

BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of Redmond School District 2J)
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FINDINGS OF FACT,
CONCLUSIONS,
AND FINAL ORDER
Case No. 24-054-063

I. BACKGROUND

On October 7, 2024, the Oregon Department of Education (Department) received a written request for a special education complaint investigation from the Regional Director of a residential facility within the District boundaries (Complainant) of a student (Student) residing and attending school in the Redmond School District (District). The Complainant requested that the Department conduct a special education investigation under OAR 581-015-2030. The Department confirmed receipt of this Complaint and forwarded the request to the District.

Under state and federal law, the Department must investigate written complaints that allege violations of the Individuals with Disabilities Education Act (IDEA) and issue an order within sixty days of receipt of the complaint.¹ This timeline may be extended if the Complainant and the District agree to the extension to engage in mediation or local resolution or for exceptional circumstances related to the complaint.²

On October 10, 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 October 24, 2024.

The District submitted a *Response* on October 24, 2024, denying the allegations, providing an explanation, and submitting documents supporting the District's position. The District submitted the following relevant items:

1. District's Written *Response* to Complaint, dated 10/24/24
2. Notice of Team Meeting, 09/23/24
3. Prior Written Notice (PWN), 09/24/24
4. Individualized Education Program (IEP) Amendment, 09/24/24
5. Special Education Placement Determination, 09/24/24
6. IEP Meeting Notes, 09/24/24
7. Bus Plan, 09/19/24
8. Behavior Intervention Plan, 09/10/24

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

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

9. Notice of Team Meeting, 09/04/24
10. PWN, 09/06/24
11. IEP Amendment, 09/06/24
12. IEP Meeting Notes, 09/06/24
13. IEP Meeting Attendance and Agenda, 09/06/24
14. Special Education Placement Determination, 08/29/24
15. Meeting Notes, 08/29/24
16. IEP Meeting Attendance and Agenda, 08/29/24
17. Abbreviated School Day Consent, 06/06-06/11/24
18. PWN, 06/07/24
19. Notice of Team Meeting, 06/03/24
20. Conference Summary, 06/06/24
21. IEP, 05/20/24
22. Special Education Placement Determination, 05/20/24
23. Manifestation Determination and Review, 05/20/24
24. PWN, 05/20/24
25. Informed and Written Consent for Placement on Abbreviated School Day Program, 05/20/24
26. Conference Summary, 05/13/24
27. [Student] Observation Disclosure, 04/22-05/10/24
28. Comprehensive Behavior Instruction Plan, 01/12/24
29. Parent/Guardian Consent for Individual Evaluation, signed, 01/12/24
30. Meeting invitation, 09/06/24
31. Attendance/Schedule, 09/09-10/25/24
32. Permanent Record and Transcript, 2024-2025
33. Special Ed Contact Log, 08/26-10/24/24
34. Special Education - Procedural Safeguards Policy IGBAG-AR, 02/27/08-11/30/22
35. School Schedule, no date
36. Summary of Behavior Referrals, 09/10-09/23/24
37. Summary of Staff Injury Reports, 09/10-09/24/24
38. Student Discipline Profile, 2024-2025
39. Emails from 08/14/24 through 10/23/24

The Complainant submitted a *Reply* on October 31, 2024, providing an explanation, rebuttal, and documents supporting the Complainant's position. The Complainant submitted the following relevant items:

1. Complainant's *Reply* to the District's *Response* to *RFR*, undated
2. Emergency Data Form, 09/08/23
3. Email, re: [District] and [Organization], 10/30/24
4. Email, re: [Student], 11/4/24
5. Email, re: New student in ILS, 8/21/24
6. 2024-25 Assigned School Transfer Request, [Student], 8/14/24

The Complaint Investigator interviewed the Complainant, the Parent, and witnesses on November 12, 2024. On November 14, 2024, the Complaint Investigator interviewed the District's staff. 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 allegations and the Department's conclusions are described 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 October 8, 2023, to the filing of this Complaint on October 7, 2024.

Allegations	Conclusions
<p>When IEPs Must Be In Effect</p> <p>The Complaint alleged that the District failed to provide the Student with support as outlined in the Student's IEP when the District delayed the Student's start date at school to September 9, 2024. The Complaint further alleged that the Student's IEP was also not followed when the Student was suspended on September 18 and 19, 2024. Further, it alleged that the District failed to provide a tutor for the Student from September 25-October 4, 2024.</p> <p>(OAR 581-015-2220; 34 CFR § 300.323)</p>	<p>Not Substantiated</p> <p>The District did not provide special education and related services in accordance with the Student's IEP when they delayed the Student's start date and failed to secure a home instructor for ten days; however, this was not a material failure to implement the IEP and there is no evidence that the Student's progress was impacted.</p>
<p>Educational Placements and Requirement for Least Restrictive Environment</p> <p>The Complaint alleged that the District failed to "meet the required steps for changing [the Student's] educational placement" when the Student's placement was changed on September 24, 2024, "without parent consent [and] without invoking an interim placement."</p> <p>(OAR 581-015-2195, OAR 581-015-2240, and 34 C.F.R. §§ 300.327, 300.501(c), 300.530(g))</p>	<p>Not Substantiated</p> <p>The District met the requirements for considering a continuum of educational placements and the least restrictive environment.</p>
<p>Prior Written Notice</p>	<p>Not Substantiated</p>

Allegations	Conclusions
<p>The Complaint alleged that the District failed to provide prior written notice (PWN) when the Student’s placement was changed on September 24, 2024.</p> <p>(OAR 581-015-2310(2) and 34 CFR § 300.503(a))</p>	<p>The District provided PWN to the Complainant for the placement change on September 24, 2024.</p>
<p>Parent Participation</p> <p>The Complaint alleged that the District had not provided the Complainant with a copy of the Student’s IEP from a September 6, 2024 IEP meeting.</p> <p>(OAR 581-015-2195(5) and 34 CFR § 300.322(f))</p>	<p>Not Substantiated</p> <p>The District met the requirements for parent participation.</p>
<p>Free Appropriate Public Education</p> <p>The Complaint alleged that the District’s failure to provide instruction to the Student has restricted the Student’s right to a free appropriate public education (FAPE) and has caused a lack of progress on the Student’s IEP goals.</p> <p>(OAR 581-015-2040 and 34 C.F.R. § 300.101)</p>	<p>Not Substantiated</p> <p>The initial delay in services starting did not hinder the Student’s progress or deny them a FAPE.</p>

REQUESTED CORRECTIVE ACTION
<p>The Complainant requested the following corrective action:</p> <ul style="list-style-type: none"> • “[C]hange [the Student’s] placement back into the educational setting per [the Student’s] updated IEP for entry into [the District]. As well as compensatory services for the time missed which will be agreed upon by the IEP team.” • “[H]ave all communications between [the District] and [the Complainant] be via email, not Parent Vue. [The Complainant] would also like to receive a copy of the IEP that was updated by [the School] that placed [the Student] in the Educational Setting.” • “[H]ave a debriefing meeting to discuss the restraint that was done and to have all further debriefing meetings be within the [two] school days as outlined in the IDEA.”

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 before October 8, 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. The Student is 13 years old, in the 8th grade, and is provided homebound instruction by a middle school in the District.
2. The Student is eligible for special education in the areas of Autism Spectrum Disorder and Intellectual Disability.
3. The Student is described as a curious, perceptive student who thrives on routine and predictability. The Student enjoys school, learning activities, and a variety of sensory experiences. They are motivated by physical activity and "heavy work" tasks, and the Student responds well to verbal praise and positive reinforcement. The Student loves music and shows strengths in puzzles and sorting activities.
4. The Oregon Department of Human Services Offices of Developmental Disabilities Services [ODDS] Child Placement Agreement signed by the Parent on October 12, 2022, indicated the following:
 - a. "I am the parent(s), legal custodian(s) or guardian(s) of the above-named child and request to voluntarily place my child in a developmental disability residential group home, Host Home or foster home funded by ODDS. By this agreement I am delegating certain duties and responsibilities regarding my child's care as later described in this agreement."
 - b. "I understand that I retain such authority as I had prior to executing this agreement and I agree to continue to perform all my duties and legal responsibilities except those specifically delegated to ODDS by this agreement."
 - c. As my child's parent(s), legal guardian(s), or legal custodian(s), I agree:
 - i. "To authorize school activities and programs such as community outings requiring permission not covered by my child's IEP if reasonable efforts to get in touch with me to consult with me have been unsuccessful."

The document included the Parent's address and a nine-digit phone number.

5. District Policy, IGBAG-AR, Special Education - Procedural Safeguards indicated that the District provides Procedural Safeguards to the following:
 - a. "Parent, guardians (unless the guardian is a state agency) or persons in parental relationship to the student"; and
 - b. "Surrogate parents."
6. On February 5, 2024, the Parent electronically signed a Consent for Individual Evaluation from the Previous District.

7. On April 22, 2024, the Parent electronically signed an Authorization to Use or Disclose Protected Information document. The Manager of the Agency signed the document on May 10, 2024.
8. A May 13, 2024 Conference Summary from the Previous District listed the Executive Director of the Agency, the Manager from the Agency, and the Parent in attendance. The Team discussed the Student's behaviors and medical history.
9. A Manifestation Determination Review was conducted on May 20, 2024. The Team determined that the violations of sexual offense and assault, physical attack, and disruptive behavior were manifestations of the Student's disability. The document indicated that "The Parent and District agree to a change of placement as part of the behavioral intervention plan." A PWN describing the decisions was documented on May 20, 2024.
10. The IEP, developed in the Student's Previous District on May 20, 2024, included the following:
 - a. The Manager from the Agency and the Parent were listed as Parents/Guardians.
 - b. The Parent indicated that "the last time [the Parent] was there [the Student] was very separated from the rest of the class and it seemed like [the Student] did not want to be at school very much. [The Parent] did not think [the Student] was being engaged in [their] education very much."
 - c. The Student's Present Levels of Academic and Functional Performance indicated the following:
 - i. Reading: The Student was beginning to decode text and could identify some sight words. The Student understood better with fewer visual answer choices. Visual supports and verbal prompts helped the Student. The Student's needs included increasing independence, improving comprehension with more answer choices, and learning to recognize community signs for safety.
 - ii. Writing: The Student typed their first name independently and last name with verbal prompts. The Student understood capitalization and punctuation. Needs and next steps included connecting the iPad communication system to typing for emails/messages, increasing typing speed and fluency, and integrating the AAC (Augmentative and Alternative Communication) with writing.
 - iii. Math: The Student understood dollar bills and coins, could tell time on the hour and half-hour in digital format and understood "greater than" and "less than." The Student worked on double-digit addition and subtraction, used a calculator with verbal prompts, recognized shapes, and interpreted charts/graphs with support. Needs included improving double-digit addition and subtraction, solving multi-step problems, maintaining focus during math activities, and applying math concepts to real-life situations.
 - iv. Communication: The Student used some sign language and an iPad with a Proloquo2Go (AAC) device. The Student exhibited a greater strength in receptive communication. Needs included increasing motivation to communicate beyond requesting food.
 - v. Self-regulation: The Student knew some techniques but required prompting to use them. The Student responded well to calming, sensory activities and "first/then"

- strategies. Active sensory activities were helpful when followed by deep pressure. Needs included increasing independent use of self-regulation techniques, improving focus, and reducing impulsivity.
- vi. Behavior: The Student has increased their aggression toward peers and adults, including hitting, grabbing, throwing, and eloping, and sought attention and access to desired items or activities. The Student engaged in repetitive behaviors such as clapping and hitting surfaces. The Student was triggered by frustration, miscommunication, power struggles, and transitions. Supports included a private learning environment with two adults, structured routines, sensory activities, redirection, and avoiding power struggles.
 - vii. Life Skills: The Student requested assistance with toileting. Some urination accidents occurred. Prompting was required to use soap and leave the sink. The Student followed a visual schedule, engaged in preferred activities with prompting, and needed support with transitions. Needs included increasing independence in toileting and handwashing and improving transitions and engagement in activities.
 - viii. Social Skills: The Student enjoyed solitude but engaged in social interaction, especially during physical activities. Needs included increasing social engagement in various settings.
 - ix. Other Functional Information included the following:
 - (1) "Currently May 2024: [The] IEP team came to an agreement to serve [the Student] on an abbreviated day in a separate school-based setting for the remainder of the school year for 5 hrs. a week. The district would also provide access to additional educational instruction during the summer by accessing the site where Extended School Year Services is [sic] held. This amounts to 45 hours of instruction time provided."
 - (2) "Educational Setting in January 2024: [The Student] is removed from the regular classroom-an average of 1,668 minutes per week (80.9% of the week). [The Student] currently has the opportunity to participate and interact with [their] general education peers in [their] Unified PE Class, Unified Elective Wheels (currently attending about 5 minutes of class), & interaction with peers in the hallways throughout the day-an average of 394 minutes per week (19.4% of the week). [The Student] also has additional interactions with [their] general ed[ucation] peers in the hallways during passing times, jobs throughout the school building, and when other peers come into the sensory room area."
 - (3) "[The Student] previously attended a private school-100% removed from [their] general education peers at [the Alternative Location]; which was a year[-]round program. In June 2021, an AAC referral was made, and [the Student] was on the waiting list for an assessment when [the Student's] previous IEP was completed. At the time of this current IEP, our school has not received [the Student's] cumulative file from the previous district. [The Student] attended 0% of [their] teletherapy speech-language sessions during the 2021-2022 school year."
 - (4) "[The Student] is always on the move and constantly needing movement breaks."
 - (5) "[The Student] is reported to have about a 1-5 minute attention span, without adult redirection. [The Student] needs a movement break about every 10-15 minutes."

- (6) “[The Student] does best when [the Student] is given firm/clear expectations, and when the direction is not worded as a suggestion. [The Student] has difficulty with being told no.”
 - (7) “A GO BAG might be a good idea: with snacks, family pictures ([the Parent] will provide) and preferred fidgets.”
- d. The Student’s disability impacted their involvement and progress in the general education curriculum in the following ways:
 - i. “[The Student] is impacted by [their] disability and receives special education services to work on [their] functional skill development (i.e., academic skills, social-emotional learning skills, self-regulation skills, self-help skills, self-advocacy skills, life skills, and future job skills). [The Student] needs individualized instruction, in a non-distracting environment, highly structured classroom, with smaller staff[-]to[-]student ratios, small group instruction and with classroom academic/functional skill supports, to meet [their] academic and holistic needs. [The Student] needs a modified curriculum for [their] academics, structured routines, instruction presented at [the Student’s] individual level, repetitive instruction, multimodal communication supports, writing supports, de-escalation/behavioral supports and many opportunities to practice [their] skills. This will help [the Student] to generalize [their] developing skills, into a larger community and future school settings.”
- e. The Special Factors for IEP Development included:
 - i. “[The Student] has a comprehensive behavior [instruction] plan (CBIP), safety plan, behavior strategies, Private Learning Environment (PLE), accommodations and goals in place to support [the Student] throughout [their] day.”
 - ii. “[The Student’s] communication needs are addressed through [their] service minutes with the [speech-language pathologist] SLP, communication [specially designed instruction] SDI minutes, communication goals, augmentative communication tools, and accommodations.”
 - iii. “[The Student’s] needs are addressed through [the] use of an augmentative communication system, accommodations, and consultation services with the augmentative communication specialist as a support to school personal [*sic*]. Also [the Student] needs a Chromebook to help meet [their] writing needs.”
- f. The extended assessments for reading, math, and science with accommodations were listed for 8th grade. Alternative assessments with accommodations were also listed.
- g. Goals and short-term objectives were listed in the categories of Reading/Language Arts, Written Language, Mathematics, Behavior, Life Skills, and Communication.
- h. Specially Designed Instruction included:
 - i. Reading/Language Arts: 60 minutes per week in the special education classroom with a special education teacher from May 21, 2024 to May 19, 2025.
 - ii. Written Language: 30 minutes per week in the special education classroom with a special education teacher from May 21, 2024 to May 19, 2025.
 - iii. Mathematics: 60 minutes per week in the special education classroom with a special education teacher from May 21, 2024 to May 19, 2025.
 - iv. Communication: 50 minutes per week in a school-wide setting with a special education teacher from May 21, 2024 to May 19, 2025.

- v. Behavior: 120 minutes per week in a school-wide setting with a special education teacher from May 21, 2024 to May 19, 2025.
- vi. Life Skills: 45 minutes per week in a school-wide setting with a special education teacher from May 21, 2024 to May 19, 2025.
- i. Related Services included:
 - i. Transportation: Provided by the Local Educational Agency (LEA) via Bus, round trip, from May 21, 2024 to May 19, 2025.
 - ii. Communication: An SLP from the LEA will provide services for 90 minutes per month from May 21, 2024 to May 19, 2025.
 - iii. Occupational Therapy: An occupational therapist from the LEA will provide services for 30 minutes per year from May 21, 2024 to May 19, 2025.
- j. Extended School Year Services (ESY) indicated that the Student's data "showed regression and/or recoupment of skills." ESY services were listed and were scheduled to occur from July 1, 2024 to July 25, 2024.
- k. Accommodations listed were in effect school-wide, with a special education teacher, throughout the day from May 21, 2024 to May 19, 2025:
 - i. "Adult Assistance for: positive reinforcement, prompting/modeling, verbal feedback, augmentative communication assistance, communication assistance, visual support cueing, proximal seating/positioning to an adult (in order to maintain line[-]of[-] sight (& arms[-])length away-as much as possibly [*sic*])—if sugary snacks are around, remaining on task, sensory breaks, eloping, and other sensory/support needs throughout the entire day), carrying the eloping 'Go-Bag', academic support, general education class support, small group/individual work support, personal hygiene, feeding protocol, self-regulation strategy model/supports, bathroom needs/reminders, and working on the new routines/classroom structures. [The Student] currently needs multiple adults (2-3) with [them] ... throughout [their] day to maintain safety and behavioral protocols" for 360 minutes.
 - ii. "Adult awareness of [the Student's] current anxiety/tic behavior, provide comfort/keep student safe/reassurance, track the behavior that occurs A-B-C[-]like info/document time, and after incident discuss with [the Student] what occurred using yes/no questions - once [the Student] is calm/at baseline" for 360 minutes.
 - iii. Feeding Protocol for 75 minutes.
 - iv. "Access to a PLE (Private Learning Environment/Student Office) area, for [the Student] to work in when overstimulated, needs time to work in a non-distracting area, and to meet [the Student's] current safety/behavioral needs" for 360 minutes.
 - v. "Safety Plan for Eloping/Behavioral Strategies & Comprehensive Behavior Plan" for 360 minutes.
 - vi. "'Take-a-break' (self-regulation) areas within the classroom setting and classroom sensory room" for 360 minutes.
 - vii. "Build in individualized positive reward system ... Token board (10 tokens) and first-then strip" for 360 minutes.
 - viii. "Extended processing time (multimodal communication attempts, transitions, & other academic/social needs) at least 2-5 minutes (and then assess the situation, to see if [the Student] needs more processing time)" for 360 minutes.

- ix. "Pre-warnings of changes and timers for transitions/changes; with advanced notice of safety drills (and offered headphones)" for 360 minutes.
- x. "Structured self-regulation/sensory/movement breaks (scheduled & requested breaks)" for 360 minutes.
- xi. "Frequent classroom structured sensory breaks, heavy work tasks, sensory supports, and sensory tools (i.e., heavy work tasks, deep pressure stimulus, and other classroom supports-headphones, [an] outlet for jumping/moving in classroom, fidgets)" for 360 minutes.
- xii. "Symbol-Supported Readings/Texts and a copy of the reading to follow along with" for 60 minutes.
- xiii. "Read-Aloud: Text, books, assignments & assessments" for 60 minutes.
- xiv. "Chromebook Access" for 30 minutes.
- xv. "Math Tools: Calculator, number-line, math manipulatives, and other math-related tools" for 60 minutes.
- xvi. "Extended time for assessments/tests: Broken up over a 3-day setting (multiple 10-15 minute sessions throughout the day)" for 30 minutes.
- xvii. "Explicit instruction (clear expectations and classroom routines) & repetitive opportunities to practice" for 360 minutes.
- xviii. "Frequent checks for understanding, clarifying directions, and provide immediate feedback/positive reinforcement & encouragement/praise" for 360 minutes.
- xix. "High-tech augmentative communication system" for 360 minutes.
- xx. "Receptive questions/alternative response options instead of expressive questions (verbal interaction and academic assignments/assessments)" for 360 minutes.
- xxi. "Visual supports (academic and social-emotional/calm down cues), individualized visual schedule, & visual models" for 360 minutes.
- xxii. "Preferential Seating in Classroom: positioned away from the door, with strategic desk set-ups to prevent eloping" for 360 minutes.
- xxiii. "Extended travel time/transition time in [the] hallway, 5 minutes before or after the bell rings" for 60 minutes.
- xxiv. "Adaptive locker lock-with key entry" for 360 minutes.
- xxv. "Transportation Safety: MAX Safety Vest with leg straps, 1st seat on the bus-not behind the driver, and 1st student off the bus in the morning" for 60 minutes, round trip.
- xxvi. "Go Bag for [an] adult assistant with tools for success, have with at all times (i.e., picture of [the Student] from that day, Emergency Information, preferred fidgets, visual cues, picture of [their] family" for 360 minutes.
- xxvii. "Weighted Cart and/or Backpack for transitioning in school hallways, outside of [the] main classroom, and heavy work" for 360 minutes.
- l. Modifications included modified grading, rubrics, and curriculum, and shortened problems school-wide by the special education teacher for 360 minutes from May 21, 2024 to May 19, 2025.
- m. Supports for School Personnel included the following consultations beginning on May 21, 2024 to May 19, 2025:
 - i. Consultation with the general education teacher for 30 minutes per year.
 - ii. Consultation with the Autism Team for 400 minutes per year.

- iii. Consultation between SLP, case manager, and staff for 30 minutes per year.
 - iv. "Consultation between the augmentative communication specialist and school staff to support device programming, maintenance, and training" for 120 minutes per year.
 - v. Consultation with an Occupational Therapist (OT) and assistants for 150 minutes per year.
- n. The Statement of Non-Participation Justification indicated that "The team has determined the student will need to be removed from participating with nondisabled students in order to receive specially designed instruction, related services, or supplementary aids or services." The Team determined that the Student would receive an abbreviated school day "... in a separate school-based setting for the remainder of the school year for 5 hrs. a week." Additional instruction would occur during ESY, amounting to a total of 45 hours of instructional time. This action was due to the Student increasing "... physical and sexual aggression towards the adults that serve [the Student] in their educational setting."
11. The May 20, 2024 Special Education Placement Determination indicated that the placement option selected was homebound instruction with special education services. Modifications and Supplementary Aids and Services were listed to maintain the Student in this least restrictive environment. The Parent electronically signed the Informed and Written Consent for Placement on an Abbreviated School Day Program on May 20, 2024.
12. The Executive Director confirmed during an interview with the Complaint Investigator that they participated in the Student's Manifestation Determination Review dated May 20, 2024, and the IEP meeting on the same day when the Student's placement was changed to homebound instruction.
13. The Student's CBIP was created in June 2023 and reviewed in October 2023 and January 2024. The Plan identified physical aggression and elopement as problem behaviors and listed replacement behaviors, unmet needs, trigger interventions, and skill-building opportunities for the Student. As a part of the CBIP, an emergency binder and a safety plan were included.
14. On June 3, 2024, a Notice of Team Meeting from the Previous District listed the Manager from the Agency and the Parent as the Parents/Guardians of the Student and was created to consider an Abbreviated School Day Program and to develop or review the Student's IEP.
15. The June 6, 2024 Conference Summary and the June 7, 2024 PWN from the Previous District listed the Manager from the Agency and the Parent as the Parents/Guardians. The PWN described that the IEP Team increased support for communication and behavior, added accommodations, and maintained the Student's current placement of 5 hours per week of homebound instruction at a school site. These changes were based on input from various team members and data collected on the Student's progress. The Team decided to keep the Student's current behavior plan in place until after gathering more information during ESY. They planned to meet again in August to review data, potentially amend the behavior plan, and discuss a possible return to a school setting in September.

16. On June 11, 2024 the Abbreviated School Day Program Content document was docu-signed by the Parent.

Transition to the Current District

17. In an interview, the Parent indicated they were involved in the Student's transition from the previous location to the current Agency and that the Agency was "very good at calling and communicating and letting me be a part of everything that [the Student] does." According to the Parent, the Student "... needed to be in a more safe facility, a mag[netic] safe facility because [the Student] has elopement issues." The Parent indicated that in the new facility, "The windows are tempered glass, so they can't be broken as easily. The doors can be magnetically closed and opened. [The Student] can't get into cabinets or anything like that." The Executive Director confirmed in an interview with the Complaint Investigator that the Student was exhibiting challenging behaviors, such as leaving supervised settings and entering people's homes, which led to encounters with law enforcement. These behaviors necessitated a higher level of care, which the Student received at the current facility.
18. The Executive Director described in an interview with the Complaint Investigator how they were involved in the Student's transition from the Previous District to the current District. On September 6, 2024, a meeting was held to discuss the Student's entry to the School. The School had concerns about seizures and behavioral issues, which were addressed by the Agency. According to the Executive Director, the District "... stated that they had received an IEP that we didn't have on file, and then we agreed on an entry date that following Monday." The Executive Director stated that the last IEP on file with the Agency was dated May 20, 2024.

Registration/Enrollment

19. On August 7, 2024, the Director of Secondary Special Education shared a document with the School that was titled "[The Student's] Current IEP." In an interview with the Complaint Investigator, the Director of Secondary Special Education indicated that this IEP was the June 5, 2023, expired IEP.
20. On August 14, 2024, the Director of Secondary Special Education emailed the Executive Director, the Regional Director, and the Services Director and wrote, "Please get [the Student] registered ASAP so we can have [them] start on time."
21. On August 14, 2024 a 2024-25 Transfer Request was completed on behalf of the Student. Listed in the Parent/Guardian Section were the Services Director, the Complainant, and the Executive Director of the Agency.
22. During an interview with the Complaint Investigator, the Services Director described their role in the registration process for the School, "... When I knew ... that [the Student] was going to move over, as soon as I got [the Student's] information ... ROI [Release of Information] ... and then [the Student's] other basic things that you would update for a kid's profile with the

... District ... I entered all that stuff in and then submitted to the District saying that we're getting a new kiddo, here's where [the Student's] going to be, here's where [the Student's] living. So I communicated that over email."

23. On August 15, 2024, the Services Director emailed the Director of Secondary Special Education, "I have set [the Student] up in [the Student Information System] today. I have also attached other information to get [the Student's] process going. ... I have filled out the assigned school transfer request to reflect [the Student's] current address... . I have also attached the entry letter from ODDS stating [the Student] is in our care, as well as [the Student's] most recent IEP." The Director of Secondary Special Education indicated in an interview with the Complaint Investigator that the IEP that was attached in the email chain between Agency staff and the District was dated June 5, 2023.
24. When asked by the Complaint Investigator when the May 20, 2024 IEP was shared with the District, the Executive Director said, "I can't recall if when [the Services Director] enrolled [the Student], [they] shared it ... [The Services Director] did share it with [them] on August 15th when [the Services Director] enrolled [the Student]." When asked if they knew that a 2023 IEP was shared, the Executive Director responded, "No."

Parent Contact Information

25. When asked in an interview with the Complaint Investigator when the Parent provided contact information to the District, the Parent said, "They would've got all my contact information when [the Student] registered. I'm still [the Student's] parental guardian." The Parent said that the Agency registered the Student.
26. During an interview with the Complaint Investigator, the Services Director indicated they were the one that registered the Student, but they didn't remember providing the Parent's contact information to the District, "I don't remember specifically. I thought I did. Entering in the system, me and the manager were entering information into the system"
27. During an interview with the Complaint Investigator, the Complainant shared that "... when we register the kiddos, we have to obviously provide information as far as who they are, ... if they have any intellectual developmental disabilities. We provided that voluntary placement agreement, which had [the Parent's] contact information on it, or rather, it was an entry letter that [the Parent] had signed when [the Student] moved into [their] previous placement. ... When we registered [the Student] into school, we gave them our executive contact [the Executive Director] [The Services Director] had given them [their] contact information ... our services director. ... We provided my contact information. ... We did give that entry letter that had [the Parent's] information on it." The Complainant indicated that the letter included the Parent's name and phone number and that they were the legal guardian, " ... and then we include [the Parent] on all emails with the School. And I stated

that in one of my email responses to them, I said '[the Parent] has been included in emails from this date on.'

First Placement

28. On August 21, 2024, the Services Director emailed the Counselor regarding a new student, "I would like to set up a meeting as soon as possible to discuss [the Student's] placement and [their] supervision needs as well as [their] current IEP. I would like [the Student] to start on time with the rest of the students."
29. In their *Response*, the Complainant indicated that "The IEP that [the Agency] produced for [the District] dated 6/5/23 is the only IEP that we had in our possession and the most current IEP that we still have from [the Student's] last school district. This was also discussed at the 8/29/24 meeting that the most recent IEP that [the Agency] had was dated 6/5/23 and that we had no luck getting a more recent one from the previous school district."
30. The August 29, 2024 Special Education Placement Determination described that the Student's placement was based on the June 5, 2023 IEP and a January 2024 amended BIP and was listed as "Regular class less than 40%."
31. August 29, 2024 meeting notes listed the Parents/Guardians as the Complainant and the Caseworker. The IEP Meeting Attendance and Agenda do not list anyone in the Parent role. The Student's strengths, challenges, behaviors, and strategies were noted.
32. The August 29, 2024 PWN listed the Complainant and the Executive Director of the Agency as Parents/Guardians and indicated that "The team met to review, in consultation with [the Agency,] staff from the following school district: [the Previous District] until a new IEP can be developed, adopted, and implemented by the current team. The team does not have access to an updated IEP, current placement (most recent) or behavior plan, safety plan. The most recent IEP available (without a placement page) was provided by [the Agency] [the Student] is currently living in. This IEP is expired as of June 2023. Records requests have been made for [the Previous District]. The team met on 8-29-24, prior to [the Student] starting school in [the District], to review any information that could be provided and discuss placement, as [the Student] will be starting school in [the District] as an 8th grader. [The] [p]lacement was determined by an IEP team on 8-29-24 to less than 40% in general education as that is the least restrictive placement at this time for [the Student] based on information shared by [the Agency]." The District indicated that the June 5, 2023 IEP was expired and did not contain a placement determination, BIP, or Safety Plan. The District noted that the information used to make the placement decision was based on the expired IEP and the "information presented by [the Agency] staff at this meeting." It was noted that "The available IEP can be used to guide the provision of services, but available information is insufficient or may require modification." The Student's school start date was listed as September 4, 2024.
33. On August 29, 2024, one of the Agency employees emailed a summary regarding the Student's behavior to the Special Education Teacher.

34. On September 2, 2024, the School Psychologist emailed the Special Education Coach and the Special Education teacher with contact information for the SIRC (Sexual Incident Response Committee) liaison from the Student's previous district.
35. On September 3, 2024, the Previous Special Education Teacher shared a spreadsheet with the Special Education Teacher entitled "Copy of [the Student's] Behavior Data (School Year 2023-2024)." The following day, the Previous Special Education Teacher shared other data collected on the Student. During an interview with the Complaint Investigator, the Director of Secondary Special Education shared that September 3, 2024 was the date on which the District received the Student's current IEP.

Delayed Start to School

36. September 4, 2024 was listed as the first day of School for all grades except kindergarten and first grade on the District 2024-25 School Calendar. A District-provided document described that the school day began at 7:30 a.m. and ended at 2:08 p.m.
37. The Executive Director described in an interview with the Complaint Investigator that the Student was supposed to start school on September 4, 2024, but when the Agency staff went to drop the Student off, the Student was turned away. The Executive Director said they called to inquire, and the Principal shared that they received information from the previous school regarding the Student groping teachers.
38. On September 4, 2024, a Notice of Team Meeting was created with the Complainant and the Executive Director of the Agency listed as Parents/Guardians to "... determine comparable services until a full IEP/Placement can be developed, adopted and implemented" and to amend the "... IEP (non-participation justification) to match the Placement Determination dated 08/29/2024."
39. In an interview with the Complaint Investigator, the Director of Secondary Special Education described the reasons for delaying the Student's start date, "They held a meeting on ... August 29th ... the school team and [the Agency] staff. They were going off of this expired IEP. They were listening to [the Agency] staff; [the Agency] staff were sharing that this Student will be fine in a ... general education classroom. [The Student] just needs movement breaks. [The Student] needs additional adult support. We were using an expired IEP... . We don't have all of the paperwork, but we're gonna give it a shot. We'll have [the Student] start on September 4th. ... It wasn't until the afternoon of September 3rd that the School received information directly from [the Previous District], a current IEP ... a current placement page that stated the Student was on an abbreviated day for the last six weeks of School from May 20th to the end of the school year." The Director of Secondary Special Education indicated that they received previous manifestation determination paperwork and information regarding "a sexual assault on various employees with [the Previous District]." They also received an updated BIP and realized, "We need to come back to the table. We have new information. This is not the situation that was described at our previous meeting. And we need more information. We

need to ... come up with a better plan about how we're going to support this Student." The Director of Secondary Special Education described that they tried to schedule a meeting for September 5th, but [the Executive Director] was not available. The meeting was scheduled for September 6th, "At that meeting, we discussed all of this new information, and we ... had the Student started on September 9th."

According to the Director of Secondary Special Education, the documentation from the Previous District indicated that the Student had a "personalized learning environment. And so we had a room identified. ... The room that [the Student] first started in did not have a bathroom. It was a full-size classroom. We tried [the Student] in there for three days" The Director of Secondary Special Education described that there was a classroom swap on September 11th. The new classroom, which had its own bathroom, required modifications to ensure safety as the Student had a history of breaking glass. After the swap, the Student returned to school on September 12th and attended classes for a week. During this period, some behavioral issues were noted, including physical interactions and inappropriate touching. On the morning of September 19th, the Student became extremely agitated and physically assaulted two staff members.

40. An electronic calendar invitation for an IEP meeting scheduled for September 6, 2024, did not include the Parent. On that same day, the May 20, 2024 IEP was amended, "The team met to revise the IEP. Due to the Placement Determination changing from what was documented on the IEP dated 5/20/2024, the team amended the Placement on 8/29/2024. Additionally, the Non-Participation Justification statement needed revision on 09/06/2024 to align with the Placement that will begin on 09/09/2024. District-wide assessments were removed as they are not appropriate for the student at this time."
41. Meeting Notes taken by the Instructional Assistant from the September 6, 2024 IEP meeting indicated that the Executive Director of the Agency and the Services Director from the Agency were present. The following was noted:
 - a. "Parents rights? Does [the Parent] have education rights and custody?"
 - b. "[The Parent] does have parental rights but [the Executive Director of the Agency] has the ability to make educational, and medical decisions."
 - c. "The decision to homeschool at the last school was [the Parent's] choice due to not [being] happy with that district's care of the student. [The Student] was on a 5-day week."
 - d. "At the new home [the Student] is showing behaviors listed in school notes but not sexually."
 - e. "Sexual behaviors were trying to reach down staff shirts or up pants, [the Parent] keeps sweets in pockets or bra [the Student] is a pick pocketeer in purses for example looking for sweets ... so the sexual behaviors were mistaken for [the Student] looking for sweets."
 - f. "[The Parent] was not happy with seeing [the Student] in seclusion so a manifestation was requested by [the Executive Director] who says the info we have received was not accurate and is disheartening."
 - g. The Student's skills and strengths were shared and it was noted that the Student's "... schedule should be more tailored to SEL/behavior over academic for now."

- h. Medical needs, the feeding protocol, OT, speech, sensory, toileting, and transportation needs were noted.
 - i. Specific behaviors and warning signs were noted. Long sleeves were noted as the PPE used at the Agency. Escalation frequency and length and de-escalation strategies were noted. Discussions regarding additional behaviors were noted.
42. The PWN from the September 6, 2024 IEP meeting described the proposed actions:
- a. "The team proposes to implement [the] provision of a Free Appropriate Public Education (FAPE), which includes the IEP. Recent information (current IEP, current BIP, current safety plan, placement determination, etc.) was provided from the previous school district on 9/3/2024 indicating a much more restrictive environment for placement than was indicated during the 8/29/2024 meeting. While it was decided on 8/29/2024 that [the Student] would start school on 9/4/2024, after receiving updated information from [the Previous District] on 9/3/2024, [the District] requested another IEP meeting before the student started school to discuss the implementation of the IEP as well as update the Placement Determination. The District also had to amend the IEP (non-participation justification) as the student is not on an Abbreviated Day and district-wide assessments as the student will not participate in any district-wide assessments."
 - b. The explanation provided indicated that "The District was making decisions based on an expired IEP (6/5/2023) as well as input from staff at [the Agency] during the 8/29/2024 meeting. After receiving updated information on 9/3/2024, the District determined it was necessary to delay [the Student's] start date until the team could meet again and discuss the updated information. The district also had to amend the IEP (non-participation justification) as the student is not on an Abbreviated Day at this time ... "
 - c. The District described the information used as a basis for the proposed action, including the May 20, 2024 IEP, Placement Determination, BIP, and Safety Plan.
43. The following items were created for the Student:
- a. On September 6, 2024, a Safety Plan was developed.
 - b. On September 10, 2024, a Behavior Intervention Plan was created.
 - c. On September 14, 2024, a bus plan was created.
44. In an interview with the Complaint Investigator, the Director of Secondary Special Education indicated that the Student's absences for September 5-7, 2024 were not coded as disciplinary removals, "We just delayed [the Student's] start. [The Student] wasn't asked to stay home because of [the Student's] behavior. We delayed [the Student's] start because we needed to make a different plan."

Homebound Instruction

45. The District provided information about the Student's attendance. Between September 9 and 18, 2024, the Student attended a full day of school each day, from 7:30 a.m. to 2:08 p.m. The Student received six behavior referrals from September 10, 2024 through September 23, 2024 for physical aggression/assault and eloping. Eleven staff injury reports were submitted from September 10, 2024 through September 24, 2024. On September 19, 2024, the Student

was suspended for part of the day and then for the full day on September 20, 2024. The Student returned to school for two full days on September 23, 2024 and September 24, 2024.

46. The Parent indicated in an interview that toward the end of September [2024], "I believe I got notified that there was an incident regarding [the Student] that [the Student] was allowed to come back to school. I never got any of the incident reports. I don't believe there was an incident report even made. [The Student] was allowed to go back to school. However, a few days after that, they refused [the Student] entry on the school bus, saying that they didn't have [the Student's] safety plan from the school. And then at that time, the School stated that they weren't going to allow [the Student] to come back." The Parent indicated, "I didn't hear any of that from the school. They never reached out to me about it at all."
47. The September 23, 2024 calendar invite for the September 24, 2024 IEP meeting did not include the Parent as an invitee.
48. On September 24, 2024, the Assistant Principal emailed the Complainant and attached copies of the Student's behavioral referrals.
49. On September 24, 2024, a Notice of Team Meeting was created with the Complainant and the Executive Director of the Agency listed as Parents/Guardians to review the Student's IEP and consider a change of placement. Parent Rights/Procedural Safeguards were enclosed. When asked during an interview with the Complaint Investigator if they received a Notice of Team Meeting, the Complainant shared, "No, we didn't receive anything like that. It was just through email communication, and the entire IEP team wasn't even listed on the email, I don't believe."
50. The September 24, 2024 Special Education Placement Determination described home instruction as the placement for the Student because the Student "... requires a more restrictive environment than [the Student] has experienced since starting with [the District]. [The Student's] placement from [their] previous district indicated home[-]bound instruction on an Abbreviated Day. This was in effect from May 29, 2024-June 12, 2024 (the end of the 23/24 school year). When [the Student] started school with [the Previous District], [they] received instruction and educational services via a personal education environment [*sic*] that was separate from other peers due to [the Student's] significant behavioral challenges, unpredictability, and impulsiveness." The benefits and possible harmful effects were described, and notification and supplementary aids and services were listed.
51. On September 24, 2024, the Student's May 20, 2024 IEP was amended again, "The Team met to change [the] placement and revise the IEP to align with the new Placement Determination. The Non-Participation Justification will align with the most restrictive environment that [the District] offers with little to no access to [the] general education curriculum or peers. Transportation service is also removed from the IEP starting 9/25/24 as it is not required in a home tutoring environment. Once home tutoring begins the IEP team will likely meet again to determine if additional revisions are necessary."

52. Notes from the September 24, 2024 IEP meeting indicated there was disagreement between the District's proposed placement: home-based education versus in-school shadowing by the Agency.
53. The Complainant indicated in an interview with the Complaint Investigator that the IEP team made the placement decision when "half of the IEP team didn't agree. The only portion of the IEP team that did agree was [the School] We made it very clear that we did not find that in [the Student's] best interests, and [the Parent] was not part of that meeting. And so if they're going off their definition of [a] legal guardian, they weren't even following their own policies and procedures as far as giving the Parents the option to speak their mind."
54. On September 24, 2024, a PWN was created with the Complainant and the Executive Director of the Agency listed as Parents/Guardians.
- The Description of Actions Proposed regarding placement indicated, "Due to significant behavioral challenges demonstrated by the student, the District is proposing to change [the Student's] placement to home tutoring as in alignment with the placement documented at the end of the 23/24 school year. [The Student] has accessed school a total of 10 days. Within those 10 days, the setting (location of [their] classroom) was changed prior to day 3 due to significant dysregulation. Multiple staff have been injured via hitting, punching, grabbing, pinching, and slapping. One staff member has a concussion. The student has received 6 behavior referrals for various reasons other than staff injury including eloping, turning over desks/tables, punching the walls and making holes, creating an unsafe environment for [themselves] and others. Daily logs indicate that while most, not all, mornings tend to be better than the afternoons. [The Student] typically responds to First/Then statements but not always. [The Student's] behavior is very unpredictable and the home where [the Student] lives reports the same. [The Student] tends to target private parts of staff (hyper-sexualized behavior). This has been demonstrated in [the Student's] previous placement as well. [The Student] requires extensive additional adult support, often requiring 2-4 adults to help manage [the Student's] behavior and attempt to maintain a safe environment. [The Student] has a history of and continues to elope from school grounds."
 - The District's explanation included that "[The Student] has demonstrated significant behavioral challenges since [they] started at [the Middle School] on 9/9/24" and that the environment is not safe for the Student or the staff.
 - The information used as a basis for the proposed or refused action included "file review, observation[,] ongoing data collection, daily home/school communication log, Behavior Intervention Plan, Safety Plan, etc."
 - Other options considered and the rationale for rejecting those options listed safety for the Student and staff and indicated that "[the Agency] has offered to come to the school to shadow staff working with the student, but due to unsafe environment and potential liability, the District declined. In support of the home tutoring option, the District proposed that this would give the school staff an opportunity to shadow in the student's home environment in order to build trust, collaborate with group home staff on various strategies that they use, as well as build a positive rapport with the student in a more contained, safe environment than the school setting."

- e. The factors relevant to the actions proposed or refused included that “[The Student] requires significant adult supervision which has been provided but the staff are not seeing any improvement or decrease in behaviors. Several experts have provided input which has been followed including a special education coach, a behavior specialist assistant, an Occupational therapist, two Autism Specialists, and the case manager. The Staff have collaborated with [the Student’s] guardians but improvement has not been seen. The Team feels if they can build trust in a comfortable environment such as the home which is more contained than the school can provide, this is a place to start. At this time the District feels that home tutoring is the least restrictive environment.”
- f. Procedural safeguards were provided to the parties.
- g. The Director of Special Education provided access to the Agency to documents from the meeting, including the change of placement and the PWN.

55. The Director of Secondary Special Education indicated in an interview with the Complaint Investigator that, at the time of the placement meeting, “I was still under the understanding that [the Agency] had some say. So that’s why they were invited to participate in that meeting. At that time, I still didn’t have the Parent’s contact information. And so I was under the understanding that [the Agency] should be a part of those meetings, which is why they were invited and included. At that change of placement meeting, we all talked about the ... pros and cons and different avenues ... we could take. And when the ultimate decision was made to change the Student’s placement, to homebound instruction, I know that [the Complainant] didn’t agree with it. And [the Services Director] didn’t agree with it. But ultimately ... the District has the ultimate say so. ... We’re the ones that are responsible for providing FAPE. And we felt this is not an appropriate environment for this Student at this time. And so we need to move toward a more restrictive environment. ... And it took me a few days, but we worked as fast and as diligently as we could to get a home, a teacher hired and started, and we’ve been making up hours.”

56. In a series of emails on September 24, 2024, the Complainant expressed their dissent with the Student’s placement. The Executive Director of the Agency informed the District of their frustrations and notified them of their intent to file a complaint with the Oregon Department of Education. The Director of Secondary Special Education indicated that the District was offering a full-day tutor in the home setting for the Student and was working to find a suitable tutor.

57. Starting on September 25, 2024 a new placement determination was implemented, requiring homebound instruction for the Student. A suitable tutor was not immediately located, which resulted in the Student missing full days of instruction from September 25, 2024, through October 4, 2024, a total of eight days.

58. On October 4, 2024, in response to an email inquiry from the Executive Director of the Agency regarding a letter that is “certified by the state or [sic] Oregon outlining our academic responsibilities” and a request to “Please explain how this decision would not constitute an abbreviated day, when only 5 hrs [sic] of tutoring would be provided,” the Director of Secondary Special Education emailed the Executive Director of the Agency and wrote that the

District did not have a “letter on file” for the Student and that “The current placement page does not state 5 hrs [sic] per day. The student will receive services for a full day - I believe student hours are 7:30 am-2:08 pm.”

59. On October 7, 2024, a home visit with the Special Education Coach and a newly hired Homebound Instructor took place from 7:30 a.m. to 9:00 a.m. The Student missed instructional time for the remainder of that day. It was noted that all missed hours of instruction would be made up.
60. On October 7, 2024, the Director of Secondary Special Education emailed the Complainant to share that a home tutor had been secured and the day and time that instruction would be provided. The Director of Secondary Special Education shared that “Missed hours will be made up.”
61. The Complainant emailed the District several times between September 25, 2024 and October 4, 2024 and wrote that the District “failed to provide an educational tutor” for the Student on the following days:
 - a. September 25, 2024, September 26, 2024, September 27, 2024, and September 30, 2024;
 - b. October 1, 2024, October 2, 2024, October 3, 2024, and October 4, 2024;
 - c. October 7, 2024 (1.5 hours provided)

The Director for Secondary Special Education responded on several occasions and shared that the District was either securing or onboarding a tutor and that missed instructional time would be made up.

Legal Custody & Educational Rights

62. In an interview with the Complaint Investigator, the Director of Secondary Special Education indicated that they were unsure which member of the Agency registered the Student in the District’s online system but thought “It was [the Executive Director] because [they] marked [themselves] as having legal custody and educational rights in our online system. And [they] listed only four people as contacts for the Student. And it was [the Executive Director], [the Complainant] ... [the Services Director], and ... [the Caseworker] And so we only had the contact information for those four people who are all [Agency] employees.” The Director of Secondary Special Education indicated that, for the other four students who lived in the Agency facility and attended secondary schools in the District, the parent contact information was missing for three of the four students.
63. During an interview with the Complaint Investigator, the Services Director described their understanding of the Agency’s role in making educational decisions for the Student, “Parents are involved, and they are the guardians. They’re part of most of the meetings they can be. However, if they’re not part of [them], then we kind of stand in that continuity of care of continuing [the Student’s] educational conversations and meeting with teachers and making sure that we’re involving parents and all the teachers in the same emails about communication with the kids. So if the School calls and says they have to send someone home

for the day, then we're the ones going and picking up and dropping off medications. We're doing that day to day. Everything with the schools and working hand-in-hand with them." The Services Director described their understanding of the Agency's decision-making authority over educational decisions for the Student, "From my understanding, it's collective. Parents can trump educational rights, as far as my understanding, but we do everything so much as a team that we discuss it with parents. And so usually when we're making decisions, we've already communicated with parents about what was going on." The Services Director confirmed that the Parent was the Student's legal guardian. The Services Director shared that when students "come into our care, we get an ROI [Release of Information] ... to act on their behalf. ... [The Parent] has the educational rights of the child, but [if] they're unable to be reached, we stand in place. That was my understanding."

64. The Executive Director explained in an interview with the Complaint Investigator that "When a parent decides that they want to place their child in a Medicaid agency ... a residential organization if you will, it's essentially like foster care. ... We're providing care to their child 24-7 residing in our home, so they sign what is called a voluntary placement agreement, which allows myself or an acting manager of that program to make medical, [and] education decisions if the parent or guardian cannot be reached. A lot of times in our [Agencies], parents essentially kind of step away when it comes to medical decisions or educational decisions. And [the Parent] ... until the last few months prior to transferring here to [the City], wasn't actively involved. And even more so now that [the Student] is living in [the City], I don't think [the Parent] has attended a single school meeting. So, typically, they rely on us to make those decisions." The Executive Director shared that the voluntary placement letters are on State letterhead with the State seal and are provided by the State of Oregon. "However, as of lately [*sic*], primarily with [the District] they haven't been accepting them."
65. On September 23, 2024, the Complainant emailed the Assistant Principal, "[The Agency] acts as the legal guardian for all educational decisions with [the Student] including all incidents that happen within the school. We have the right to request Incident Reports regarding [the Student], and I would like those sent to us today via email please." In another email, the Complainant asked, "... can you please elaborate on why [the School] does not provide the legal guardians with incident reports for their students?"
66. In an interview with the Complaint Investigator, the Complainant described that the Parent was the Student's legal guardian, "but when [the Parent] placed [the Student] in [the Agency's] care, [the Parent] signed a VPA ... that outlines that we [the Agency] act as legal guardian through educational decisions if they attempt to reach the legal guardian and it's unsuccessful, which they attempted multiple times."
67. The Student's 2024-25 Student Discipline Profile, printed on September 24, 2024, listed the Complainant and the Executive Director of the Agency as having educational rights for the Student.
68. The Parent shared in an interview that the Agency was "conducting all the educational needs of [the Student]. I am very far away, and I can't be there and be active in it. So, they have my

permission and my authority to basically make all educational decisions regarding [the Student]." The Parent mentioned, "I have written them letters stating that I've actually written the school letters saying that they could make decisions for [the Student's] needs ." The Parent agreed in the interview to forward the email they sent to the District attesting to this. The email was dated November 4, 2024. The Parent indicated they sent the District a release of information on October 23, 2024. The Parent shared that they have "... had zero calls or communication from [the District] at all."

69. In an interview with the Complaint Investigator, the Director of Secondary Special Education indicated that they have been managing the sharing of information by trying to "include the Parent as best as I can ... I've sent things in the mail to [the Parent], but I've ... heard very limited back from [the Parent] ... in regards to ... day to day kind of things. ... We're fine to communicate with [the Agency], but when it comes to IEP or IDEA, I try to connect directly with the Parent." The Director of Secondary Special Education indicated that IDEA documents were shared with the Agency initially "because I was under the understanding that they had all of these rights ... so once I learned that they didn't, I did not share anymore." The Director of Secondary Special Education shared that they had the impression that the Agency held the educational rights for the Student because "I didn't have a letter from [the Residential Specialist] prior to October 9th. I didn't know [they] existed. I was under the impression that considering when the Student enrolled and [that] [the Agency] staff marked themselves as having ed[ucational] rights and legal custody, and the Student was living in that home ... I didn't have anything to tell me ... that wasn't okay. The Student was living under [the Agency] care. ... And it wasn't until ... I dug a little deeper that I realized, no, they don't have rights."
70. On October 7, 2024, the Regional Director filed this Complaint.
71. In an email exchange from October 7, 2024 through October 9, 2024, the Director of Secondary Special Education and the Executive Director of the Agency exchanged emails regarding the Parent's contact information and a ROI from the Parent. The Executive Director indicated they had access to the Student's Parent Square (an online portal for parents connected to information about their child within the District's Student Information System). The Executive Director attached the February 9, 2023 letter from the Oregon Department of Human Services (DHS), Office of Developmental Disabilities Services (ODDS), which described that the Student was placed at the Agency voluntarily by the Parent and that "[The Agency] and their Program Manager are responsible to manage [the Student's] medical care, schooling, finances, and all aspects of [the Student's] daily living. I am writing this letter to request that you please allow the Program Manager, Assistant Director and/or the staff at [the Agency] to schedule and attend medical appointments, school meetings, and any other required appointments on behalf of [the Student]." The Director of Secondary Special Education responded that the District could not share the requested records until they received a current ROI from the Parent for whom they did not have contact information.
72. On October 9, 2024, the Residential Specialist responded to the Director of Secondary Special Education's email inquiry by providing the contact information for the Parent. The Director

of Secondary Special Education indicated in an interview with the Complaint Investigator that this was when the District first received contact information for the Parent.

73. From October 8, 2024 to October 25, 2024, the Student received homebound instruction from a licensed special education teacher. Instruction occurred from 7:30 a.m. to 2:08 p.m., with a few exceptions. The Student received one extra hour of instruction on October 9, 2024, October 16, 2024, and October 23, 2024. On October 25, 2024, instruction was scheduled from 7:30 a.m. to 11:30 a.m., with four additional hours planned to be provided.
74. During the period of October 10, 2024 to October 24, 2024, the Complainant and the Director of Secondary Special Education engaged in email correspondence regarding several matters, including the scheduling of a home tutoring check-in meeting and the District's pending receipt of a signed ROI from the Parent. The Director of Secondary Special Education requested the Student's medical records and the Parent's contact information. The Complainant pressed for a meeting and referenced that the Parent had been looped into emails since October 21, 2024. The Director of Secondary Special Education responded on October 23, 2024 and indicated that the District did not have an ROI to disclose information to the Agency staff. The Director of Secondary Special Education indicated that the District had been "informed by DHS that [the Parent] retains sole educational decision-making authority. Therefore, it would be the parent's decision to include [the Agency] staff as a discretionary participant in the meeting. If you have legal authority to the contrary, we would be happy to consider it. However the ROI and educational rights issues need to be resolved before we schedule an IEP meeting, not at the meeting itself. I have requested the ROI from [the Parent] on 3 occasions but have not heard back yet." In response, the Complainant shared an excerpt from an Entry Letter from DHS. The Director of Secondary Special Education responded that "... please know that while we are in possession of the February 2023 'entry letter,' it is well over a year old and was issued prior to this student's enrollment in [the District]. It was also signed by a caseworker who is no longer assigned to the student. Moreover, we have recent communication with DHS stating that [the Agency] does not have educational rights, which appears to conflict with the 'entry letter.' Again, this needs to be resolved before we hold any meeting at [the Agency's] request."
75. On October 11, 2024, the Director of Secondary Special Education emailed the Parent with the following information, "[The Agency] is requesting a copy of [the Student's] entire educational file but I am not able to share this information without your consent. I've attached the document to this email. ... Additionally, great apologies for not including you in previous communication or meetings as I did not have your contact information. You will be included from this point forward." Emails indicated that the Director of Secondary Special Education spoke with the Parent on October 23, 2024 and followed up with a Release of Information attachment in an email. The Release of Information was signed by the Parent on October 24, 2024 and expired on the same date. The Director of Secondary Special Education indicated that this release allowed them to share information with the Complainant, but only on that one day.

76. On October 11, 2024, the District received several emails from the Residential Specialist from DHS. One email indicated, "The parent contact information I sent you: they are all legal guardians and are able to make legal and educational decisions on behalf of their children." In an additional email, the Residential Specialist wrote, "Staff are able to make medical decisions and some instances (e.g., child is not feeling well and is taken to urgent care), but not against the wishes of the parent; It's a team decision guided by the parent. Same goes for education, as the group home cannot make decisions without the parent's approval."
77. In an email exchange between the Director of Secondary Special Education and the Complainant from October 18, 2024 through October 24, 2024, the Director of Secondary Special Education listed a date and time to make up four hours of instructional time for the Student to which the Complainant agreed. In an interview with the Complaint Investigator, the Director of Secondary Special Education shared they had a plan to provide instruction for eight days of compensatory education for the Student.
78. The Student's Permanent Record & Transcript, printed on October 21, 2024, listed the Parent in the Parent/Guardian section and seven caseworkers. The document indicated that the Executive Director of the Agency was the caseworker that the Student "lives with." The October 24, 2024 Special Education Student Contact Log listed only the Parent in the Parent/Guardian fields.
79. On October 30, 2024, the DHS Residential Specialist emailed the Complainant to share that they had a conversation with the District regarding the Agency making "educational decisions on behalf of students housed in [the Agency] homes, to which I answered *no*. What I did not relay is that if the guardian is unresponsive, then yes, [the Agency] would have the authority as stated in an individual's Voluntary Placement Agreement."
80. On November 4, 2024, the Parent emailed the Director of Secondary Special Education to indicate that the Agency could make educational decisions regarding the Student, "I am [the Student's] Parent & guardian, and I am writing you this e mail [*sic*] to state that [the Agency] has my full permission to make any educational decisions regarding [the Student]." The Student's undated Emergency Data Form Medical Information section from the Agency indicated that the Parent was the Student's legal guardian.

IV. DISCUSSION

When IEPs Must Be In Effect

The Complaint alleged that the District failed to provide the Student with support as outlined in the Student's IEP when the District delayed the Student's start date at school to September 9, 2024. The Student's IEP was also not followed when the Student was suspended on September 18 and 19, 2024. Further, the District failed to provide a tutor for the Student from September 25-October 4, 2024.

School districts must have an Individualized Education Program (IEP) in place for every student with a disability at the start of each school year. School districts must provide special education and related services to a child with a disability in accordance with an IEP. A meeting must be held within 30 days of determining that a child needs special education and services to develop an initial IEP. Special education and related services must be provided as soon as possible after the IEP is developed. The school must ensure that all teachers and service providers responsible for the implementation of the student's IEP can access the IEP, understand their responsibilities in implementing it, and know the specific accommodations, modifications, and supports the student needs.³

The Agency completed registration documents for the Student on August 15, 2024, and provided a transfer document, an expired IEP, and a 2022 letter from ODDS as part of the information they submitted. The IEP team met on August 29, 2024 to review the June 5, 2023 IEP and determine the Student's appropriate placement, which mirrored the June 5, 2023 IEP. The PWN from this meeting indicated that the Student was scheduled to begin school on September 4, 2024, the start date for all grades except for kindergarten and first grade. On September 3, 2024, the District received updated information from the previous district regarding the Student's behavior and a current IEP dated May 20, 2024. The May 20, 2024 IEP revealed that the Student was on homebound instruction and an abbreviated school day program at the end of the 2023-24 school year. Upon review of the May 20, 2024 IEP, the District decided to delay the Student's start date until the IEP team could reconvene to discuss the new information. The IEP team reconvened on September 6, 2024 to amend the May 20, 2024 IEP and adjust the Student's placement and non-participation justification. The Student did not attend school for three days on September 4, 2024, September 5, 2024, or September 6, 2024. The Student's first day of school was September 9, 2024.

The Student was suspended out-of-school for physical aggression toward staff on September 19, 2024 and September 20, 2024. On September 24, 2024, the IEP Team met to discuss the Student's placement and determined that a more restrictive environment was needed. While there was disagreement amongst members of the Team, the decision was made to place the Student on homebound instruction beginning September 25, 2024. The District attempted and struggled to secure a home instructor until October 7, 2024. The Student did not receive instruction for seven days from September 25, 2024 through October 4, 2024 and only received 1.5 hours of instruction on October 7, 2024.

A district violates the IDEA when it materially fails to implement an IEP. "A material failure occurs when there is more than a minor discrepancy between the services a school provides to a disabled child and the services required by the child's IEP."⁴ The Student was unable to attend school on September 4, September 5, and September 6, 2024. Likewise, the District's inability to provide home instruction from September 25, 2024 until October 7, 2024 was not a material failure to implement the IEP. The District's disciplinary actions, including suspensions, do not violate the IDEA as the suspensions were less than ten consecutive or cumulative school

³OAR 581-015-2220; 34 CFR § 300.323

⁴ Van Duyn v. Baker Sch. Dist. 5J, 502 F.3d 811 (9th Cir. 2007) ("Van Duyn")

days and were in response to serious behavioral incidents that posed a safety risk. IDEA allows for disciplinary removals of students with disabilities for up to 10 school days at a time without triggering a change of placement.⁵ Under OAR 581-015-2405, “school districts may remove a child with a disability who violates a code of student conduct from the child’s current educational placement to an appropriate interim alternative educational setting, another setting, or suspension, for up to ten school days in a school year to the same extent, and with the same notice, as for children without disabilities. These removals are not considered a change in placement.”

The Department does not substantiate this allegation.

Educational Placements and Requirement for Least Restrictive Environment

The Complaint alleged that the District failed to “meet the required steps for changing [the Student’s] educational placement” when the Student’s placement was changed on September 24, 2024, “without parent consent [and] without invoking an interim placement.”

School districts must prioritize parent involvement in their child’s IEP process. They must ensure parents have ample notice of meetings and schedule them at a mutually agreeable time and place. If a parent cannot attend in person, the district must offer alternative ways to participate, such as phone calls or video conferences. The school must provide a copy of the IEP to the parent at no cost and keep detailed records of all communication attempts. Children with disabilities should be educated alongside their non-disabled peers as much as possible. Separate classrooms or schools should only be considered if the child’s disability is so severe that they cannot be successfully educated in a regular classroom with extra support.⁶

On September 24, 2024, the Complainant and the Services Director disagreed with the IEP Team’s decision to change the Student’s placement from the school setting to homebound instruction beginning on September 25, 2024. IDEA does not require parental consent to make a placement change. It requires parental involvement. At this time, the District believed the Agency served the role of parent based on the following:

1. Registration information provided by the Services Director that did not include the Parent’s information;
2. Notes from a September 6, 2024 meeting in which the Agency indicated that the Agency had the ability to make educational and medical decisions.
3. The Complainant’s September 23, 2024 email indicating that the Agency acted as legal guardian for educational decisions; and
4. No communication from the Parent during the Complaint period.

Based on this information, the District assumed the Agency served in the role of parent. The District notified the Agency in the Notice of Team Meeting and involved the Agency in the discussion about the Student’s placement, in which it was determined that the Student’s

⁵OAR 581-015-2410 and 34 CFR §300.530(d)

⁶OAR 581-015-2195, OAR 581-015-2240, and 34 C.F.R. §§ 300.327, 300.501(c), 300.530(g)

physical aggression and behaviors required a more restrictive placement for safety reasons. A PWN included the Complainant and Executive Director.

The District included the Agency staff in the role of parent in the process of determining the placement of the Student. The IDEA does not require consent or agreement when parties are unable to reach consensus.

The Department does not substantiate this allegation.

Prior Written Notice

The Complaint alleged that the District failed to provide a PWN when the Student's placement was changed on September 24, 2024.

Prior written notice must be given to the parent of a child within a reasonable period of time before a school district proposes or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child.⁷

On September 24, 2024, PWN was provided to the Complainant and the Executive Director of the Agency as the District was of the understanding that the Agency served in the role of parent for the Student.

The Department does not substantiate this allegation.

Parent Participation

The Complaint alleged that the District did not provide the Complainant with a copy of the Student's IEP from a September 6, 2024 IEP meeting.

"Parent" is defined in Oregon Administrative Rule as one or more of the following: a biological or adoptive parent, a foster parent, a legal guardian (excluding state agencies), an individual acting in place of a biological or adoptive parent (such as a grandparent, stepparent, or other relative) who lives with and is legally responsible for the child's welfare, or a surrogate parent appointed in accordance with OAR 581-015-2320 for school-age children.⁸ The school district must provide parents with a free copy of their child's IEP. Even if a parent misses the IEP meeting, the school is still responsible for sending them a copy.⁹

There was significant confusion among the parties about which educational rights were held by whom, as both Agency employees and the Parent met the legal definition of "parent" under OAR 581-015-2030. During the September 6, 2024 IEP meeting, the District believed the Agency

⁷ OAR 581-015-2310(2) and 34 CFR § 300.503(a)

⁸ OAR 581-015-2000(22)

⁹ OAR 581-015-2195(5) and 34 CFR § 300.322(f)

was in a parental relationship with the Student, and the Agency attended and participated in the IEP meeting. The records show a Notice of Team Meeting dated September 4, 2024 and a PWN dated September 6, 2024. On October 9, 2024, the District became aware that the Parent retained educational decision-making authority for the Student. Once the District became aware that the Agency was incorrectly asserting its role as a parent, the District correctly restricted the sharing of special education records with the Agency and made numerous attempts to locate and contact the Parent and legal guardian of the Student.

The Department does not substantiate this allegation.

Free Appropriate Public Education (FAPE)

The Complaint alleged that the District's failure to provide instruction to the Student restricted the Student's right to a FAPE and caused a lack of progress on the Student's IEP goals.

Oregon school districts must provide a free appropriate public education (FAPE) to all eligible school-age students with disabilities for whom the school district is responsible. This applies even to students who have been suspended or expelled.¹⁰

The District was in possession of an expired IEP when the Student's placement was determined in August 2024. Upon receipt of the current IEP, the District delayed the Student's start date by three days to ensure the Student was provided the necessary support required by their IEP. Additionally, upon an additional placement change in September, the Student did not receive special education or related services while the District sought an appropriate home educator for seven days. The District has worked to rectify the situation by making up much of the instructional time missed. There was no evidence in the record that the initial delay in services hindered the Student's progress or denied them a FAPE.

The Department does not substantiate this allegation.

V. CORRECTIVE ACTION¹¹

In the Matter of Redmond School District 2J
Case No. 24-054-063

The Department does not order corrective action in this matter.

Dated: this 6th Day of December 2024

¹⁰OAR 581-015-2040 and 34 C.F.R. § 300.101

¹¹The 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)).

Ramonda Olaloye

Ramonda Olaloye
Assistant Superintendent
Office of Enhancing Student Opportunities

E-mailing Date: December 6th, 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).)