proposed or refused action:

Teacher observation, data tracking, medical records, CARRS, file review, psychoeducational report, previous reports, and parent request.

Description of other options considered and why those options were rejected:
To continue with the previous eligibility of EBD as the primary, the team determined that it would be best practice to continue with the discussion of the ASD eligibility and ensure that [the Student] is appropriately identified.

Description of the factors relevant to the actions proposed or refused are:
[The Student’s] parent expressed concern that he struggles with perspective taking and recently had a medical evaluation diagnosing [them] as having ASD.”

16. The Parent disagreed with the District’s ASD Assessment Report and, on June 13, 2023, replied in an email to the School Psychologist, the SLP, the Program Administrator, and several staff members of the Therapeutic School. Attached to this email was the report of a Psychological Evaluation with Autism and Adaptive Assessment, which had been conducted a year earlier by an Oregon licensed psychologist, who diagnosed the Student with ASD.
17. On July 14, 2023, the District sent the Parent a Notice of Team meeting scheduled for July 25, 2023 for the purpose of reviewing the Student’s IEP.
18. On July 25, 2023, the District convened a meeting to review the Student’s eligibility. Attending this meeting were: the Parent, the Principal, a Vice-Principal, two special education Program Administrators, and a NARA Case Manager. The Team determined that the Student was eligible as a Student with Autism Spectrum Disorder (ASD) in addition to Emotional Behavioral Disorder (EBD) and Other Health Impairment (OHI).

19. The District gave the Parent PWN on July 25, 2023 which states in its entirety:

“DESCRIPTION OF ACTIONS PROPOSED OR REFUSED BY THE DISTRICT:

Educational Placement

The Evaluation Planning Team has found that [the Student} is a child with a disability as defined in the IDEA within the category or categories of: Emotional Behavior Disability, Other Health Impairment, Autism

Explanation of why the district proposes or refuses to take the action:

The Evaluation Planning Team has found that [the Student] has an educational disability and requires Special Education services.

Description of each evaluation procedure, assessment, record or report used as a basis for the proposed or refused action:

Referral information, input from teacher(s) and parent(s), assessment results and available records.

Description of other options considered and why those options were rejected:

Finding that [the Student} does not have an educational disability and does not require Special Education would have been inconsistent with available information.

Description of the factors relevant to the actions proposed or refused are:

Informal and formal assessment results support special education eligibility.”

20. At the July 25, 2023 meeting, the IEP Team began revising the Student’s IEP which was to be in effect during the 2023-24 school year. The IEP dated July 25, 2023 was based on the February 28, 2023 IEP from the Therapeutic School.
21. The July 25, 2023 IEP was in effect throughout the Complaint period. It includes the following content relevant to the Complaint:
- a. Strengths of Student
 - i. The IEP identified reading, writing, and vocabulary as academic strengths. The Student was also described as bright and perceptive, with strengths in literacy, social justice advocacy, music, cooking, and leadership.
 - b. Concerns Of The Parent(s) For Enhancing The Education Of The Student
 - i. This section of the IEP noted that the Student had previously attended a therapeutic school, a placement the Parent had requested to protect the Student from exclusionary discipline experienced at a District middle school.
 - ii. Most of the content of the Parent concerns section of the IEP was from a March 31, 20/21 IEP. This content included the Parent’s exhaustive

summary of a psychological evaluation of the Student conducted in May 2020.

- c. Present Levels of Academic Performance
 - i. The IEP contains no current data on academic performance because the team determined that the Student had no special education needs related to academics.
- d. Present Levels of Functional Performance
 - i. Because of the change in placement from the Therapeutic School to the High School, the team was unable to identify present levels of functional performance relevant to the new placement. Present levels from the Therapeutic School were incorporated into the annual goals, as in the discussion of Measurable Annual Goals below.
- e. How Student's Disability Affects Involvement and Progress in the General Education Curriculum
 - i. "Due to [the Student's] behaviors affecting [the] ability to self-regulate and utilize executive functioning in moments of distress, [the Student] benefits from Specially Designed Instruction and Special Education supports to fully access the General Education curriculum. According to [the] most recent three year re-evaluation and the determination made by the IEP Team including both parents, [the Student] meets the criteria to qualify for Special Education services under the categories of Autism Spectrum Disorder as the primary disability, Emotional Behavioral Disorder, and [Other Health Impairment]."
- f. Special Factors for IEP Development
 - i. The IEP Team agreed that the Student exhibited behavior that interfered with their learning or the learning of others.
 - ii. The IEP provides that "Student behavioral needs addressed in the Annual Goals, De- Escalation Plan, and Behavior Support Plan (BSP)."
- g. Required Testing and Assessments
 - i. The IEP notes that statewide testing was not conducted at the Student's grade level.
 - ii. The IEP states that districtwide testing would be conducted. For MAP literacy and math assessments, the Student would receive accommodations as follows: "small test setting, access to noise canceling headphones, frequent breaks".
- h. Measurable Annual Goals
 - i. Progress on all annual goals was to be provided quarterly, in the form of written progress notes, on 11/21/2023, 01/26/2024, 04/05/2024, and 06/14/2024. For most of the Annual Goals described below, the IEP identifies Mastery Criteria or Short-Term Objectives, with progress to be measured by weekly data collection.
 - ii. Social & Emotional Skills Annual Goals
 - 1. Goal 1: "By the end of the IEP cycle, with coaching from a familiar adult, [the Student] will demonstrate productive pro social self-

advocacy skills with familiar and unfamiliar adults and environments in 4 out of 5 opportunities observed weekly, as measured by behavioral and teacher reported quarterly.”

Present Level: “99% of opportunities in a more restrictive setting”

2. Goal 2: “By the end of the IEP cycle, given a predetermined collaboratively created cueing system, [the Student] will respond to a cue to take a break in a predetermined location in 4 out of 5 opportunities observed weekly, as measured by behavioral and teacher reported quarterly.”

Present Level: “This goal has been met in a more restrictive setting.”

3. Goal 3: “Given support, practice and facilitation in restorative and collaborative practices, and a protocol with support structure and facilitation, [the Student] will verbally describe the impact on himself and others in a) 2 out of 5 attempts given realistic scenarios and b) in 2 out of 10 attempts given real life situations in 10 given situations weekly, as measured by behavioral and teacher reported quarterly.”

Present Level: “This goal has been met in a more restrictive setting.”

4. Goal 4: “By the end of the IEP cycle, when [the Student] notices [they are] near escalation, [they] will use self-identified coping skills to aid in self-regulation in 4 out of 5 opportunities observed weekly, as measured by behavioral and teacher reported quarterly.”

Present Level: “This goal has been met in a more restrictive setting.”

iii. Classroom/School Skills Annual Goals

1. Goal 1: “By the end of the IEP cycle, given visual cues and prompting, [the Student] will transition from preferred activities to non-preferred activities in the classroom setting in 4 out of 5 opportunities observed weekly, as measured by behavioral and teacher reported quarterly.”

Present Level: “This goal has been met in a more restrictive setting.”

2. Goal 2: “By the end of the IEP cycle, given visual cues and prompting, [the Student] will build skills toward independently transition from physical location to another, i.e. Electives, Recess, Lunch, successfully (being where he needs to be, walking on pre-planned routes, etc.) in 4 out of 5 opportunities observed weekly, as measured by behavioral and teacher reported quarterly.”

Present Level: “This goal has been met in a more restrictive setting.”

iv. Social Skills Annual Goals

1. Goal 1: "By the end of the IEP cycle, after teacher modeling and teacher student role play, [the Student] will refrain from interrupting in class, and instead raise [their] hand, walk over to the other person, or any other appropriate way to communicate in class in 4 out of 5 opportunities observed weekly, as measured by behavioral and teacher reported quarterly."
Present Level: "[The Student] is still working on this goal, 3/5 opportunities in a more restrictive setting."
 2. Goal 2: "By the end of the IEP cycle, with adult coaching in restorative and collaborative practices, with support, and when debriefing a situation [the Student], will increase [their] perspective taking skills by verbalizing or writing about [their] intent in the situation compared to the impact on the situation in 4 out of 5 opportunities observed weekly, as measured by behavioral and teacher reported quarterly."
Present Level: "[The Student] is actively working on this goal and with adult prompting and guidance throughout the process is meeting this goal in 3/5 opportunities"
- v. Study/Organizational Skills Annual Goal
1. Goal: "By the end of the IEP cycle, with provided explicit adult support to increase [their] developing executive functioning, [the Student] will manage assignments and materials each period, through the use of binders, planners, and folders in 4 out of 5 opportunities observed weekly, as measured by behavioral and teacher reported quarterly."
Present Level: "This goal is met in a more restrictive setting."
 2. Mathematics Annual Goal
Goal: "By the end of the IEP cycle, given specially designed instruction in numbers and operations, algebraic thinking, measurement and data, and geometry, [the Student] will demonstrate growth in mathematics skills as measured by averaging 80% accuracy on work samples, curriculum-based measures, or informal assessments at 7th-grade level."
Present Level: "Currently scores on the I-Ready assessment at a 6th grade level."
- i. Specially Designed Instruction (SDI)
All SDI provided in general education by general education teachers.
- i. Social Skills: 100 min/week
 - ii. Social & Emotional Skills: 100 min/week
 - iii. Study/Organizational Skills: 75 min/week
 - iv. Mathematics: 30 min/week
 - v. Classroom/School Skills: 60 min/week
- j. Related Services
- i. Transportation: 60 min round trip home

- ii. Occupational Therapy: By OT, 60 min/year
- iii. Communication: By SLP, 180 min/quarter
- k. Supplementary Aids, Services, Accommodations
 - i. All accommodations were available in all settings or schoolwide. Unless indicated otherwise below, all were available throughout the day. Unless otherwise indicated all are provided by Special Education Provider/General Education Teacher.
 - ii. Listen, acknowledge concerns, and validate student, provide reassurance when needed.
 - iii. Staff collaboration with Student's therapist team.
 - iv. Provide advance notice of changes in schedules, routines, staffing whenever possible. Advance notice of drills. Advance transition cues.
 - v. De-escalation Plan reviewed quarterly.
 - vi. Alternative discipline interventions before suspension except in cases of drugs, alcohol, weapons, public, or personal safety. By Building Administrator.
 - vii. Pre-teach and practice social-emotional perspective taking skills out of context and when calm.
 - viii. Engage in collaborative and restorative practices to problem solve.
 - ix. Student may call home or trusted adult (i.e., parent, therapist)
 - x. Give time and space if escalated, direct to the predetermined safe/break flexible location.
 - xi. Predetermine a safe or break flexible space collaborative with student.
 - xii. Allow expression of knowledge and learning in a variety of ways.
 - xiii. Work from days/time missed sent home and labeled with due date
 - xiv. Opportunities for breaks (movement, time away, work break). Offer meaningful work tasks (leadership opportunities) for break opportunities.
 - xv. Organization support (check for completion more, tasks organized, assist with due dates, verbal prompts with clear expectations) at beginning and
 - xvi. Provide cuing in social situation during skill development, i.e., nodding, smiling, subtle verbal prompting i.e., encouraging/guiding questions.
 - xvii. When Student states "stop" limit verbal interaction or stop verbal engagement.
 - xviii. Create intentional time for relationship/rapport building with new or less familiar adults.
 - xix. Snacks allowed, in class and on transportation.
 - xx. School to home communication provided by LC teacher via email or phone call home, sharing insight from teachers and paraeducators daily at beginning of year, fading to weekly after first month, then monthly after first quarter. In emergencies, please contact the main office.
 - xxi. Behavior Support Plan.
 - xxii. More positive than negative redirection or acknowledgement both verbal and nonverbal. Give positive reinforcement for expressing the Student's thoughts and feelings.

- I. Supports for School Personnel
 - i. Unless indicated otherwise, all were provided by Special Education
 - ii. Provider/General Education Teacher. All are listed verbatim below:
 - iii. SpEd/Gen Ed collaboration. 120 min/month
 - iv. SpEd/Gen Ed collaboration for [the Student's] Behavior Support Plan, escalation cycle, and training for all Staff. 120 min/year.
 - v. SLP to consult with gen-ed and sped staff member. 60 min/quarter, by SLP.
 - vi. SpEd/Gen Ed collaboration for the development and training for all supporting staff on a Person Centered Plan. 120 min/year.
 - vii. SpEd/Gen Ed collaboration for restorative and collaborative processes and training for all staff. 120 min/year.
 - m. Statement of Nonparticipation Justification
 - i. The IEP states that the Student would be removed from General Education settings 5% of the school day and explains and justifies this decision as follows:
 - 1. "Student is removed from the general education settings setting in order to receive Specially Designed Instruction for Social Emotional Skills and Intervention Supports individually through collaboration and coaching. Additional supports for push in during general education classes."
 - n. Recommendations and Insights
 - i. This addendum to the IEP, which was provided by the Therapeutic School Case Manager, offers insights into the Student and what they had learned about what strategies had been effective with the Student at the Therapeutic School.
 - o. Plan for Managing Escalating Behavior
 - i. A Plan for Managing Escalating Behavior from the Therapeutic School and dated April 15, 2021 is appended to the Student's July 25, 2023 IEP.
22. The Parent told the Complaint Investigator that the purpose and function of Parent input and recommendations from the Therapeutic School Case Manager should be understood as contributing to the Student's present levels of academic achievement and functional performance. The Parent indicated understanding that such information was not an operational component of the IEP, but the IEP Team should give consideration to the information as part of the IEP development process.
23. A July 25, 2023 Special Education Placement Determination form indicates that the IEP Team considered two placement options:
- a. Learning Center (LC) with push-in and 1:1 support, 80% or more of day-Regular Class
 - i. Benefits of Option: Access to general education curriculum, more opportunities for increasing independence, participation in the general education setting

- ii. Possible Harmful Effects: Higher student-staff ratio, not enough support for behavioral needs, not enough support for sensory needs, not enough support for social-emotional needs
- b. Social-Emotional Skills (SES), 40-79% of day Regular Class.
 - i. Benefits of Option: Access to general education curriculum, lower student-teacher ratio, more support for social emotional needs, more support for behavioral needs, more opportunities for increasing independence
 - ii. Possible Harmful Effects: Less access to general education curriculum, less participation in general education settings with non-disabled peers.
- c. The LC with push-in and 1:1 support option was selected because "This placement best meets the student's needs at this time"

24. The District gave the Parent PWN on July 25, 2023, which states in its entirety:

"DESCRIPTION OF ACTIONS PROPOSED OR REFUSED BY THE DISTRICT:
Provision of FAPE

Explanation of why the district proposes or refuses to take the action:
The IEP Team has determined that [the Student] requires the services and accommodations listed on the attached IEP. Discussed discipline and that that parent would like to not have him suspended however PPS will follow the guidelines of the behavior matrix in the student handbook and will take into consideration the student's disability before making disciplinary decisions.

Description of each evaluation procedure, assessment, record or report used as a basis for the proposed or refused action:

Results of current comprehensive evaluation and the team meeting. School safety, policies and procedures, the current BSP, and will add a de-escalation cycle.

Description of other options considered and why those options were rejected:
Continuing to educate [the Student] without the provision of Special Education services was rejected because [the Student]'s educational needs cannot be addressed sufficiently without the services indicated on the IEP.

Description of the factors relevant to the actions proposed or refused are:
All service options were considered by the IEP Team and those detailed on the IEP were agreed to by the Team."

25. The Program Administrator told the Complaint Investigator that the July 25, 2023 IEP was a "placeholder" to be further refined at a later date.

26. On August 14, 2023, the District sent the Parent a Notice of Team Meeting scheduled for August 28, 2023 for the purpose of discussing the Student's de-escalation cycle. The Meeting Notice indicated that six teachers and several other District staff members were invited as well as six members of the Student's Wraparound Team.
27. On August 25, 2023, the Program Administrator sent an email to both Parents, to selected High School staff and District level special education staff, and to the Student's Wraparound Team. The email states in relevant part:

"... Attached is the IEP. The changes reflected are the ones we made as we worked together. There are a couple of changes on the accommodations and they are marked by a before the sentence The verbiage of the suspension piece is still in there as you'll see, I know that you disagree with anything that still has the door open for potential suspension. . . . [The Therapeutic School Case Manager] felt that the escalation cycle is still current and applies so I am attaching that to the IEP. . . . I would like to submit the IEP for finalization on Monday so it is ready to go when students return. Please remember (and I know you know), it can be amended at any time There should be another letter that goes out to the high school team for calibration this weekend."

28. On August 25, 2023, the Parent emailed the Program Administrator and the District's Chief of Student Support Services to express dissatisfaction with the draft IEP that the Program Administrator had circulated. The Parent sent the following message, which summarizes complaints expressed repeatedly in emails and meetings throughout the Complaint period:

"It is not OK to just send this out at the last minute to everyone and tell me that we can amend it at any time. The District has never done that without a big deal."

"You are ignoring all of the other things that I wrote in the last email. You have not shared how all staff were gonna learn the escalation cycle before school starts."

"I wanted to be present for that meeting with the Therapeutic School Case Manager. I want to know who you met with, and I'd like to have all records from [the District] since the date of mediation, including and not excluding any notes which we have a right to per FERPA laws."

"It feels very uncomfortable for how all of this went down this past year. I feel taken advantage of not having my advocates and team there."

"I really don't have time for any of this nonsense. We're supposed to also have a meeting scheduled within three weeks of the school year and a communication plan."

"You mention that we're supposed to have restorative practices and other things in place for discipline and I 1000% agree with you and we have a mediation agreement that says by February 20 of 2020 we would have a different plan so to write the accommodation in and add personal safety as a factor that can allow [the Student] to be suspended that's completely unacceptable because that is subjective. And the senate bill 553 follows immediate danger to others there is no excuse for excluding this child for anything that is a part of [their] disability, and we agreed to this with a lawyer and a mediator. Hopefully you can read before the lines here."

"I would like the mediation agreement followed. Last I would like you to forward all of this email to everybody else that was on our previous email because as I shared I need a Wraparound Team and all of the others involved and it adds more work for me every single time emails are sent when you don't include all parties."

29. On August 26, 2023, the Program Administrator sent an email addressed to the Wraparound Team to "lay out what has been done and what should be expected for the meeting on [August 28]." The email includes in relevant part as summarized below:
 - a. A note that that Case Manager had "reached out to teachers, security, office, and cafeteria staff to review the escalation cycle with them."
 - b. A statement of the purpose of the meeting: for the Parent to meet the Student's teachers, establish a communication plan, and determine a meeting time in about two weeks to review how things are going."
 - c. A note that the Parent "is reviewing the IEP" and that the Program Administrator had been working 1:1 with the Parent, but that "an amendment may be needed sooner as opposed to later to better meet [the Student's] needs in this new environment."
 - d. Copies of the Behavior Support Plan and recommendations from the Therapeutic School.
 - e. A Copy of the 2020 psychological report "which is a few years old but still relevant."
 - f. A note that the Case Manager would provide a curriculum called "5 is Against the Law", which the District had purchased and which had been used at the
 - g. Therapeutic School "with quite a bit of success."
30. On August 28, 2023, the District convened a meeting to discuss the Student's de-escalation cycle. Attending this meeting were: the Parent, the Special Education Program Manager (Program Manager), the Principal, the Case Manager, the Student's Counselor, the Case Manager from the Therapeutic School, the Student's private

Therapist, a school counselor, a building administrator, and six general education teachers. Some of the participants already knew the Student, but most were present to learn about the Student's behavioral concerns and strategies for responding to them.

Throughout this meeting, the Parent and other participants engaged in conversation, and exchanged ideas about how to address the Student's special education needs. The Parent and the Therapeutic School Case Manager both said that the Student needed to be engaged, to trust, and to have their concerns validated. They stated that the Student's problematic behavior was verbal rather than aggressive. The Program Manager said: "If [the Student] says stop or stay away, give [them] that space and then come back later for a restorative conversation and [they] will participate." The Parent advocated strongly for avoiding suspension.

At the end of the meeting, after some participants had left, the Parent and the Program Director discussed a school-parent communication plan. The Parent wanted daily updates on how the Student was doing. They agreed that the Student should receive only positive status updates.

31. On August 31, 2023, the District sent the Parent a Notice of Team Meeting scheduled for September 12, 2023 at 11:40 AM for the purpose of discussing the Student's BSP and alternatives to exclusionary disciplinary discipline.
32. On September 1, 2023, the Parent sent an email to the Case Manager asking that they "reply all" to the Wraparound Team and community contacts.
33. On September 4, 2023, the Program Administrator sent an email to the Parent. At the Parent's request, the Wraparound Team was copied on the email. Topics addressed in the email included:
 - a. A draft IEP with highlighted changes proposed by the Parent.
 - b. Identification of single points of contact for the Parent: the Student's Case Manager and the Program Administrator.
 - c. A statement that the Case Manager had taught the escalation cycle to all staff.
34. On September 5, 2023, the District sent the Parent a Notice of Team Meeting scheduled for September 12, 2023 at 1:00 pm for the purpose of reviewing the Student's IEP.
35. A September 7, 2023 incident report describes the Student's repeated use of inappropriate language (swearing, racial slurs, threats) towards other students and a teacher in class and in the hallway. Disposition: none or not recorded.
36. On September 8, 2023, the Program Administrator an email to the Parent stating the following:

"I have made changes to the BSP that you have noted but I would also like [sic] attach the [Therapeutic School's] BSP as well. The team can use both as they play off of each other. Let me know what you think."

37. A September 8, 2023 incident report states that the Student shouted loud inappropriate language and threats outside. Disposition: none or not recorded.
38. On September 9, 2023, the Parent sent an email to the Program Administrator offering thoughts about the draft IEP amendments. The Parent included the following comments and requests that relate to this Complaint:

"I don't anymore like leaving the word 'alternative' in the suspension accommodation. ... I would like it to read abstain from the use of exclusionary disciplinary interventions except in cases of drugs, alcohol, or weapons. ... Or I will accept it to say 'PPS is extending language of senate bill 5531⁶ through 12th grade"

"Where it says snacks allowed in class and on transportation maybe somewhere provide food when hungry. They said they have food and if they would ever assist to show him where his locker is ... I was wondering if they will allow a sticker of [their] choosing to be on it ... and I have a bag of snacks [the Student] can keep in there."

"I would like it noted that if we work on skills specifically that I like DBT skills because I know them and they were recommended by a social worker at CDRC."

39. A September 12, 2023 incident report states that the Student left the classroom and shouted vulgarities and threats at a teacher in the hallway. Disposition: none or not recorded.
40. On September 12, 2023, the District convened a meeting for to discuss the Student's BSP. Attending this meeting were: the Parent, the Program Administrator, the Case Manager, and a School Psychologist. Meeting Minutes describe the meeting in its entirety as follows:

"Discussion surrounding exclusionary language in the IEP.
Functional Behavior Assessment was discussed and parent said no.
The Discussion returned to exclusion for behavior related to a disability.
Team discussed positives of student.
Team discussed lunch and not accessing the cafeteria or providing snack.

⁶ ORS 339.250(2)(d), which provides that, for a student who is in fifth grade or lower, school discipline policy must limit the use of out-of-school discipline to circumstances involving: nonaccidental conduct causing serious physical harm to a student or school employee; student conduct that poses a direct threat to the health or safety of students or school employees; or suspension or expulsion that is required by law.

The team discussed supports and a Functional Behavior Assessment. Parent agreed.

Footnote--Parent emailed after meeting nullifying consent to conduct an FBA.”

41. On September 12, 2023, the District convened another meeting to discuss the Student’s BSP, IEP, and discipline. Attending this meeting were: the Parent, the Program Administrator, the Case Manager, a school psychologist, a general education teacher, a building administrator, the Principal, and the Student’s Private Therapist. The discussion at this meeting is summarized as follows:

- a. At the beginning of this meeting, the Parent asserted that the BSP in the Student’s online special education records and the FBA proposed by the District were incorrect:

“[The] fill in the blank thing is not the one that we're doing today, and if you think it is, that's not what we are doing. ... Just like the FBA has done a certain way and that's not how we do [the Student's], but no one knows that yet because we've never talked about FBAs for [the Student] ... We have a BSP. We're reviewing it today, and then we're discussing it if you have any concerns. So you did introductions and you're coming at me telling me what this meeting is for, and that's why I put the recording on, because you don't tell me what the... You didn't even know what the meeting was for and you didn't even read the emails. You said we were here for the behavior plan and the IEP. We are here to discuss alternatives to exclusionary discipline.”

- b. The Parent stated that this was not an IEP meeting, adding “I said I want it because nothing gets done unless we call it an IEP.”
- c. The Parent then read a mediation agreement from 2020 stating that a meeting would be held in February 2020 to review the Student’s BSP, IEP, and discipline.
- d. The Case Manager wanted to bring in a board-certified behavior analyst (BCBA) to “complete a PPS FBA/BSP”. The Parent objected to putting the Student through another assessment.
- e. The Parent proposed that the District should extend the scope of a state statute⁷ imposing limitations on exclusionary discipline of children up to fifth grade should be extended through high school for the Student.
- f. The Principal noted that the Student attended class every day and accepts 1:1 redirection.
- g. The General Education Teacher said that the Student was beginning to develop rapport with staff.

⁷ ORS 339.250(2)(d), which provides that, for a student who is in fifth grade or lower, school discipline policy must limit the use of out-of-school discipline to circumstances involving: nonaccidental conduct causing serious physical harm to a student or school employee; student conduct that poses a direct threat to the health or safety of students or school employees; or suspension or expulsion that is required by law.

- h. The Team reviewed BSPs from the Therapeutic School and the Student's previous District School.
 - i. The Team discussed alternatives to suspension, communication with family, incentives including a point system and food.
 - j. The Student's IEP would be finalized later in the week.
- 42. The September 12, 2023 meeting ended without an IEP revision.
- 43. On September 12, 2023, the District presented the Parent with a Prior Notice about Evaluation/Consent for Evaluation proposing a reevaluation to include Functional Behavior Assessment (FBA). The Parent signed, giving consent on September 12 and then signed again refusing consent on September 13.
- 44. On September 13, 2023, the Parent sent an email to the District that stated in relevant part:

"I am retracting my authorization for [an] FBA immediately. ... There is no need for you to obtain additional information ... there is an abundance of data. [The Student] needs CPS, DBT, trauma informed practices and a place that is committed to not excluding [the Student] from education for ... disability related behaviors."
- 45. A September 13, 2023 incident report states that the Student repeatedly cursed, used racial slurs, body-shamed, and threatened others throughout the class period. Disposition: redirection, reminder of rules, allowed a short break, and allowed the Student to call a parent.
- 46. A September 14, 2023 incident report states that the Student was out of class and walking up and down the hall and addressed other students with sexually inappropriate language. The Student ignored a teacher's instruction to return to class. Disposition: Apology.
- 47. On September 14, the Program Administrator sent an email to the Parent stating:

"The BSP that we have been working on is attached to the IEP as well [the BSP from the Therapeutic School], and I expect to continue working on that with you if you would like but right now I would prefer the team had too much rather than too little. I am also sending a PWN regarding specifying curriculum and also discipline."
- 48. On September 15, 2023, the District sent a PWN to the Parent, which provided:

"DESCRIPTION OF ACTIONS PROPOSED OR REFUSED BY THE DISTRICT: Provision of FAPE"

To finalize the IEP as written not withholding suspension or exclusionary discipline, or specify curriculum brand names, or methodology (ie ABA, CBA, CPS).

Explanation of why the district proposes or refuses to take the action:
All students are expected to comply with behavioral expectations. Services are individualized through IEP decision making, the district selects the appropriate curriculum to meet those needs.

Description of each evaluation procedure, assessment, record or report used as a basis for the proposed or refused action:
Parent input, Building and District Administration, District processes, IEP review.

Description of other options considered and why those options were rejected:
To name specific curriculum resources and not utilize district discipline.

Description of the factors relevant to the actions proposed or refused are:
All students are expected to comply with behavioral expectations. Services are individualized through IEP decision making, the district selects the appropriate curriculum to meet those needs."

49. A September 18, 2023 incident report states that the Student disrupted class with multiple uses of racial slurs, racial provocation, and profanities throughout class. The behavior was stressful to staff and other students. Disposition: redirection, reteaching rules, one-on-one conversation.
50. A September 18, 2023 incident report states that the Student used racial slurs and body shaming language toward staff members. Disposition: Suspension—Out of School.
51. A September 20, 2023 incident report states that the Student disrupted class, pestered others, called people derogatory names, made crude gestures, made threats of violence, yelled, and took other people's food. Disposition: None or none recorded.
52. On September 21, 2023, the District sent the Parent a Notice of Team meeting scheduled for October 2, 2023 for the purpose of developing or revising the Student's IEP.
53. A September 22, 2023 incident report states that the Student engaged in a physical altercation with another student and used racial slurs. Disposition: None or none recorded.
54. A September 25, 2023 incident report states that the Student loudly complained and used vulgar language about class content. The Student mocked the teacher and used racially inflammatory language. Disposition: Attempts to redirect.

55. A September 26, 2023 incident report states that the Student spoke loudly in class about having drugs and wrapped a charger cord around another student's neck, while continuing disruptive drug talk. Disposition: None or none recorded.
56. A September 26, 2023 incident report states that the Student used sexual insults toward another student in class. Disposition: None or none recorded.
57. A September 27, 2023 incident report states that the Student told a teacher to "shut up". Disposition None or none recorded.
58. An October 2, 2023 incident report states that another student smacked the Student's lunch out of his hands, and the Student retaliated by throwing food at the other student, creating a mess all over the classroom. Disposition None or none recorded.
59. On October 2, 2023, the District convened an IEP meeting. Attending the meeting were the Parent, the Case Manager, the Program Administrator, the Vice Principal, a general education teacher, the Occupational Therapist (OT), the School Psychologist, and the Student's Private Therapist. The Team discussion is summarized below but includes verbatim quotes where indicated.
- a. The Parent said that the Student did not want to be at the school and would like to transfer out of district. The Student was suspended for calling a staff member the 'N' word and was not accustomed to being suspended for using such language.
 - b. The Parent asked whether there been a restorative conversation between the staff member and the Student. Restorative conversations have taken place but the Student had not apologized.
 - c. The Parent wanted the Student to take breaks for as long as they wanted.
 - d. The Principal had not yet trained every person in the school on the Student's escalation cycle, although the staff who worked directly with the Student had received training. The Parent reported sending a survey to all teachers at the school asking about the training, and all those who replied said they had received no training.
 - e. The Parent would like [the Student] to be rewarded, but the Case Manager said there would be no rewards for the Student when the Student was cursing.
 - f. The Parent asked whether anyone had "gone out of their way to connect" with the Student, and the Case Manager reported bringing chicken for the Student.
 - g. The Parent did not want uniformed security working with the Student.
 - h. The Parent wanted to change exclusionary discipline from the IEP, arguing that a state law limiting exclusionary discipline of elementary school children should apply to the Student, a ninth grader.
 - i. A status update indicated that "there have been days when [the Student] has been successful" but that the Student was not showing consistent growth.

- j. [The Paraeducator] can help [the Student] organize homework to ensure [they] bring it home.
 - k. The Parent asked to always receive hard copies of IEPs, procedural safeguards notices, etc. in advance of meetings.
 - l. The Vice-Principal to follow up with SEI + the substitute Math teacher/grading
 - m. The Parent asked for help with food for the Student, including free food in the cafeteria.
 - n. The Parent wanted District staff to ask the Parent for ideas and support when the Student is struggling.
 - o. The Case Manager would continue to offer services to the Student, who does not always accept help.
 - p. “[The Parent] would like [the Student] not to see a psych when [they] say suicidal or self harm comments. Is concerned that it will trigger [the Student] or [cause] a trauma response. Psychs will do a quick check in, it is not a deep dive into history, it's to check head space.”
60. The October 2, 2023 meeting ended without an IEP revision. The July 26, 2023 IEP remained the IEP in effect throughout the Complaint period.
61. An October 3, 2023 incident report states that the Student said “Is this the part where I kill myself? Like, is this the part where I just shoot myself?” and then said to another student, “Shut up n*****. I’ll shoot you too.” The Student wrapped a “short decorative rope/tassel thing” around their neck. Disposition: Escalated Response. Threat Assessment.
62. On October 4, the Vice Principal sent an email to the Student’s Parents to notify them that the behavioral incident on the previous day had created concern that the Student might be at risk for self-harm. The High School’s Counselor and School Psychologist met with the Student about the self-harm language. The District conducted a threat assessment pursuant to District protocol for responding to threats of harm to others. As part of the threat assessment, the Student was interviewed to determine the “validity and seriousness” of the Student’s threatening comments and determined that the comments were not serious, and the Student was sent back to class.
63. On October 4, 2023, the Parent sent an email to the Vice Principal and Principal including the following verbatim comments:
- “The IEP MUST BE FOLLOWED and this is more evidence it is not being followed. I have said, I want a phone call next time before a threat assessment. ... [T]here is a legal document on file and all school staff must include [the Student's other Parent] on all emails. ... I have rights to copies of all the threat assessment information and documentation and would like copies immediately.”

64. In the October 4, 2023 email to the Vice-Principal and Principal, the Parent complained about the email updates the District had been sending. The Parent stated: "I need more context in the email updates daily which I have not been getting this week consistently. ... You originally had the daily updates for 1x day first month and I explained that it must be longer because they have not been adequate."
65. On October 4, 2023, the Parent followed up with another email, this time copied to several high-level District staff members and the Wraparound Team. The Parent wrote:
- "Please ensure I am not ever excluded from participation in any threat assessment protocol. ... The IEP is violated, the threat assessment protocol was not followed as it's meant to be, and [the Student] is being targeted and remains being treated unfairly."
66. On October 4, 2023, the Parent sent an email to the Program Administrator in which they expressed concern about a teacher referring to [the Student] as "the special one" and about the Case Manager expressing unwillingness to "acknowledge or reward" the Student for positive behaviors because the Student curses at them. The Parent then asked for "interventions" for the Case Manager, the Principal, and two teachers that would include "training on autism, disability bias and discrimination" and concluded that they would "be utilizing my procedural safeguards."
67. On October 4, 2023, the Parent sent an email to the Student's Japanese Language Teacher to notify them that the Student would be out of school the following week because the Student was going on a family trip to New York. The Parent asked for work the Student could do while he was away, so he would not fall behind. The Parent also stated that the Student would be traveling to Japan in March.
68. On October 9, 2023, the Parent emailed the Program Administrator with questions about how the Student would have access to education and special education services during an anticipated teacher strike. The Parent added:
- "I have not yet heard from several teachers I reached out to re [the Student] being out of town needing [class] work, I've had no communication from any of you, remain without an IEP from [the Program Administrator], no communication about my principal complaint [the Student has had no math teacher most of [this year] and [the Principal and the Case Manager] remain neglectful and unwilling to provide IEP services."
69. On October 12, 2023, a school psychologist, the Case Manager, and the Paraprofessional assigned to the Student prepared a Function-Based BSP. This BSP document is based existing information about the Student rather than on formal assessment, because the Parent had refused consent for new assessment. Several preexisting BSPs (one from a middle school the Student had attended, one from the Therapeutic School, and one

titled [High School]—SES Behavior Support Plan (BSP), which was had been developed by the Parent and the Program Administrator, based in part on the Student’s BSPs from other schools. The Student’s School adopted the October 12, 2023 BSP because the BSPs were not meeting the Student’s needs.

70. An October 16, 2023 incident report states that, when offered help with a math assignment, the Student replied with threats. Disposition: Re-taught rule.
71. An October 16, 2023 incident report states that the Student disrupted class by playing with a Halloween mask and didn't respond to multiple re-directions by adults. Disposition Redirection, Conference.
72. An October 19, 2023 incident report states that the Student was dysregulated and disruptive through class period, and exhibited vulgar language, defiance, threats, mock violence, leaving the classroom, and slamming doors. The Student took a peer's skateboard and tried to do tricks in the classroom. Disposition: Re-taught rule.
73. An October 20, 2023 incident report states that the Student ran up and down the hallway using profanity and racial slurs. Disposition: Re-taught rule.
74. An October 25, 2023 incident report states that the Student repeatedly directed derogatory words involving sexual orientation to another student. Disposition: early response.
75. An October 26, 2023 incident report states that the Student took a teacher’s hall pass and threw it out a window. Disposition: None or none recorded.
76. An October 26, 2023 incident report states that the Student used homophobic language toward another student. Disposition: early response, apology, and restorative process.
77. An October 26, 2023 incident report states that the Student was using racial slurs in class and used a phone cord to whip other students while saying, “I’m gonna whip you (nwords), like slavery.” Disposition: Escalated Response, Conference & Restorative Process (w/other action).
78. An October 26, 2023 incident report states that the Student call the math teacher a “retarded ass bitch”. The Disposition: Early response, Apology, & Restorative Process (w/other action).
79. An October 27, 2023 incident report states that the Student went into Student Services and was asked to leave. The Student responded by saying, “f-you, f-you, and f-you the most” to a staff member and a volunteer. Disposition: Severe Response, suspension-out of school.

80. On October 31, 2023, the Assistant Director of Special Education sent an email to High School staff stating the following:

"Attached to this email are the slides about escalation cycles from the district's Board Certified Behavior Analysts (BCBAs). They were scheduled to deliver this training about escalation cycles on 10/24, but it was rescheduled."

"Also attached is [the Student's] plan for managing escalating behavior. This student's IEP states that all staff in the building are trained on his escalation cycle. So if you are a current staff member at [the High School] please find time to review these attachments and let me know if you have any questions."

81. District teachers were on strike November 1-26, 2023, which included 11 instructional days. During this period, neither the administrative staff nor the Parent were able to get information to or from the Student's teachers.
82. On November 6, 2023, the Program Administrator sent an email to both Parents, the Vice Principal, and the Assistant Director of Special Education. Attached to the email was Communication Plan with a stated goal of establishing effective home-school communication focusing on the Student's academic learning, social-emotional learning, and progress toward IEP goals.

The Communication Plan identified three point-persons, defined what issues the Parent should direct to each point person, what communication modalities (phone, email, Google Meets, or in-person) the Parent should use, and how frequently the Parent should communicate with District staff. The Communication Plan noted that the District would send emails to the Parents only and would not copy any out-of-district email addresses. In addition, the Communication Plan asked the Parent to "send a new email with a new subject line for each query".

83. On November 6, 2023, the Parent sent an email to the Program Administrator and the Chief of Student Support Services, stating: "I won't be following that plan and will be emailing [Chief of Student Support Services] instead until our rights are treated fairly. I've since filed several complaints which have not been addressed and [the Student] continues to be threatened and suspended and it is not okay to tell me where when and how and to whom to speak to" (Exhibit D-3 Page 1800) On the same date, the Parent sent another email addressed to the Chief of Student Support Services and copied to several other people, including the Program Administrator, the Special Education Director, and the Wraparound Team. This email reiterated the Parent's rejection of the Communication Plan as follows, in part, below:

"You came to me with this plan and it even requests how you want the subject line. Please share the policy requiring my communication to adjust to your needs. I don't agree with this plan and I will continue to advocate the email continue as

a thread as that is when we don't have issues and what we did at our last school and for years. You can't make a mistake if you are always replying to the same team. So leave my team and do not try and silence our voice. If you want a plan and are overwhelmed then you can request a meeting with me."

84. The Parent continued to email frequent and lengthy reiterations of ongoing disagreements with District staff about the Student's IEP and continued to disregard the terms of the Communication Plan.
85. The Parent's emails frequently included demands for PWN. On November 15, 2023, the Assistant Director of Special Education stated: "Regarding the PWN request, we only use this tool to inform the IEP process and decisionmaking. [sic]"
86. The teacher strike ended on November 26, 2023, and classes resumed the following day. **(undisputed)**
87. A November 29, 2023 incident report states that the Student came up behind a peer and put both hands around his neck; the peer was startled, turned around, and slapped the Student. Disposition: Severe Response, loss of privilege and restorative process.
88. A December 1, 2023 incident report states that the Student and a peer exchanged verbal insults and profanity and escalated to physical contact. In a meeting with the Dean of Students, the two agreed to avoid each other, but later in the week, they resumed their inappropriate interactions. The Disposition: early Response, loss of privilege.
89. A December 7, 2023 incident report states that the Student disrupted the learning of others by yelling "shut up" "stop yapping", and "nobody cares" at the teacher. Disposition: restorative process.
90. A January 10, 2024 incident report states that the Student harassed a peer, including repeatedly touching the peer without permission, pretending to kick or hit, taking the other student's items off their desk, threatening, sitting on the peer, and using racial slurs. Disposition: restorative process, mediation, conference, apology.
91. On January 11, 2024, the Assistant Director sent an email to the Parents as a response to "multiple emails sent in the several weeks regarding [the Student]'s IEP and special education program."

Included in this email were:

- a. Several attachments, including a copy of the July 25, 2023 IEP, PWNs regarding the Student's eligibility and IEP, a copy of the [High School]--SES Behavior Support Plan, which the Assistant Director identified as "the behavioral support plan being implemented".

- b. A summary of the Student's status, including statements that the Student's services and accommodations were being implemented daily, and that most of the SDI was provided within the general education classroom.
- c. A statement that: "[District] staff will only send email communication to [the Parents]. Any communications you wish to share with outside agencies or services providers will be your responsibility."
- d. A response to the Parent's emails related to staff training on the BSP, stating that "staff directly supporting [the Student] received training as a priority [and] the rest of the staff received training via email on October 30, 2023."
- e. A response to the Parent's emails related to discipline: [The Student] has received 2 days of suspension this school year. There has been no additional exclusionary discipline."
- f. A response to several email inquiring about IEP services:
"These issues will need to be addressed in an IEP meeting. These issues cannot be addressed via email or text message. The district has unsuccessfully been attempting to arrange an IEP meeting with you for several weeks. ... At this juncture in [the Student]'s education, and to address your concerns, it is important to collaborate as a team for a robust and supportive review of [the] Individual Education Program. ... Although you have declined our offer of mediation with up to \$5,000 for lawyer fees and IEP facilitation, we need to schedule [the Student]'s IEP review and would like to, again, encourage your participation."

"I anticipate an in-person meeting and we are happy to provide remote accommodations for you or [the Student]'s team members if you prefer. We are also happy to welcome any of [the Student]'s community team members you wish to invite. We are looking forward to creating an agenda with you, both, to address [the Student]'s needs and your parental concerns. One of your concerns has been the delivery of training to staff around the escalation and de-escalation cycle quarterly. ... We are also working on re-reviewing and tailoring the training for quarter two and any new circumstances. These issues, as well as building/district communication, consent for a Functional Behavior Assessment to inform a new Behavior Support Plan, data tracking, discipline, and others, will be discussed to determine a plan that works best for [the Student] We also welcome receipt of the latest community/home-based BSP to ensure consistency across settings."

92. The Parent replied in detail to the Assistant Director's email, disagreeing with most on the content and repeating allegations that the District was not following the IEP and the 2020 mediation agreement. Regarding the proposed FBA and revised BSP, the Parent stated:

"I will NEVER agree to this until the IEP I mediated for years ago is followed to full fidelity and I said this before so stop disrespecting my boundaries around this."

We do not and will not agree that it has been implemented. So provide proper training to your team and implement it. We have robust evidence of his antecedents and there is no need for a FBA. There is need for training to you and all the staff and the team around many things but [the Student] being assessed is not one of them.”

The Parent concluded with a refusal to provide the requested community /home-based BSP and a request for a higher offer of attorney fees to facilitate the Parent’s participation in mediation. The Parent wrote:

“If I do not hear back by end of day On Friday that you have increased the max to 11K for a fair file review and to cover a full day of a meeting at a reasonable rate of \$300 a hour to avoid me going into debt or in the hospital then we remain stuck and I will file my complaints and move forward as I have been urged to do by many witnesses. I think this would be much easier. Again 20 hour file review plus 4 hour IEP meeting and 1.5 day mediation (potentially) -- as per the state mediation agreement info manual and prep hours = $20 + 12 + 4 = 36 \times 300 = \$10,800.00$.”

93. A January 22, 2024 incident report state the Student repeatedly used an iPad for non-work related videos and taking of unauthorized pictures of other students. The Student took another student’s phone would not give it to the teacher or the para. Disposition: re-taught rule.
94. A January 31, 2024 incident report states that the Student wandered around the school and entered the library during a class. The teacher asked the Student to return to class. The Student called the teacher “the N-word”. Disposition: early response and loss of privilege.
95. A January 31, 2024 incident report states that the Student walked down the halls using graphic sexual language and racial slurs. Disposition: early response and loss of privilege.
96. A February 7, 2024 incident report states that the Student and other students were playing "doorknob" which includes physically trying to stop others from touching the doorknob, punching and kicking one another, making sexual gestures and calling one another "gay" or calling their actions or words "gay". Disposition: early response.
97. A February 12, 2024 incident report states that the Student repeatedly and loudly used “the n word” and yelled sexual comments. Disposition: None or none recorded.
98. A February 12, 2024 incident report states that the Student was harassing a peer. School staff met with both students, and they were asked to stay away from each other and

stop name calling. Soon the Student was again addressing the other student with racial slurs. Disposition: escalated response, restorative process, and suspension-out of school.

99. On February 14, 2024, the Parent went to the High School for an appointment with the school nurse and to pick up the Student's assignments and a hard copy of the IEP. While in the nurse's office, the Vice-Principal greeted the Parent with campus security and reminded the Parent about the November 6, 2023 parent school "Communication Plan", which provided that the Parent must direct all communication with High School staff to the Vice Principal. The Parent replied, "No, you made that. I didn't agree to it. So you made that. I'm not in agreement with it, so I don't need to do that." A half hour exchange ensued in a High School hallway, first involving the Parent and the Vice Principal and later including the Principal. In this standoff, the Parent refused to leave. The Vice Principal said that it was inappropriate to have the conversation in the hallway, and reiterated that the Parent needed direct communications through the Vice Principal. The Parent demanded a copy of "the IEP that you guys are following" and added, "If I were a substitute today and I needed [the Student's] plan, I want you to give me what you would give me, and I want that. And I requested it, and I don't agree with your plan."
100. A February 19, 2024 incident report states that the Student escalated a paper basketball game to a full contact sport—grabbing, shoving, kicking, chasing and throwing things at peers. Disposition: class exclusion.
101. A February 19, 2024 incident report states that the student was saying vulgar and derogatory things in class. After repeated warnings, the Student taunted with a racial slur and argued with the teacher. Disposition: The teacher told the Student to "take a walk".
102. On February 19, 2024, the Principal wrote a letter to the Parent establishing a clear guideline for the Parent's visits to the school, as follows verbatim:

"All visits that require you to enter the [High School] building will require an appointment at least 24 hours in advance. This does not include attendance to after school events such as athletics.

All appointments will be scheduled with [the] Vice Principal and take place in the main office conference room with [the Vice Principal] in attendance.

All appointments will be required to have an agenda provided at the time of scheduling the appointment and meetings will not deviate from the agenda.

Refrain from using loud and verbally abusive language that may be threatening or intimidating in nature. Otherwise the meeting will end immediately.

When asked to leave by administration or Campus Security, will leave immediately.

If you feel that you have something that cannot wait, contact [the] Vice Principal via phone or email.

If these guidelines cannot be followed, [the] High School will have to take further action and trespass you from our campus.”

103. A February 26, 2024 incident report states that the Student entered a classroom where [they] didn't belong and initiated a verbal altercation with another student. Disposition: re-taught rule.
104. A February 28 2024 incident report states that the Student stood in the hallway and loudly used racial slurs and profanity. Disposition: re-teaching the rule.
105. A February 29, 2024 incident report states that the Student attempted to go into a classroom where they did not have a class. When two staff persons prohibited the Student from entering the classroom, the Student spoke to them in vulgar, insulting, and racially derogatory terms. Disposition: one-day suspension.
106. A March 4, 2024 incident report states that the Student was loudly rapping sexually explicit lyrics and refusing to stop when told to. Disposition: None or none recorded.
107. A March 4, 2024 incident report states that the Student defied a teacher's directions. Disposition: None or none recorded.
108. A March 6, 2024 incident report describes the Student's disruptive, vulgar, racially abusive, and threatening language toward a peer on the school bus. Disposition: threat assessment.
109. A March 7, 2024 incident report stated that the Student and a peer spoke about a female classmate in graphic sexual detail. Disposition: Loss of an unspecified privileged.
110. On March 20, 2024, the Parent sent an email to the Vice Principal and unspecified other District staff asking for all of the Student's records from September 1, 2023 onward.
111. An April 2, 2024 incident report stated that the Student addressed a teacher with a racial slur and then made vulgar and threatening hand gestures. Disposition: One day suspension.
112. An April 2, 2024 incident report stated that the Student repeatedly insulted another student's appearance and used racially harassing language. Disposition: One day suspension.

113. An April 10, 2024 incident report states that the Student was rude to a teacher and then walked out of class.
114. An April 12, 2024 incident report states that the Student used vulgar language and addressed two staff members with racial and sexual orientation epithets. Disposition: One day suspension.
115. An April 26, 2024 incident report states that the Student called another student a “fat bitch”.
116. An April 26, 2024 incident report states that the Student propped open an exterior door.
117. An April 29, 2024 incident report described a series of inappropriate Student behaviors, including a threatening comment to another student, loud vulgar language, leaving the classroom, watching a YouTube video with the volume turned up, and using racial slurs.
118. An April 30, 2024 incident report stated that the Student climbed onto a table in the library and used vulgar language when the librarian told him to get down. Disposition: One-day suspension.
119. An April 30, 2024 incident report stated that the Student went into class and flipped up the screen that the teacher was using. The teacher asked if [they were] okay, [the Student] replied with vulgar language. Disposition: One day suspension.
120. On May 7, 2024, the District conducted a Manifestation Review regarding the Student’s use of abusive/profane language directed at teachers in the library on April 30, 2024. Participants included both Parents, the Vice Principal, the Special Education Director (Director), the Case Manager and a general education teacher. Meeting Minutes from the Manifestation Review chronicle the meeting as summarized below:
 - a. At the beginning of the meeting, the Parent noted that the IEP that was distributed at the meeting was only 22 pages long, and the correct IEP was 30 pages long. The Parent stated that the BSP attached to the IEP was not the correct one; the District should have been using the High School SES BSP rather than the Function-Based BSP developed by District staff on October 12, 2023. The Parent also asserted that “nobody except [District School Psychologist] and me” should have done the escalation training because “that’s what we mediated for.”
 - b. The Team reviewed the Student’s discipline history and found that 7/10 days of suspension were for profanity directed at staff. The Team noted that a manifestation determination related to similar behaviors 5 years earlier determined that the behavior was a manifestation of the Student’s OHI.

- c. The Team agreed that the IEP had been implemented during the 2023-24 school year but there was but there was disagreement about which BSP had been or should have been implemented. Because the BSP is a component of the IEP, the Director ultimately accepted the Parent's assertion that the behavior was a direct result of the District's failure to implement the IEP.
- d. The Team reviewed criteria for two of the Student's three eligibility categories and decided that the Student's conduct was caused by or had a direct and substantial relationship to the Student's disabilities.

121. On May 8, 2024, the Parent filed this Complaint.

122. On November 20, 2024, the Parent revoked consent for the provision of special education services to the Student.

IV. DISCUSSION

Parent Participation

The Parent alleges that the District violated the IDEA by preventing meaningful parent participation.

The right to parent participation is one of the core principles of the Individuals with Disabilities Education Act (IDEA). Parents are members of their children's IEP Teams,⁸ and The Office of Special Education Programs (OSEP) at the US Department of Education, has long interpreted the parent role as "equal participants along with school personnel, in developing, reviewing, and revising the IEP."⁹ The US Supreme Court has repeatedly emphasized the critical role of the parents as IEP Team members.¹⁰

Parents of children with disabilities are entitled to participate in numerous special education decision-making processes:

- a. Parents have the right to participate in meetings related to the identification, evaluation, placement, and the provision of a free appropriate public education (FAPE).¹¹
- b. In addition to being members of their children's IEP Teams, parents have the right to add other persons who "have knowledge or special expertise about the child" as team members.¹²

⁸ OAR 581-015-2210(1)(a); 34 CFR §300.321(a)(1)

⁹ 34 CFR Appendix A to Part 300 (1999)

¹⁰ See e.g., Bd. of Educ. v. Rowley, 458 U.S. 176 (1982); Schaffer v. Weast, 546 U.S. 49 (2005); Endrew F v. Douglas County School Dist. RE-1, 580 US 386 (2017)

¹¹ OAR 581-015-2190(1); 34 CFR §300.501(1)

¹² OAR 581-015-2210(1)(g)(A); 34 CFR §300.321(a)(6)

- c. The IDEA permits school districts to hold IEP meetings without a parent present only if the district is unable to convince parents to attend.¹³ The 9th Circuit Court of Appeals has held that parent participation takes priority over the schedules of school personnel or precise adherence to IDEA timeline for IEP review.¹⁴
- d. School districts must schedule meetings at a mutually agreeable time and place and must provide notice of meetings sufficiently in advance to ensure that parents have an opportunity to attend.¹⁵ The meeting notice must describe the purpose of the meeting, identify who will attend, and inform parents that they may invite persons who have special knowledge or expertise about the child.¹⁶

Parent participation is not a pro forma exercise. The US Supreme Court has stated that developing an appropriate IEP is a “fact-intensive exercise will be informed not only by the expertise of school officials, but also by the input of the child’s parents or guardians.”¹⁷

The Parent in this case alleged that the District infringed their parental participation rights in numerous ways, each of which the Department discusses below.

The Parent alleged that the District infringed their IDEA parent participation rights by scheduling meetings without coordinating with the Parent to find a mutually agreeable time and without providing sufficient advance notice. The record does not support this allegation. The District provided Notice of Team Meeting as follows:

- a. June 5 notice for June 12 meeting
- b. July 14 notice for July 25 meeting
- c. August 14 notice for August 25 meeting
- d. August 31 and September 5 notice for September 12 meeting
- e. September 21 notice for October 2 meeting

For every team meeting during the Complaint period, the District sent meeting notice at least seven days in advance and often more.

The Department does not substantiate this portion of the allegation.

The Parent alleged that the District infringed their IDEA parent participation rights by scheduling meetings without inviting the Student’s Wraparound Team, a group of persons the Parent invited to be IEP Team members because they have knowledge or special expertise about the Student. However, while the IDEA requires Districts to provide adequate meeting notice and invitation to parents, it does not require Districts to provide a meeting notice or invitation to

¹³ OAR 581-015-2195

¹⁴ Doug C. v. Haw. Dept. of Educ., 720 F.3d 1038 (9th Cir. 2013)

¹⁵ OAR 581-015-2195(1); 34 CFR §300.322(1)

¹⁶ OAR 581-015-2190(2); 34 CFR §300.501(2)

¹⁷ Endrew F. at 999

persons invited by the family. In this case, District staff was reluctant to take on the cumbersome task of coordinating with the Wraparound Team members in addition to its responsibility to schedule the many District staff members who needed to participate in the Student's meetings. In addition, the District was concerned about the risks of inadvertently disclosing confidential information about the Student to unauthorized persons. After one incident involving disclosure of a confidential assessment report without a signed release of information, the District informed the Parent that staff would not send emails to or reply-all to anyone with a non-District email address. Expecting the Parent to be responsible for communicating with Wraparound Team members about meeting was not unreasonable and was not a violation of any IDEA provision.

The Department does not substantiate this portion of the allegation.

The Parent alleged that District staff infringed their IDEA parent participation rights by meeting to discuss the Student's special education services without inviting the Parent to participate. Meeting notices, meeting minutes, prior written notices, emails, audio recordings of formal and informal meetings including District staff and the Parent, Parent comments in the Complaint and Reply to the District Response reflect near continuous parent involvement in discussion and decision-making about the Student's special education.

Parents' rights to participate in meetings related to their children is not unlimited. School personnel are not required to include parents in "informal or unscheduled conversations ... on issues such as teaching methodology, lesson plans, or coordination of service provision."¹⁸ District staff who had daily contact with the Student would have necessarily had the sort of ad hoc meetings to which the District was not obligated to invite the Parent. Such staff interaction would relate directly or tangentially to questions of special education methodology, curriculum, behavior support, or student discipline. Had District staff gone beyond such routine discussions among professionals and constituted de facto IEP modifications, the District would have overstepped. However, the documents and audio recordings available to the Complaint Investigator offered no evidence that the District convened IEP meetings without including the parent, nor did they reveal any stealth usurpation of IEP Team authority outside of IEP meetings.

The Department does not substantiate this portion of the allegation.

The Parent alleged that District staff infringed their IDEA parent participation rights by frequently not responding to emails. Even if the evidence supported that allegation, it would not constitute an IDEA violation. Nothing in the IDEA requires frequent school-family communication. The statute requires communication when necessary to share student progress toward IEP goals and communication about necessary meetings relating to the identification, evaluation, placement, or the provision of FAPE. An IEP Team may determine that more

¹⁸ OAR 581-015-2190(4); 34 CFR §300.501(3)

frequent communication is necessary, and the terms and conditions for that communication should be clearly described in the IEP. In this case, the Parent's frequent and often lengthy emails were burdensome to staff, who had to tend to the needs of many other students in addition to the Student.

The Department does not substantiate this portion of the allegation.

The Parent alleged that the District infringed their IDEA parent participation rights by imposing time, place, and conduct limitations on the Parent's visits to the Student's school. The IDEA is silent on the question of a Parent's visits to a student's school. However, any school action that infringes a parent's entitlement to participate in IEP decision making would violate the IDEA and could constitute a denial of FAPE.¹⁹ Establishing a communication protocol to maintain efficient operation of the school and to protect staff against excessive and/or insulting or abusive communications does not violate the IDEA unless it restricts a parent's ability to exercise IDEA parent participation rights.²⁰ In this case, the terms of the communication protocols expressly outline the means by which the Parent could effectively communicate with District staff. The protocols manifestly did not unduly restrict parent participation opportunities. Throughout the entire Complaint period, the Parent remained deeply involved in decision-making related to the Student's special education.

The Department does not substantiate this portion of the allegation.

The Parent alleged that the District infringed their IDEA parent participation rights by excluding them from development or revision of a behavior support plan (BSP). The Student in this case exhibited behavior that interfered with their learning and that of other students, and the IEP Team was in full accord about the Student's need for behavior support. The Parent insisted that the District adopt practices recommended in a psychological evaluation report from the year 2020, when the Student's educational circumstances were very different from those of a 15-year-old attending a comprehensive high school three years later. The District attempted for months to develop and/or revise an existing BSP from the Therapeutic School and with revisions based on data about the Student's current behavior support needs at the High School. However, the Parent refused consent for behavioral assessment. Because the Student's behavior was chronically disruptive, and the unrevised existing BSP was not effective, District staff developed a BSP based on available information.

The IDEA requires informed parental consent for reevaluation. If a parent refuses to consent, a school district may, but is not required to, pursue reevaluation through the use of IDEA dispute resolution procedures.²¹ The IDEA is silent on the question of whether a Functional Behavior Assessment is an assessment that requires parent consent. The Office of Special Education

¹⁹ W.G. v. Bd. of Trustees of Target Range Sch. Dist. No. 23, 960 F.2d 1479 (9th Cir. 1992)

²⁰ Forest Grove School District v. Student, 73 IDELR 115 (D. Ore. 2018)

²¹ OAR 581-015-2090(5); 34 CFR §300.300(a)(3)

Programs (OSEP) considers an FBA an evaluation or reevaluation requiring parent consent when it focuses on the educational and behavioral needs of a specific child.²² In this case, the FBA would have been a reevaluation requiring parent consent, but the District did not attempt to override the Parent's refusal of consent. The District instead chose to use existing information to inform its methods of addressing the Student's misconduct. Parent consent is not required before using existing information as part of a reevaluation.²³

The Department does not substantiate this portion of the allegation.

The Parent alleged that the District infringed their IDEA parent participation rights by not allowing the Parent to provide or participate in "managing escalating behavior" staff training. The Parent further alleged that the District was obligated to provide such training to all staff in the building but actually trained only those staff members directly involved in the Student's education. The Parent points to the Student's IEP, which includes a support service for school personnel providing for "SpEd/Gen Ed collaboration for [the Student's] Behavior Support Plan, escalation cycle, and training for all staff" as a mandate for training all staff in the school.²⁴ The Department finds the personnel support services described by the IEP Team to be vague and unclear, but they do not explicitly require the District to train all school staff on managing the Student's escalating behavior. Staff training is in the exclusive purview of the District. Nothing in the IDEA requires school districts to allow parents to conduct staff training, participate in staff training, or even be present during staff training. IEP Teams have no authority to shift staff training responsibilities from the school districts to parents.

The Department does not substantiate this portion of the allegation.

The Parent alleged that the District infringed their IDEA parent participation rights by conducting online training prepared by a District board certified behavior analyst (BCBA) and distributed to District staff via email without the parent's input about what works for the Student. Staff training is in the exclusive purview of school districts. Nothing in the IDEA mandates that school districts consult with parents about the content of staff training, the provider of the training, or the medium through which staff training is delivered.

The Department does not substantiate this portion of the allegation.

The Parent alleged that the District infringed their IDEA parent participation rights by not providing accommodations to facilitate the Parent[s] meaningful participation in meetings.

The IDEA prioritizes parent participation in meetings related to their children's special education. In Oregon and other states within the 9th Circuit, a school district may not hold an

²² OSEP Letter to Christensen (February 9, 2007)

²³ OAR 581-015-2095(1); 34 CFR §300.300(d)(1)

²⁴ The Department notes that dozens of people (administrators, counselors, teachers, specialists, paraeducators, support staff, etc.) worked at the Student's High School during Complaint Period. A small fraction of that number may have worked directly with the student.

IEP meeting without including parents “unless they affirmatively refuse to attend”.²⁵ Districts must “take whatever action is necessary to ensure that the parent understands the proceedings at a meeting, including arranging for an interpreter for parents who are deaf or whose native language is other than English.”²⁶ Districts must offer parents alternative modes of participation, “including, but not limited to, individual or conference phone calls or home visits.”²⁷ Although the IDEA expressly requires those accommodations, the statute suggests that other accommodations may be needed to ensure parent participation.

In this case, the Parent asked for a number of accommodations: in-person rather than remote meetings, including the Wraparound Team in all meetings, hard copies of all meeting agendas at least a week in advance, sufficient time scheduled for each meeting, and the opportunity to audio record meetings. Those accommodations go well beyond IDEA requirements, but the written and audio documentation for all meetings the Parent was entitled to participate in appear to have provided all or substantially all of those accommodations. On at least one occasion, the Parent did not receive a hard copy of the agenda before the meeting. Despite any lapses, the Parent attended and fully participated in all meetings.

The Parent also asked for a monetary accommodation to facilitate the Parent’s participation in mediation related to the Student’s special education. The District agreed to pay up to \$5000 for the Parent’s attorney fees. The Parent rejected the \$5000 cap and asked for almost twice that much. The IDEA does not mention payment of a parent’s attorney fees as an accommodation, and the Department knows of no judicial precedent that would require such accommodation.

The Department does not substantiate this part of the allegation.

The Parent alleged that the District infringed their IDEA parent participation rights by not considering recommendations that the Parent shared from providers outside the District. The Parent has assembled a Wraparound Team of individuals who have knowledge or special expertise about the Student. This group included social workers, therapists, advocates, and agency representatives. At least some of these individuals attended or had opportunities to attend most remote and/or in-person meetings of the Student’s IEP Team. The Parent also provided to the District assessments from outside providers. The IEP Team listened to and considered input from Wraparound Team members. The IEP Team reviewed and considered the content of all assessments, regardless of the source. The IDEA does not require IEP Teams to agree with or adopt the recommendations of outside providers. In this case, the IEP Team sometimes adopted recommendations from outside providers and sometimes determined that other options were necessary to address the Student’s unique educational needs.

The Department does not substantiate this portion of the allegation.

²⁵ Doug C. at 1044

²⁶ OAR 581-015-2190(3)

²⁷ OAR 581-015-2195(2)

IEP Team Considerations and Special Factors

In developing or revising an IEP, the Team must consider several special factors, including the concerns of the parent for enhancing the education of their child.²⁸ For a student whose behavior impedes the student's learning or that of others, the Team must consider the use of positive behavioral interventions and supports, and other strategies to address that behavior.²⁹

The documentation for this case shows that the Student had a long history of problematic behaviors that interfered with the learning of the Student and peers. The Student's IEP contains unusually extensive and detailed parent input, including detailed history of the Student's challenges and explanations of interventions recommended by outside providers. The IEP and many other documents provided to the Complaint Investigator by both the District and the Parent demonstrate the District's attention to the Parent's concerns for the Student's education and consideration of the behavior support methods recommended by the Parent, the Wraparound Team, and outside providers.

The Department does not substantiate this allegation.

Content of IEP

An Individualized Education Program (IEP) is a written statement of an educational program which is developed, reviewed, revised and implemented for a school-aged child with a disability.³⁰ The definition of IEP in the federal IDEA regulations specify that an IEP must be developed, reviewed, and revised in accordance with regulations describing required participants, the process of development, review, and revision of the IEP, and IEP implementation.³¹ These federal regulations and state administrative rules are unambiguous in their requirement that an IEP is to be developed by an IEP team that includes the parents, that occurs in the context of a meeting of the entire IEP team including the parents,³² unless the school district is unable to convince the parents to participate.

At an IEP meeting to develop or review and revise an IEP, the IEP team must review all required IEP components:

- a. A statement of the student's present levels of academic achievement and functional performance, including how disability affects the student's involvement and progress in the general education curriculum;

²⁸ OAR 581-015-2205(1)(b); 34 CFR §300.324(a)(ii)

²⁹ OAR 581-015-2205; 34 CFR §300.324(2)(i)

³⁰ OAR 581-015-2000 (15); 34 CFR §300.23

³¹ OAR 581-015-2190 through 581-015-2235; 34 CFR §§300.320 through 300.324

³² Under some circumstances, the parents and district may agree in writing to excuse the attendance of one or more members of the IEP Team. OAR 581-015-2210(3); 34 CFR §300.321(e)

- b. A statement of measurable annual goals, including academic and functional goals, (and, for children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of short-term objectives);
- c. A description of how the child's progress toward meeting the annual goals will be measured and when periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided;
- d. A statement of the specific special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the student;
- e. The projected dates for initiation of services and modifications and the anticipated frequency, amount, location and duration of the services and modifications;
- f. An explanation of the extent, if any, to which the child will not participate with children without disabilities in the regular class and activities; and
- g. A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on State and districtwide assessments.

The Student's July 25, 2023 IEP, which was in effect throughout the Complaint period, nominally included all required IEP components. It was based largely on the IEP developed at the Therapeutic School, and little of the content was changed. Most notably, the IEP included no present levels of academic achievement or present levels of functional performance more sufficient to establish a baseline for development of measurable goals. Almost every goal included a statement that the Student had already reached or nearly reached "in a more restrictive setting". It is unclear why goals that the Student reportedly achieved at the Therapeutic School would appear on the Student's IEP to be in effect at the High School. However, given the lack of recent assessment information and baseline data, it would have been difficult for the IEP team to develop goals that the Student could reasonably be expected to reach in the one-year effective period of the IEP.

The IEP describes the Parent's concerns for the education of the Student in unusual length and detail. The Parents' disagreement with the District is not whether the components are addressed but rather that some specific IEP content differs from their preferences. For example, the Parent firmly believes that IEP content, especially accommodations and behavior supports from earlier years, was essential to the Student's development and should appear in the current IEP. However, focusing in 2023-24 on content that may have been appropriate in 2019-20 undermines a key purpose of the IEP: addressing the Student's present levels of academic and functional performance. Present levels describe a student's baseline at the beginning of the effective period of the IEP. From this baseline, the IEP Team projects out a year and identifies goals that they estimate are attainable within 365 days or less. The Parent alleges that the District violated the IDEA by failing to include in the Student's IEP a variety of services, each of which the Department discusses below:

1. Transition Plan

The IDEA provides that no later than the first IEP to be in effect when the student turns 16, the IEP must include:

- a. Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and
- b. Transition services (including courses of study) needed to assist the student in reaching those goals.³³

The Student was 14 years, 4 months old on July 25, 2023, and would not reach their 16th birthday during the effective period of the IEP. The IEP did not require transition planning during the Complaint period. The IEP Team had the option of beginning transition planning earlier than the IDEA requires, but its choice not to do so did not violate the IDEA.

The Department does not substantiate this portion of the allegation.

2. Positive Behavior Support Plan

A formal behavior support plan or behavior intervention plan is not a required IEP component, even if the student exhibits behavior that interferes with the learning of the student or other students. In fact, the IDEA does not mention such plans except in the context of student discipline. Oregon Administrative Rules (OARs) for the discipline of students with disabilities define “behavioral intervention plan” as an individualized plan, including positive interventions, designed to assist a student to decrease inappropriate behavior and increase or teach an alternative appropriate behavior.³⁴ Federal IDEA regulations do not define behavior intervention or behavior support plan. Both federal IDEA regulations and OARs refer behavior intervention plans within the requirements for manifestation determination, when a school district must determine whether a student’s misconduct that led to exclusionary discipline for more than ten days is a manifestation of the student’s disability.³⁵

In this Complaint, the Parent alleges that the District violated the IDEA by not identifying the causes of the Student’s disability related behaviors and adopting a positive behavior support plan that would enable the Student to access and make progress in the general curriculum. The IEP Team agreed with the Parent that the Student needed a BSP. The Parent, members of the Wraparound Team, and assessment reports from outside providers recommended specific methods of behavior support, including non-violent communication, dialectical behavioral therapy, collaborative problem-solving, and restorative justice, among others. The IDEA does not require school districts to include methodology in an IEP unless a specific method is the only

³³ OAR 581-015-2200(2); 34 CFR §300.320(b)

³⁴ OAR 581-015-2400(1)

³⁵ OAR 581-015-2415(4); 34

way to enable a student to make progress. However, all aspects of a student's special education, including methodology, are open for discussion at an IEP meeting.³⁶ If the IEP Team does not reach agreement on IEP content, including what methodologies a school district should use to address a student's special education needs, the District must make a decision it deems necessary to provide FAPE. Whatever methodology the District adopts must enable the student to make progress, and that progress must be appropriate in light of the student's circumstances.³⁷

The Parent and a Clinical Case Manager from the Therapeutic School provided substantial input about the Student's behavioral history and the behavior support provided at the Student's previous schools. The Student's IEP includes a BSP as an accommodation and specifies the use of some of the Parent's recommended methods. The Program Administrator worked with the Parent to fashion a BSP that incorporated reportedly successful strategies from the past and updated the BSP to fit the Student's current circumstances and the context of the High School. When efforts to implement the BSP proved ineffective in decreasing the Student's inappropriate behavior, the District adopted a Function-based Behavior Support Plan, which also did not lead to a decrease in the Student's misconduct. The Parent refused consent for an FBA, which would have provided current data about triggers for and functions of the Student's misconduct, so the District was not able to develop a BSP that would be appropriate for the Student's current circumstances.

The Department does not substantiate this portion of the allegation.

3. Access to Bluetooth Headphones and a Cell Phone

The IDEA does not include a general requirement for providing access to Bluetooth headphones or cell phones. If an IEP Team determines that a student needs "a particular device or service (including an intervention, accommodation, or other program modification" for the student to receive FAPE, the IEP Team must "make a statement to that effect" in the IEP.³⁸ The Student's IEP does not include any such statement, and the IEP does not include Bluetooth headphones or a cell phone as accommodations or assistive technology. The Parent declined opportunities to revise the Student's IEP after the July 25, 2023 meeting, so the IEP Team was not able to consider whether the Student needed these devices and determine whether they should be included in the IEP.

The Department does not substantiate this portion of the allegation.

4. Food Available to the Student in Class Every 2-3 Hours

³⁶ Hendrick Hudson Dist. Bd. of Ed. v. Rowley, 458 U.S. 176, 207 (1982)

³⁷ Endrew F. v. Douglas Cnty. Sch. Dist., RE-1, 137 S.Ct. 988, 1001 (2017)

³⁸ OAR 581-015-2205(4)

The IDEA does not include a general requirement for making food available to students with disabilities. If a student needs to eat at times other than scheduled school mealtimes for disability related purposes, for example if the student has diabetes, the IEP should include a food-related related service or accommodation. The documentation provided to the Complaint Investigator does not indicate that the Student has a metabolic disorder or other health condition that would require frequent snacks due to medical reasons. However, nothing in the IDEA prohibits an IEP Team from including an accommodation for non-mealtime snacks. In this case, the Student's IEP includes an accommodation for allowing snacks in class and on transportation, though it does not specify any frequency.

The Department does not substantiate this portion of the allegation.

5. Parent Training

The IDEA provides that a school district must provide related services to students with disabilities, including "transportation and such developmental, corrective and other supportive services as are required to assist a child with a disability to benefit from special education."³⁹ Federal and state special education regulations include parent training as a possible related service.

Although the Parent in this case believed that parent training could have benefitted the Student, nothing in the documents the Department has reviewed indicates that the Parent asked for such training or that parent training was required to assist the Student to benefit from special education.

The Department does not substantiate this portion of the allegation.

6. Personnel Training

The IDEA requires IEP Teams to include "supports for school personnel" if necessary for a student to receive FAPE.⁴⁰ The IDEA does not define "supports for school personnel" but it is generally interpreted as including consultation and training. The Student's IEP provides for training on the Student's BSP, escalation cycle, restorative and collaborative processes "for all staff". It is unclear what the IEP Team intended, but the District provided training to staff who worked with the Student rather than all the staff in the High School. While it seems reasonable and practical to provide student-specific training only to those staff members who teach or otherwise support the Student, the District should have given the Parent PWN to explain its refusal to train all staff on issues and methods related to the Student.

The Parent has repeatedly insisted on being involved in staff training on the Student's de-escalation cycle. The records provided to the Complaint Investigator indicated that the District

³⁹ OAR 581-015-2000(28)/ 34 CFR §300.34

⁴⁰ OAR 581-015-2200(1)(d); 34 CFR §300.320(a)(4)

provided staff training to staff. Nothing in the IDEA authorizes parents to train school district staff or participate in any way in staff training. Staff training is a function of school administration, not of parent participation in special education. Because the Parent's request to be involved in staff training was a request directly related to the provision of FAPE, the District should have given the Parent PWN of its refusal to include the Parent in staff training.

The Department does not substantiate this portion of the allegation.

Extended School Year (ESY)

The Parent alleges that the District did not make an individualized determination about whether the Student required ESY in order to receive FAPE.

Extended school year (ESY) services means special education and related services provided to a student with a disability beyond the normal school year, in accordance with the student's IEP; and at no cost to the parents.⁴¹ The purpose of ESY is not to teach new skills but to maintain the student's learning over breaks in the school schedule.⁴² School districts must develop criteria for determining the need for extended school year services. Criteria must include regression and recoupment time based on documented evidence or, if no documented evidence is available, based on the team's professional judgement.⁴³

Any decision about the Student's ESY eligibility for summer of 2023 would have occurred during the 2022-23 school year, while the Student was enrolled in a neighboring school district. A decision about the Student's ESY eligibility for the summer of 2024 would have been made by the Student's IEP Team during the spring 2024, after District staff had determined whether the Student regressed during school breaks or required an extended time to recoup after a break. However, the Parent was unwilling to participate in an IEP meeting at any time after October 2, 2023, effectively preventing the Student's IEP Team from discussing and deciding whether the Student needed ESY services.⁴⁴

The Department does not substantiate this allegation.

When IEPs Must be In Effect (IEP Implementation)

The IDEA provides that at the beginning of each school year, school districts must have in effect an IEP for each student with a disability.⁴⁵ A school district must make special education and related services available to a student in accordance with an IEP.⁴⁶ The IEP of a student with a

⁴¹ OAR 581-015-2065(7); 34 CFR §300.106(b)

⁴² OAR 581-015-2065(4)

⁴³ OAR 581-015-2065(5); 34 CFR §300.536(s)

⁴⁴ The District's Response to the Complaint notes that the Student's IEP Team met in early June, after the end of the Complaint period. The Team reviewed determined that the Student did not qualify for ESY services for the Summer of 2024.

⁴⁵ 34 CFR §323(a); OAR 581-015-2220(1)(a)

⁴⁶ 34 CFR §300.323(c)(2); OAR 581-015-2220(1)(b)

disability must be accessible to teachers and other service providers responsible for IEP implementation, and inform all providers what of their specific responsibilities regarding implementation of the IEP.⁴⁷

The Parent alleges that the District violated the IDEA by not providing several specific services as determined by the IEP Team and included in the Student's IEP.

1. A Behavior Support Plan, as developed by the IEP Team in the Student's previous school.

At the beginning of the 2023-24 school year, the July 25, 2023 IEP was in effect. It included an BSP as an accommodation, but it did not specify the BSP from the Therapeutic School. The District worked with the Parent to create a BSP that would meet the Student's needs at the High School, but did not reach agreement on all the terms of a revised BSP. The documents provided by the District and the Parent include at least four BSPs: one from a middle school the Student had attended several years earlier, one from the Therapeutic School, one titled [High School] Behavior Support Plan (BSP), and one titled Worksheet for Function-Based Support Planning. The District and the Parent disagree about which BSP was in effect during the Complaint period. The Parent and the Program Administrator worked on developing a BSP that incorporated elements of the Therapeutic School BSP, but records provided to the Complaint Investigator indicate that the IEP Team never adopted any specific BSP.

The Department does not substantiate this portion of the allegation.

2. Math Specially Designed Instruction

The July 25, 2023 IEP includes a single annual goal for math and provides for math SDI 30 minutes per week, a supplement to the Student's regular math class. The Student's IEP provided that SDI, including math SDI, would be provided by the Special Education Teacher in a general education setting. The Student's math SDI was available throughout the school year, but the Student sometimes chose not to accept this service. In addition, the Student further missed opportunities due to frequent breaks and disruptive behavior.

The Department does not substantiate this portion of the allegation.

3. Food Accommodations

Nothing in the documentation indicates that the District refused to allow the Student to have snacks in class or on transportation.

The Department does not substantiate this portion of the allegation.

⁴⁷ 34 CFR §300.323(d); OAR 581-015-2220(3)

4. IEP Progress Reports

It is important to track the progress of students with disabilities to monitor whether they are benefiting from their IEPs and to communicate with parents about the progress. The IDEA provides that an IEP include “A description of how the child's progress toward meeting the annual goals will be measured and when periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided.”⁴⁸

The Student’s IEP provides for quarterly progress reporting on all of the Student’s annual IEP goals. The District did not provide quarterly progress reports, but instead the Vice-Principal provided the Parent with frequent (at least weekly) updates about each of the Student’s classes and point sheets related to the Student’s performance relative to each IEP goal. In addition, the Parent received copies of the Student’s disciplinary referrals, which provided additional information about the Student’s progress. The Parent received more information about the Student’s progress than the IDEA requires.

The Department does not substantiate this portion of the allegation.

Placement of the Child (Disciplinary Removals of More than 10 School Day)

The Parent alleges that the District has violated the IDEA by changing the Student’s placement without required processes through repeated suspensions and frequent informal removals.

The IDEA provides that a school district may suspend a student with a disability who violates a code of conduct for up to ten consecutive school days in a school year or to the same extent as it could with students who don’t have disabilities.⁴⁹ A disciplinary removal is considered a change in placement requiring IDEA change-of-placement procedures if the student is excluded from school for more than 10 consecutive school days or for more than 10 cumulative school days, and those removals constitute a pattern of exclusion⁵⁰. Within 10 school days of a decision to change the placement of a student with a disability for violation of a student code of conduct, the district, the parent, and relevant members of student’s IEP Team must review all relevant information in the student’s file, including the IEP, teacher observations, and information provided by the parents to determine:

- a. If the conduct leading to discipline was caused by or had a direct and substantial relationship to the student’s disability; or
- b. The conduct in question was the direct result of the district’s failure to implement the IEP.

⁴⁸ OAR 581-015-2200(1)(c); 34 CFR §300.322(A)(3)

⁴⁹ OAR 581-015-2405; 34 CFR §300.530(b)

⁵⁰ OAR 581-015-2415(a); 34 CFR §300.536

If the Team concludes that either of the two are true, the Team must determine that the student's behavior is a manifestation of disability.⁵¹ In that circumstance, the district must return the student to the placement from which the student was removed, unless:

- a. The parent and the district agree to a change in placement;
- b. The school moves the student to an interim alternative educational setting for violations involving weapons, drugs, or infliction of serious bodily injury; or
- c. The district obtains an order from an administrative law judge allowing a change in placement to an interim alternative educational setting for engaging in injurious behavior.⁵²

The district must also conduct an FBA or use a preexisting FBA and develop a BSP or implement an existing BSP.⁵³

If the Team concludes that the student's behavior was not a manifestation of the disability, the district may proceed with the same disciplinary action that it would apply if the student did not have a disability. In that circumstance, the school district may place the student in an interim alternative educational setting selected by the student's IEP Team.⁵⁴ The district must continue to implement the student's IEP to enable the student to participate in the general curriculum and make progress toward IEP goals.⁵⁵ The District must also, if appropriate, conduct an FBA and develop a BSP designed to address the student's behavior so it does not recur.⁵⁶

In this case, the Student's placement was changed through serial suspensions that the District acknowledges constituted a pattern of removal, and the District belatedly convened a manifestation determination meeting. The Team did not reach consensus, but the Director reluctantly agreed that behavior was a manifestation of the Student's disabilities because of an alleged failure of the District to implement the correct BSP.

Regardless of whether the Student's behavior was a manifestation of disability, the District's dilatory response to the Student's pattern of misbehavior caused delay in identifying the Student's unique educational needs related to behavior, revising the IEP as needed, and considering the appropriateness of the Student's placement. Had the District taken decisive action as soon as the Student's pattern of maladaptive behaviors and lack of response to the BSP (or BSPs) became apparent, the Student's behaviors might have been less disruptive to their learning and progress.

The Department substantiates this allegation.

⁵¹ OAR 581-015-2420; 34 CFR §300.530(e)

⁵² OAR 581-015-2415(4)(a); 34 CFR §300.530(f)(2)

⁵³ OAR 581-015-2415(4)(b). 34 CFR §300.530(f)(1)

⁵⁴ OAR 581-015-2415; 34 CFR § 300.530(c)

⁵⁵ OAR 581-015-2415(5); 34 CFR §300.530(e)

⁵⁶ Id

Access to Student Educational Records

The Parent alleges that the District violated the IDEA by denying access to the Student's educational records.⁵⁷

The IDEA provides that the parents of children with disabilities have an opportunity to inspect and review all educational records with respect to the identification, evaluation, placement, and provision of a free appropriate public education of their children.⁵⁸ School districts must provide access without unnecessary delay and must provide copies of records before any IEP meeting, Due Process Hearing, or resolution session, and in no case more than 45 business days after the request has been made.⁵⁹

The Parent requested access to the Student's educational records on September 19, 2023. The District acknowledged receipt of the request on that same day and on September 25, 2023, notified the Parent that the records were available on a USB drive. The Parent also received notice that emails are considered public records, so the Parent would have to file a public records request to access any requested emails. Receipt of student educational records 6 days after the request was well within the IDEA timeline and thus did not violate the IDEA.

The Department does not substantiate this allegation.

Prior Written Notice (PWN)

The Complaint alleges that the District failed to provide prior written notice (PWN) of its decisions. The IDEA requires a school district to give parents PWN within a reasonable period of time before it proposes or refuses to initiate or change anything related to the identification, evaluation, educational placement, or the provision of FAPE to a child with a disability.⁶⁰ PWN must be both specific and explanatory, including:

- a. A description of the action the school proposed or refused;
- b. An explanation of why the school proposes or refuses to take the action;
- c. A description of each evaluation procedure, assessment, record, or report the school used as a basis for the proposed or refused action;
- d. A statement that the parents of a child with a disability have procedural safeguards under IDEA and how parents can obtain a copy of the procedural safeguards notice;
- e. Sources for parents to contact to obtain assistance in understanding the IDEA;
- f. A description of other options considered and the reasons why those options were rejected; and
- g. A description of other factors that are relevant to the school's proposal or refusal.

⁵⁷ The Department also notes that the Parent requested records through a public records request, which is not governed by the IDEA and could not be investigated in the context of this Complaint.

⁵⁸ OAR 581-015-2300; 34 CFR §300.501

⁵⁹ OAR 581-015-2300(3)(b); 34 CFR §300.613(a)

⁶⁰ OAR 581-015-2310; 34 CFR §300.503(a)

The purpose of such detailed PWN requirements is twofold. First, it assists school personnel to consider options carefully and make decisions on the basis of articulable criteria or reasoning. Second, it gives parents definitive statements of school district decisions and to understand exactly what considerations led to those decisions. Although it may seem redundant to issue a PWN when parents are present for discussions and decisions or receive email notifications, the IDEA requirement is unambiguous that formal PWN notice is required whenever the District makes a decision related to the special education of a student with a disability.

In this case, the District gave the parents PWN four times during the Complaint period:

- a. June 12, 2023 decision to reconvene later in the summer to consider ASD eligibility.
- b. July 25, 2023 decision that the Student is eligible for special education as a student with three disabilities: EBD, OHI, and ASD.
- c. July 25, 2023 decision to offer FAPE as provided in the IEP developed on that date.
- d. September 15, 2023 decision to finalize the Student's IEP as written on July 25, 2023 and not withhold suspension and exclusionary discipline and to not adopt curriculum and methodology brand names, e.g., ABA, DBT, CBA, CPS.

The Parent made numerous requests throughout the complaint period and did not receive a PWN. Some of the requests did not relate to the Student's identification, evaluation, placement, or the provision of FAPE, so the District was not required to formalize a refusal with a PWN. However, some of the Parent's requests are related to the student's IEP, e.g., a request for a cell phone for the Case Manager to facilitate rapid home-school communications, a request that all staff in the High School to receive training on the Student's Plan for Managing Escalating Behavior, a request that District staff copy the Student's Wraparound Team on all emails, a request for access to the Student's special education records, and the Parent did not receive PWNs explaining the District's decisions to grant or refuse the Parent's requests.⁶¹ It may seem redundant to provide PWN regarding district decisions articulated in a meeting, a hallway conversation, or in an email or text message, but the IDEA requires written notice, and the notice must answer specific questions about the district's reasoning.

The Department substantiates this allegation.

Free Appropriate Public Education (FAPE)

The Complaint alleges that the District has violated the IDEA entitlement to a FAPE. Specifically, the Complaint alleges that due to the District's failure to train staff, not listening to the Parent, and failing to discuss the Parent's request for accommodations, the Student has lost a year of free appropriate public education.

⁶¹ The Department notes that the Parent made many requests or demands during the Complaint period requests that were not directly related to the Student's FAPE entitlement or to IDEA procedural requirements, so the District had no obligation to provide PWN about its decisions.

School districts must provide a free appropriate public education (FAPE) to all school-age children with disabilities for whom the district is responsible. The IDEA defines FAPE as special education and related services that:⁶²

- a. Are provided at public expense, under public supervision and direction, and without charge;
- b. Meet the standards of the [state educational agency];
- c. Include an appropriate preschool, elementary school, or secondary school education; and
- d. Are provided in conformity with an individualized education program (IEP).⁶³

The IDEA does not include a standard for determining whether a school district has provided FAPE. However in 1982, the US Supreme Court articulated a two-prong FAPE test that includes procedural and substantive elements:

- a. Procedural: Did the school district comply with IDEA procedural requirements, and
- b. Substantive: Was the IEP reasonably calculated to enable the child to receive educational benefit?⁶⁴

Not all procedural violations amount to a denial of FAPE. However, a district's procedural violation(s) deny FAPE to a student if they result in loss of educational opportunity or if they seriously infringe the parents' opportunity to participate in IEP development.⁶⁵ If procedural violations alone constitute a denial of FAPE, it is unnecessary to address the second prong of the FAPE inquiry.⁶⁶

If a school district demonstrates that it observed IDEA's procedural requirements, the question remains whether the IEP is substantively adequate. When this is the case, it is necessary to determine whether the IEP enabled the student to benefit.

Progress is the key indicator of whether a school district has provided the requisite benefit to a student with a disability. In a 2017 decision the US Supreme Court attempted to clarify a substantive standard for educational benefit.⁶⁷ The Court held that "To meet its substantive obligation under the IDEA, a school must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances" and added that "[a] substantive standard not focused on student progress would do little to remedy the pervasive and tragic academic stagnation that prompted Congress to act."⁶⁸ The Court emphatically rejected the "merely more than de minimis standard that prevailed in some US federal circuit courts and

⁶² 34 CFR §300.17

⁶³ OAR 581-015-2040

⁶⁴ *Hendrick Hudson Central Sch. Dist. v. Rowley*, 458 U.S. 176 (1982)

⁶⁵ *W.G. v. Bd. of Trustees of Target Range Sch. Dist. No. 23*, 960 F.2d 1479, 1484 (9th Cir. 1992)

⁶⁶ *Id.*

⁶⁷ *Endrew F. v. Douglas County Sch Dist RE-1*, 580 US 386 (2017)

⁶⁸ *Endrew F.*

elaborated that an IEP must be “appropriately ambitious” and that “every child should have the chance to meet challenging objectives”.

In this case, the District complied with most of the procedural requirements of the IDEA. The IEP Team, which includes the Parent, developed an IEP based largely on the IEP from the Therapeutic School. The Program Administrator viewed this IEP as a “placeholder” pending review and revision. After the July 25 IEP meeting, the Program Administrator worked with the Parent on possible IEP amendments, but the Parent was unwilling to agree to amend the IEP unless the District agreed to conduct staff training in accordance with the Parent’s preferences and with Parent participation in the training, add to the IEP a number of accommodations that the Parent believed were essential for the Student, and add to the IEP a provision that the Student would not be subject to suspension for behavior that violated school rules.

This Student participated in the general curriculum and was placed in the regular education classroom with Learning Center support and a 1:1 aide. An IEP accommodation that the Parent insisted on provided that the Student could leave class at will, which led to a loss of instructional time. The Student exhibited chronic maladaptive behavior from the beginning of the school year. The District attempted to use the Parent’s preferred behavior supports and alternatives in lieu of suspension. These strategies proved ineffective, and the Student’s accelerating misconduct led to suspension and further loss of instructional time.

The IDEA does not guarantee that students with disabilities will meet all IEP goals that their IEP Teams anticipated would be attainable. Rather, it envisions a process for review and revision of the IEP when it becomes evident that it is necessary to ensure that the student receives FAPE. Although the Student made some academic progress during the first few months of the 2023-24 school year, almost all of the Student’s goals and objectives focused on communication and behavior. It is unclear whether the Student made any progress at all toward those goals and objectives. The IDEA provides that a school district must revise an IEP to address “lack of expected progress toward the annual goals ... and the general education curriculum, if appropriate.”⁶⁹ The District attempted again and again to address both the Parent’s concerns through either an agreement to amend the IEP without a meeting⁷⁰ or to convene an IEP meeting to review and revise the IEP, but the Parent refused. While it appears that the Student did not receive FAPE during the Complaint period, that outcome did not result from neglect or noncompliance on the part of the District. Nevertheless, the District is required to ensure the provision of FAPE. The Parent’s resistance to District efforts to review and revise the IEP and to consider did not relieve the District of this obligation. The District should have proceeded with steps reasonably calculated to enable the Student to make progress and should have provided the Parent with PWN of its decisions.

The Department substantiates this allegation.

⁶⁹ OAR 581-015-2225; 34 CFR §300.324(1)(b)(i)(A)

⁷⁰ OAR 581-015-2225(2); 34 CFR §300.324(a)(4)

Additional Finding

Placement and Least Restrictive Environment

The IDEA provides that students with disabilities must be placed in their least restrictive environment (LRE).⁷¹ The IDEA provides that:

“To the maximum extent appropriate, children with disabilities ... are educated with children who are non-disabled; and “[s]pecial classes, separate schooling, or other removal ... from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be satisfactorily achieved.”⁷²

The IDEA requires school districts to make available a continuum of alternative placements, ranging from instruction in regular classes to instruction in hospitals or institutions.⁷³ Districts must make available supplementary services such as resource room or itinerant instruction to be provided in conjunction with regular class placement.⁷⁴

Placement and LRE are individualized decisions.⁷⁵ For each student with a disability, the placement decision is made by a team that includes the parents and other persons knowledgeable about the student, the meaning of evaluation date, and the placement options.⁷⁶ The team must make the placement decision consistent with IDEA LRE provisions.⁷⁷ The placement of a student with a disability must be:

- a. Determined at least once each year;
- b. Based on the student’s current IEP; and
- c. As close as possible to the student’s home.

In selecting a student’s LRE, the team must consider any potential harmful effect on the student or on the quality of services.⁷⁸ The placement decision follows IEP development and must be based on a student’s completed IEP. Unless the IEP requires some other arrangement, the student is educated in the school that he or she would attend if nondisabled.⁷⁹ A student with a disability must not be removed from education in age-appropriate regular classrooms solely because of needed modifications in the general education curriculum.⁸⁰

⁷¹ OAR 581-015-2240; 34 CFR §300.114

⁷² OAR 581-015-2245; 34 CFR §300.114(2).”

⁷³ OAR 581-015-2245(1); 34 CFR §300.115(a) and (b)(1).

⁷⁴ OAR 581-015-2245(2); 34 CFR §300.115(c).

⁷⁵ OAR 581-015-2250; 34 CFR §300.116

⁷⁶ OAR 581-015-2250(1); 34 CFR §300.116(a)(1)

⁷⁷ OAR 581-015-2250(1)(b); 34 CFR §300.116(a)(2)

⁷⁸ OAR 581-015-2250(4); 34 CFR §300.116(d).

⁷⁹ OAR 581-015-2250(3); 34 CFR §300.116(c).

⁸⁰ OAR 581-015-2250(5); 34 CFR §300.116(e).

While the IDEA evinces a strong preference for teaching students with disabilities in the regular classroom, the law does not require placement of every student with a disability in the regular classroom. As with all other special education decisions, placement must be based on the unique needs of each student with a disability, and it must be a placement in which the student can receive FAPE.

In *Sacramento City USD v. Rachel H.*,⁸¹ the 9th Circuit Court of Appeals established a four-factor balancing test to determine whether placement of a student with a disability in a regular classroom is appropriate:

- a. The educational benefit to the student;
- b. The non-academic benefits to the student;
- c. The effect of the student on the teacher and the other students; and
- d. The cost of regular classroom placement.

The Court gave great weight to the first two factors. The student in that case was a full member of the class, participated in all class activities, and received substantial academic benefits with the assistance of curriculum modifications and a part-time aide. The student also gained non-academic benefits, including social and communication skills and increased confidence. The Court observed that the student was not disruptive and did not require so much of the teacher's time as to disadvantage other students. Finally, the court considered the relative costs of the student's regular classroom placement with specialized support and an alternative, more restrictive placement and determined that the cost of regular classroom placement would unduly burden the school district's funds or adversely affect services available to other students. *Sacramento City USD* remains the mandatory precedent in the 9th Circuit.⁸²

In this case, no documents from the District or the Parent demonstrate any analysis of the Student's placement decision. It is unclear whether the placement was based on the Student's current IEP. The July 25, 2023 IEP meeting notes and PWNs do not even mention placement. The July 25, 2023 Special Education Determination form presented only two placement options.

Although the form identifies significant possible harmful effects for LC placement option and identifies similar benefits similar for both options, the form offers only a cursory rationale for its decision. Notably missing from the form is any consideration of the effect of the Student on the staff and other students at the High School. Furthermore, it is difficult to reconcile the stark difference between the statement in the Non-Participation Justification in the Therapeutic School IEP that "In a larger general education setting the increased noise levels, amount of movement, reduced structure, and expected levels of independence present challenges that exceed his skill levels at this time" with the statement only five months later in the July 25th IEP that a placement 95% of the time in regular classrooms in a comprehensive high school "best meets the student's needs at this time".

⁸¹ 14 F.3d 1398 (9th Cir. 1994).

⁸² See, e.g., *D.R. v. Redondo Beach Unif. Sch. Dist.*, 56 F.4th 636 (9th Cir. 2022)

The IDEA demands more attention to a placement decision. The Department does not express a view on the appropriateness of the District's placement of the Student, but it finds that the available information demonstrates inadequate attention to IDEA placement regulations and relevant case law.

V. CORRECTIVE ACTION
In the Matter of Portland School District 1J
Case No. 23-054-027

Action Required	Submissions	Due As Soon As Possible But No Later Than:
1. The District must ensure that all District staff responsible for serving students with disabilities receive training in the timely provision of Prior Written Notice and review/revision of IEPs.	Training agenda and materials to ODE for review and approval. Sign-in sheet for training.	March 15, 2025 April 15, 2025
2. The District and the Parent will determine appropriate Compensatory Education for the time during the 2023-24 school year in which the Student was suspended for more than 10 cumulative days. Should the District and Parent not be able to agree on the Compensatory Education required, either Party can request ODE to determine the appropriate Compensatory Education.	A written plan for the provision of Compensatory Education.	April 1, 2025

Dated: this 31st Day of January, 2025



Ramonda Olaloye
Assistant Superintendent

Office of Enhancing Student Opportunities

E-mailing Date: January 31, 2025

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).)