

BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of)	FINDINGS OF FACT,
North Clackamas School District 12)	CONCLUSIONS,
)	AND FINAL ORDER
)	Case No. 24-054-067

I. BACKGROUND

On November 6, 2024, the Oregon Department of Education (the Department) received a written request for a special education complaint investigation from the parents (Parents) of a student (Student) residing in the North Clackamas School District 12 (District). The Parents 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 in order to engage in mediation or local resolution or for exceptional circumstances related to the complaint.²

On November 13, 2024, the Department's Complaint Investigator sent a *Request for Response (RFR)* to the District identifying the specific allegations in the Complaint to be investigated and establishing a *Response* due date of November 27, 2024.

The District submitted a *Response* on November 21, 2024, denying the allegations, providing an explanation, and submitting documents in support of the District's position. The District submitted the following relevant items:

1. Table of Contents, 11/21/24
2. District's Written *Response* to Complaint, 11/21/24
3. School Personnel Contact Information, 11/21/24
4. Notice of Team Meeting on 9/5/24, 8/30/24
5. District Meeting Notes, 9/5/24
6. Notice of Team Meeting on 10/8/24, 9/23/24
7. Meeting Agenda, 10/8/24
8. Team Meeting Notes, 10/8/24
9. Prior Written Notice (PWN), 10/8/24
10. District's Assessment Data for the Student, 2024-25 school year

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

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

11. District's Assessment Data for Student, 2023-24 school year
12. Individual Benchmark Report, 2023-24 school year
13. Accommodations to Support Dyslexia and ADHD, no date
14. DIBELS Data System Report, 2022-23 school year
15. Screenshot of ParentVUE Message from Teacher to Parents, 10/25/24
16. School Psychologist Observation Report, 9/5/24 and 9/10/24
17. First Grade Assessments, 2023-24 School Year
18. Student Profile, 2023-24 School Year
19. Interventions According to Student Strengths & Needs, 2/2022 – 6/2024
20. Notice to Conduct a 504 Meeting on 6/4/24, 6/3/24
21. Notice to Conduct a 504 Evaluation, 5/22/24
22. 504 Accommodation Plan, 6/10/24
23. Team Meeting Notes, 6/13/24
24. Receipt for 504 Notice of Parents and Student Rights, 5/22/24
25. 504 Evaluation Report, 6/13/24
26. Letter from Student's Private Medical Provider, 6/21/24
27. Individual Benchmark Report, 2023-24 School Year
28. Daily Attendance Profile, 2023-24 School Year
29. Private Psychological Evaluation Report, 5/25/23
30. 504 Prior Written Notice, 6/3/24
31. Email Exchange between District Staff and Parents, 2023-24 school year
32. Email Exchange between District Staff and Parents, 2024-25 school year

The Parents submitted a *Reply* on December 9, 2024, providing an explanation and rebuttal. The Parents submitted additional documents on December 12, 2024. The Parents submitted the following relevant items:

1. *Reply*, 12/9/24
2. Evaluation Planning Meeting Notes, 10/6/23
3. Parents' Chart of Assessment Data and Accommodations, 2023-24 school year
4. Lindamood-Bell Evaluation Report, 6/5/23 – 3/15/24
5. Screenshots of Assessment Data, 12/12/24
6. Email from Parents with Timeline, 12/12/24
7. Email Exchange between Parents and District Staff, 7/19 – 8/2/23
8. Email from District to Parents, 9/29/23

The Complaint Investigator interviewed the Parents on December 10, 2024. From December 10 to 12, 2024, the Complaint Investigator interviewed District personnel. Virtual interviews were conducted instead of on-site interviews. The Complaint Investigator reviewed and considered all of these documents, interviews, and exhibits in reaching the findings of fact and conclusions of law contained in this order. This order is timely.

II. ALLEGATIONS AND CONCLUSIONS

The Department has jurisdiction to resolve this Complaint under 34 CFR §§ 300.151-153 and OAR 581-015-2030. The Complainant's allegations and the Department's conclusions are 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 November 7, 2023, to the filing of this Complaint on November 6, 2024.

Allegations	Conclusions
<p>Child Find</p> <p>The Parents allege that the District violated the IDEA by failing to identify, locate, and evaluate the Student as a child in need of special education services.</p> <p>(OAR 581-015-2080; 34 CFR §300.111)</p>	<p>Substantiated</p> <p>The District had sufficient information to trigger the requirement to initiate an initial special education evaluation of the Student, regardless of whether District staff thought the Student would qualify.</p>
<p>Evaluation and Reevaluation Requirements</p> <p>The Parents allege that the District violated the IDEA when it failed to timely initiate an initial evaluation of the Student following the Parents' request for an evaluation.</p> <p>(OAR 581-015-2105; 34 CFR §300.301)</p>	<p>Substantiated</p> <p>The District failed to initiate an evaluation even though the Parents requested a special education evaluation on multiple occasions and the District had sufficient evidence of the need to evaluate the Student.</p> <p>Although the Parents requested an evaluation on multiple occasions, including in March 2024, the District only issued one PWN in response (dated October 8, 2024).</p>
<p>Parent Participation</p> <p>The Parent alleges that the District violated the IDEA by interfering with the Parents' ability to participate in decisions with respect to the identification, evaluation, IEP and educational placement of the Student, and the provision of a free appropriate public education to the Student.</p>	<p>Substantiated</p> <p>The District interfered with the Parents' ability to participate in the evaluation process.</p> <p>The District informed the Parents that it would only schedule meetings from 7:45 to</p>

(OAR 581-015-2190, OAR 581-015-2195; 34 CFR §300.322; 34 CFR §300.501)	<p>8:15 a.m. or 3:00 to 3:45 p.m., and that meetings were limited to 45 minutes. This was inconsistent with the requirement to schedule meetings at a mutually agreeable time.</p> <p>Although the Parents requested an evaluation on multiple occasions, including by email and in person in spring 2024, the District did not issue a PWN when it rejected these requests.</p>
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REQUESTED CORRECTIVE ACTION
<p>The Parents requested the following corrective action:</p> <ul style="list-style-type: none"> • Provide compensatory education for the Student for the unnecessary delays to the evaluation process and missed educational opportunities as a result of this. • Provide a special education evaluation, to be completed by an independent team instead of the school-based team. The parent’s concern is that the school team is biased. • Provide staff training on OAR 581-015-2080 (“...requires school districts to identify, locate, and evaluate all children with disabilities for whom they are responsible, regardless of the severity of the disability, responding to Parent requests for special education evaluation”). • Provide staff training on responding to parent requests for records in a timely manner before any meeting regarding special education services.

III. FINDINGS OF FACT

IDEA regulations limit complaint investigation to alleged violations occurring no more than one year before the Department’s receipt of the special education complaint. This Complaint Investigation did not consider any IDEA violations alleged to have occurred before November 7, 2023. Any facts listed below relating to circumstances or incidents earlier than that date are included solely to provide context necessary to understand the Student’s disability and special education history.

1. The Student is seven years old and in the second grade.
2. The Student is not currently eligible for special education services. The Student has never been evaluated for special education services.

2022-23 School Year

3. The Student attended a District elementary school (the School) starting in kindergarten, in the 2022-23 school year.

4. A District assessment report (Dynamic Indicators of Basic Early Literacy Skills (DIBELS)) for kindergarten indicated the Student needed “Intensive Support” in many areas throughout the 2022-23 school year.
5. On January 26, 2023, the Parents emailed the Principal to share information about the Student’s reading cognition results from a private learning center (Lindamood-Bell) and attempted to connect the Principal with the Director of Lindamood-Bell.
6. The District’s reading intervention notes indicated the Student received reading interventions at school from February to June 2023. Specifically, “Letter/Sound Intervention” for 20 minutes, three times per week. The District noted, “Progressing – can blend 3 letter words, write sentences using HFW and phonetic spelling” and “Continue Tier 2, consider returning to Tier 1 if mastering held to Fall.”
7. On March 6, 2023, the Director of Lindamood-Bell spoke with the Principal and sent the Principal a copy of the Student’s “Reading Cognition results and recommendations from Lindamood-Bell Director in supporting [the Student’s] reading and math challenges.”
8. The Parents reported requesting a meeting with the Principal and the Kindergarten Teacher because of concerns that the Student was struggling. A meeting was convened on April 25, 2023. The Parents reported asking the Principal about a special education evaluation, but the Principal told one of the Parents, “trust me, you don’t want that.”
9. A May 25, 2023 Private Psychological Evaluation Report included the following information about the Student, among other things:
 - a. The Student was referred by the Parents and the Student’s primary care provider “due to concerns regarding [the Student’s] emotional modulation, behavioral regulation, and academic performance.”
 - b. The Parents noted behavior issues including lack of attention, poor emotional regulation, difficulties with social skills, and inability to retain and recall information presented. The Parents reported they “have seen some progress with [the Student’s] reading since the beginning of K grade, however this is not consistent with the amount of direct instruction and tutoring that [the Student] has been receiving for the past two years.”
 - c. The Student’s Kindergarten Teacher reported some issues, including talking too much, being distracted and distracting peers, not finishing work, difficulty sitting still, losing track of time, trouble playing with other children, and speaking too loudly. The Kindergarten Teacher also noted the Student made great improvement with their social skills since the beginning of the school year, and the Student did better in small groups or on their own.
 - d. Assessments indicated areas of weaknesses, including working memory and processing speed, difficulty concentrating and attending to information, elevated symptoms of

inattention and difficulty with cognitive and behavioral regulation, cognitive proficiency, letter reversal in reading and writing, reading comprehension and word reading, and difficulty analyzing sounds within words. The Student received “significantly low scores on phonemic proficiency” and “present[ed] with a pattern of learning difficulties characterized by problems with phonological awareness, problems with accurate and fluent word recognition, and poor spelling.

- e. The Student was diagnosed with (1) Attention-Deficit/Hyperactivity Disorder (ADHD) – Combined presentation, and (2) Specific Learning Disorder – Dyslexia (with impairment in word reading, reading comprehension, and spelling accuracy).
 - f. Recommendations for accommodations at school included extended time on tests and assignments, offer instruction at slower pace and check for understanding, allow use of educational technology, offer additional tutoring outside the classroom setting, break down written assignments into smaller segments, and offer regular breaks, among others.
 - g. Learning/Academic recommendations included provide interventions for difficulties with recognizing syllables and morphemes, confusion of similar graphemes, rapid recognition of high frequency words, and spelling accuracy (related to morphological awareness, semantic awareness, and mental graphemic representations).
 - h. “It is very important that [the Student] receive intensive reading and writing instruction at this time. [The Student] will benefit from extra instruction that is individualized to best meet [their] needs.”
10. The Parents reported sharing the Student’s diagnoses with the Kindergarten Teacher on June 9, 2023.
11. The Parents reported the Student participated in intensive instruction with Lindamood-Bell for three months during the summer, consisting of instruction for five days a week, with additional practice and support at home.
12. On July 19, 2023, the Parents emailed the Principal and “the executive director of elementary programs requesting to start the process of establishing an IEP and disclosing [the Student’s] diagnosis. The response to this request was to connect us back with our principal and outlining what the process will look like.”

The Executive Director wrote, “[The Principal]... will facilitate this conversation with the educational team... Please know that a school team will want to gather additional information, conduct an evaluation, and determine eligibility for special education services.”

13. On August 2, 2023, the Principal replied, acknowledging the request for evaluation and stated they would share the request with the special education team and schedule a meeting to discuss the process.

2023-24 School Year

14. On September 29, 2023, a school learning specialist/case manager (the Case Manager) emailed the Parents, offering to schedule a meeting with the team (“parents, teacher and staff”) on October 6, 2023 “at either 7:45am or 2:45pm” to discuss the evaluation request and “to determine next steps.” The Case Manager also attached “the Parents Rights for Special Education.”
15. On October 6, 2023, the District convened an evaluation planning meeting including one of the Parents, the Case Manager, a School Psychologist, the Principal, and the Student’s First Grade Teacher. The District reported that at the meeting, “the team agreed to continue classroom interventions and monitor progress.
16. The October 6, 2023 Evaluation Planning Meeting Minutes included the following:
 - a. The reason for the meeting was listed as, “The parent requested an evaluation. The team to discuss [the Student’s] progress and determine if an evaluation is warranted.”
 - b. The District shared, “Really good progress last year. Went from no letter sounds to 30 letters sounds and 26 letter identification. [The Student] was able to sound out high-frequency words.”
 - c. The District “[n]oted the extensive outside evaluation and confirmed a lot of suspicions/concerns. [The Student] was struggling at the beginning of the year, put into Tier 2 intervention. Noted diagnosis of dyslexia from outside evaluation. Not disputing the fact that [the Student] has dyslexia.”
 - d. The District reported, “At school we use the RTI model... we need to ensure a Least restrictive environment for students. In school, we need to look at the progress and participation of the students on top of the diagnosis. Making sure we provide services to meet the goal. [The Student] was in an intervention and responded really well with the intervention. Approached benchmark standard in Blending and was able to apply that to [their] writing. (sentences and phonetic spelling). Looked at 1st grade data. No regression retained the skills gained with the intervention.”
 - e. The District stated, “At this point, we would continue to keep [them] in the intervention and track progress. General education already helps to support students with Dyslexia and ADHD. If the gap increases, then we look at special education services. We also want to look at whether [the Student] is happy and enjoying school. We don't want to impact [their] self-esteem.”
 - f. The Parent reported they “could see how it affects them. Want to stay on top of [the Student’s] self esteem, but also stated the Student was “in a program all summer long to help with Dyslexia” and is “very happy and feels confident coming into school with all that happened during the summer.”

- g. The First Grade Teacher reported, “[The Student] is doing wonderfully in the classroom. Not a student that [the First Grade Teacher] is concerned about. [The Student] does well with transitions and follows directions quickly... [The Student] is following general prompts and does not need extra ones.” The First Grade Teacher also reported they did not see any concerns with the Student’s emotional regulation in class.
 - h. The District stated, “[The Student] is in a good place in terms of support right now. The combination of ADHD and dyslexia may have a greater impact around 3rd grade.”
 - i. The team discussed the options of “Core instruction only, Interventions, 504, or SPED services.” The District stated, “[The School] staff is already doing a lot of the accommodations that would be on the 504 plan. We will keep a close watch on [their] progress to see if it becomes stagnant or the gap increases. However, right now, hold off on the evaluation.”
 - j. The District stated, “You already had a comprehensive outside evaluation. Our eval would be a file review of what was already done... [The Student] would possibly qualify for SLD and OHI. We need to look at it if [their] progress and participation is impacted by those outside diagnoses. Likely, [the Student] won't qualify because of that impact... Don't know what we would put on [their] IEP.”
 - k. The Parent reported, “I want to stay on the path for an evaluation and to get [the Student] on an IEP... I did 5 hours of work every day with [the Student]... Really want to pursue if [the Student] needs it... It is easier to figure this out now instead of later.”
 - l. The District noted that the Parent still wanted the Student to be evaluated but agreed to the District’s proposal to “table the evaluation for now and come back during conferences.” The District noted, “waiting will also give us more information to track [the Student’s progress.”
17. The Parents reported that the District did not issue a Prior Written Notice (PWN) regarding the District’s decision to not initiate an evaluation.
18. The Parents reported that at the November 21, 2023 parent-teacher conferences meeting, the First Grade Teacher told the Parents that the Student was doing great.
19. The District’s reading intervention notes for the 2023-24 school year indicated the Student received interventions at school from November 2023 to June 2024. Specifically, “PA CVC Reteach 1st grade content” and “Blending Dictation Blends & HFW Reteach 1st grade content” for 15 minutes, three times per week. The District also noted the following:
- a. “Progressing – can blend 3-4 letter words, write sentences using HFW and phonetic spelling. Beg. Blends happen but a struggle.”

- b. "Progress was consistent all year long. I would recommend continuing with TIER 2 but parents have requested 504 and SPED."
- c. "[The Student] was at Grade level for all sub tests except CBM which was only slightly below."

20. In a March 18, 2024 email to the Student's First Grade Teacher and the Principal, the Parents wrote, "We would like to meet with you about [the Student's] IEP before the end of March."

The Principal responded on March 19, 2024, stating, "To keep us all on the same page, currently, [the Student] does not have an IEP. When we met earlier this year, the team who gathered, elected to continue with the interventions being provided in the general education setting. To even consider an evaluation for Special Education (what [the Student] would need to qualify for in order to have an IEP), [the Student] would need to show little or no growth in the interventions [they have] been participating in. When we meet, that will be a good time to go over that data and discuss next steps."

21. In an April 30, 2024 email to the Principal, the Parents wrote, "Could you please provide specifics on how '...show little or no growth is... [d]efined numerically from [the Student's] scores..."

The Principal responded on May 2, 2024, "As we've talked about in our previous two meetings this year as well... when students are showing 'little or no progress' their data trend lines are flat or going in a negative direction. All students learn at a different rate and there is not a specific number value on any assessment that would prescribe a single decision."

22. On May 9, 2024, the District convened a meeting between one of the Parents, the Principal, and the First Grade Teacher.

23. The Parent reported being told by the Principal on May 9, 2024, after the meeting, that the Student would not qualify for special education and the Principal did not want to waste the Parent's time. The Principal also indicated that special education would take the Student out of the classroom; over supporting the Student could reduce the Student's ability to be successful in the regular education classroom; and if they evaluate and the Student does not qualify, the Parents will not be able to request another evaluation for an extended amount of time.

24. In a May 15, 2024 email to the Principal and the First Grade Teacher, the Parents wrote, "We believe there is a lot more going on with how [the Student] is progressing in school and that [the Student] needs more support than [they are] getting due to [their] diagnosed dyslexia and adhd. We are officially asking for a 504 plan to be put in place until the end of this current school year (before school ends). When the new school year starts in Fall of 2024, we will pursue evaluations for an IEP."

The Principal responded, stating the Counselor would contact the Parents to schedule a meeting.

25. In a May 17 to 21, 2024 email exchange between the Counselor and the Parents, the Parents notified the District that they hired an educational consultant (Advocate) who would be attending the meeting and sent the Advocate's availability for scheduling.

The Counselor responded, "Unfortunately most of the meeting times you have offered are during times when [the First Grade Teacher] is teaching or after our contracted times... we schedule Section 504 meetings before or after school, from 7:45-8:15, or from 3:00-3:45. That being said, please let us know what dates you are available and specify a morning or afternoon meeting time, and then I can coordinate from there."

26. On May 26, 2024 the Parents signed consent for the District to conduct a Section 504 evaluation.
27. The District issued a 504 Prior Written Notice dated June 3, 2024, proposing "to evaluate [the Student] on the basis of [their] diagnoses of ADHD and Dyslexia to determine if there are major life activities impacted by these diagnoses." It also stated that a special education evaluation was discussed earlier in the school year but "this had been rejected due to [the Student's] demonstrated academic growth."
28. The record indicated that this was the only PWN issued for the Student during the 2023-24 school year.
29. On June 3, 2024, the District issued a Notice of 504 meeting scheduled for June 4, 2024, to review the results of the Section 504 evaluation and determine the Student's eligibility.
30. On June 4, 2024, the District convened a Section 504 meeting from 3:00 to 3:45 p.m., which included one of the Parents, the Principal, the School Psychologist, the Counselor, the First Grade Teacher, and the Advocate.
31. Witnesses reported the following about the June 4, 2024 meeting:
- a. The Parents reported that because meeting was limited to 45 minutes, the team ran out of time and had to schedule a continuation meeting for the following week.
 - b. The Counselor reported the team did not have sufficient information to determine that there was a substantial limitation to a major life activity and the Parents raised some additional concerns in areas that needed to be looked at further.
32. On June 5, 2024, the Parents emailed a copy of the May 2023 Private Psychological Evaluation to the Counselor.

33. In a June 11, 2024 email to the Parents, the Counselor wrote, "Given the additional time I've had since our last meeting, I was able to gather samples of [the Student's] math, reading, and writing, along with the neurological report you provided... These writing samples indicate [the Student] is substantially limited in the area of handwriting and letter formation, and the report explains [their] processing speed, impacting [the Student's] processing of information... Based on this information I would like to propose we develop an accommodation plan to address these areas of need."
34. The District convened a second meeting on June 13, 2024.
35. A June 13, 2024 504 Evaluation Report included the following, in relevant part:
- a. Observations indicated the Student followed direction without issue, was focused, engaged, and participated in class.
 - b. Teacher input: The Student was well organized, a strong self-manager, followed directions, and navigated the classroom with ease. The Student could become distracted by peers, but this was not a regular problem, and the Student was skilled at blocking out distractions. Once the Student started a task, they rarely needed additional prompting to complete the task.
 - c. Parent input: The Student hated books. The Student felt like they were behind peers and "learned how to 'mask' [themselves] so [the Student] appears like [they are] following along." However, the Student liked school and had friends.
 - d. "[The Student's] diagnosis of developmental dyslexia and ADHD indicate an impact on [their] writing ability and letter formation as well as processing."
36. The June 13, 2024 Team Meeting Notes included the following information, in relevant part:
- a. The team agreed the Student met the qualifications for 504 Plan eligibility.
 - b. "Efforts in the classroom show that [the Student] is keeping up with peers and expectations... Student can be performing at grade level & still need accommodations."
 - c. The First Grade Teacher reported that the Student "[i]s still getting support in the MTSS process and with this support [the Student] is able to access the core content and curriculum. Teacher does not see significant impact." The Student was "functional at the level expected."
 - d. The Parents and the Advocate stated the Student was not able to read multistep problems. The Student disclosed to the Parents at home, "I hate reading, I'm the slowest reader in the class," and was "avoiding small groups because [the Student] feels like [they are] reading wrong."

- e. The School Psychologist reported the Student “is able to use the tools [they have] to keep up.”
 - f. The team agreed to “[m]ove forward with this plan, make sure that next eyar [sic] teacher also has the proposed accommodations to see if they will be needed, will meet after a few weeks of school to discuss needs at that time.”
37. The Student’s 504 Accommodation Plan, finalized on June 15, 2024, included the following, among other things:
- a. Basis of the 504 Plan: ADHD and Developmental Dyslexia.
 - b. Instructional Accommodations/Modifications: allow for additional processing time; teach how to access speech to text and text to speech technology; provide frequent checks for understanding; provide graphic organizer, sentence frames, letter chart, and student dictionary.
 - c. Other Accommodations/Modifications: Provide access to short breaks and offer snacks; provide any missed material or instruction if instruction time missed; don’t penalize for handwriting; and provide preferential seating.
 - d. The Parents were seeking an IEP evaluation “in the Fall 2024 school year.”
38. In a June 17, 2024 email exchange with the Parents about their “follow up 504 questions and additional assessment score request,” the Counselor noted that they could not answer questions about the District’s special education evaluation process and recommended the Parents contact the School Psychologist or a learning specialist at the School.
39. According to the Parents, from June to August 2024, the Student participated in two summer reading programs, which involved reading instruction as well as reading and working on materials at home for five or six nights per week.
40. On August 28, 2024, the Parents emailed a letter to the Counselor and the Principal, which stated, “[The Student] has not been doing well in school (for example, grade level reading, numeracy), and we are concerned about [their] educational progress. Therefore, I request that the school district evaluate [the Student] for an IEP and special education services... Though the teachers have attempted to address some areas of concern, [the Student] continue to have difficulties, as many of the interventions have been unsuccessful...” The Parents also included a list of assessment areas requested.
41. The School’s new learning specialist (the Learning Specialist) emailed the Parents on August 29, 2024, offering to schedule a meeting to discuss the Parents’ request.
42. The District issued an August 30, 2024 Notice of Team Meeting for a meeting scheduled on September 5, 2024 at 1:00 p.m., which listed the purpose of the meeting as “parent request

meeting.” The individuals invited to attend were listed as the Parents, the Advocate, a new school psychologist, and the Learning Specialist, but did not include the Student’s Second Grade Teacher.

2024-25 School Year

43. Both the Counselor and the Student’s Second Grade Teacher reported that they met before the first day of school to discuss the Student’s Section 504 plan and went over the accommodations that would be provided in the classroom.

44. In a September 5, 2024 email to the Learning Specialist, the Parents requested clarification on the purpose of the September 5, 2024 meeting and asked why it did not include “the entire special education team.”

The Learning Specialist responded, stating it was a 30-minute meeting “to discuss your request with our school psychologist and/or [the Counselor].” The Student’s Second Grade Teacher would be teaching at the time offered and was not available to attend. “I should have clarified that most of our meetings occur from 3-3:45 after school if we want the entire team to attend.”

45. On September 5, 2024, the District convened a meeting to discuss the Parents’ evaluation request, “to gather more information from the Parents about their concerns and their request for a special education evaluation. At this initial meeting, the District agreed to gather more information, including conducting observations, before convening a follow up meeting with the whole team to determine if the data supported the need for a special education evaluation.”

46. The September 5, 2024 Meeting Notes included the following:

- a. The meeting participants included the new School Psychologist, one of the Parents, the Advocate, the Counselor, and the Learning Specialist.
- b. The School Psychologist shared that the “next step is to review the request with the entire special education team to determine if the team has the data to support a special education evaluation.”
- c. The Parent requested data related to the interventions the Student received in kindergarten and first grade, as well as “literacy and math data (i.e. DIBELS for kindergarten and/or first grade).”
- d. The Parents agreed to the School Psychologist conducting an observation of the Student in the general education setting.

47. The Parents reported, “We scheduled the meeting with the understanding that it would be with the special education team” but found out “that it was not to discuss our parent referral

for special education services but just a meeting to discuss our request. This was again another informal meeting that delayed the process... We insisted that the meeting with the special education team still be scheduled to discuss our parent referral.”

48. The District scheduled a follow-up meeting for September 12, 2024, to include the entire special education team.
49. On September 6, 2024, the Learning Specialist emailed the Parents to reschedule the September 12, 2024 meeting because “all schools were canceled in [the District] due to extreme heat” and “our special education team did not have a chance to meet.” The District team would instead meet on September 13, 2024 “and then call [the Parents] to discuss what the team determined as next steps.”
50. In response, the Advocate’s office sent their availability for the following two weeks to rescheduling the canceled September 12, 2024 meeting. This included September 11 (10:30 a.m. to 3:00 p.m.), September 12 (9:30 a.m. to 3:00 p.m.), September 17 (all day), September 18 (10:30 a.m. to 3:00 p.m.), and September 19, 2024 (9:30 a.m. to 3:00 p.m.).
51. On September 8, 2024, the Learning Specialist responded, “Just an FYI, our student hours at [the School] run from 8:30-2:45. This means that the general education teachers, counselors, learning specialists, speech/language teachers and other support staff work with students during this time. We usually hold special education meetings from 3-3:45 p.m. when our students are home. I have cc’d our special education coordinator... and [the Principal] to address this issue and will be in touch.”
52. On September 10, 2024, the Special Education Coordinator responded, asking what other days the Advocate was available for a 3:00 p.m. meeting, as the District team members were not available on September 17, 2024 at 3:00 p.m. “The school team has the most flexibility for meeting on Fridays if needed during the school day. We *may* be able to accommodate a Wednesday meeting during the school day if it aligns with a good time for our learning specialist based on [their] schedule, however, we would not be able to have [the Student’s] general education teacher attend. Instead of [the Student’s] classroom teacher, we could have the building instructional coach provide input on general education standards, curriculum and expectations.”

The Advocate’s office responded, stating the next date that the Advocate was available at 3:00 p.m. was on October 8, 2024.

53. The Learning Specialist replied on September 13, 2024, confirming that District staff were also available on October 8, 2024.
54. The District reported, “The District offered to hold the second meeting 10 work days after the Parents’ request on 8/28/24, but ended up holding the meeting 27 work days after the Parents’ request to once again accommodate the schedule of the family advocate... The District offered several options to meet after the end of the school day at 3 pm to enable the

general education teacher and learning specialist to attend. The Parent let the school know that the first availability for the family advocate to attend a meeting at 3 pm was on 10/8/24. The District agreed to hold the meeting on 10/8/24 to accommodate the schedule of the family advocate.”

55. The Advocate reported that although October 8, 2024 was the first date they were available after 3:00 p.m., they were regularly available during school hours.
56. When asked, District staff reported the following about scheduling Section 504 and special education meetings with parents:
- a. The Counselor stated it is their practice to schedule meetings before or after school, but within the teachers’ contract hours. Teachers contractually cannot be asked to have a meeting during the school day because they are teaching or have prep time. If a meeting during school hours clearly works best for a parent, the Counselor will offer to meet during school hours but will let the parent know that the teacher will not be available to attend. If parents do not have childcare available during the meeting time, District staff can set up an activity to entertain the child in the meeting room or nearby. They reported 45 minutes is usually plenty of time to complete meetings and it is very unusual to run out and need a second meeting.
 - b. The Second Grade Teacher reported they have never had a meeting scheduled during school hours at this School. On one occasion, years ago and at a different school, they had a meeting scheduled during the school day. If parents do not have childcare available, the office staff will often let the child stay in the office.
 - c. The Learning Specialist stated they have never had a meeting during school hours at this School. They have never had an issue with a parent not being able to meet during the times offered. Meetings occasionally go over the time limit but sometimes teachers are willing to stay past their contract hours.
 - d. The School Psychologist reported they work in multiple schools. They try to schedule meetings outside school hours so the general education teacher can be present. If parents say they can never make a 3:00 p.m. meeting, the School Psychologist has on occasion asked, at other schools, for the school principal to get a substitute so the classroom teacher can attend. If parents do not have childcare available, the team can set up an activity to keep the child busy or offer phone or video meetings. If meetings go over and it is a “sensitive matter,” they will offer to stay later but ask parents to give permission for the teacher to leave.
 - e. A District special education coordinator (the Coordinator) reported the District generally has meetings outside school hours, so they do not have to take teachers out of the classroom. If a parent legitimately cannot meet before or after school, there are some situations where the District is able to get substitute coverage for a teacher, but it is not something they can offer to all families. The District needs to honor teachers’ schedules.

If parents do not have childcare available, the District sometimes provides an assistant to stay with the child, or they have the meeting in a location where the child can play. The time limit is usually sufficient for meetings but, if not, they will reschedule and continue the meeting on another day.

When asked if there is any concern about delaying the process if they need to reschedule another meeting, the Coordinator stated that is always a concern, but they are not purposefully delaying the process.

57. The School Psychologist observed the Student in the classroom on September 5 and 10, 2024 to “assess their level of active engagement,” including active and passive engagement in academic tasks, as well as off-task behaviors (passive, verbal, and motor). Compared to their peers, the Student had equal overall levels of engagement time and off-task time on September 5, 2024 (80%; 20%). On September 10, 2024, the Student had lower overall levels of engagement time and off-task time compared to peers (75% versus 83%; 27% versus 17%).
58. The School Psychologist reported that observations indicated the Student was using their accommodations successfully and was able to access their education. The Student’s off task behavior was “pretty appropriate” for their age.
59. The District issued a September 23, 2024 Notice of Team Meeting for a meeting scheduled on October 8, 2024 at 3:00 p.m., which listed the purpose of meeting as “check in meeting.”
60. On September 24 and 25, 2024, the Parents emailed the team to request additional data for the Student. On September 26, 2024, the School Psychologist emailed Fastbridge assessment data from first grade and the current school year to the Parents.
61. In a September 27, 2024 email between District team members, an update was provided to the Coordinator, who was assigned to cover the upcoming meeting. It stated, “[The Student] has a medical diagnosis of ADHD and a 504 plan. Parents are requesting a special education evaluation. [The School Psychologist] and [the Learning Specialist] met with the family and advocate at the very beginning of the school year. [The Student] received some Tier 2 support last year and has made progress. [The Student] is (and has been) performing at grade level or very close to grade level in all areas. During the meeting I believe it was decided to gather more information from the beginning of this school year and re-meet to consider evaluation. There does not seem to be data indicating that an evaluation is necessary. However, the family is pressing for an evaluation.”
62. On September 30, 2024, the Parents emailed the District, requesting more detailed assessment data and asked, “When can we expect an evaluation for an IEP to begin?”

The School Psychologist responded, “the team needs to determine if we suspect a disability at our next meeting. If the team decides to move forward with an evaluation, the assessments would begin after an evaluation planning meeting and parent permission is signed.”

The Principal also responded and emailed additional assessment data to the Parents.

63. The Fastbridge data ("FAST Family Report") sent to the Parents, dated fall 2024, included the following, among other things:

- a. CBMreading: The Student's score (48th percentile districtwide) was "in the **Some Risk** range. This means that [the Student] may need additional support to improve accuracy and automaticity in reading." (48th percentile districtwide)
- b. aReading: The Student's score (54th percentile districtwide) was "**On Track**. This means that [the Student's] overall reading skills meet or exceed the grade level expectations."
- c. CBMmath Automaticity and aMath: The Student's scores (26th percentile and 46th percentile districtwide) were both "in the **Some Risk** range... may need additional support to improve overall mathematics skills."

64. On October 4, 2024, the Parents emailed the District, asking about the threshold for when the team suspects a disability in order to evaluate. "Is educational deficiency a requirement by [the District] in order to perform an IEP assessment and receive an IEP for a student with a clinically verified and school accepted diagnosis of two cognitive disorders?"

The School Psychologist responded, "Our team will determine whether we suspect an 'educational' disability at our meeting next week. This means we (including family) will look at how/if [the Student's] diagnoses are impacting [their] access to [their] education. We will have a conversation about this along with looking at the data and history that we have. We most certainly understand [the Student's] diagnoses and [their] accommodations that are related as stated in [their] Section 504 Plan."

65. On October 5, 2024, the Learning Specialist emailed the team (including the Parents) copies of "the parents rights, a meeting notice, and a document that is designed for families to help them read the Fastbridge family report."

66. On the morning of October 8, 2024, the Parents emailed the School Psychologist, requesting the observation data and more detailed Fastbridge data, specifically, "individual scoring on each assessment [the Student] has taken in 2nd grade." The District responded before the meeting, sending additional documents to the Parents.

67. On October 8, 2024, the District convened a follow-up meeting "to review the information that was gathered and determine if a special education evaluation was warranted." According to the District, "The team reviewed current and previous academic data, the two classroom observations, and the 504 accommodations and data. The team also reviewed teacher input, a medical statement indicating diagnoses of ADHD and developmental dyslexia, the results of the private psychological assessment conducted when the Student was in kindergarten, and the Student's attendance in kindergarten and 1st grade. The District determined that an

evaluation was not warranted because the data did not show a gap in the Student's education and the Student was found to be successfully accessing grade level material."

68. The District's October 8, 2024 "Team Meeting Notes" included the following, in relevant part:

- a. Meeting participants included one of the Parents, the Advocate, the Counselor, the School Psychologist, the Coordinator, the Principal, the Learning Specialist, and the Second Grade Teacher.
- b. The Student "has medical diagnosis of ADHD and developmental dyslexia" and has been supported by a 504 Plan for five weeks.
- c. The team reviewed the Student's medical diagnoses, academic data, observation data, current accommodations, the private psychological evaluation report, and "talked about how [the Student] has a delay in [their] processing speed."
- d. "The team talked about how [the Student] had 30 absences and was at an 80 percent attendance rate in kindergarten and at an 84% attendance rate in first grade."
- e. "[The Advocate] asked about having a standardized academic assessment to see where [the Student] is at currently. The team identified that [the Student] is not currently showing a gap in [their] education and that [the Student] is currently accessing grade level."
- f. The Parent "disagreed with the team" and said they were "going to work with [their] advocate to dispute the team's decision."
- g. "The team decided to continue to take data and will also connect [the Parents] with someone at the District to help with "interpreting the Fastbridge data."

69. At the October 8, 2024 meeting, the Parent shared that the Student was reporting at home that they hated math and reading, they were 'dumb,' and embarrassed in class.

70. The Parents reported, "During the 10/8/24 meeting the team seemed dismissive of the data in the report we shared and only wanted to focus on the informal data collected by the team at the start of the school year and our child's attendance records. Even with the information we shared in the meeting, the team decided to not move forward with the special education evaluation and referenced that the absences played a role in this decision. We are concerned that this decision was predetermined by the team prior to the meeting as it was already discouraged in the 9/8/24 meeting and that the team did not consider information we provided to the team as an equal team member... We are concerned that the MTSS process is delaying the initial evaluation process and that this delay is denying our child the necessary educational support to access FAPE."

71. On October 8, 2024, the Learning Specialist emailed the School's Multi-Tiered Systems of Support (MTSS) Coach, regarding "a parent who has extensive questions about Fastbridge that our team cannot answer."
72. On October 14, 2024, the District emailed the Parents PWN dated October 8, 2024, documenting the District's refusal to initiate a special education evaluation for the Student. "Based on the data reviewed, the district does not suspect that [the Student] has a disability that is resulting in academic or social impact which prevents [the Student] from accessing the general education curriculum and setting or requires specially designed instruction... Academic data from curriculum based assessments, universal academic screening assessments, and informal teacher assessments indicate that [the Student] is performing at or near grade level standards and is able to access grade level general education curriculum and setting."

The PWN noted that the Parents disagreed with the decision to not evaluate and expressed concern that "1. [The Student] reporting at home that [they are] not feeling capable in the general education setting; 2. [their] two medical diagnoses; 3. [their] psychological report, which noted several deficits when [the Student] was 6 years old; 4. [the Parents'] perception that [the Student] is not completing work; 5. [the Parents'] self reporting that [the Student] is showing regression in math from the summer; 6. Fastbridge reports that indicate [the Student] may not be fully performing at or above grade level in reading and math."

73. In an October 25, 2024 ParentVUE message to the Parents, titled "Reading progress", the Second Grade Teacher wrote, "I wanted to share some celebrations for [the Student] this week!... I continue to progress monitor students every 2 weeks that may need extra support to help reach the end-of-year goals. Taking your concerns on [the Student's] performance into consideration, I made sure to include [the Student] in my small groups... [The Student's] baseline data in the fall assessment showed [them] just about on grade level... Our end-of-year goal in 2nd grade is 101 correct words per minute. Attached is the predicted growth graph. [The Student's] end of year predicted score is 103 according to [their] fall score... [The Student] made excellent growth in such a short amount of time..."
74. The Second Grade Teacher reported that, as of November 2024, the Student had made so much progress that they no longer qualified for tier 2 reading interventions.
75. When asked if the Student displayed symptoms of their ADHD or dyslexia diagnoses in the classroom, District staff reported the following:
- a. The Counselor stated they primarily saw this in the Student's processing speed. The Student had a lag time and needed more time to think about information received.
 - b. The Second Grade Teacher reported the Student's most frequently used accommodation was for the allowance of extra processing time. They have not seen the Student display symptoms of dyslexia as much, reporting that the Student often self-corrects while writing. The Student sometimes got tired at the end of the day and said, "my brain hurts."

This could result in reduced levels of academic engagement, but this is not uncommon for a second grader.

- c. The Learning Specialist stated they did not know because they had never worked with the Student.
- d. The School Psychologist said the Student got distracted at times but was easily redirected by their teacher.

76. On November 6, 2024, the Parents filed this Complaint.

IV. DISCUSSION

Child Find

The Parents allege that the District violated the IDEA by failing to find, identify, and evaluate the Student as a child in need of special education services.

School districts have an affirmative duty to identify, locate, and evaluate all children with disabilities who are in need of special education, regardless of the severity of the disability.³ This includes children who are suspected of having a disability even though they are advancing from grade to grade.⁴ The IDEA clearly establishes that this inquiry is not limited to academic performance.⁵ School districts must also consider a child's "social and emotional needs that affect academic progress, school behavior, and socialization."⁶ The threshold for suspecting that a child has a disability is relatively low, as "the inquiry [is] not whether or not [a student] actually *qualifie[s]* for services, but rather, [whether the student] should be *referred* for an evaluation."⁷

"[I]f a school district is on notice that a child may have a particular disorder, it must assess that child for that disorder, regardless of the subjective views of its staff members concerning the likely outcome of such an assessment. That notice may come in the form of expressed parental concerns about a child's symptoms, ... of expressed opinions by informed professionals, ... or even by other less formal indicators, such as the child's behavior in or out of the classroom. A school district cannot disregard a non-frivolous suspicion of which it becomes aware simply because of the subjective views of its staff, nor can it dispel this suspicion through informal observation. Rather, such notice automatically triggers mandatory statutory procedures: the school district must conduct an assessment for all areas of the suspected disability..."⁸

³ OAR 581-15-2080(2); 34 CFR § 300.111(a).

⁴ OAR 581-15-2080(2)(d); 34 CFR § 300.111(c)(1).

⁵ Letter to Clarke, 48 IDELR 77 (OSEP 3/8/07).

⁶ *Cty. Of San Diego v. California Special Educ. Hearing Office*, 93 F.3d 1458, 1467 (9th Cir. 1996).

⁷ *Dep't of Educ., State of Hawaii v. Cari Rae S.*, 158 F. Supp. 2d 1190, 1195 (D. Haw. 2001).

⁸ *Timothy O. v. Paso Robles Unified Sch. Dist.*, 822 F.3d 1105, 1121 (9th Cir. 2016).

“It is critical that this identification occur in a timely manner and that no procedures or practices result in delaying or denying this identification.”⁹ School districts “have an obligation to ensure that evaluations of children suspected of having a disability are not delayed or denied because of implementation of an RTI strategy.”¹⁰ If a district has reason to suspect that a student has a disability and a need for special education, prereferral or RTI strategies cannot be used to delay or deny an evaluation.¹¹ In addition, implementing Section 504 accommodations cannot delay, or alleviate, a district’s obligation to initiate an evaluation for special education.¹²

Starting in the 2022-23 school year, when the Student was in kindergarten, the Parents expressed concerns that the Student may have a disability and need special education services. The District identified the Student as a child who needed Tier 2 reading interventions (which were implemented from February 2023 through November 2024). The Parents contacted the Principal in January 2023 to share information about the Student’s reading and math difficulties identified by the Lindamood-Bell learning center. The Parents requested a meeting in April 2023 and asked the Principal about special education evaluations. The Parents obtained a private psychological evaluation report of the Student in May 2023, which included concerns cited by the Parents and the Student’s Kindergarten Teacher. The Parent shared the Student’s ADHD and dyslexia diagnoses with the District in June 2023.

The following school year, the Parents emailed a request for a special education evaluation on July 19, 2023. The District convened an evaluation planning meeting on October 6, 2023, where the team discussed the Student’s private evaluation and diagnoses, among other things. When the District rejected the request to evaluate and stated it would keep the Student in interventions and track progress, the Parents expressed their disagreement. On March 18, 2024, the Parents again requested a special education evaluation for the Student by email. On May 9, 2024, one of the Parents met with the Principal and the Student’s First Grade Teacher. According to the Parent, the Principal indicated the Student would not qualify for special education services and suggested pursuing a Section 504 plan. On June 13, 2024, the team developed a Section 504 Plan for the Student. At the meeting, the Parents notified the team that they would be seeking a special education evaluation for the Student in the fall.

On August 28, 2024, the Parents requested a special education evaluation by email. An evaluation planning meeting was convened on October 8, 2024. At the meeting, the District again rejected the request to initiate an evaluation, relying on the informal observations of the School Psychologist and input from District staff. Some District team members reported they did see signs of the Student’s ADHD and/or dyslexia diagnoses in the classroom but felt that these were managed by the Student’s accommodations and did not result in a negative educational impact.

The District had reason to suspect that the Student was or might be a student with a disability and, by reason thereof, might need special education services when it was notified of the

⁹ *Memorandum to State Directors of Special Education*, 56 IDELR 50 (OSEP 1/21/2011).

¹⁰ *Id.*

¹¹ *Id.*

¹² *A.P. v. Pasadena*, 78 IDELR 139 (N.D. Cal. 2021) (citing *Simmons v. Pittsburg Unified Sch. Dist.*, No. 4:13-CV-04446-KAW, 2014 WL 2738214 (N.D. Cal. June 11, 2014))

Student's ADHD and dyslexia diagnoses and the May 2023 private psychological evaluation. Although District staff believed there was no educational impact on the Student, the District had an obligation to initiate an evaluation. The District violated the IDEA when it denied the initiation of an evaluation based on informal observations and the subjective opinions of District staff.

The Department substantiates this allegation.

Evaluation and Reevaluation Requirements

The Parents allege that the District violated the IDEA when it failed to timely initiate an initial evaluation of the Student following the Parents' request for an evaluation.

A parent or public agency may initiate a request for an initial evaluation to determine if a child is eligible for special education services.¹³ An initial evaluation must be conducted to determine if a child is eligible for special education when a school district suspects, or has reason to suspect, that the child has a disability that has an adverse impact on the child's educational performance and the child may need special education services as a result of the disability.¹⁴ The district must designate a team to determine whether an initial evaluation will be conducted, and the team must include the parent.¹⁵ If a school district refuses an evaluation or reevaluation requested by a parent, the school district must provide the parent with prior written notice.¹⁶

The IDEA does not "require that educational agencies test all children for whom evaluations are requested."¹⁷ However, "[t]he informed suspicions of parents, who may have consulted outside experts, trigger the requirement to assess, even if the school district disagrees with the parent's suspicions..."¹⁸ Additionally, "the requirement to assess may be triggered by the informed suspicions of outside experts."¹⁹

As noted above, the District had sufficient information to suspect the Student had a disability and may need special education services, triggering the District's duty to initiate an initial evaluation. Additionally, the Parents made formal requests for the District to initiate an evaluation of the Student by email on several occasions, two of which were within the Complaint period (March 18, 2024 and August 28, 2024). The Parents also made evaluation requests during meetings and in-person conversation with District staff. In response to these requests, the District only provided the Parents with one PWN, dated October 8, 2024.

Although (1) the Parents expressed concerns and made multiple requests for an initial evaluation, (2) the District was on notice that the Student was diagnosed with ADHD and dyslexia, and (3) the Parents provided the District with a copy of the Student's private

¹³ OAR 581-015-2105(2); 34 CFR § 300.301(b).

¹⁴ OAR 581-015-2105(3); 34 CFR § 300.301(a).

¹⁵ OAR 581-015-2105(3); 34 CFR § 300.305.

¹⁶ OAR 581-015-2110(2)(c); 34 CFR 300.503(a).

¹⁷ *Pasatiempo v. Aizawa*, 103 F.3d 796, 804 (9th Cir. 1996).

¹⁸ *Timothy O.* at 1120 (quoting *Pasatiempo v. Aizawa*, 103 F.3d 796 (9th Cir. 1996)).

¹⁹ *Id.* (citing *N.B. v. Hellgate Elementary District*, 541 F.3d 1202 (9th Cir. 2008)).

psychological evaluation, the District rejected the requests to evaluate and failed to initiate an evaluation. This resulted in an unreasonable delay of the Student's initial evaluation. The District also failed to provide the Parents with prior written notice as required by the IDEA.

The Department substantiates this allegation.

Parent Participation

The Parents allege that the District violated the IDEA by interfering with the Parent's ability to participate in decisions with respect to the identification, evaluation, IEP and educational placement of the Student, and the provision of a free appropriate public education to the Student.

A school district must provide one or both parents the opportunity to participate in meetings with respect to the identification, evaluation, IEP, and educational placement of the child.²⁰ Districts must consider the concerns of the parents for enhancing the education of their child, among other indicators of the student's academic, developmental, and functional needs.²¹ "[P]arents have the right to bring questions, concerns, and preliminary recommendations to the IEP Team meeting as part of a full discussion of the child's needs and the services to be provided to meet those needs."²² While school districts have educational discretion, parents still have the right "to remain informed of, and to participate in, educational decisions concerning their children."²³ This includes notifying parents of meetings early enough to ensure they will have an opportunity to attend and scheduling the meetings at a mutually agreeable place and time.²⁴

"In order to fulfill the goal of parental participation in the IEP process," a school district is required to conduct meaningful meetings.²⁵ Predetermination occurs when a District makes a determination about the type or form of services it is willing to provide prior to a meeting, regardless of the individual needs of the student, and is unwilling to consider alternatives.²⁶ The identification of children suspected of having disabilities "should be a cooperative and consultative process" between parents and school districts.

On multiple occasions, the District informed the Parents that the only option for scheduling IDEA related meetings was from 7:45 to 8:15 a.m. or 3:00 to 3:45 p.m. The District notified the Parents that meetings could not be scheduled during school hours because teachers were busy teaching. The only alternative option provided to the Parents was to hold a meeting during school hours without the Student's teacher. When the September 12, 2024 meeting needed to be rescheduled by the District, the District reported that the meeting was delayed until October 8, 2024 because of the Advocate's schedule. However, the Advocate had extensive availability to attend a meeting during school hours.

²⁰ OAR 581-015-2190(1); 34 CFR §300.322(a).

²¹ OAR 581-015-2205(1)(b) and (d); 34 CFR §300.324(a)(1).

²² Letter to Northrop (OSEP 5/21/2013), citing 71 Fed. Reg. 46,678 (2006).

²³ *Pasatiempo* at 804.

²⁴ OAR 581-015-2195(1); 34 CFR § 300.322(a).

²⁵ *W.G. v. Bd. of Trustees of Target Range Sch. Dist. No. 23*, 960 F.2d 1479, 1485 (9th Cir. 1992).

²⁶ *Id.*

The District's insistence that meetings for the Student occur from 7:45 to 8:15 a.m. or 3:00 to 3:45 p.m. did not comply with IDEA requirement to hold meetings at a mutually agreeable place and time. Because the District restricted meetings to 45 minutes or less, this also limited the Parents' ability to have their questions, concerns, and requests discussed by the evaluation team.

The Department substantiates this allegation.

Additional Finding – Prior Written Notice

Prior written notice must be given to the parent of a child within a reasonable period of time before a school district proposes or refuses to initiate or change the identification, evaluation, or educational placement of the child, or the provision of FAPE to the child. The prior written notice must include a description of the action proposed or refused; an explanation of why the district proposes or refuses to take the action; a description of each evaluation procedure, assessment, test, record, or report the school district used as a basis for the proposed or refused action; a statement that the parent of the child has protection under the procedural safeguards; a description of other options that the IEP team considered and the reasons why those options were rejected; and a description of other factors that are relevant to the agency's proposal or refusal.²⁷

In response to the Parents' evaluation requests during the 2023-24 school year, the District rejected the requests but did not provide the Parents with PWNs, as required. The first PWN issued by the District under the IDEA was dated October 8, 2024.

V. CORRECTIVE ACTION

*In the Matter of North Clackamas School District 12
Case No. 24-054-067*

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 who were responsible for identifying and evaluating this Student receive training in each of the following areas: <ul style="list-style-type: none">• Child Find;• Evaluation Requirements;• Prior Written Notice.	Training agenda/materials to ODE for review/approval. Sign-in sheet for training.	March 1, 2025 June 15, 2025

²⁷ OAR 581-015-2310; 34 CFR §300.503.

2. The District must schedule an evaluation planning meeting with the Parents to determine what evaluations are necessary to determine whether or not the Student is eligible for special education services.	Meeting Notice and PWN provided to ODE.	February 15, 2025
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Dated: this 3rd Day of January 2025

Ramonda Olaloye

Ramonda Olaloye
Assistant Superintendent
Office of Enhancing Student Opportunities

E-mailing Date: January 3rd, 2025

Appeal Rights: Parties may seek judicial review of this Order. Judicial review may be obtained by filing a petition for review within sixty days from the service of this Order with the Marion County Circuit Court or with the Circuit Court for the County in which the party seeking judicial review resides. Judicial review is pursuant to the provisions of ORS § 183.484. (OAR 581-015-2030 (14).)