

BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of)	FINDINGS OF FACT,
Greater Albany School District)	CONCLUSIONS,
)	AND FINAL ORDER
)	Case No. 24-054-065

I. BACKGROUND

On October 16, 2024, the Oregon Department of Education (the Department) received a written request for a special education complaint (Complaint) from the parents (Parents) of a student (Student) residing in the Greater Albany 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 24, 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 7, 2024. On November 7, 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. Table of Contents
3. Prior Written Notice of Special Education Action, 10/17/2023
4. Student IEP, 10/17/2023
5. IEP Team Meeting Notes, 10/17/2024
6. Notice of Team Meeting, 9/28/2023
7. Extended Diploma, 10/17/2023
8. Annual Academic and Functional Goals and Objectives, 10/17/2023
9. Letter from School to Parent re: attendance, 3/18/2024
10. Annual Academic and Functional Goals and Objectives, 10/17/2023
11. IEP Meeting Notes, 6/13/2024
12. Prior Written Notice, 7/22/2024

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. Prior Written Notice for IEP, 8/29/2024
14. Student IEP, Amendment, 10/17/2023
15. Meeting Attendance/Summary, 8/29/2024
16. Notice of Team Meeting, 8/28/2024
17. Abbreviated School Day Summary and Consent, 9/4/2024
18. Notice of Team Meeting, 9/12/2024
19. Written Agreement between the Parents and the District, 9/23/2024
20. Abbreviated School Day—Notice to Parents/Guardians, 9/23/2024
21. Special Education Notice of Team Meeting, 9/19/2024
22. Prior Notice for IEP, 10/16/2024
23. Student IEP, 10/16/2024
24. Meeting Attendance/Summary, 10/16/2024
25. Notice of Team Meeting, 10/15/2024
26. Special Education Notice of Team Meeting, 9/19/2024
27. Prior Written Notice, 10/16/2024
28. Special Ed Student Contact Log, 11/4/2024
29. Email: Re: Today's staffing change, 10/16/2024
30. Email: Abbreviated Day and New Schedule, 10/7/2024
31. Email: Nurse change today, 10/2/2024
32. Email: Re: 9/25/24
33. Email: Re: Meeting and Greet, 9/20/2024
34. Email: Re: [Student] Abbreviated Day, 9/19/2024
35. Email: Re: Staff change today—No LK, 9/19/2024
36. Email: Re: Dog teams/assembly schedule, 9/18/2024
37. Email: Re: Tomorrow's plan, 9/18/2024
38. Email: 9.16.23, 9/16/2024
39. Email: Re: Risk Management, 9/16/2024
40. Email: [Student] will be home today 09.12.24, 9/12/2024
41. Email: Re: Immediate Meeting needs, 9/11/2024
42. Email: activity/dog teams days, 9/11/2024
43. Email: Immediate Meeting Needed, 9/11/2024
44. Email: Nurse staffing, 9/11/2024
45. Email: Re: [Student's] Wednesday Schedule, 9/11/2024
46. Email: Re: Speech Services, 9/9/2024
47. Email: Re: Dog teams/assembly schedule, 9/6/2024
48. Email: Re: Invitation: [Student] Schedule Plan @ Thu Sep 5, 2024 1:15pm – 2:15pm (PDT)
49. Email: Re: First day re-cap and thought on the heat advisory, 9/5/2024
50. Email: Re: Paperwork for today's training, 9/3/2024
51. Email: Re: OMWR Registration, 9/26/2024
52. Email: Update Orders Request, 8/15/2024
53. Email: Hoyer lift protocol, 6/14/2024
54. Wheelchair to hospital Bed Hoyer Lift Transfer
55. Hoyer Lift Transfer Protocol, [Student] 5/12/2023
56. Email: Re: Singed IHPs, 6/14/2024

57. Student Seizure Protocol, 9/21/2023
58. G-J Tube venting, Medication Administration, and Feeding Protocol, 9/21/2023
59. Individualized Health Plan, 9/21/2023
60. Urinary Catheterization Protocol, 9/21/2023
61. Tracheal and Oral Suctioning Protocol, 9/21/2023
62. Letter from PA-C, 3/19/2024
63. Letter from Physician, 9/3/2024
64. Email: Agenda for FIEP, 6/11/2024
65. Email: Re: OMWR Registration, 6/11/2024
66. Email: Re: scheduling FIEP [Student] and Albany, 6/6/2024
67. Email: Re: Letter to [Student's] Doctor, 5/31/2024
68. Email: Re: ROI requestions re: [Student] & Albany, 5/28/2024
69. Email: Re: Update, 5/15/2024
70. Email: Re: FW: Facilitated IEP Request, 5/15/2024
71. Email: Re: 10 Day Drop-To the Parent Guardian, 5/6/2024
72. Email: Re: [Student's] Return to School, 5/6/2024
73. Email: Letter to [Student's] Doctor, 4/12/2024
74. Individualized Health Plan, 8/19/2023
75. Seizure Protocol, 11/29/2023
76. Urinary Catheterization Protocol, 8/18/2023
77. G-J Tube venting, Medication Administration, and Feeding Protocol, 8/18/2023
78. Tracheal and Oral Suctioning Protocol, 9/21/2024
79. Letter from District to Student's Doctor
80. Email: Re: Phone Numbers in Synergy, 4/3/2024
81. Email: Getting [Student] back to school, 3/20/2024
82. Email; Re: Invitation: [Student] debrief @ Tue Mar 5, 2024 8:30aqm-9am (PST, 3/1/2024)
83. Email: Re: Hoyer, 11/4/2023
84. Email: Moving Forward, 10/18/2023

The Parents submitted the following items on November 16, 2024:

1. Request for Complaint Investigation
2. Portion of audio recording, Student IEP meeting
3. Two photographs of the Student
4. Nursing notes, 2/29/2024

On November 16, 2024, the Department's Complaint Investigator interviewed the Parents. On November 21, 2023, the Department's Complaint Investigator interviewed the District's Health Services Coordinator, School Nurse, 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 15, 2023, to the filing of this Complaint on October 16, 2024.

Allegations	Conclusions
<p>IEP Team</p> <p>It is alleged that the District violated the IDEA when it failed to include individuals invited by or requested by the Parents, to the Student's IEP team meeting.</p> <p>(OAR 581-015-2210; 34 CFR §§ 300.344, 300.321, 300.324(a)(3) & (b)(3))</p>	<p>Substantiated In Part</p> <p>Individuals required by the IDEA to attend IEP meetings were at the Student's meeting. The District acknowledged that one individual that attended was not listed on the Meeting Notice.</p>
<p>Related Services</p> <p>It is alleged that the District violated the IDEA when it failed to provide appropriate related services for the Student that would allow them to attend school for a full school day. Specifically, the Parents alleged that the District has not provided the necessary staff to transfer the Student during the school day to provide personal care, nor the transportation services that the Student requires.</p> <p>(OAR 581-015-2000(29); 34 CFR §§ 300.5, 300.6, 300.8, 300.11, 300.15, 300.19, 300.22, 300.27, 300.28, 300.29, 300.30, 300.34, 300.37, 300.39, 300.42, 300.43 & 300.45)</p>	<p>Not Substantiated</p> <p>The District has an IEP in place for the Student that provides the related services that the Student requires. The District and the Parent differ on the interpretation of medical documents submitted by the Student's Physician. This lack of agreement on the related service of nursing also impacted the Student's transportation services.</p>
<p>Free Appropriate Public Education (FAPE)</p> <p>It is alleged that the District violated the IDEA when the District failed to provide the Student with the appropriate related services, preventing the Student from attending school for an entire school day. The Parents alleged that this reduction in access to the school day has denied the Student a Free Appropriate Public Education.</p> <p>(OAR 581-015-2040; 34 CFR § 300.101)</p>	<p>Not Substantiated</p> <p>The Student's IEP provides the Student with appropriate related services. There is lack of agreement on the provision of those services due to the ongoing disagreement regarding the meaning of the medical documentation</p>

	received from the Student's Physician.
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REQUESTED CORRECTIVE ACTION
<p>The Parents request that the District:</p> <ul style="list-style-type: none"> • Provide the Student with the required medical staffing for them to attend school; • Allow the Parent to provide some of the Student's required personal care; and, • Improve communication between the Student's District nursing staff, and the Parent.

III. FINDINGS OF FACT

1. The Student in this case is 17 years of age, and attends the 12th grade in a District high school. The Student is eligible for special education under the category of Orthopedic Impairment.
2. The Student is funny, caring, smart, sensitive, opinionated, observant, and possesses a good sense of humor. The Student enjoys playing games, reading stories, and social studies lectures. The Student enjoys age appropriate activities and topics, and shows great interest in involvement with school culture and activities. The Student uses multiple forms of communication including eye gaze.
3. The Student requires specially trained staff to assist with communication, and address medical needs throughout the day. The Student is nonverbal and has limited independent mobility which impacts their ability to communicate with staff and peers, and their learning.
4. The Student received specially designed instruction in reading, math, and communication. The Student also receives related services including, transportation, nursing, augmentative communication services, and speech language pathology therapy. The Student's IEP includes supplementary aids, services, and accommodations such as, daily 1:1 nursing, medical log for communication between home and school, private area for personal/medical needs, augmentative communication systems, nursing/health care protocol, and a variety of orthopedic supports. The Student's supplementary aids further include sanitized materials, range of motion exercises, support stools, auditory materials, visual prompts, education materials in advance of general education curriculum delivery, use of laptop/tablet, using visual or verbal cue when having conversation with peers, licensed practical nurse (LPN)/registered nurse (RN) adult 1:1 on bus, and alternative learning space to avoid spaces with cooking or

flames, among others.

5. The Student spends the majority of the school day in an alternative setting, away from typical age peers in order to access instruction that is modified for rate and level of Student's ability. The Student participates for 31-40% of the day in the general education environment.
6. The Student's October 17, 2023, IEP indicated that the District Physical Therapist was then providing consultation to District staff regarding transfers, "either dependent or with use of a Hoyer lift..."
7. On October 18, 2024, the District Nurse sent an email to the Parents writing in part that the nurses, "are prioritizing implementation of the hoyer [sic] for daily transfers to ensure student and staff safety. We have a new hoyer [sic] battery and several slings to work with. The nurses would like to be fully transitioned to the hoyer [sic] by November 17."
8. On November 9, 2023, the District sent an email to the Parent acknowledging the Parents' interest in showing the District nursing staff changes to the Student's wheelchair impacting how the Student would be lifted.
9. On November 14, 2023, after additional discussion over how staff would be trained and whether the Parents could be present for the training, the District informed the Parents that the District would conduct the training without the Parents present, but would share and incorporate their ideas into the training.
10. On February 29, 2024, the Student experienced two seizures at school. As the result of the two seizures, the Parents were contacted and the Student was taken home. Thereafter the Student required medical care and did not immediately return to school.
11. On March 15, 2024, the District sent the Parents a 10-day drop notification, observing that students who miss ten consecutive days of school would be withdrawn from school and need to re-enroll.
12. On March 15, 2024, the Parents sent the District an email asking for more information regarding the 10-day drop notification. The Parents noted that the Student was not absent, but was out on medical leave due to emergency surgery.
13. On March 19, 2024, the Principal, responding to the Parents, noted that the 10-day drop was a state requirement, whether the Student had excused absences or not. Despite the fact that the Student was absent for medical reasons, the Student was withdrawn from the high school as of March 14, 2024.
14. On April 1, 2024, the Student's Certified Physician's Assistant wrote a letter relevant to

the Student's hospital discharge. The letter read in relevant part, "[The Student] may return back to school and resume [their] regular activities of daily living at this time. Transfer and lifting techniques may have a one to two person lift to ensure a high level of safety. Please caution do not use upper back to pull [them] forward and [they] should not have any hip flexion greater than 90 degrees." The letter also notes, "If any changes, please notify parents first then family will reach out to orthopedic provider directly if consultation is needed."

15. On April 9, 2024, the Parents met with the Student's care team to discuss the Student's return to school. The care team requested a three-way call with the Student's Physician, or in the alternative, that a letter be provided to the Physician to gain clarification on recommendations in the April 1, 2024 letter.
16. On April 11, 2024, the Lead District Nurse provided a letter to the Parents for them to present to the Student's Physician.
17. The April 11, 2024 letter included several questions in reference to the April 1, 2024 letter clearing the Student to return to school. The letter observes that the Student "may return to school and resume regular activities of daily living and 'one or two person lifts' were the best to 'ensure a high level of safety.'" The District's letter asked:
 - a. "In your doctor's note you state 'a one or two person lift to ensure the highest level of safety.' We look to you and your professional experience, could you please help us understand how a one or a two person lift is a safer options over a hooyer [sic] lift to transfer [the Student]."
 - b. Can you explain, given the surgery that [the Student] had, why a hooyer [sic] is considered an unsafe transfer option."
 - c. "How long can [the Student] safely sit in a chair without risk of developing a pressure wound?"
 - d. What is the max amount of time [the Student] can be in [their] chair without risk of a pressure wound?"
 - e. Do you have any other lift/transferring recommendations, other than a manual lift or hooyer [sic], that would be safe for [the Student] while at school?"
 - f. "Is there a way to make a hooyer [sic] lift a safe option for [the Student's] transfer while at school?"
18. On May 3, 2024, the Parents sent an email to the District's Health Service Coordinator, writing, "It's been over 3 weeks since we met and 30 days since [the Student] was medically released to return to school. [The Student] is missing out on irreplaceable time at school. This has been a tremendous hardship on him...Can we please meet to put a plan in place for him to return?"
19. On May 6, 2024, the District's Health Service Coordinator sent the Parents an email regarding the Student's return to school and method of transferring the Student writing

in part, “Because the Hoyer is considered one of the safest ways to transfer a patient, the nurses would like to understand why this is not an option and discuss [the Student’s] needs with the doctor.”

20. On May 9, 2024, the Parents sent an email to the Director of Special Programs asking to meet with Risk Management “if they are the ones making the decision that [the Student] cannot be transferred using a 2 to 1 transfer.”
21. On May 28, 2024, the Director of Special Programs sent an email to the IEP Meeting Facilitator with a list of questions for the Student’s doctor.
22. On May 30, 2024, the IEP Meeting Facilitator communicated to the Director of Special Programs the Parents’ position that the “doctor’s order are clear.” The IEP Meeting Facilitator suggested that the District provide a district nursing protocol and/or employee safety requirement that required the use of the Hoyer lift to address the impasse.
23. On June 13, 2024, the Supervising Nurse sent the Parents copies of the Student’s health protocols. These included the Student’s Seizure Protocol, G-J Tube Venting, Medication Administration, and Feeding Protocol, Individualized Health Plan, Urinary Catheterization Protocol, and Tracheal and Oral Suctioning Protocol.
24. On June 14, 2024, the Supervising Nurse sent the Parents the Hoyer Lift protocol from the regional ESD.
25. On June 13, 2024, the Student’s IEP team met as part of a Facilitated IEP meeting, to discuss the Student’s return to school. The team discussed the use of two person lifts, and the use of a Hoyer lift for the Student. Meeting notes from the meeting indicate, “[t]he district wants to continue using the hoyer [sic] lift for all transfers stating that [the Student] is at a weight that makes hoyer [sic] transfers safer for [them] and staff. [The Parent] stated that [the Student’s] doctor wrote to nursing staff recommending a 2 person lift. The nursing team had sent a list of questions to [the Student’s] doctor and stated they had not gotten a response, and this was a contributing factor for the disagreement as to which transfer technique should be used.” The team further discussed how best to communicate concerns to the Student’s doctor.
26. On July 22, 2024, the District sent the Parents prior written notice (PWN) documenting the District’s rejection of the implementation of a two person lift for the Student. The District documented concerns about staff safety and the safety of the Student in its preference for the Hoyer lift over a two person lift.
27. On August 29, 2024, the Student’s IEP team met to discuss the move to an abbreviated school day to address the Student’s medical needs. The IEP team discussed an abbreviated school day because the “nursing team and [the Parents] want [the Student]

back in school, but are not willing to do the two-person lifts that [the Parent] is requiring.” The IEP team made a plan for the Student to attend for 3rd and 4th period, go home, and return for 7th and 8th period. Following the meeting the District sent the Parents the consent for the abbreviated school day.

28. On August 29, 2024, the District sent the Parents PWN documenting the IEP team’s proposal to implement an abbreviated day schedule for the Student due to ongoing disagreements over how to implement transfers and lifts for the Student.
29. On September 3, 2024, the Student’s Physician wrote a letter that stated, “[The Student] may spend up to 3-4 hours in [their] wheelchair.”
30. On September 4, 2024, the Parents signed the consent for the abbreviated school day for the Student.
31. On September 11, 2024, the Parents sent an email to the District requesting a meeting in response to issues occurring at school that related to the Student’s medical care and protocols.
32. On September 11, 2024, the Supervising Nurse assigned to work with the Student, responded to the Parents’ email, explaining that LPN’s assigned to work with the Student were not generally included on email communication, as it was the Supervising Nurse’s responsibility to relay relevant information to the LPN’s. The Supervising Nurse also agreed to compare calendars to find a time to meet in response to the Parents’ request.
33. On September 16, 2024, the Parents sent an email to the District questioning the concept of “risk management” as it applied to discussions of the Student’s care. The Parents asked that the term be explained and anyone with oversight of the concept be identified.
34. On September 19, 2024, the District sent the Parents a Notice of Team Meeting for an IEP team meeting scheduled for October 16, 2024.
35. On September 23, 2024, the Parents and the District signed an agreement exempting the Student’s general education teacher from the September 23, 2024 IEP team meeting.
36. On September 23, 2024, the District provided an abbreviated school day notice, informing the Parents of their rights ahead of IEP team meetings when abbreviated school days are discussed. The Parents signed the Notice.
37. On October 7, 2024, the District sent the Parents an email observing that because the Parents had not completed and/or returned abbreviated day paperwork following their

last IEP team meeting, the District had prepared a full day schedule for the Student.

38. On October 15, 2024, the District sent the Parents a Notice of Team Meeting. The Notice indicated that the purpose of the meeting was “Initial or Annual IEP – Develop or review an individualized education program (IEP) and placement for your child. The development of the IEP will be based on information from a variety of sources including the most recent evaluation, progress reports, test results, and information from you.” The Notice included a list of individuals invited or required to attend.
39. On October 16, 2024, the District sent an email to the Parents informing them of a change in nursing staff for the Student that day.
40. On October 16, 2024, the Parents sent an email to the District indicating that the Student would not attend school that day due to a staffing change impacting the Student’s nursing staff. In the same email, the Parents addressed the February 29, 2024, medical incident involving the Student and their nursing staff. The Parent noted that there was delay in communication between the nursing staff, supervising nurse, and the Parents’ concerns about a particular nurse’s actions that day and that nurse’s continued work with the Student.
41. On October 16, 2024, the Student’s IEP team met. Notes from the meeting indicate that this was an IEP meeting. The notes are captioned, “10/16/24 Annual IEP meeting.” During the meeting, the Parent questioned whether the meeting was an IEP team meeting, questioning the meeting participants, observing that there was no classified staff invited. The District responded that the classified members were not required members under the IDEA. The Parents asserted that the nursing staff working with the Student should be present for the meeting. As part of the meeting the team discussed the Student’s abbreviated school day, personal care, period of time the Student can be in their wheelchair, transfers, and nursing staff. The team also discussed doctor recommendations, possible cause of the Student’s injuries in the spring, and District staffing for nursing responsibilities.
42. On October 16, 2024, the District sent the Parents PWN documenting the District’s review of the Student’s IEP and adjustments to services as well as upcoming transition planning.
43. On October 16, 2024, the District sent the Parents PWN indicating that it stands ready to serve the Student. The PWN noted that, “This care would require [the Student’s] removal from [their] wheelchair utilizing a Hoyer lift, which would be performed by trained staff. We understand that if this is not agreed upon, [the Student] will continue to return home during [the] school day for [their] personal care provided by [the Parent].”
44. On October 16, 2024, the Parents filed this Complaint with the Department.

45. On November 15, 2024, the Department's Complaint Investigator interviewed the Parents. The Parents reported that the Student was injured at school on or about February 29, 2024. Following the injury, the Student was out of school for hospitalization and surgery until released to return to school on April 1, 2024. The Parents observed that the District's preference was for the use of a Hoyer lift to accomplish lifts and movement of the Student in the school environment. The Parents expressed reservations with the use of the Hoyer lift out of concerns that the use of the lift led to the Student's injuries. The Parents specifically reported concern that the sling utilized with the Hoyer lift, and the placement of the sling, led to the Student's injuries. The Parents suggested several reasons why the Hoyer lift was inappropriate for the Student including inability to sit in the lift sling due to issues with the Student's hips and spine, the design of the Student's wheelchair, and associated accommodations and needs, as well as concerns with the Student's skin conditions, and sitting angle.
46. The Parents explained that they requested a facilitated IEP team meeting. That meeting was held on June 13, 2024. The Parents expressed disappointment that the meeting was not scheduled until the end of the school year. The Parents expressed further confusion and disappointment around the scheduling of the meeting, specifically that the District did not handle the scheduling or invitation, but rather that the facilitator handled the meeting scheduling and sending the meeting invitation.
47. The Parents reported offering to come to school to do the lifting of the Student, instead of having district assigned nursing staff accomplish the lift, and instead of the using the Hoyer lift. The Parents explained that because there was no agreement between the District and the Parents as to the method of accomplishing lifts with the Student, that the Student had not attended school for the remainder of the 2023-24 school year.
48. The Parents reported due to the ongoing disagreement around how to lift the Student, the Student was placed on an abbreviated school day. The Parent signed the consent for the abbreviated school day on September 4, 2024. From August 29, 2024 to the date of the interview with the Parents, the Student was attending for two hours in the morning, would return home to receive care necessitating lifting the Student, then return in the afternoon for additional schooling.
49. The Parents reported that the Student now weighs 80 pounds and that District nursing staff should be able to lift the Student manually. The Parents reported having confirmed that the Student's weight was then within the weight lifting requirements for the job description of District nursing staff.
50. The Parents reported concerns with IEP meeting attendance during at least one of the Student's IEP team meetings. The Parents reported that the District's Special Education Program Director attended the Student's October 16, 2024, IEP team meeting and that the same meeting was attended by a student teacher. The Parents noted that neither

were included in the Meeting Notice, and as such they had not received advance notice of these individuals' attendance.

51. The Parents also reported that at the October 16, 2024, IEP meeting, the District LPNs assigned to the Student were not invited to the IEP meeting, nor did they attend the meeting. The Parents asserted that the LPN's were required to attend pursuant to state law.
52. On November 21, 2024, the Department's Complaint Investigator interviewed the District's Health Services Coordinator, School Nurse, and the Director of Special Programs. Present for the interview was the District's Attorney.
53. District staff, especially the School Nurse, provided a detailed description of the Student's medical needs in the school environment, including reviewing the Student's various medical protocols and concerns associated with physically lifting and moving the Student. Staff acknowledged receiving the April 1, 2024, letter from the Student's Physician through the Physician Assistant. The District noted that as of November 2023, the District had transitioned to using the Hoyer lift for several reasons including the Student's weight, safety of staff, and Student safety. The District reported guessing that the Student's weight had increased, but not having medical records to verify the Student's weight. The District reported asking for such information, but having not received that information from the Parents. The School Nurse reported that the Hoyer lift was a safer option for individuals over a certain weight.
54. The District noted that the Hoyer lift was the safest method of transferring the Student for all involved. The School Nurse explained that the District had questions for the Student's physician regarding the April 1, 2024 letter observing that the letter included the phrase, "Transfer and lifting techniques may have a one to two person lift to ensure a high level of safety." The School Nurse noted that when unsure of medical orders, Nurses are required to clarify those orders with the patient's physician. The School Nurse wanted to clarify whether the language of the letter precluded the use of a Hoyer lift, whether a Hoyer lift could not be used due to the Student's condition, or what other considerations led to the language of the letter mentioning "one to two person lift" but not mentioning the Hoyer lift. The District also noted that the language of the letter was generally unclear.
55. The School Nurse explained that these concerns were communicated to the Student's Physician, through the Parent by letter on April 11, 2024. The School Nurse and other District staff present for the interviews noted that offers to call the Student's Physician, or schedule a meeting with the Physician were declined by the Parents.
56. The School Nurse was asked about other ways to accomplish the lift of the Student, such as hiring an individual physically stronger than current staff. The School Nurse noted that any deviation from the current protocol would raise questions of safety, which they

would send to the Student's Physician to answer. The School Nurse reported that the Student had other attendant monitors and equipment, and that the use of the Hoyer lift was generally safer allowing staff to more easily avoid falls, and interference with equipment. The School Nurse also noted that the District Physical Therapist had provided instruction on the use of the Hoyer lift with the Student's wheelchair and other medical concerns to avoid injury.

57. The School Nurse, Health Services Coordinator, and Director of Special Programs mentioned having had numerous informal conversations with the Parent following receipt of the April 1, 2024, letter. District staff reported that to date, they had not received definitive information from the Student's Physician to answer their questions. The District reported that it stood ready to serve the Student according to the existing IEP, but had insufficient information to alter the current use of the Hoyer lift, or insufficient information to interpret the April 1, 2024, letter as an alteration to the use of the Hoyer lift.
58. The District reported that the Student's IEP team met on June 13, 2024, to discuss the Student's return to school. The meeting was held at that time as the result of the Parent having contacted the Department regarding options for the Student's return to school. As part of that conversation with the Department, the Parent selected the option to have a facilitated IEP meeting.
59. The District acknowledged that a student teacher attended the Student's October 16, 2024, IEP team meeting, and that this individual was not listed on the meeting invitation sent by the District on October 15, 2024.
60. The District discussed its understanding of relevant state law as it related to the Parent's complaint that the LPNs assigned to the Student were not invited and not present at the Student's October 16, 2024. The District explained that it understood relevant state law to require that relevant classified staff be consulted with ahead of a student's IEP team meeting, or that the classified staff be invited if their input was relevant to the issues under consideration at that meeting. The District reported that the relevant LPNs were consulted with for the input ahead of the meeting.

IV. DISCUSSION

IEP Team

It was alleged that the District violated the IDEA when it failed to include individuals invited by, or requested by, the Parent, to the Student's IEP team meeting. Specifically, the Parents alleged that the District had not invited necessary team members including the LPNs assigned to work

with the Student. The Parent also alleged that the District failed to provide notice of certain attendees at the October 16, 2024, IEP team meeting.

School districts must ensure that the IEP Team for each child with a disability includes specific participants. Participants must include, the parents, at least one regular education teacher, a special education teacher, a representative of the district qualified to speak to the provision of specially designed instruction, and the authority to commit district resources. The IEP Team should also include an individual who can interpret evaluations, and other individuals, including those invited by the parent. District should also invite related service providers, as appropriate, whom the District determines have knowledge or special expertise regarding the child.³ Districts should also notify parents in advance of the purpose, time, place, and individuals who will attend a meeting.⁴

The Parents alleged that the District failed to invite the LPNs assigned to work with the Student to the October 16, 2024, IEP team meeting. The Parents allege that the LPNs are required participants, and that they were not invited to attend the Student's IEP team meeting. The District reported that the District nurses were invited to the Student's IEP team, and that the LPNs were consulted with ahead of the meeting regarding issues impacting their responsibilities with the Student. The District reported that the LPN's presence was not required, but did gather their input ahead of the meeting. The District did invite relevant District medical personnel to discuss the Student's significant medical needs. During interviews with the Department, the District's Nurse was able to discuss the Student's medical needs, and did attend the October 16, 2024, IEP team meeting.

The Parents also alleged that the October 16, 2024, meeting was attended by at least one person who was not included on the October 15, 2024 Meeting Notice. During interviews as part of this case, the District acknowledged that a student teacher attended the meeting who was not listed on the October 15, 2024 Meeting Notice.

The Department substantiates this allegation in part.

Related Services

It was alleged that the District violated the IDEA when it failed to provide appropriate related services for the Student that would allow them to attend school for a full school day. Specifically, it was alleged that the District had not provided the necessary staff to transfer the Student during the school day to provide personal care, nor the transportation service that the Student requires.

³ OAR 581-015-2210(1)(a)—(1)(g)

⁴ OAR 581-015-2190(2)(b)(A)

Districts must provide special education and related services to a child with a disability in accordance with an IEP.⁵ Related services are those required by the child with a disability to benefit from special education. Related services include orientation and mobility services, school health services, and school nurse services, and transportation, among others.⁶

In the fall of 2023, the District transitioned to the use of a Hoyer lift for this Student. From review of the record, there do not appear to be concerns that the use of the Hoyer lift was ineffective or unsafe for the Student following its implementation. On February 29, 2024, the Student experienced medical needs requiring hospitalization. The Student was not cleared to return to school until April 1, 2024. The Parents alleged that, following the Student's Physician clearing the Student to return to school, that the District failed to provide appropriate staffing to accomplish lifting the Student in the manner outlined by the Student's Physician. The District reported that their questions about the manner in which the Student could be lifted were not answered. District nursing staff reported sending questions through the Parents to the Student's Physician. District nursing staff reported that they did not receive answers to those questions from the Student's Physician and were not afforded an opportunity to speak with the Student's Physician.

On July 22, 2024, the District sent the Parents PWN, documenting the lack of information from the Student's Physician, in response to the District's nursing staff's attempt to clarify how best to safely lift the Student. District nursing staff further reported that nursing protocol required them to clarify any medical orders that were unclear. In the absence of a clarification of order, the District stood ready to deliver the services outlined in the Student's IEP in the manner previously delivered. District nursing staff noted that any alteration to the provision of such related medical services necessitated clarifying the instructions from the Student's Physician.

The Student's IEP includes the related service of transportation. As of the date of this Complaint, the lack of agreement on the meaning of the Student's Physician's orders also impacted the provision of transportation to the Student as those services also potentially involve lifting the Student.

The Department does not substantiate this allegation.

Free Appropriate Public Education (FAPE)

It is alleged that the District violated the IDEA when it failed to provide the Student with the appropriate related services, preventing the Student from attending school for an entire school day. The Parents alleged that the reduction in access to the school day has denied the Student a Free Appropriate Public Educating (FAPE).

⁵ OAR 581-015-2220(1)(b)

⁶ OAR 581-015-2000(29)

Each school district is responsible for providing a free appropriate public education to school age children with disabilities for whom the school district is responsible.⁷ The IDEA defines FAPE as special education and related services that: 1) are provided at public expense, under public supervision and direction, and without charge; 2) meet the standards of the state educational agency; 3) include an appropriate preschool, elementary school, or secondary school education; and 4) are provided in conformity with an IEP.⁸

The Parents and the District differ on what medical information is required by District staff to provide the Student with the related services outlined in the Student's IEP. The Student has an IEP that includes the related services required for the Student to access their education. As of the date of the Complaint, the Student was accessing their education, through an abbreviated school day schedule. The District is willing and able to implement the Student's IEP.

The Department does not substantiate this allegation.

VII. CORRECTIVE ACTION
In the Greater Albany School District
Case No. 24-054-065

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

Action Required	Submissions	Due Date
1. The District must ensure that all District staff responsible for sending meeting notices are trained on meeting notice requirements.	Training agenda/materials to ODE for review/approval.	February 15, 2025
	Sign-in sheet for training.	June 15, 2025

Dated: this 13th Day of December 2024



Ramonda Olaloye
Assistant Superintendent
Office of Enhancing Student Opportunities

⁷ OAR 581-015-2040(1); 34 CFR §300.101(a)

⁸ OAR 581-015-2040; 34 CFR §300.17

Emailing Date: December 13th, 2024

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).)