

BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of)	FINDINGS OF FACT,
Eagle Point School District 9)	CONCLUSIONS,
)	AND FINAL ORDER
)	Case No. 24-054-064

I. BACKGROUND

On October 14, 2024, the Oregon Department of Education (the Department) received a written request for a special education complaint (Complaint) from the parent (Parent) of a student (Student) residing in the Eagle Point School District (District). The Parent requested that the Department conduct a special education investigation under OAR 581-015-2030. The Department confirmed receipt of this Complaint and forwarded the request to the District.

Under state and federal law, the Department must investigate written complaints that allege violations of the Individuals with Disabilities Education Act (IDEA) and issue an order within sixty days of receipt of the complaint.¹ This timeline may be extended if the Parents 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 23, 2024, the Department's Complaint Investigator sent a *Request for Response (RFR)* to the District identifying specific allegations in the Complaint to be investigated and establishing a *Response* due date of November 6, 2024. On November 6, 2024, the District submitted a *Response*, disputing the allegations described in the Complaint. The District submitted the following relevant items:

1. District Written Response
2. Notice of Team Meeting, 9/7/2023
3. Prior Written Notice, 9/28/2023
4. Notice of Team Meeting, 1/2/2024
5. Prior Written Notice, 1/4/2024
6. Special Education Placement Determination, 1/4/2024
7. Student IEP, 1/4/2024
8. IEP Team Meeting Minutes, 1/4/2024
9. Parent/Guardian Consent for Individual Evaluation, 1/22/2024
10. Notice of Team Meeting, 5/1/2024
11. Prior Written Notice, 5/3/2024
12. Prior Written Notice, 5/3/2024

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

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

13. Student IEP Amendment, 1/4/2024
14. IEP Team Meeting Minutes (IEP Amendment), 1/4/2024
15. Functional Vision and Learning Media Assessment, Orientation and Mobility Assessment, 4/15/2024
16. Prior Written Notice, 5/28/2024
17. Student IEP Amendment, 5/3/2024, 5/28/2024
18. IEP Team Meeting Minutes (IEP Amendment), 1/4/2024
19. Functional Vision and Learning Media Assessment, Orientation and Mobility Assessment, 4/15/2024
20. Prior Written Notice, 9/28/2023
21. Parent/Guardian Consent for Individual Evaluation, 12/1/2023
22. Prior Written Notice, 1/4/2024
23. Special Education Placement Determination, 1/4/2024
24. Student IEP Amendment, 1/4/2024
25. Notice of Team Meeting, 5/1/2024
26. IEP Team Meeting Minutes, 9/28/2023
27. Math Check in Meeting for Student, 5/28/2024
28. IEP Team Meeting Minutes, 9/28/2023
29. Notice of Team Meeting, 2/27/2024
30. Parent/Guardian Consent for Individual Evaluation, 2/21/2024
31. Meeting Invitation, 5/7/2024
32. [Student] Math Check-In, 5/28/2024
33. Student IEP Amendment, 1/9/2023
34. Student Report Card Semester 2, 2023-2024
35. Student IEP Progress Report – Measurable Annual Goals, 5/28/2024
36. Eligibility Summary Statement, 4/12/2021
37. Evaluation Report, 4/12/2021
38. Disability Statement, Other Health Impairment, 4/12/2021
39. Eligibility Summary Statement, 5/3/2024
40. Functional Vision and Learning Media Assessment, Orientation and Mobility Assessment, 4/15/2024
41. Disability Statement, Visual Impairment, 5/3/2024
42. Eligibility Summary Statement, 1/4/2024
43. Disability Statement, Specific Learning Disability, 1/4/2024
44. Classroom Observation, 12/14/2023
45. Functional Vision and Learning Media Assessment, Orientation and Mobility Assessment, 4/15/2024
46. KTEA-3, 12/7/2023
47. Student Neuropsychological Evaluation, 12/5/2022
48. Letter from Student's Physician, 11/22/2023
49. Student Neuro-ophthalmology Report, 11/22/2023
50. Student Occupational Therapy Evaluation, 5/12/2023; 5/16/2023
51. Medical Statement, 10/7/2020
52. Consent for Individual Evaluation, 12/2/2023

53. Instructional Planning - Student Report, 10/1/2024
54. Instructional Planning - Student Report, 9/16/2024
55. Star Student Progress Monitoring Report, 9/1/2023—6/30/2025
56. State Standards Mastery – Class Report, 9/1/2023—6/30/2025
57. Student Self Reflections, 9/6/2024—10/11/2024
58. Student Self Reflection
59. Student Classes
60. [Student] Math Data Collection Documents
61. Email: Re: Upcoming meeting, 10/26/2023
62. Email: Re: Concerns, 10/25/2023
63. Email: Confirmation of canceled IEP, 10/30/2023
64. Email: [Student] Re-Eligibility IEP Meeting, 9/7/2023
65. Email: Document shared with you: [Student], 9/18/2023
66. Email: EPSD 9 Student Care Plan between Eagle Point / Jackson SD 9, 9/19/2023
67. Email: Re: Document shared with you [Student], 9/22/2024
68. Email: Re: Document shared with you [Student], 9/25/2024
69. Email: Re: Document shared with you [Student], 9/28/2024
70. Email: Re: Document shared with you [Student], 9/29/2024
71. Email: Re: Document shared with you [Student], 10/2/2024
72. Email: Re: Document shared with you [Student], 10/5/2024
73. Email: Re: Document shared with you [Student], 10/6/2024
74. Email: Re: Remind, 10/12/2023
75. Email: Re: Remind Sign Up for..., 10/14/2023
76. Email: Invitation [Student] IEP Amendment Meeting..., 10/17/2023
77. Email: Documents shared with you: [Student], 10/23/2023
78. Email: EPHS Support, 10/24/2023
79. Email: Invitation [Student] IEP Amendment Meeting..., 10/24/2023
80. Email: Updated invitation for note: [Student]..., 10/25/2023
81. Email: Re: Upcoming meeting, 10/26/2023
82. Email: Cancelled event: [Student] IEP Amendment Meeting..., 10/27/2023
83. Email: Confirmation of canceled IEP 10/30/2023, 10/17/2023
84. Email: Document shared with you: [Student], 10/30/2023
85. Email: Document shared with you: [Student], 11/7/2023
86. Email: Document shared with you: [Student], 11/13/2023
87. Email: FIEP, 11/28/2023
88. Email: Document shared with you: [Student], 11/29/2023
89. Email: FIEP, 11/29/2023
90. Email: Document shared with you: [Student], 12/4/2023
91. Email: Updated invitation" [Student] Re-Eligibility IEP Meeting..., 12/11/2023
92. Email: Updated invitation" [Student] Re-Eligibility IEP Meeting..., 12/12/2023
93. Email: Document shared with you: [Student], 12/14/2023
94. Email: FIEP information, 12/17/2023
95. Email: Document shared with you: [Student], 1/2/2024
96. Email: Invitation: [Student] Re-Eligibility IEP Meeting..., 1/2/2024

97. Email: Re: FIEP information, 1/2/2024
98. Email: Updated invitation from an unknown sender: [Student]..., 1/2/2024
99. Email: Updated invitation: [Student] Re-Eligibility IEP Meeting..., 1/2/2024
100. Email: May Meeting, 1/9/2024
101. Email: Document shared with you: [Student], 1/10/2024
102. Email: Invitation: [Student] Math Check-in @..., 1/11/2024
103. Email: Re: May Meeting, 1/12/2024
104. Email: Document shared with you: [Student], 1/16/2024
105. Email: Re: May Meeting, 1/16/2024—1/17/2024
106. Email: Invitation: [Student] Math Check-in @..., 1/19/2024
107. Email: Re: FIEP, 1/19/2024
108. Email: Document shared with you: [Student], 1/22/2024
109. Email: Document shared with you: [Student], 1/22/2024
110. Email: Vision Assessments, 1/22/2024
111. Email: Finalized Paperwork, 1/30/2024
112. Email: Fwd: TBI Research Document & Resource Links, 2/8/2024
113. Email: Documents shared with you [Student], 2/13/2024
114. Email: Fwd: FW: TBI Research Document & Resource Links, 2/15/2024
115. Email: Documents shared with you: [Student], 2/20/2024
116. Email: Invitation: [Student] Vision Assessment Meeting..., 2/27/2024
117. Email: Meeting To Review Vision Assessments, 2/27/2024
118. Email: Updated invitation: [Student] Vision Assessment Meeting @..., 2/27/2024
119. Email: [Student], 3/5/2024
120. Email: Meeting To Review Vision Assessments, 3/8/2024
121. Email: [Student], 3/20/2024
122. Email: Invitation: [Student] Vision Assessment Meeting..., 4/10/2024
123. Email: Meeting To Review Vision Assessments, 4/12/2024
124. Email: Canceled event: [Student] Vision Assessment Meeting..., 4/15/2024
125. Email: Meeting To Review Vision Assessments, 4/15/2024
126. Email: Re: FIEP, 4/27/2024
127. Email: Re: Meeting To Review Vision Assessments, 4/29/2024
128. Email: Vision Screening Meeting, 4/30/2024
129. Email: Important Library Information, Grades 9-11, 5/1/2024
130. Email: procedural safeguards, 5/3/2024
131. Email: Invitation: [Student] Math Check-In @..., 5/7/2024
132. Email: [Student], 5/14/2024
133. Email: Important Library Information, Grades 9-11, 5/15/2024
134. Email: Meeting, 5/17/2024
135. Email: Fwd: TBI, 5/19/2024
136. Email: How does this look?, 5/22/2024
137. Email: Facilitator issues 5/28/2024
138. Email: Follow-up to 5/28/24 Math check-in mtg, 5/30/2024
139. Email: Completed: "[Student] Amendment 05-28-2024," 6/10/2024
140. Email: [Student] Amendment 05-28-2024 between Eagle Point / Jackson SD9...,

6/10/2024

- 141. Email: Invitation: [Student] Re-Eligibility IEP Meeting @, 9/10/2024
- 142. Email: Document shared with you: [Student], 9/16/2024
- 143. Email: Invitation: [Student] Annual IEP Meeting @..., 9/17/2024
- 144. Email: Document shared with you: [Student], 9/24/2024
- 145. Email: Math/IEP, 9/25/2024
- 146. Email: Document shared with you: [Student], 9/30/2024
- 147. Email: Invitation: [Student] Annual IEP Meeting @..., 9/30/2024
- 148. Email: Fwd: [NAME], 10/1/2024
- 149. Email: Thunderbird, 10/4/2024
- 150. Email: recording device, 10/4/2024
- 151. Email: Document shared with you [Student], 10/8/2024
- 152. Email: Missing assignments, 10/11/2024
- 153. Email: Re: Missing assignments, 10/19/2024
- 154. Email: Thunderbird, 10/22/2024
- 155. EMAIL: Update on math, 10/22/2024
- 156. Email: Thunderbird, 10/23/2024
- 157. Email: REQUEST FOR RESPONSE – OR DEPT OF EDUCATION CASE NO. 24-054-064, 10/23/2024
- 158. Email: Thunderbird, 10/24/2024
- 159. Email: Re: REQUEST FOR RESPONSE – OR DEPT OF EDUCATION CASE NO. 24-054-064, 10/24/2024
- 160. Email: Thunderbird, 10/25/2024
- 161. Presentation: Lesson Modifications
- 162. Special Ed Student Contact Log, 11/4/2024
- 163. [Student] Follow-up To Team Meeting, 9/28/23
- 164. IEP Meeting Request, 10/17/2023
- 165. Math Check In for [Student], 5/28/2024
- 166. Meeting Notes, 9/28/2023
- 167. Email: Please review IEPs, 9/15/2023
- 168. Email: Upcoming meeting, 10/25/2023
- 169. Email: URGENT: Accessing Student IEPs in Synergy, 8/28/2024
- 170. [Student] Math Support Plan
- 171. Student IEP Team Meeting Minutes, 4/4/2023
- 172. Student Evaluation Report, 4/12/2021

The Parents submitted the following items on December 6, 2024:

- 1. Request for Complaint Investigation
- 2. Parent response to District *Response*

The timeline in this case was extended for exceptional circumstances. On December 10, 2024, the Department's Complaint Investigator interviewed the Parent. On December 20, 2024, the Department's Complaint Investigator interviewed the Student's Case Manager, School

Psychologist, Director of Special Programs, and the District's Attorney. The Complaint Investigator reviewed and considered all these documents, interviews, and exhibits in reaching 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 Parents' allegations and the Department's conclusions are set out in the chart below. The conclusions are based on the Findings of Fact in Section III and the Discussion in Section IV. This Complaint covers the one-year period from October 17, 2023, to the filing of this Complaint on October 16, 2024.

Allegations	Conclusions
<p>When IEPs Must Be In Effect (Implementation)</p> <p>The Complaint alleges that the District violated the IDEA by failing to implement the Student's current IEP. Specifically, it is alleged that:</p> <ul style="list-style-type: none"> a. The District failed to provide adult support in math class during the 2023-24 school year, until February of 2024; b. During the 2023-24 and 2024-25 school years, the District failed to consistently provide adult support for math instruction and activities during the entire math period, and failed to provide frequent checks for understanding through showing or doing tasks and verbal responses; c. During the 2023-24 and 2024-25 school years, the District failed to provide accommodated assignments. Specifically, that the District failed to provide math assignments with fewer problems and less material on the page; d. During the 2023-24 and 2024-25 school years, the District failed to provide adult support, and failed to collect sufficient data beginning January 4, 2024 regarding adult support provided to the Student; e. During the 2024-25 school year, the District failed to allow for work to be shown in different ways; f. During the 2024-25 school year, the District failed to provide math notes to the Student until September 30, 2024; g. During the 2024-25 school year, the District failed to 	<p>Not Substantiated</p> <p>The record in this matter supports that:</p> <ul style="list-style-type: none"> a. The District provided adult support in the Student's math class in conformity with the Student's IEP; b. The District provided adult support in the Student's math class, and did collect data; c. The District provided accommodations for assignments for the Student; d. The District provided adult support in conformity with the Student's IEP, and collected data regarding the Student's progress toward IEP goals; e. The District did make accommodations for the Student to show their work in alternative ways; f. The District did make

<p>provide information to District staff regarding the Student's disability sufficient to enable District staff to implement the support required by the Student's IEP. Specifically, the Complaint alleges that District staff allows the Student to refuse support without determining the Student's actual need for the support provided in the Student's IEP; and</p> <p>h. During the 2023-24 and 2024-25 school year, the District failed to provide any report cards or IEP progress reports to the Parent in a timely manner.</p> <p>(OAR 581-015-2220; 34 CFR §§ 300.323, 300.324)</p>	<p>notes available to the Student in a variety of ways;</p> <p>g. The District did inform staff of the Student's IEP accommodations, and did document data gathered around the Student's IEP goals and accommodations;</p> <p>h. The District did provide report cards and progress monitoring data to the Parent.</p>
<p>General Evaluation and Reevaluation Procedures; Evaluation Planning</p> <p>The Complaint alleges that the District violated the IDEA by failing to provide a proper evaluation as part of the Student's 3-year reevaluation. Specifically, the Complaint alleges that as part of the reevaluation process during the 2023-24 school year, the District:</p> <p>a. Failed to provide a comprehensive evaluation report following the reevaluation process;</p> <p>b. Failed to provide a copy of observations made by District staff; and</p> <p>c. Failed to provide an educational evaluation of learning and achievement, observation of learning environment, file review and classroom observation, as provided in the written consent provided by the Parent.</p> <p>(OAR 581-015-2110; 34 CFR §§ 300.304 & 300.305; OAR 581-015-2115; 34 CFR 300.305)</p>	<p>Not Substantiated</p> <p>The District completed the Student's triennial reevaluation in reliance on assessments it conducted as well as assessment reports provided by the Parent from community evaluators. The District provided the Parent with copies of assessments and information from observations that it conducted. The District did indicate its review and reliance upon all of these documents in making the Student's eligibility determination.</p>
<p>Prior Written Notice (PWN)</p> <p>The Complaint alleges that the District violated the IDEA by failing to provide PWN to the Parent following an IEP meeting on April 15, 2024.</p> <p>(OAR 581-015-2310; 34 CFR §300.503)</p>	<p>Not Substantiated</p> <p>No meeting was held on April 15, 2024. Due to staffing changes, the District rescheduled the April 15, 2024 IEP team meeting. Districts are not required to provide prior written notice of meeting schedule changes.</p>

<p>Parent Participation – General</p> <p>The Complaint alleges that the District violated the IDEA by failing to provide a written notice of IEP meetings held on January 4, 2024, April 15, 2024 and May 28, 2024.</p> <p>(OAR 581-015-2190; 34 <u>§§</u> CFR 300.500, 300.327 & 300.501(b))</p>	<p>Not Substantiated</p> <p>The District did provide the Parent with the required notice and notice elements, though not on the form generally used for this purpose.</p>
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<p>REQUESTED CORRECTIVE ACTION</p> <p>The Parents request that the District:</p> <ul style="list-style-type: none"> • Provide consistent additional adult support for the Student; • Provide all services and accommodations as written in the IEP; • Provide compensatory education for the Student for failing to implement the Student’s IEP and missed educational opportunities as a result; • Provide training to all staff working with the Student on the Student’s disability and understand individual needs related to the Student’s disability to avoid assumptions being made about the Student’s support and services; • Provide training for district special education staff regarding appropriate documentation of progress and progress reporting; • Provide baseline data and meaningful progress reports for the Student’s IEP goals for where the Student is at with their rate of progress; • Provide a report card for the 2023-24 school year; • Provide training for district special education staff focused on preparing evaluation reports as part of the initial and re-eligibility process; • Provide a comprehensive evaluation report that includes the data referenced by the team along with educational recommendations for the Student so that the Parent is able to reference it for their records and participation in the IEP process; • Provide training for district special education staff on proper procedural practices for providing PWN; • Ensure PWNs are provided following special education meetings for the Student; • Provide training for district special education staff on proper procedural practices for providing written meeting notices to parents in advance of a special education meeting; • Ensure written meeting notices are provided prior to special education meetings for the Student.
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III. FINDINGS OF FACT

1. The Student in this case is 15 years of age, and attends the 10th grade in a District high school. The Student is eligible for special education under the categories of Other Health Impairment (OHI) and Specific Learning Disability (SLD).
2. The Student shows strengths in auditory processing and reading. The Student has a positive attitude, is always smiling, and is good at advocating for themselves. The Student shows skills in utilizing technology for their education, is organized, and on time. The Student is creative and artistically talented.
3. On September 28, 2023, the District held an IEP team meeting for the Student. As part of this meeting, the Student's Case Manager responded to the Parent's concerns about teachers appropriately implementing the Student's accommodations. The team discussed how accommodations are implemented for the Student's assignments. The team discussed the specific accommodations, as well as how support in math was accomplished, and how better to support the Student. As part of this meeting the team discussed the difference between accommodations and modifications, and the need to move from a standard diploma track to a modified diploma track to obtain the modifications to the curriculum that the Parent sought.
4. On October 4, 2023, the Parent sent an email to the District reporting their "concern about [the Student's] current support level in math. [The Student] informed me yesterday that [they] had an F in math and that [they] are unable to complete work independently in math without someone's assistance and no one is available to help [them] including [their] teacher."
5. On October 5, 2023, the District responded to the Parent's October 4, 2023 email, indicating that as of that morning the Student had an A in math. Later that day, the Parent indicated that the Student reported to them that they were unable to work independently in their math class. The Parent went on to write that, to "be in compliance with [the Student's] IEP, tomorrow [the Student] should have an aide in the classroom..."
6. On October 20, 2023, the Parent sent an email to the District, observing that at a recent meeting they were informed that the Student's "adult support in Math is not being provided as written in the current IEP." The Parent went on to recount that, "the team shared with [them] that things look different in high school and [the Student's] middle school support may not look the same. In order to potentially and intermittently provide [the Student] access to some adult support, they would need to change [the Student's] schedule. I did not agree that [the Student's] schedule should be changed in order for [them] to access support that was on [their] IEP coming into the new school year. In our last IEP meeting in May, both my advocate and I shared concerns with the adult support not being provided like it was the entire 8th grade year. We, as an IEP team, made amendments to the IEP to ensure this. It is upsetting to now hear that the high school

team did not communicate with me about the adult support and the lack of availability of any adults in [the Student's] current schedule, while stating 'FAPE for [the Student] will look different in some ways, at the high school than it did at the middle school.'"

7. On October 25, 2023, the District, responding to the Parent's October 20, 2023, email, suggested their concerns regarding the delivery of math support could be discussed more fully at the Student's upcoming IEP team meeting then scheduled for October 30, 2023. The Parent then sent an email to the District requesting a draft IEP Amendment and agenda for the upcoming scheduled team meeting.
8. On October 26, 2023, the District sent an email to the Parent with an agenda of possible topics for the Student's IEP team to discuss. Later that day, the Parent informed the District that following receipt of the upcoming IEP team meeting agenda topics, they preferred to cancel that meeting and pursue a facilitated IEP team meeting.
9. On October 27, 2023 the District confirmed the Parent's request to cancel the upcoming October 30, 2023 IEP team meeting.
10. On November 22, 2023, the Student's Physician provided a letter reporting that the Student had visual process and visuospatial difficulties secondary to their neurologic diagnoses. The Physician included recommendations for the Student's academic environment to accommodate their needs.
11. On December 1, 2023, the District sent the Parent a consent for evaluation ahead of the Student's annual IEP team meeting. The consent listed evaluations including an education evaluation of learning achievement, observation of learning environment, file reviews, and classroom observations.
12. On December 5, 2023, a private Neuropsychological Evaluation of the Student was conducted. As part of the evaluation, numerous tests were administered to the Student, including the Adaptive Behavior Assessment System for Children (ABAS-3), Behavior Assessment System for Children (BASC-3), Behavior Assessment System for Children (BASC-2 PRS), Conners Continuous Performance Test (CPT-3), Dells-Kaplan Executive Function System (D-KEFS), Grooved Pegboard Test, Kaufman Test of Educational Achievement (KTEA-3), Rey Complex Figure Test (RCFT), Wechsler Intelligence Scale for Children (WISC-5), Wider Range Assessment of Memory and Learning (WRAML-3), Benton Judgment of Line Orientation Test (JOLO), and numerous other subtests. The assessment provided test data and summations of the findings.
13. On December 14, 2023, the District conducted a classroom observation of the Student. The District documented that the Student was off task approximately 20% of the time during class.
14. On December 7, 2023, the District administered the Kaufman Test of Educational

Achievement, Third Edition, (KTEA-3) to the Student.

15. On December 17, 2023, the IEP Meeting Facilitator sent the Parent a meeting agenda and additional information on the meeting scheduled for January 4, 2024. The IEP Meeting Facilitator also indicated that with their email was attached a copy of the Student's evaluation.
16. On December 18, 2023, the Parent's Advocate sent the Parent, and the IEP Team Facilitator an email writing in relevant part, "I did not receive an invitation for the meeting on January 4th. Also, I do not see any attachment to this email that include the evaluation report. Do you mind resending both?" the IEP Meeting Facilitator, responding to the Parent's Advocate's email of the same day then sent the Parent and their Advocate a copy of the Student's assessment.
17. On December 18, 2023, the IEP Meeting Facilitator sent an email to the Parent writing, "Attached is the assessment." The IEP Meeting Facilitator noted that the District would be closed for the remainder of the month and that a draft of the Student's IEP would likely come after the new year.
18. On January 4, 2024, the Student's IEP was updated.
19. The Student's January 4, 2024, IEP indicated that the Student was to receive specially designed instruction (SDI) in Writing Skills and Mathematics. The Student was to receive 60 minutes per week of SDI in writing delivered in the general education classroom and resource room by a special education teacher. The Student was to receive 120 minutes of SDI in mathematics delivered in the general education classroom and resource room by a special education teacher.
20. The Student's January 4, 2024 measurable annual goal in mathematics indicated that by January 2025, given accommodations and supports, the Student would be able "to solve systems of linear equations exactly and approximately, (e.g. with graphs), focusing on pairs of linear equations in two variables for an accuracy of at least 70%, as measures by an average score of at least 70% on assignments and assignments related to this standards in [their] Regular Education Math Class." The Student's January 2, 2024 IEP anticipated that progress toward this goal would be reported January 26, 2024 and June 14, 2024 with the Student's report card.
21. The Student's January 4, 2024 measurable annual goal in writing indicated that by January 2025, given accommodations and supports, the Student would demonstrate and generalize command of the convention of standard English capitalization, punctuation, and spelling when writing for an accuracy of at least 80%, as measured by an average score of at least 80% on assignments and assessments related to this standard in their regular education language arts class, and across content areas and settings. The Student's January 2, 2024, IEP anticipated that progress toward this goal

would be reported January 26, 2024, and June 14, 2024, with the Student's report card.

22. The Student's January 4, 2024 IEP also included a variety of other supplementary aids and services including: providing copies of notes from class and presentation materials, multiplication table, allowing for work to be shown in different ways such as verbally expressing vs. writing, access to notes for testing, frequent check for understanding through sowing/doing tasks and verbal response, simplified, repeated instructions/direction, adult or student buddy to navigate school grounds (initially, and if, as needed), access to a digital or physical highlighters, frequent breaks, assistive technology, visual supports at desk and in/around physical classroom environment (including visual math reference sheet), open notes for testing, masking to reduce visual information presented at one time, graphic organizers and pre-drawn maps or graphs, preferential seating near instruction, quiet location for tests, calculator, present visual information with auditory supports, demonstrate and model novel tasks, adult support for math instruction and activities, access to predictive text (embedded in current device), checklist for multi-step tasks, extended processing time, and, present fewer problems/less materials on the page.
23. The Student's January 4, 2024 IEP indicated that the Student's "adult support for math instruction and activities" would be provided by an instructional assistant in the general education classroom. The IEP also included support for school personnel, including 120 minutes of special education teacher consult with general education, occupational therapy consultation with student and staff, and medical protocols.
24. The Student's January 4, 2024 IEP indicated that the Student would be removed from the regular classroom environment for 236 minutes per week due to the Student's underlying medical needs, and to receive specially designed instruction in mathematics and writing.
25. During the January 4, 2024 IEP team meeting, the Parent expressed concerns about the Student's visual processing disorder and the impact this might have on the Student's learning.
26. On January 4, 2024, the District sent the Parent Prior Written Notice (PWN) indicating that as part of the Student's IEP team meeting that day, that the IEP Team found the Student eligible for special education under the categories of OHI and SLD.
27. On January 4, 2024, the District sent the Parent PWN indicating that it provided the Parent with copies of the relevant evaluations and classroom observations for the Student's special education eligibility. The PWN further indicated that the District declined to create a further summative report of the various reports, evaluations, and observations.
28. On January 4, 2024, the Student's IEP team completed an eligibility summary statement,

which documented that the team's eligibility determination was based on review of information from the Parent, the student's cumulative record, previous IEPs, the District's Psychoeducational Evaluation, Occupational Therapy Assessment, and Neuropsychological Evaluation provided by the Parent. The Team determined that the Student was eligible for special education under the categories of Other Health Impairment, and Specific Learning Disability.

29. On January 18, 2024, the Parent sent an email to the District with questions regarding the Student's IEP revised at the January 4, 2024 IEP team meeting. The Parent questioned how the Student's goals would be measured, in addition to questioning how the Student's need for additional time to complete assignments might be accommodated.
30. On January 18, 2024, the District, responding to the Parent's January 18, 2024, email provided examples of how the Student's accommodations could be implemented and measured. The District clarified some typographical errors in the IEP, made clarifications to IEP language, and reported that specific accommodations would be discussed with the Student's teachers.
31. On January 22, 2024, the District sent the Parent an email informing them that the District's Vision Specialist, would, in response to the Parent's requested vision services for the Student, begin observing the Student as part of the District's assessments.
32. On February 21, 2024, the District sent the Parent a consent for evaluation for the Student's Orientation and Mobility Assessment.
33. On January 22, 2024, the District sent the Parent a consent for evaluation. The consent indicated the District's intent to perform observations of the Student's learning environment, file review, observations, functional vision and learning media assessment, and CVI range.
34. On February 27, 2024, the District sent the Parent a notice of an IEP team meeting scheduled for April 15, 2024. The purpose of this meeting was to review the Student's vision assessment.
35. On March 8, 2024, the Parent sent an email to the District, reporting that the Student had reported to them that the instructional assistant who assisted the Student recently was present for only one day the week prior. The Parent reported that the Student requested the assistance of a classmate to assist them with their math work because there was no adult assistance. The Parent further reported that there was an additional adult male in the classroom, but that this person was not knowledgeable about math and unable or unwilling to help the Student.
36. On March 8, 2024, the District responded to the Parent's concern about math support

for the Student, stating that the person assigned to provide adult support to the Student in their math class had provided that support. The District pledged to follow-up on the concerns raised by the Parent to ensure that the Student's adult support in math was still being provided. The District also added information related to the Student's progress in math and outstanding assignments.

37. On April 15, 2024, the District contacted the Parent to inform them that the meeting scheduled for that day would need to be rescheduled due to staff absences. The purpose of this meeting was to review the Student's vision assessments.
38. On April 15, 2024, the District completed a Functional Vision and Learning Media Assessment, Orientation and Mobility Assessment for the Student. The evaluation recommended that the Student receive formal instruction from an Orientation and Mobility Specialist, and consult services for the Student and District staff. The meeting, to review the outcome of these assessments, was rescheduled for May 3, 2024.
 - a. On May 1, 2024, the District sent the Parent Notice of an IEP Team Meeting for the Student scheduled for May 3, 2024 to review the results of the Student's vision screening. This meeting was held as scheduled.
39. On May 3, 2024, the District sent the Parent PWN informing the Parent that the IEP Team found the Student eligible for special education under the category of Visual Impairment. On the same date, the District provided the Parent with PWN indicating the Student's IEP team determined that the Student would receive support from a Vision Consultant and related services for Orientation and Mobility.

On May 3, 2024, the Student's IEP was amended to add an additional measurable annual goal in vision. The goal indicated that the Student would demonstrate their ability to identify all hazards at a stop sign controlled intersection in a light commercial setting, assess their risk and determine the appropriate time to cross the intersection with 80% accuracy as measured by an Orientation and Mobility Specialist and skills checklist. The Student's January 2, 2024 IEP anticipated that progress toward this goal would be reported June 14, 2024 with the Student's report card. The IEP team also added 120 minutes of vision consultation time for staff.
40. On May 7, 2024, the District sent the Parent a meeting invitation for the Student's May 28, 2024 math check in meeting. This was an email invitation that included a link to the video conference meeting, the time of the meeting, and a list of participants. The subject line of the meeting was, "Invitation: [Student] Math Check-In @ Tue May 28, 2024 3:45pm, - 4:45pm (PDT)."
41. On May 28, 2024, the Student's IEP team met to revise the Student's IEP and to review the Student's progress in math. This was supposed to be a facilitated IEP team meeting. Due to technical issues the meeting facilitator was unable to attend virtually. The Parent

gave their consent to continue the meeting without the facilitator.

42. The Student's Math Teacher observed that the Student was then passing the course, but that it was a struggle. The Math Teacher further noted that the Student did retain concepts, that there was an instructional assistant in the class available to all students, but that the adult assistance was not always well received by the Student.
43. The Student's IEP team discussed the purpose of the instructional assistant (IA) in the classroom, that the IA was present to ensure the Student could access their education, not to ensure that the Student passed the class. The team also discussed that the IA was present during the class during instruction and would interact with the Student after instruction was complete. The team also reviewed data collected noting that the Student utilized high levels of support. The team also discussed moving the Student to a modified diploma, and the ways the change in diploma would change the manner in which instruction was delivered and assignments modified. The team discussed how a modified diploma would allow for standards to be adjusted.
44. On May 28, 2024, the Student's IEP team revised the Student's IEP, observing that, "[the Student] will continue to receive additional adult support during [their] Algebra I class through the end of this year. [The Student]'s schedule will be designed to prioritize [their] being placed in Statistics in the fall. [The Student] will continue to have additional adult support in [their] math class. The team will collect data, and we will review this accommodation at the end of September 2024. The review meeting will include members of the IEP team. The meeting invite will be sent out in the beginning of September." Following this meeting, the District altered the form used to gather data to collect additional data points.
45. On May 28, 2024, the District sent the Parent PWN documenting discussion and agreement by the Student's IEP team regarding the Student's math data. The PWN observed that, "due to inconsistencies in data collection, the team agreed to continue with data collection and adult support through September to further determine [the Student's] needs." The PWN further noted that the Student was then passing their math class with a 'C' and that it had "been observed that the [the Student] has difficulty using [their] notes, retrieving new math concepts, and applying [their] math skills to [their] assignments."
46. On May 28, 2024, the District created a progress report for the Student's IEP goals in mathematics, writing, and vision. The progress report indicated that this was a new math goal for the Student. The Student showed progress toward writing goals, scoring on average 96% on assignments. The Student's vision goal was new as of the date of this report.
47. On September 16, 2024, the District produced an instructional planning student report. The report indicated that the Student's performance in core progress reading suggested

interventions were appropriate to address their academic performance on more recent tests, and projected the Student's progress should be watched.

48. On September 25, 2024, the Parent sent an email to the District regarding the Student's performance in their math class. The Parent reported that the Student was then not passing the class, had multiple missing assignments, and noted that the Student had reported to them, that there was not adult support in the math class on that day. The Parent also reported that the Student was not receiving the interventions listed on the Student's IEP to help the Student access their curriculum. The Parent asked that the District provide the Student with abbreviated assignments, rather than modified assignments, prefilled notes, and continued daily adult support as specified in the Student's IEP.
49. On September 27, 2024, the District responded to the Parent's September 25, 2024, email in which the Parent expressed concerns with the Student's performance and IEP accommodations. The District asked the Parent to clarify which accommodations they felt the Student was not receiving. The District further reported that the Student has had an instructional assistant supporting them in their math class in 15 of 17 school days. The District noted that the instructional assistant was out sick for two of those days and they were unable to secure a substitute. The District noted that classroom teachers support, and that at times, the Student refuses the support. The District noted that the Student does access a separate room to take tests as listed in the Student's IEP.
50. On October 1, 2024, the District produced an instructional planning student report. The report indicated that the Student's performance in math suggested interventions were appropriate to address their academic needs.
51. On October 11, 2024, the Student sent an email to Teacher 1 asking to make up missing assignments.
52. On October 14, 2024, the Parent filed this Complaint with the Department.
53. On November 6, 2024, the District submitted its *Response* to the Request for Response.
54. Following the receipt of the District's *Response*, the timeline for resolving this Complaint was extended due to unforeseen circumstances.
55. On December 6, 2024, the Parent submitted their *Reply* to the District's *Response*.
56. On December 10, 2024, the Department's Complaint Investigator interviewed the Parent. Present for the interview was the Parent's Advocate. The Parent provided background about the Student's education, including that the Student moved from a full special education environment to a primarily general education environment in eighth grade. The Parent explained that their concern that many of the Student's teachers did

not have an understanding of the Student's needs at that time, due to the fact that the Student's disability manifests similarly to a traumatic brain injury (TBI), specifically as it impacts the Student's short term memory.

57. The Parent noted that in eighth grade, the Student had an IA in the classroom for their math instruction daily. The Parent noted that later the Student did not receive support in math class, but rather in the resource room. The Parent raised concerns that the District was not following the Student's IEP, and that the specific supports were outlined in the Student's IEP, specifically in the present levels section. The Parent noted that without the Student's specified accommodations, they can't access the curriculum.
58. The Parent observed that recent Meeting Notes reflected the change in the accommodations provided by the District to the Student. The Parent questioned the District's explanation that accommodations would change due to the shift to the high school environment from the middle school environment. The Parent raised concerns about the District changing the Student's schedule to enable them to access their academic supports. The Parent also noted that the present levels statement in the Student's IEP suggests that the Student requires and is allotted more support in math than the IEP service summary suggests.
59. The Parent alleged that the District was not providing the Student with their IEP accommodations as evidenced by the requirement that the Student input completed math work into the District's online system for grading and evaluation. Specifically, the Parent alleged that this was incompatible with the Student's accommodation around showing work. The Parent questioned whether the online system required a new and different accommodation for inputting data into the computer. The Parent noted that the Student's accommodation around checks for understanding were also not appropriately implemented, because staff would need to ask more specific questions of the Student to gauge the Student's understanding, rather than only asking whether the Student understood.
60. The Parent asserted that the District did not implement the Student's accommodation to provide class or lecture notes to the Student. The Parent noted that while notes from various teacher's classes may be available online, they wanted the notes printed and provided to the Student. The Parent explained that this accommodation was therefore unclear in the Student's IEP due to the Student's memory issues. The Student required notes and accommodations to be affirmatively provided rather than require the Student to advocate for themselves.
61. The Parent expressed displeasure that the Student's accommodations were unclear because they lacked specificity regarding who would provide the service, and how they would be implemented specifically. The Parent also suggested that the Student's supports were ineffective because they did not include follow-up, and the support being affirmatively offered to the Student. The Parent suggested more of a questioning

approach when offering support to the Student.

62. The Parent indicated that they obtained information on the manner in which the Student's accommodations were provided by asking the Student to send text messages or emails to the Parent during the school day to report on whether they received their accommodations that day. The Parent based many of their assertions on the Student providing real time feedback to the Parent regarding the delivery of their accommodations.
63. The Parent questioned the veracity of the District's data collection as contained in the District's response. The Parent noted that the forms did not include a date, the name of the person collecting the data, or a signature. The Parent reported that they were unsure why the data was collected, how it would be presented to them, and in what form. The Parent also reported having not received progress data as indicated in the Student's IEP.
64. The Parent reported that the May 2024 IEP team meeting was a facilitated meeting, but that the facilitator was not allowed into the virtual meeting. As part of the meeting, the team agreed to collect better data and reconvene in October. The Parent reported not having received the progress data as indicated in the Student's IEP. During the meeting with the Department's Complaint Investigator, it was discovered that the Student's report cards and progress monitoring data were delivered electronically through the District's student data website. The Parent confirmed that they could access that information, though they had previously not done so.
65. The Parent confirmed that they had provided a private educational report for the Student to the District. The Parent questioned whether the District had appropriately considered the content of the report. The Parent also asserted that the District was deficient in not creating a summary report of the various assessments, results of the file review, and the private assessment the Parent provided to the District for its consideration.
66. The Parent reported that generally they did not receive IEP team meeting notices from the District. While they would receive emails from the District announcing the meeting time and date, there was often not an attached meeting notice.
67. On December 20, 2024, the Department's Complaint Investigator interviewed the Student's Case Manager, the District's School Psychologist, and the Special Education Coordinator.
68. The District noted that the primary issue seemed to be core instruction and the manner in which the IA would support the Student, as well as other students. The District noted that the IA in the Student's math class was tasked with assisting multiple students and that the Student's IEP did not indicate that support was unique to the Student and did

not require a 1:1 aide for the Student.

69. The District noted that due to differences in the instructional environment, the Student's IEP team had discussed that the manner in which the Student's IEP accommodations and supports are delivered may look different in the eighth grade as compared with the ninth grade in the high school environment. The District reported their understanding that the Parent had expressed a preference for the delivery of services in the same manner in high school as the Student experienced in the middle school. The District noted that the support was the same, that the Student would receive adult support in their math class from the general education teacher. In addition, the Student had access to the resource classroom for additional assistance.
70. The District noted that the Student's assignments cannot be modified because the Student is working toward a standard diploma. The District reported awareness that the Parent expected that the Student's assignments would be modified. The District explained that accommodations can be made for the Student's needs with completing school work. The District reported that at the January 4, 2024 IEP team meeting, there was significant discussion of the difference between modifications and accommodations. An example of the accommodations afforded to the Student was the Student's ability to submit a single answer at a time online for their math coursework.
71. The District reported that the Student's report card and IEP progress data was reported through the District's online student portal. There, parents can access grades and reporting data.
72. The Student's Case Manager reported that the Student can access class notes through the online portal, and has accommodations that allow them to take photos of the wall or board during class to collect instructional material. The Case Manager also reported having made hard copies of class notes when requested by the Student. The Case Manager noted that the Student's teachers were aware of the accommodation for frequent checks for understanding and that the IA that works with the Student was specifically trained on this need. The District articulated an understanding of the Student's memory concerns detailed by the Parent and the manner in which the IA was trained to address the Student's needs. The Case Manager also reported that they had spoken with the Student's Math Teacher to ensure that the Student was allowed to show their work by submitting written work product, rather than enter work product online.
73. The District explained that the tracking data contained in the District's *Response* was generated through an online form used for tracking the Student's use of accommodations and supports in their math class. The forms tracked the level of support provided, how well the Student understood the material, how accurate the Student's work was, and the Student's level of engagement. The form also collected information such as whether the Student was able to complete the grade-level math

work independently on a given day, and relevant notes, observations, and accommodations. The District's *Response* included data tracking for March 2024 through November 2024. These tracking forms sometimes included information around the Student's willingness to access or utilize specific accommodations, such as notes provided for classes, or their own class notes.

74. The District's School Psychologist reported having reviewed the assessment provided by the family for the Student. The School Psychologist observed that it would not be professional for them to produce an additional summary of another professional's assessments. Rather, the outside assessment was reviewed and available for discussion at the Student's IEP team meeting. Furthermore, the team discussed the findings of that outside assessment during the meeting. The School Psychologist noted that the outside assessment utilized numerous tests, most of which are normed for yearly administration, precluding the possibility of the District administering the same tests. With the outside assessments and District assessment results in hand, the School Psychologist determined that the Kaufman Test of Educational Achievement (KTEA-3), was one of the few additional relevant data sources for the District to administer to gather relevant data on the Student's potential needs. Rather than summarize the various reports, the reports and data for the Student were provided for review during the Student's IEP meeting in January 2024.
75. The School Psychologist noted that information from the various reports that was relevant to the Student was summarized in the present level statements. The District reported that all evaluation data was provided to the Parent in advance of the January 4, 2024 IEP team meeting. Additionally, hard copies of the reports and data were available during the Student's IEP meetings for reference. The District reports that it sent relevant data as email attachments, and it was District practice to follow-up to ensure that the Parent was able to open the attachments.
76. With regard to the April 15, 2024 meeting, the District explained that this meeting was scheduled to review the results of the Student's vision examinations. In advance of the meeting relevant staff were unavailable for the meeting, which necessitated rescheduling the meeting. The District reported that no decisions were made or refused regarding the provision of the Student's IEP services as a result of rescheduling this meeting.
77. The District explained that the May 28, 2024 IEP team meeting was a facilitated meeting. The facilitator had difficulty gaining access to the virtual meeting due to technical difficulties. The Parent agreed to proceed without the facilitator. The primary issue for discussion at the meeting was the Student's progress in math.
78. The District noted that all meeting notes and relevant data were shared with the Parent through email. The District reported that during the relevant time the Parent changed email addresses on occasion which may have contributed to confusion. The District

noted that the front page of each of the Student's IEPs included the District's efforts to schedule the meeting and provide information to the Parent.

IV. DISCUSSION

When IEPs Must Be In Effect (Implementation)

The Complaint alleged that the District violated the IDEA by failing to implement the Student's current IEP. Specifically, it was alleged that:

- a. The District failed to provide adult support in math class during the 2023-24 school year, until February of 2024;
- b. During the 2023-24 and 2024-25 school years, the District failed to consistently provide adult support for math instruction and activities during the entire math period, and failed to provide frequent checks for understanding through showing or doing tasks and verbal responses;
- c. During the 2023-24 and 2024-25 school years, the District failed to provide accommodated assignments. Specifically, that the District failed to provide math assignments with fewer problems and less material on the page.
- d. During the 2023-24 and 2024-25 school years, the District failed to provide adult support, and failed to collect sufficient data beginning January 4, 2024 regarding adult support provided to the Student;
- e. During the 2024-25 school year, the District failed to allow for work to be shown in different ways;
- f. During the 2024-25 school year, the District failed to provide math notes to the Student until September 30, 2024;
- g. During the 2024-25 school year, the District failed to provide information to District staff regarding the Student's disability sufficient to enable District staff to implement the support required by the Student's IEP. Specifically, the Complaint alleges that District staff allow the Student to refuse support without determining the Student's actual need for the support provided in the Student's IEP; and
- h. During the 2023-24 and 2024-25 school year, the District failed to provide any report cards or IEP progress reports to the Parent in a timely manner.

At the beginning of each school year, a district must have in effect, an IEP for each child with a disability. School district must provide special education and related services to a child with a disability in accordance with an IEP. As soon as possible following the development of the IEP, special education and related services must be made available to the child in accordance with the child's IEP. School districts must ensure that the IEP is accessible to each regular education teacher, special education teacher, related service providers, and other service providers responsible for implementing the IEP. The district must also inform each teacher and service providers of their specific responsibilities for implementing the child's IEP.³

³ OA581-015-2220(1)—(3); 34 CFR §300.323, 300.324

- a. The Student's January 4, 2024, IEP, included the accommodation for the Student's math instruction. The accommodation, "adult support for math instruction and activities" indicated that the general education teacher would provide this support in the general education classroom. The Student's May 3, 2024, and May 28, 2024, revisions to the January 4, 2024, IEP, include the same accommodation, and were updated to indicate that an "Instructional Assistant" in the "General Education Math Classroom" would provide the accommodation. The record includes discussion that the method of providing the adult support in the Student's math class may look different in the high school, than in the middle school, but the records does not support that the Student did not have access to adult support in their math class.
- b. The record includes data monitoring for accommodations in the Student's math class. This data monitoring from March 2024, through November 2024, indicates that the District provided adult support in the Student's math class, and conducted checks for understanding by showing tasks and providing verbal responses. Many of the data collection forms used by the District documented specific notes regarding questions asked of the Student, their response to the offered accommodation, and offers to the Student to show their work through alternative means. The records supports that the District did provide adult support for the Student's math instruction.
- c. The Parent alleged that the District failed to provide accommodated assignments in math, specifically assignments with fewer problems and less material on a page. The Student's IEP includes the accommodation "present fewer problems/less material on the page." During interviews with the Department's Complaint Investigator, the Parent explained their interpretation of this accommodation to mean that the District would provide shortened assignments. The District explained that the Student was on track to receive a standard diploma which precluded the shortening of assignments. Instead, through a variety of tools, assignments and math problems specifically, could be displayed one at a time to avoid the Student becoming overwhelmed. This was done in part through an online platform where each math problem was displayed individually. The record supports that the District provided accommodations in the Student's IEP relevant to the Student's math instruction.
- d. The Parent questioned the data gathering method utilized by the District. The Parent reported to the Department Complaint Investigator, that the data presented as part of the District's Response, lacked the specificity required to be useful. The Parent also suggested that the District neglected to provide the adult support indicated in the Student's IEP. The District included with its response daily tracking forms that included such information as which supports the Student accessed, how those supports assisted the Student, and whether the Student accepted or rejected the supports or assistance offered. These data tracking forms indicate the presence of the adult support as indicated in the Student's IEP. The District indicated that this data was shared with the Parent at the May 28, 2024, IEP team meeting, including discussion of the Student's access of IEP supports. As part of that meeting, the Student's IEP team agreed to modify the way data was collected, observing that it was not always collected in a consistent manner. The District did collect data during the relevant time period. At the May 28, 2024 IEP team meeting, the District decided to review data relevant to the Student's progress in their math curriculum in September, 2024. The information in the record supports that the District did collect data relevant to the

Student's math progress as indicated in the Student's IEP.

- e. The Parent alleged that the District did not allow for the Student to show their work in different ways. The Parent specifically cited emails and examples of math work which was required to be input online which suggested a single way work could be displayed. During interviews with the Student's Case Manager, they described their efforts to have the Student input information online to answer math questions, and turn in written work to their teacher to allow them to show their work in alternative ways. The records support that the District provided alternative ways for the Student to show their work.
- f. The Parent alleged that the District did not implement one of the Student's accommodations, specifically providing notes for their math class. The Parent explained that it was possible that the impact of the Student's disability was such that they would not remember to retrieve the notes. The District explained that teacher's notes were available through the online course website. The Student was able to access the notes through that site. The Student's Case Manager also reported having provided the Student with hard copies of these notes when requested or needed. Data collection forms for the time period also include entries about the Student's willingness to accept or utilize notes available for the class. The records support that the District did provide notes to the Student in their math class.
- g. The Parent alleged that the district failed to implement the Student's IEP when it either did not provide District staff with sufficient information to implement the Student's supports, or allowed the Student to refuse supports without determining the Student's need for the support. The Parent indicated their concern that the Student may not accurately report their need for support, or that District staff were not sufficiently questioning why the Student may initially decline the use of a support. The District's data gathering forms documenting the implementation of the Student's supports in their math class especially, include records of discussion with the Student about their interest in receiving supports, and their response to offers of their IEP supports. At times the Student chose to access their IEP supports, and at other times the Student declined such interventions.
- h. The Parent reported that the District had not provided report cards or progress monitoring data. The Student's IEP included that progress monitoring data would be provided with the Student's report cards. The District indicated that during the period of time covered by this report, that the Student's report cards and progress monitoring data was provided electronically through the District's online portal. During the Department Complaint Investigator's interview with the Parent they confirmed that the report cards and progress monitoring data was delivered in this manner, and that it was accessible to them.

The Department does not substantiate this allegation.

General Evaluation and Reevaluation Procedures; Evaluation Planning

The Complaint alleged that the District violated the IDEA by failing to provide a proper evaluation as part of the Student's 3-year reevaluation. Specifically, the Complaint alleged that as part of the reevaluation process during the 2023-24 school year, the District:

- a. failed to provide a comprehensive evaluation report following the reevaluation process;
- b. failed to provide a copy of observations made by District staff; and
- c. failed to provide an educational evaluation of learning and achievement, observation of learning environment, file review and classroom observation, as provided in the written consent provided by the Parent.

Before conducting any evaluation or reevaluation, a public agency must obtain informed written consent for the evaluation. The public agency must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent. This information may assist in determining whether the child is a child with a disability and the content of the child's IEP. The public agency must ensure assessments and other evaluation materials used to assess a child are used for the purposes for which the assessments or measures are valid and reliable, and that the child is assessed in all areas related to the suspected disability. The public agency must also ensure that the evaluation is sufficiently comprehensive to identify all the child's special education and related services needs.⁴ As part of any reevaluation, child's IEP team must review existing evaluation data, including evaluations and information provided by the parents of a child. The IEP team should also review current classroom-based, assessments, observations, and observations by teachers and related service providers. Based on this review, the IEP team should determine what additional data is needed.⁵ As part of the process of determining a student's eligibility for special education, the Student's IEP team must prepare an evaluation report and written statement of eligibility. The evaluation report(s) must describe and explain the results of the evaluation conducted.⁶

As part of the Student's triennial reevaluation the Parent provided the District with a Neuropsychological Evaluation completed December 5, 2023. This evaluation was prepared by an outside evaluator selected by the Parent. The District proposed to conduct additional evaluations including an educational evaluation of learning and achievement, observations of the Student's learning environment, and classroom observations. The District reported awareness that the Parent would provide an evaluation from an outside provider who would administer tests to the Student, in place of the District doing so. The Parent provided the District with the assessment in advance of the January 4, 2024 IEP team meeting. The District and the Parent agree that the bulk of the evaluations conducted as part of the Student's triennial reevaluation were conducted in conjunction with the outside Neuropsychological Evaluation. The assessments conducted by the District were provided to the Parent by email on December 18, 2023, through the IEP Team Facilitator. On January 4, 2024, the District sent the Parent a Prior Written Notice documenting that it had provided the Parent with copies of the relevant evaluations and classroom observations of the Student and declining to create an additional summary report of those evaluations.

⁴ OAR 581-015-2110(1)–(4)

⁵ OAR 581-015-2115(1)–(4)

⁶ OAR 581-015-2120(2)(a)

At the January 4, 2024, IEP team meeting, the District's School Psychologist was present. The outside Neuropsychological Evaluation, and the District's own evaluations were discussed, and available for review at the meeting. The District reports that the Parent was provided copies of the evaluations in advance of the meeting, and the evaluations and those who performed the District administered evaluations were present at the meeting. The Parent asserted that the District had not summarized all of the evaluations into a report "describe(ing) and explain(ing) the results of the evaluation(s) conducted" for review during the IEP team meeting.⁷ The District indicated that the documents and assessments used to determine the Student's eligibility were summarized in the Student's January 4, 2024 Eligibility Summary Statement.

The IDEA does not require that the Student's IEP team create additional summative documentation when determining eligibility or reviewing evaluation data. "The information required in the written report in § 300.311 is a part of the documentation of eligibility required in § 300.306(a)(2). Section 300.306(b) and (c) lists the requirements for eligibility determinations for all children suspected of having a disability, including children suspected of having SLD. Section 300.311 provides specific elements that must be addressed in the report for children suspected of having SLD. Two separate reports are not necessary as long as the information in § 300.311 is included in the documentation of the eligibility determination in § 300.306(a)(2)."⁸ The District provided and discussed the evaluation materials at the Student's January 4, 2024 IEP team meeting, including the report provided by the Parent to the District, created by the outside evaluator.

The Department does not substantiate this allegation.

Prior Written Notice (PWN)

The Complaint alleges that the District violated the IDEA by failing to provide PWN to the Parent following an IEP meeting on April 15, 2024.

The IDEA requires a school district to give parents PWN within a reasonable period before it proposes or refuses to initiate or change anything related to the identification, evaluation, educational placement, or the provision of FAPE to a child with a disability.⁹ PWN must be both specific and explanatory, including:

- a. A description of the action the school proposed or refused;
- b. An explanation of why the school proposes or refuses to take the action;
- c. A description of each evaluation procedure, assessment, record, or report the school used as a basis for the proposed or refused action;
- d. A statement that the parents of a child with a disability have procedural safeguards under

⁷ OAR 581-014-2120(2)(a)

⁸ Assistance to States for the Education of Children With Disabilities... , 46660 Fed. Reg. 71, 156 (August 14, 2066) (to be codified at 34 C.F.R. § 300.311(a))

⁹ OAR 581-015-2310; 34 CFR §300.503(a)

- IDEA and how parents can obtain a copy of the procedural safeguards notice;
- e. Sources for parents to contact to obtain assistance in understanding the IDEA;
- f. A description of other options considered and the reasons why those options were rejected; and
- g. A description of other factors that are relevant to the school's proposal or refusal.

The purpose of such detailed PWN requirements is two-fold. First, it assists school personnel to consider options carefully and to make decisions on the basis of articulable criteria or reasoning. Second, it gives parents definitive statements of school district decisions and enables their understanding of exactly what considerations led to those decisions.

The Parent reports that the District scheduled an IEP team meeting for April 15, 2024. Prior to the scheduled meeting date, the District informed the Parent of staff unavailability and the need to reschedule the meeting. The Parent reported that they were not provided prior written notice of the cancellation and rescheduling of this meeting.

The meeting scheduled for April 15, 2024 was intended to afford relevant members of the Student's IEP team to review the results of the Student's vision screening. The meeting was rescheduled due to the unavailability of relevant staff. As a result of rescheduling the meeting the District did not propose to refuse, initiate, or change the provision of FAPE to the child, and therefore was not required to provide the Parent with prior written notice. The Department does not substantiate this allegation.

Parent Participation – General

The Complaint alleges that the District violated the IDEA by failing to provide a written notice of IEP meetings held on January 4, 2024, April 15, 2024, and May 28, 2024.

School Districts must provide parents with a written notice of an IEP meeting sufficiently in advance to ensure that they have an opportunity to attend. The notice should include the purpose, time, and place for the meeting, and who will attend.¹⁰ School districts must take steps to ensure the parents of a child with a disability are present at each IEP or placement meeting or are afforded the opportunity to participate. This should include notifying the parents of the meeting early enough to ensure that they will have an opportunity to participate.¹¹

The District sent the Parent written notice of the January 4, 2023 IEP team meeting on January 2, 2024. The District sent the Parent written notice of the April 15, 2024 IEP team meeting on February 27, 2024. The District sent the Parent notice of the May 28, 2024, IEP team meeting on May 7, 2024 by email. This May 7, 2024 email included a link to connect to the scheduled video conference, a list of participants, included the purpose of the meeting, and the time of

¹⁰ OAR 581-015-2190(1) & (2)

¹¹ OAR 581-015-2195(1) & (5)

the meeting. The Parent and the District report that this was a facilitated IEP team meeting, with the meeting facilitator invited also.

This May 7, 2024 email invitation varied from the forms utilized by the District on January 2, 2024 and February 27, 2024, formally providing notice of those meetings. However, the May 7, 2024 email contained all the information required by the IDEA to provide notice to the Parent of the May 28, 2024, IEP team meeting.

The Department does not substantiate this allegation.

VII. CORRECTIVE ACTION
In the Eagle Point School District
Case No. 24-054-064

The Department does not order corrective action in this matter.

Dated: this _17th_ Day of January 2025



Ramonda Olaloye
Assistant Superintendent
Office of Enhancing Student Opportunities

Emailing Date:

Appeal Rights: Partied 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 provision of ORS § 183.484. (OAR 581-015-2030 (14).)