

BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of Northwest Regional
Education Service ESD

)
)
)
)

FINDINGS OF FACT,
CONCLUSIONS,
AND FINAL ORDER
Case No. 24-054-056

I. BACKGROUND

On September 16, 2024, the Oregon Department of Education (Department) received a written request for a special education complaint investigation from an employee (Complainant) on behalf of students (Students) residing in the Northwest Regional Education Service ESD (ESD). The Complainant requested that the Department conduct a systemic special education investigation under OAR 581-015-2030. The Department confirmed receipt of this Complaint and forwarded the request to the ESD.

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 Complainant and the ESD agree to the extension in order to engage in mediation or local resolution or for exceptional circumstances related to the complaint.²

On September 18, 2024, the Department's Complaint Investigator sent a *Request for Response (RFR)* to the ESD identifying the specific allegations in the Complaint to be investigated and establishing a *Response* due date of October 2, 2024.

The ESD submitted a *Response* on October 2, 2024, partially substantiating the allegation, providing an explanation, and included documents supporting the ESD's position. Access to the documents provided by the ESD was provided over the course of the next few weeks. The ESD submitted the following relevant items:

1. ESD's Written *Response* to Complaint, 10/2/24
2. Communication Log, 07/22-09/16/24
3. Letter to ODE, 10/02/24
4. Email, re: continued compliance concerns, 09/05/24–09/06/24
5. Email, re: specific concern, 09/04/24
6. Email, re: services for children in [County], 09/11-09/13/24
7. [County] Make-up Services Plan, 09/13/24

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

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

8. Letter to Staff, no date
9. OT Summer List, 05/30/24, 06/05/24
10. 2024-2025 Work Calendar Licensed EI/ECSE Community 192-Day, 07/24-06/25
11. 2024-2025 Work Calendar: Licensed EI/ECSE Program 192-Days, 07/24-06/25
12. 2024-2025 Student Calendar, 07/24-06/25
13. 2023-2024 EI/ECSE Community Calendar - IA, 07/23-06/24
14. 2023-2024 EI/ECSE Program Calendar - Student, 07/23-06/24
15. 2023-2024 EI/ECSE Community Calendar - Licensed, 07/23-06/24
16. Written Response to Questions, 10/31/24
17. Email, re: Additional Questions and Interviews Next Week (ODE 024-054-056), 11/18/24
18. Student 4 IFSP, 05/21/24
19. Student 4 Service Log, 06/05/23-09/25/24
20. Student 4 Contact Log, 01/28/21-09/25/24
21. Student 18 Service Log, 01/05/24-09/30/24
22. Student 18 IFSP, 05/03/24
23. Student 18 Contact Log, 09/05/23-09/30/24
24. Student 22 IFSP, 09/06/24
25. Student 22 Service Log, 05/08/24-09/30/24
26. Student 22 Contact Log, 01/10/24-09/24/24
27. Student 1 IFSP, 09/03/24
28. Student 1 Service Log, 10/15/20-09/30/24
29. Student 1 Contact Log, 08/25/20-09/23/24
30. Student 2 Service Log, 09/04/23- 09/24/24
31. Student 2 IFSP, 10/13/23
32. Student 2 Service Log, 06/13/22-07/18/23
33. Student 2 Contact Log, 03/07/22-09/25/24
34. Student 26 IFSP, 06/03/24
35. Student 26 Service Log, 05/17/24-09/17/24
36. Student 26 Contact Log, 04/04/24-07/18/24
37. Student 13 Contact Log, 07/28/21-09/25/24
38. Student 13 IFSP, 09/12/24
39. Student 13 Service Log, 09/16/21-09/10/24
40. Student 7 Service Log, 03/06/23-09/18/24
41. Student 7 IFSP, 09/09/24
42. Student 7 Contact Log, 02/01/23-09/11/24
43. Student 3 Contact Log, 04/10/23-09/17/24
44. Student 3 IFSP, 10/06/23
45. Student 3 Service Log, 06/12/23-09/24/24
46. Student 19 IFSP, 09/16/24
47. Student 19 Service Log, 02/09/24-09/24/24
48. Student 19 Contact Log, 12/11/23-09/24/24
49. Student 5 IFSP, 07/09/24
50. Student 5 Service Log, 05/08/23-09/25/24
51. Student 5 Contact Log, 02/28/23-09/30/24

52. Early Intervention and Early Childhood Special Education (EI/ECSE) Parent Handbook, 01/2024

The Complainant submitted a *Reply* on October 3, 2024, providing an explanation, rebuttal, and documents in support of the Complainant's position. The Complainant submitted the following relevant items:

1. Complainant's *Reply* to the ESD's *Response* to *RFR*, 10/3/24
2. Text Message, 06/05, no year
3. [County] Make-up Services Plan, 09/13/24
4. Email, re: plan for making up missed service visits, 09/06-09/17/24
5. Email, re: documentation, 07/22/24-09/06/24
6. Email, re: IFSP compliance concern, 09/03/24
7. Email, re: even more compliance concerns, 09/06/24
8. Email, re: [Location] EI/ECSE students, 05/21/24-09/03/24

The Complaint Investigator interviewed the Complainant on October 21, 2024 and ESD personnel on October 18, 2024 and November 22, 2024. Additionally, the ESD submitted responses to questions posed by the Complaint Investigator on October 31, 2024 and November 18, 2024. The Complaint Investigator reviewed and considered all of these documents, interviews, and exhibits to reach the findings of fact and conclusions of law contained in this order. This order is timely.

II. ALLEGATIONS AND CONCLUSIONS

The Department has jurisdiction to resolve this Complaint under 34 CFR §§ 300.151-153 and OAR 581-015-2030. The Complainant's allegation 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 September 17, 2023 to the filing of this Complaint on September 16, 2024.

Allegations	Conclusions
<p>When IFSPs Must Be In Effect</p> <p>The Complainant alleged that the ESD violated the IDEA (Individuals with Disabilities Education Act) by not providing special education and related services in accordance with the Individual Family Service Plans (IFSPs) for 26 Students between July 7, 2024 and August 2, 2024.</p> <p>(OAR 581-015-2830; 34 CFR §§300.101, 303.15)</p>	<p>Substantiated</p> <p>The ESD did not provide special education and related services to ten Students' in accordance with IFSPs.</p> <p>The ESD did not contest this allegation for an additional 14 students.</p>

REQUESTED CORRECTIVE ACTION
<p>The Complainant requested the following corrective action:</p> <ul style="list-style-type: none">• “Review of [the ESD] administrator's understanding of IDEA, [Early Intervention/Early Childhood Special Education] EI/ECSE service delivery model, special education law related to EI/ECSE service provisions. Extra duty pay for all staff directed to provide make-up services for all children whose IFSP services are out of compliance per cover page services.”³

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 September 17, 2023. Any facts listed below relating to circumstances or incidents earlier than that date are included solely to provide the context necessary to understand the Student’s disability and special education history.

1. A ESD Parent Handbook for Early Intervention (EI) and Early Childhood Special Education (ECSE) with a revised date of January 2024 indicated that “EI/ECSE classroom programs follow the closure practices of the ESD in which they are located.” The policy was the same for EI/ECSE services received in a community preschool or childcare and for services received in the home.
2. The ESD Student Calendars dated June 2024, July 2024, and August 2024 indicated:
 - a. There was no school on June 7, 2024 through June 30, 2024.
 - b. There was no school from July 1 through July 8, 2024, July 12, 2024, July 19, 2024, July 26, 2024, or any weekends in July 2024.
 - c. There was no school on August 2, 2024 through August 31, 2024.
3. The ESD EI/ECSE Program Calendars for licensed staff for June 2024, July 2024, and August 2024 indicated the same school closures as the ESD Student calendar except for June 7, 2024 (in-service/planning day), July 8, 2024 (in-service/planning day), July 19, 2024 (work day), August 2, 2024 (work day), and August 26, 2024 through August 28, 2024 (in-service/planning days).
4. The ESD EI/ECSE Community Calendars for licensed staff for June 2024, July 2024, and August 2024 were the same as the Program Calendars for licensed staff, except for extra non-workdays from July 20, 2024 through August 2, 2024.

³ Complaint Request Form, September 13, 2024

5. During an interview with the Complaint Investigator, the Executive Director of Early Learning explained that the start and end dates of the student school year varied by year. The 2023-24 school year started on July 11, 2023, and ended on June 6, 2024. The 2024-25 school year began on July 9, 2024, and will end on June 10, 2025. Students placed in community preschools or childcare centers follow the “community calendar,” or calendar of the site where they receive their services. These students did not receive services during the summer.

According to the Executive Director of Early Learning, students who are scheduled to receive their services via home visits or in centers or classrooms staffed by the ESD follow the ESD Student Calendar, or “program calendar.” The Executive Director of Early Learning indicated that these students may receive summer services, typically an extension of what’s been done the previous school year, and any programmatic changes usually start in the fall when all students return. The Executive Director of Early Learning shared that staff are assigned to a particular work calendar based on the population of the students they serve. The calendar they are assigned determines the days they work during the school year and summer.

6. In an interview with the Complaint Investigator, the County Service Center Administrator described that there were two calendars: a “community calendar” and a “program calendar.” The Staff on the program calendar serve students “... in July because we have kiddos birth to three who aren’t in schools. And so, by law, we’re required to serve them just like in any other month. And these typically are going to be home visits for the most part. So, I had a very limited number of staff that I could distribute ... this caseload to. I learned, in hindsight, that whether you have five or ten or two staff, you still need to distribute that caseload and then just work ... as a leader to staff up as quickly as you can. And it’s difficult when staff have to step up and do a lot more work, but we can’t just not serve kids during that time just because we don’t have sufficient staff.”
7. On June 4, 2024 and June 5, 2024, the Complainant sent emails and a chat to the County Service Center Administrator seeking guidance around providing summer services to students upon the departure of one of the service providers.
8. A June 5, 2024 document outlined a plan for providing Occupational Therapy services over the summer for 30 students.
9. On July 22, 2024, the Complainant emailed the Chief Academic Officer to list “... instances involve full awareness of staff on administrative leave or leaving the agency due to contract termination. The need for dispersal of staff’s caseloads failed to occur and [was] noticed by me, and immediately brought up to the County Service Center Administrator ...” According to the Complainant, “All instances resulted in students whose services were not delivered on time, or at all, among other serious compliance concerns ...”
10. On July 22, 2024, the Chief Academic Officer met with the Complainant via Zoom and discussed the Complainant’s concerns. Notes from this meeting included:
 - a. “No contact has been provided to students since June 6th, and most should have had at least two 30 min visits/family services”; and

- b. “[The Complainant] said [they] met with [the County Service Center Administrator] at 8am [sic] Monday morning and expressed the following: ‘It is illegal to not provide services, [the County Service Center Administrator] needed to run caseloads, re-distribute and assign coverage plans where necessary, [and] [i]f told right away to take 5 more kids this summer, it would have easily been taken care of.’”
11. In an interview with the Complaint Investigator, the Chief Academic Officer shared that “... I was alerted on July 22nd by [the Complainant] that there was the potential that students had not been receiving services. And I took steps not outlined in this document to rectify that situation and gave directives that it was ... what people needed to do to make sure that kids were getting services, and [I] was under the impression that those things had been fixed. I followed back up with [the Complainant], letting [them] know that, and to please reach out to me at any point if [they] had any further concerns. And [the Complainant] reached back out to me about another month later after our follow-up meeting in August, stating that [they] wanted to meet again. And I asked [the Complainant] to provide [their] specific concern, an email, and [the Complainant] said it was again about caseloads not being redistributed. ... And then during that time, once [the Complainant] brought it back to my attention that it had, I thought it was fixed. It was not fixed. I started working again with the [the Executive Director of Early Learning and the County Service Center Administrator] ... to figure out how we were going to rectify the situation, make sure that we would get makeup services to all of the students who were involved.”
12. On July 31, 2024, the Chief Academic Officer met with the Complainant via Zoom. Notes from this meeting included:
- a. “Your concerns are serious and I have taken action that should help.”
 - b. “I agree that we cannot not [sic] serve students, this will be fixed.”
 - c. “If future problems continue, please let me know ASAP.”
 - d. “Also, future programmatic concerns should be addressed first with [the Executive Director of Early Learning].”
13. On September 3, 2024, the Complainant emailed the County Service Center Administrator to discuss the issue of missed “Friends and Me” services for several children during the summer. The email noted that these services were required year-round based on the students’ IFSPs (Individual Family Service Plans). The Complainant escalated their concerns to the Chief Academic Officer in an email the following day.
14. On September 4, 2024, the Complainant emailed the Chief Academic Officer describing their concerns with the County Service Center Administrator's alleged failure to “appropriately disperse [the] caseloads of departing staff and ensure coverage was secured to provide cover page IFSP services despite ample knowledge of the need to do so.” The Complainant mentioned that the County Service Center Administrator shared the plan to have a new teacher offer make-up classes or add additional class time to students who missed eight hours of service in July and August.

15. On September 5, 2024, the Complainant emailed the Chief Academic Officer and the County Service Center Administrator to list the students they believed were entitled to occupational therapy and other services in the summer but did not receive them. The Complainant said, "EI [Early Intervention] children are legally owed year[-]round services, as are ECSE students whose IFSP indicates that they have services occurring at a given time. Their services are not optional, nor are they covered by a 'check-in.'"
16. On September 6, 2024, the County Service Center Administrator emailed licensed staff, "I wanted to follow up on this morning's licensed staff meeting to communicate the plan for missed services due to caseloads having not yet been reassigned. I had hoped to minimize multiple provider transitions this year by delaying service coordinator reassignment pending the start of new staff. However, as I have mentioned, that process is taking longer than anticipated and by necessity we had to distribute those students to current staff to ensure that we don't fall further behind on services. Once new staff have been brought onboard [*sic*], we will redistribute the caseloads accordingly."

"To work toward equitable outcomes for all of our kids, and to ensure compliance with special education law, we will make up the minutes that have been missed this school year (and, for some kids, some of the visits from the late spring)." The County Service Center Administrator indicated that before the next Friday meeting, they would gather the data and determine the number of minutes that need to be made up. The County Service Center Administrator indicated that "... we have until the end of the 24-25 school year to make up these services."

17. In an interview with the Complaint Investigator, the County Service Center Administrator described that due to staff shortages and the County Service Center Administrator's focus on recruiting replacements, 28 students did not receive services in the summer of 2024.
18. On September 6, 2024, the Complainant reiterated their compliance concerns to the Chief Academic Officer and the County Service Center Administrator and listed additional students who did not receive summer IFSP services.
19. On September 11, 2024, the Executive Director of Early Learning emailed two staff members at the State Department of Education and said, "I am very much aware of the situation and we are actively taking measures (as we have been since last year) to ensure that children are getting their IFSP services and/or make-up services for missed visits. Staffing in that region continues to be a challenge, but we are in a much better position this year than we were last year, and any visits that were missed over the summer (of which there were some) will be made up this fall. ... I do have a letter drafted to families describing the changes in our model which will go out later this month ..."
20. On September 13, 2024, the Complainant emailed the County Service Center Administrator to request a written policy outlining the timeline for making up missed IFSP services and a plan for extra duty pay to compensate the service providers for the extra time spent completing those services. The County Service Center Administrator responded on

September 17, 2024, and shared that they were developing a plan that would be shared with licensed staff on the following day.

21. The County Make-up Services Plan, dated September 13, 2024, described strategies to address missed service minutes on IFSPs for 28 students. In an interview with the Complaint Investigator, the County Service Center Administrator indicated that their job “was to monitor and to collaborate with my staff to add missed service minutes onto existing scheduled service visits.” The County Service Center Administrator explained that the service minutes could be made up or, after communicating with the family, “we can just move forward without those service minutes. And then the make-up service plan ... has guidance on how to record the contact in EC web that the family is declining those additional missed service minutes. And then, the service coordinator has to file an action notice in EC web because it’s considered a reduction in services because they are owed those minutes. But [if] the family has said, ‘We’re happy to just move forward, and we don’t feel like we need those minutes,’ or our schedule doesn’t allow for that extra time in the visit. So there are two different ways that the missed service minutes are being handled.” The County Service Center Administrator indicated that the goal was to make up the missed service minutes by the end of the 2024-25 school year.
22. On September 16, 2024, the Chief Academic Officer and the Executive Director of Early Learning met with the Complainant via Zoom. Notes from this meeting included:
 - a. “There is a plan in place for caseload redistribution and make[-]up for missed services.”
 - b. “[The Early Learning Executive Director] explained the plan for make[-]up services and that guidance will be coming through [the County Service Center Administrator] at the upcoming staff meeting.”
 - c. “[The Complainant] expressed that [they] [have] had continued concerns since [they] brought up students on 3 people’s caseloads that were not redistributed this summer to [the Chief Academic Officer] and that [they] felt this had not been followed up on and that there were more students that should have been identified than what [they] found.”
 - d. “Note, at this point, there was already a plan in place to identify and address all students who had missed services.”
23. On October 2, 2024, the ESD responded that they did not contest the Complainant’s claims that all the students identified by the Complainant were entitled to services following the “ESD Program Calendar,” which was in session from July 7, 2024 through August 2, 2024 and that IFSP services did not occur as written on these students’ IFSPs.
24. During an interview with the Complaint Investigator, the Complainant explained that their understanding of the make-up services plan was that the Executive Director of Early Learning created it, was presented to staff by the County Service Center Administrator and included detailed statements about making-up services in 15-minute increments and having the whole school year to do so. The Complainant said they had never experienced such a volume of delinquent service minutes or a similar make-up service plan before.

The ESD disputed the allegations for the following students:

Student 1

25. The IFSP, revised on September 3, 2024, outlined the services for Student 1.

- a. Annual Review Date: December 4, 2024
- b. Service Coordinator: ECE Specialist 4
- c. Services:
 - i. Instruction to Parents: direct and indirect consultation for 30 minutes once a month, provided by an ECSE Teacher at home, by phone, email, or virtually.
 - ii. Service Coordination: direct service for 10 hours per year, provided by an ECSE teacher in the office, by phone, or via email.
 - iii. Physical Therapy: direct and indirect consultation for 45 minutes once a month, provided by a physical therapist (PT) at home, in the community, or virtually.
 - iv. Occupational Therapy: direct and indirect consultation for three hours per year, provided by an occupational therapist (OT) virtually, by phone, email, or mail.
 - v. Nursing Services: consultation for two hours per year, provided by a nurse virtually, by phone, email, or in person.
 - vi. Transportation: direct service for 30 minutes, once a week, provided by the ESD for transportation to and from [Community Preschool].
- d. The Service Log for Student 1 indicated the following:
 - i. July 15, 2024, “check[-]in about fall friends and me,” by ECE Specialist 4.
 - ii. July 15, 2024, “summer check[-]in,” by ECE Specialist 4.
 - iii. August 2024, no service long entry.
- e. The Contact Log for Student 1 indicated the following:
 - i. July 2024, no contact log entry.
 - ii. August 2024, no contact log entry.

26. In a written response to questions from the Complaint Investigator, the Executive Director of Early Learning indicated that Student 1 did not receive direct or indirect consultation for 30 minutes per month in July and August of 2024. The Executive Director of Early Learning indicated that a PT did not provide direct and indirect consultation once each month, for 45 minutes, in July and August 2024.

Student 2

27. The IFSP outlined the services for Student 2, with a meeting date of October 13, 2023.

- a. Annual Review Date: October 12, 2024
- b. Service Coordinator: Not specified
- c. Services:
 - i. ECSE Service Coordination: direct service for eight hours per year, provided by a service coordinator via phone, virtually, email, in the home, and in the community. Included coordinating services and developmental assessments.
 - ii. Specialized Instruction: direct service and direct and indirect consultation for 120 minutes, once a week on Tuesdays from 9:30 to 11:30 AM, provided by an ECSE teacher via phone, virtually, email, in the home, and in the community. Focus on adaptive, social, and communication skills.
- d. The Service Log for Student 2 indicated the following:
 - i. July 15, 2024, “check[-]in about fall friends and me,” by ECE Specialist 4.

- ii. July 15, 2024, “summer check[-]in,” by ECE Specialist 4.
- iii. August 2024, no service log entry.
- e. The Contact Log for the Student 2 indicated the following:
 - i. July 15, 2024, introductory email to service providers by the Autism Spectrum Disorder (ASD) Specialist.

28. The Executive Director of Early Learning indicated in a written response to questions from the Complaint Investigator that the ECSE teacher did not provide direct or indirect consultation for 120 minutes once per week on Tuesdays from 9:30-11:30 in July and August 2024 for Student 2.

Student 3

29. The IFSP outlined the Services for Student 3, with a meeting date of October 6, 2023.

- a. Annual Review Date: October 5, 2024
- b. Service Coordinator: ECE Specialist 3
- c. Services:
 - i. ECSE Service Coordination: direct service for eight hours per year, provided by the service coordinator via phone, email, and on-site visits. This included collaborating with providers and conducting developmental assessments.
 - ii. Specialized Instruction: direct and indirect consultation for two hours, one time per week, at the “Friends & Me” location, provided by the EI/ECSE specialist. This included direct instruction focusing on social, adaptive, and communication skills to be provided through a combination of consultation and direct teaching.
 - iii. Instruction to Parents: consultation one time per month for 30 minutes, via phone, email, home, community, or virtually, in the form of consultation and parent coaching by the EI/ECSE Specialist.
- d. The Service Log for Student 3 indicated the following:
 - i. July 15, 2024, “check[-]in about fall friends and me,” by ECE Specialist 4.
 - ii. July 15, 2024, “summer check[-]in,” by ECE Specialist 4.
 - iii. August 2024, no entry was recorded.
- e. The Contact Log for Student 3 indicated the following:
 - i. July 2024, no entry was recorded.
 - ii. August 2024, no entry was recorded.

30. In a written response to questions from the Complaint Investigator, the Executive Director of Early Learning indicated that Student 3 did not receive direct instruction on social, adaptive, and communication skills in July and August of 2024 from the EI/ECSE specialist.

Student 4

31. The IFSP outlined the services for Student 4 with a meeting date of May 21, 2024.

- a. Annual Review Date: May 20, 2025
- b. Service Coordinator: ECE Specialist 3
- c. Services:
 - i. Service Coordination: direct service for eight hours per year, including developmental assessments, collaboration with other providers, and coordination of ECSE services.

- ii. Specialized Instruction: direct and indirect/consultation for two hours, once per week, to address goals in adaptive, social, receptive, and expressive communication by the EI/ECSE specialist in the “Friends & Me” group setting.
- iii. Parent Instruction: indirect consultation by the EI/ECSE specialist for 15 minutes once per month to help the family achieve their outcomes, provided through various methods, including phone calls, virtual meetings, and home visits.
- iv. Occupational Therapy: direct service for screening and observation for 60 minutes once per year.
- d. The Service Log for Student 4 indicated the following:
 - i. July 15, 2024, “summer check[-]in” by ECE Specialist 4.
 - ii. July 15, 2024, “check[-]in about fall friends and me” by ECE Specialist 4.
 - iii. July 23, 2024, a note from an SLP indicated, “[The Parent] did not schedule a speech session in July.” An email with information and 12 attachments was sent to the family.
- e. The Contact Log for Student 4 indicated the following:
 - i. July 2024, no entry was recorded.
 - ii. August 2024, no entry was recorded.

32. In a written response to questions from the Complaint Investigator, the Executive Director of Early Learning indicated that Student 4 did not receive direct and indirect consultation from the EI/ECSE specialist for two hours per week in July and August 2024. Student 4’s Parents did not receive consultation for 15 minutes once each month in July and August 2024 from the EI/ECSE specialist.

Student 5

33. The IFSP, revised on July 9, 2024, outlined the services for Student 5.

- a. Annual Review Date: December 12, 2024
- b. Service Coordinator: the Complainant
- c. Services:
 - i. ECSE Service Coordination: direct service provided by the service coordinator via phone, virtually, by email, in the home or community for eight hours per year, including coordinating services and developmental assessments.
 - ii. Specialized Instruction: direct service, parent coaching, and direct and indirect consultation provided by an ECSE teacher via phone or email, virtually, in the home or community for 45 minutes, two times per month; focusing on cognitive, adaptive, social-emotional, and communication skills.
 - iii. Speech Therapy: direct service, direct and indirect consultation provided by the SLP virtually or in the home or the community for 30 minutes, one time per month.
- d. The Service Log for Student 5 indicated the following:
 - i. July 11, 2024, “Sent via talking points: Attached language calendars” by Speech-Language Pathologist (SLP) 1.
 - ii. August 2024, no service log entry.
- e. The Contact Log for Student 5 indicated the following:
 - i. July 8, 2024, “Sent reminder message to sign a written agreement to add AAC on ECSE page” by SLP 1.

- ii. July 9, 2024, "Completed EI/ECSE Student Information [G]oogle Form and sent distribution email for changes on ECSE page" by SLP 1.
- iii. July 9, 2024, an email was sent regarding AAC device company by SLP 1.
- iv. July 10, 2024, "Emailed [SLP] with corrections needed on IFSP Revision and AAC" by Administrative Assistant 1.
- v. July 11, 2024, "File reviewed, IFSP revision reviewed, Removed: 07/09/24: IFSP revision and AAC pnr, upload, archived & distribution to parent via Parent Portal" by Administrative Assistant 1.
- vi. July 15, 2024, for 10 minutes, "Introduced myself and provided service providers summer availability as well as information on AAC and intersectionality" by the ASD Specialist.
- vii. July 16, 2024, "File reviewed, IFSP revision reviewed-correcting clerical error on Written Agreement upload, archived & distribution to parent via Parent Portal" by Administrative Assistant 1.
- viii. July 23, 2024, email to parents introducing new service provider and offering service options (home visit/family coaching) for July 2024 by the Complainant.
- ix. July 23, 2024, an email to families introducing the new ECSE teacher and offering classroom services and transportation for the 2024-25 school year to families receiving services via home visits by the Complainant.
- x. July 31, 2024, email from the parent to the ECSE teacher offering schedule options for their child to receive services.
- xi. August 3, 2024, email to the parent from the ECSE teacher indicating they were on August break and would contact them once work resumed to schedule services.

34. In a written response to questions from the Complaint Investigator, the Executive Director of Early Learning indicated that Student 5 did not receive direct service, parent coaching, or direct and indirect consultation in the home or community for 45 minutes twice per month in July and August 2024. Student 5 did not receive any services from the SLP in July and August 2024.

Student 7

35. The IFSP, revised on September 9, 2024, outlined the services for Student 7.

- a. Annual Review Date: January 22, 2025
- b. Service Coordinator: Occupational Therapist 1
- c. Services:
 - i. Service Coordination: direct service provided by a service coordinator via phone or email, virtually, in the home or community for 10 hours per year, including coordinating services and developmental assessments.
 - ii. Early Intervention Services: direct service and direct and indirect consultation provided by an OT via phone or email, virtually, in the home or community for 30 minutes once a month, including parent coaching.
 - iii. Nursing Services: consultation, direct and indirect consultation provided by a nurse via phone or email, virtually, in the home or community for two hours per year.

- iv. Physical Therapy: direct service and direct and indirect consultation provided by service coordinator/PT via phone or email, virtually, or in the community for 45 minutes once a month, including parent coaching.
- v. Speech/Language Therapy: direct service and direct and indirect consultation provided by a speech-language pathologist via phone or email, virtually, in the home or community for 45 minutes once a month, including an initial screening.
- vi. Augmentative Communication: consultation, direct and indirect consultation provided by Aug Comm virtually, in the home or community for 45 minutes, every two months.
- vii. Regional Vision Services: consultation, direct and indirect consultation provided by a Vision Specialist via phone, virtually, email, in the home or community for 600 minutes per year.
- d. The Service Log for Student 7 indicated the following:
 - i. July 8, 2024, "OT consult with PT who updated on [Student 7's] current needs - family focusing on pain management and awaiting [surgery] to address tethered cord. PT will include OT in scheduling next visit" by OT 2.
 - ii. July 9, 2024, "[The Parent] did not join scheduled [Z]oom session" by SLP 4.
 - iii. July 12, 2024, email to parents from OT; introduction and offering phone or Zoom check-in by OT 2.
 - iv. July 18, 2024, email to parents regarding the 6-month review due over the summer and asking if they'd be available for a phone call to discuss progress by OT 2.
 - v. July 18, 2024, documentation of follow-up phone call after email regarding 6-month review; left voicemail by OT 2.
 - vi. July 23, 2024, email with attached information for Student by SLP 4.
 - vii. July 31, 2024, email to parents from OT regarding scheduling a 6-month review by OT 2.
 - viii. August 2024, no service log entry.
- e. The Contact Log for Student 7 indicated the following:
 - i. July 12, 2024, introductory email to Parents by OT 2.
 - ii. July 18, 2024, email to parents regarding the 6-month review due during summer by OT 2.
 - iii. July 18, 2024, phone call and voicemail to parents regarding 6-month review; requested phone call for the following week by OT 2.
 - iv. July 31, 2024, email to parents regarding joining a phone call to discuss Student 7's progress for a 6-month review by OT 2.
 - v. August 2024, no contact log entry.

36. In a written response to questions from the Complaint Investigator, the Executive Director of Early Learning indicated that neither the service coordinator nor the SLP provided service for Student 7 in July or August 2024, "but [the] service log shows multiple attempts and voice messages left."

Student 13

37. The IFSP, revised on September 12, 2024, outlined the services for Student 13.

- a. Annual Review Date: April 17, 2025
- b. Service Coordinator: Early Childhood Education (ECE) Teacher 2

- c. Services:
 - i. Service Coordination: direct by the service coordinator provided in office, virtual, phone, email, or community settings, including coordinating ECSE services, collaborating with other services, and developmental assessment for eight hours per year.
 - ii. Specialized instruction: direct service and direct and indirect consultation provided by the ECSE teacher for 30 minutes, two times per month, per the Community School Calendar, to focus on adaptive, receptive, and expressive communication skills.
 - iii. Speech/Language Therapy: direct service and direct and indirect consultation provided by the SLP/SLPA for 30 minutes, two times per month, in a community preschool, virtual, email, or phone settings.
 - iv. Instruction to parents in support of family outcomes: direct, parent coaching, direct and indirect consultation by EI/ECSE Specialist for 30 minutes, one time per month.
- d. The Service Log for Student 13 indicated the following:
 - i. July 2024, no entry was recorded.
 - ii. August 2024, no entry was recorded.
- e. The Contact Log for Student 13 indicated the following:
 - i. July 8, 2024, 15 minutes, email from the SLP regarding scheduling services for July, attached July calendar by SLP 5.
 - ii. August 1, 2024, email from the SLP to families regarding the August break and notifying them of new service provider contact after the break by SLP 5.

38. In a written response to questions from the Complaint Investigator, the Executive Director of Early Learning indicated that the EI/ECSE Specialist did not provide parent coaching and direct and indirect consultation for 30 minutes once per month in July and August 2024.

Student 18

39. The IFSP, revised on May 3, 2024, outlined the services for Student 18.

- a. Annual Review Date: 12/14/24
- b. Service Coordinator: OT 1
- c. Services:
 - i. Early Intervention Services: direct, parent coaching and indirect/consultation, 45 minutes, two times a month.
 - ii. Service Coordination (Direct): addresses gross motor, fine motor, and adaptive skills. Direct service provided by the service coordinator via phone or email, virtually, in the home or community for 10 hours per year, including coordinating services, developmental assessments, and EL Services.
 - iii. Physical Therapy: direct service and direct and indirect consultation provided by the service coordinator/PT via phone or email, virtually or in the community for 45 minutes once a month, including parent coaching.
 - iv. Speech/Language Therapy: direct service, parent coaching, and direct and indirect consultation provided by the SLP once per month; the SLP will screen to determine the need for services in community preschool, virtual, email, or phone settings beginning on July 31, 2024.

- d. The Service Log for Student 18 indicated the following:
 - i. July 2024, no entry was recorded.
- e. The Contact Log for Student 18 indicated the following:
 - i. July 2024, no entry was recorded.
 - ii. August 2024, no entry was recorded.

40. OT 1's notes indicated that Student 18 was planning to move in June.

41. In a written response to questions from the Complaint Investigator, the Executive Director of Early Learning explained that neither EI nor PT services were provided to Student 18 because the family moved out of the attendance area.

Student 19

42. The IFSP, revised on September 16, 2024, outlined the services for Student 19.

- a. Annual Review Date: May 30, 2025
- b. Service Coordinator: ECE Specialist 4
- c. Services:
 - i. Service Coordination: direct service by the service coordinator provided at the ECSE site, by phone or email, including coordinating ECSE services, collaborating with other services, and developmental assessment for 8 hours per year by an ECSE Service Coordinator.
 - ii. Specialized Instruction: consultation by the ECSE teacher, direct services in adaptive and social skills, 30 minutes per month per the Community Calendar at the ECSE site, by phone and email.
 - iii. Occupational Therapy: consultation, direct and indirect consultation provided by an OT via phone or email, in the home or community for 60 minutes, once a month.
 - iv. Speech/Language Therapy: direct service and direct and indirect consultation provided by an SLP for 60 minutes per month in the ECSE classroom by phone or email by an SLP.
 - v. The Service Log for Student 19 indicated the following:
 - vi. July 15, 2024, SLP 2 met Student 19 in the family home. SLP 2 heard three separate instances of stuttering.
 - vii. August 2024, no entry was recorded.
- d. The Contact Log for Student 19 indicated the following:
 - i. July 8, 2024, introductory email to parent to arrange a consultation by SLP 2.
 - ii. July 10, 2024, email between the parent and the service provider regarding possible visits to the home by SLP 2.
 - iii. July 11, 2024, email between the parent and the service provider to set up a time to meet to discuss possible stuttering by SLP 2.
 - iv. July 15, 2024, email between the parent and service provider to confirm consult visit with the parent by SLP 2.
 - v. July 16, 2024, email between the parent and service provider to let them know Student 19 will be monitored. The SLP noticed concerns for phonological processing and language by SLP 2.
 - vi. July 16, 2024, updated registry page per email request by Administrative Assistant 2.

vii. August 2024, no entry was recorded.

43. In a written response to questions from the Complaint Investigator, the Executive Director of Early Learning indicated that Student 19 did not receive direct service and direct and indirect consultation from the OT for 60 minutes once each month in July and August 2024. When asked if the SLP provided direct service and direct and indirect consultation for 60 minutes per month in July and August 2024, the Executive Director of Early Learning wrote, “No. One visit on 7/15/24-30 min.”

Student 22

44. The IFSP, revised on September 6, 2024, outlined the services for Student 22.

- a. Annual Review Date: May 1, 2025
- b. Service Coordinator: ECE Teacher 1
- c. Services:
 - i. Service Coordination: direct by the service coordinator provided at the ECSE site, by phone or email, including coordinating ECSE services, collaborating with other services, and developmental assessment for eight hours per year.
 - ii. Specialized instruction: consultation and direct and indirect consultation provided by the ECSE teacher for 45 minutes, two times per month at home, virtually, or by phone to address goals in adaptive, social, and communication.
 - iii. Speech/Language Therapy: direct service and direct and indirect consultation provided by the SLP for 30 minutes, two times per month, in the ECSE classroom.
 - iv. Instruction to parents in support of family outcomes: direct service and direct and indirect consultation by ECSE teacher for 30 minutes, one time per month.
- d. The Service Log for Student 22 indicated the following:
 - i. July 23, 2024, “[The Parent] did not respond to email to schedule summer services in July” by SLP 4.
 - ii. July 25, 2024, consultation notes indicated an in-person visit with Student 22 and their parent by the Complainant.
 - iii. August 2024, no entry was recorded.
- e. The Contact Log for Student 22 indicated the following:
 - i. July 23, 2024, introductory email to the parent regarding the new service provider and offering service schedule options by the Complainant.
 - ii. July 23, 2024, email to families introducing new service provider and indicating new classroom and transportation options for families with home visit services by the Complainant.
 - iii. July 24, 2024 through July 25, 2024, emails between the parent and the service provider described the scheduled meeting time.
 - iv. July 25, 2024, 60 minutes, note of Parent and Student attendance at playgroup at service center by the Complainant.
 - v. July 29, 2024, email to parent with consultation notes from recent service by the Complainant.
 - vi. August 27, 2024 through August 28, 2024, email exchange with the parent regarding follow-up on site-based classroom placement by the Complainant.

45. In a written response to questions from the Complaint Investigator, the Executive Director of Early Learning indicated that Student 22 did not receive consultation, SLP service, or parent consultation during the months of July and August 2024.

Student 26

46. The IFSP, revised on June 3, 2024, outlined the services for Student 26.

- a. Annual Review Date: May 12, 2025
- b. Service Coordinator: OT 1
- c. Services:
 - i. Service Coordination: direct service by the service coordinator provided by phone, email, virtually, at home, or in the community, including coordinating EI services, collaborating with other services, and developmental assessment for 10 hours per year.
 - ii. Early Intervention Services: direct service, parent coaching, and direct and indirect consultation provided by an OT for 15 minutes, two times per month, to address goals in social-emotional, adaptive, and cognition.
 - iii. OT Assessment: direct service, parent coaching, and direct and indirect consultation provided by the OT by phone, email, virtually, at home, or in the community for 60 minutes, two times per two months, initiated June 3, 2024.
 - iv. Occupational Therapy: direct service, parent coaching, and direct and indirect consultation by phone, email, virtually, at home, or in the community by an OT for 30 minutes, two times per month.
- d. The Service Log for Student 26 indicated the following:
 - i. July 17, 2024, "Emailed resource parent introducing self and offering times/days for a call" by OT 2.
 - ii. July 18, 2024, an email reply from a parent with time to call and phone number by OT 2.
 - iii. July 19, 2024, call with a parent, confirmed home visit, recorded parent's observations by OT 2.
 - iv. July 25, 2024, notes and observations from home visit and parent consultation by OT 2.
 - v. August 2024, no entries were recorded.
- e. The Contact Log for Student 26 indicated the following:
 - i. July 17, 2024, "Emailed resource parent introducing self and offering times/days for a call" by OT 2.
 - ii. July 18, 2024, an email reply from a parent with a phone number and time for the call by OT 2.
 - iii. August 2024, no entries were recorded.

47. In a written response to questions from the Complaint Investigator, the Executive Director of Early Learning indicated that an OT did not provide direct or indirect services in July and August 2024 for Student 26.

48. The ESD did not contest that the following students experienced a gap in services between July 7, 2024 and August 2, 2024:

- a. Student 8;
- b. Student 9;
- c. Student 10;
- d. Student 11;
- e. Student 12;
- f. Student 14;
- g. Student 15;
- h. Student 16;
- i. Student 17;
- j. Student 20;
- k. Student 21;
- l. Student 23;
- m. Student 24; and
- n. Student 25.

49. On September 16, 2024, the Complainant filed this Complaint.

IV. DISCUSSION

When IFSPs Must Be in Effect

The Complainant alleged that the ESD violated the IDEA by not providing special education and related services in accordance with the IFSPs for 26 Students between July 7, 2024 and August 2, 2024.

Individualized Family Service Plans (IFSPs) must be written before any Early Intervention (EI) or Early Childhood Special Education (ECSE) services are rendered. An IFSP should be implemented as soon as possible after the team meeting. For children receiving EI services, the IFSP should remain in effect throughout the year unless parents agree to a different arrangement. In the case of children receiving ECSE services, the IFSP needs to be active by the time the child turns three and at the beginning of every school year. If a child's third birthday happens during the summer months, the IFSP team is responsible for deciding when services will commence under the IFSP.⁴

Contractors and subcontractors are responsible for ensuring prompt and free access to the IFSP for parents and relevant professionals like preschool teachers, specialists, and service providers. They must also inform these individuals about their specific roles in implementing the IFSP, including any necessary accommodations or modifications. Contractors and subcontractors are obligated to provide EI or ECSE services to a child with a disability as outlined in the IFSP. Ultimately, parents retain the right to request revisions to the IFSP or initiate due process procedures if necessary.⁵

⁴ OAR 581-015-2830 (1-2) and 34 CFR § 303.15

⁵ OAR 581-015-2830 (3-5) and 34 CFR § 303.15

The ESD operated EI and ECSE services based on two distinct calendars: a "community calendar" and a "program calendar," which dictated service provision and staff schedules. This system, coupled with acknowledged staffing difficulties, particularly for summer home visits, led to service disruptions for students.

Despite a plan for summer services outlined in June, the Complainant reported in July that students were not receiving services due to staff departures and a failure to redistribute caseloads. The ESD intervened, believing the issue was resolved, but the Complainant reported the ongoing problem again in August. This prompted further action to ensure students received any missed services.

Ultimately, the ESD stipulated that 14 students did not receive services, while the Complaint Investigator identified an additional eleven students who experienced service disruptions. The ESD attempted to provide services for one of these students, and another moved out of the service area.

Based on the information provided, the ESD had a clear obligation to provide consistent EI/ECSE services to students between July 7, 2024 and August 2, 2024.

The Department substantiates this allegation.

V. CORRECTIVE ACTION⁶

*In the Matter of Northwest Regional Education Service ESD
Case No. 24-054-056*

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

Action Required	Submissions	As Soon As Possible But No Later Than Due Date
1. The ESD must provide the ESD identified Students with make-up services as described in the Make-up Services Plan provided with the ESD materials. In addition, make-up services will be provided to the following students: Student 1 Instruction to Parents: direct and indirect consultation for 30 minutes once a month,	The ESD shall submit the following: Completed plan for delivery of makeup services. Evidence showing missed services were provided	 February 1, 2025 March 15, 2025

⁶ The Department's order shall include any necessary corrective action as well as documentation to ensure that the corrective action has been completed (OAR 581-015-2030(13)). The Department expects and requires the timely completion of corrective action and will verify that the corrective action has been completed as specified in any final order (OAR 581-015-2030(15)). The Department may initiate remedies against a party who refuses to voluntarily comply with a plan of correction (OAR 581-015-2030(17) & (18)).

<p>provided by an ECSE Teacher at home, by phone, email, or virtually.</p> <p>Physical Therapy: direct and indirect consultation for 45 minutes once a month, provided by a physical therapist (PT) at home, in the community, or virtually.</p> <p>Student 2</p> <p>Specialized Instruction: direct service and direct and indirect consultation for 120 minutes, once a week on Tuesdays from 9:30 to 11:30 AM, provided by an ECSE teacher via phone, virtually, email, in the home, and in the community. Focus on adaptive, social, and communication skills.</p> <p>Student 3</p> <p>Specialized Instruction: direct and indirect consultation for two hours, one time per week, at the “Friends & Me” location, provided by the EI/ECSE specialist.</p> <p>Student 4</p> <p>Specialized Instruction: direct and indirect/consultation for two hours, once per week.</p> <p>Parent Instruction: indirect consultation by the EI/ECSE specialist for 15 minutes once per month.</p> <p>Student 5</p> <p>Specialized Instruction: direct service, parent coaching, and direct and indirect consultation provided by an ECSE teacher via phone or email, virtually, in the home or community for 80 minutes.</p> <p>Student 13</p> <p>Specialized instruction: direct service and direct and indirect consultation provided by the ECSE teacher for 30 minutes, two times per month, per the Community School Calendar, to focus on adaptive, receptive, and expressive communication skills.</p> <p>Speech/Language Therapy: direct service and direct and indirect consultation provided by the SLP/SLPA for 30 minutes, two times per month, in a community preschool, virtual, email, or phone settings.</p>	<p>to each child or written consent from parents to forego the missed services.</p>	
--	---	--

<p>Instruction to parents in support of family outcomes: direct, parent coaching, direct and indirect consultation by EI/ECSE Specialists for 30 minutes, one time per month.</p> <p>Student 19 Specialized Instruction: consultation by the ECSE teacher, direct services in adaptive and social skills, 30 minutes per month per the Community Calendar at the ECSE site, by phone and email.</p> <p>Student 22 Specialized instruction: consultation and direct and indirect consultation provided by the ECSE teacher for 30 minutes at home, virtually, or by phone to address goals in adaptive, social, and communication. Speech/Language Therapy: direct service and direct and indirect consultation provided by the SLP for 30 minutes, two times per month, in the ECSE classroom.</p> <p>Student 26 Early Intervention Services: direct service, parent coaching, and direct and indirect consultation provided by an OT for 15 minutes, two times per month. Occupational Therapy: direct service, parent coaching, and direct and indirect consultation by phone, email, virtually, at home, or in the community by an OT for 30 minutes, two times per month.</p>		
<p>2. The ESD must ensure that all ESD staff responsible for the provision of special education services receive training in the implementation of IFSP services.</p>	<p>Training agenda/materials to the ODE District Support Specialist for review/approval.</p> <p>Sign-in sheet for training.</p>	<p>February 1, 2025</p> <p>March 15, 2025</p>

Dated: this 12 Day of December 2024

Ramonda Olaloye

Ramonda Olaloye
Assistant Superintendent
Office of Enhancing Student Opportunities

E-mailing Date: December 12th, 2024

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).)