

BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of North Clackamas School)	FINDINGS OF FACT,
District 12)	CONCLUSIONS,
)	AND FINAL ORDER
)	Case No. 24-054-077

I. BACKGROUND

On December 30, 2024, the Oregon Department of Education (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 January 7, 2025, 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 January 21, 2025.

The District submitted a *Response* on January 21, 2025, denying the allegations, providing an explanation, and submitting documents supporting the District's position. The District submitted the following relevant items:

1. District's Written *Response* to Complaint, dated 01/21/25
2. Individualized Education Program, 01/23/24
3. IEP Progress Report – Measurable Annual Goals, 06/18/24
4. Individualized Education Program Amendment, 01/23/24
5. Prior Written Notice, 10/04/24
6. Prior Written Notice re: update the IEP and BSP, 10/04/24
7. Team Meeting Notes (Annual Review), 01/23/24
8. Function-Based Behavior Support Plan, 01/16/24
9. Function-Based Behavior Support Plan, 09/30/24

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

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

10. Disability Statement, re: Statement of Eligibility for Special Education, 12/13/24
11. Eligibility Summary Statement, 12/13/24
12. File Review Summary, 12/23/24
13. Team Meeting Notes, (Initial and Three year Reevaluation), 12/13/24
14. Notice of Team Meeting, re: develop IEP and BSP, 10/01/24
15. Notice of Team Meeting, re: review existing information to decide on special education eligibility testing, 11/12/24
16. Parent Guardian Consent for Individual Evaluation, 11/15/24
17. Meeting Agenda, 12/13, no year
18. Spreadsheet, re: behavior, 9/12-10/31, no year
19. Email, re: agenda, procedural safeguards, scheduling, 12/02/24-12/10/24
20. Email, re: parent response forwarded: Invitation: [Student] Eligibility Meeting @ Fri Dec 13, 12/11/24
21. Email, re: parent response answered by school: Invitation: [Student] Eligibility Meeting @ Fri Dec 13, 12/11/24
22. Email, re: IEP Draft to parent, 12/19/24
23. Email, re: advocate/share about autism, missing school, field trip, 05/08/2024
24. Email, re: Invitation: [Student] Eligibility Meeting @ Fri Dec 13 12/12/24, 12/14/24
25. Email, re: parent wanting a meeting to share how to communicate with Student, 05/13/24
26. Email, re: updated IEP and BSP, attaching BSP, 11/07/24
27. Email, re: attendance note, 01/03/24
28. Email, re: teachers sharing information how to support Student, 02/27/24
29. Teacher certificates, BCBA license, SLP license, no date
30. Email, re: Transition Survey, 2/11/24

The Parents submitted a *Reply* on January 28, 2025, providing an explanation and rebuttal and documents in support of the Parents' position. The Parents submitted the following relevant items:

1. Parents' *Reply* to the District's *Response* to *RFR*, 01/28/25
2. Email, re: Verify allegations for complaint investigation (ODE 24-054-077), 01/06/25
3. Email, re: Draft of IEP and BSP, 10/09/24
4. Email, re: Fwd: Invitation: [Student] Eligibility Meeting @ Fri Dec 13, 2024 3 pm-3:30 (PST), 12/11/24
5. Email, re: IEP meeting, 12/2/24
6. Email, re: [the Student's] IEP Meeting, 12/17/24
7. Email, re: [the Student's] Planning Meeting, 11/15/24
8. Email, re: [the Student's] file review permission, 11/18/24
9. Individualized Education Program, 1/22/25
10. Email, re: [the Student's] support team - support plan around cell phone use, 09/05/24
11. Email, re: ODE, 09/06/24
12. Email, re: no subject, 09/07/24
13. Email, re: ODE, 09/09/24
14. Email, re: yondr pouch lesson tomorrow: "No cell, bell to bell", 09/09/24
15. [The Student's] tracker for behavior, 01/07, no year

16. Texts, re: no subject, 11/5/no year - 12/12/no year
17. Email, re: Parent Reply, 01/28/25
18. Email, re: Invitation: [Student] Meeting Hold @ Fri Oct 4, 2024 11am - 12pm (PDT), 09/30/24
19. Email, re: [Student] - Acting One 02/23/24
20. Text message, 01/08/24
21. Email, re: Reminder: ODE 24-054-077 Student-Parent Interviews, 02/04/25
22. Email, re: When possible can you check on [the Student]?, 01/08/24
23. Email, re: Additional Question, 2/11/25

The Complaint Investigator interviewed the Parents and the Student on February 4, 2025 and District personnel on February 7, 2025. 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 Parent'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 December 31, 2023, to the filing of this Complaint on December 30, 2024.

Allegations	Conclusions
<p>When IEPs Must Be In Effect</p> <p>The Complaint alleged that the District violated the IDEA by failing to implement the Student's IEP accommodations related to self-regulation methods that utilize the Student's phone or Chromebook, and a behavior tracker. It also alleged that the Student did not have access to accommodations that allow classroom breaks when needed.</p> <p>(OAR 581-015-2220; 34 CFR §300.323)</p>	<p>Not Substantiated</p> <p>The District provided the Student access to their phone, Chromebook, or breaks when needed. The District did not contest that they failed to implement the usage of a behavior tracker. However, this oversight was not a material failure to implement the Student's IEP.</p>
<p>IEP Team Members</p> <p>The Complaint alleged that the District violated the IDEA by not ensuring all required team members were in attendance for the December 13, 2024 IEP meeting.</p>	<p>Not Substantiated</p> <p>All required team members were in attendance for the December 13, 2024 IEP meeting. The Broadcast and Social Media</p>

Allegations	Conclusions
(OAR 581-015-2210; 34 CFR §300.321)	Teacher was not required to attend the meeting.
<p>Content of IEP</p> <p>The Complaint alleged that the District violated the IDEA by failing to provide social skills instruction although the Student demonstrated a need for it. It also alleged that the IEP did not accurately document IEP revisions or necessary support for a transition services questionnaire.</p> <p>(OAR 581-015-2200; 34 CFR §300.320)</p>	<p>Not Substantiated</p> <p>The District provided social skills instruction, accurately documented IEP revisions, and provided the necessary support for the transition services questionnaire.</p>
<p>Parent Participation</p> <p>The Complaint alleged that the District denied the Parents their right to participate in the special education reevaluation and IEP process, including not providing information to one of the Parents, who has a disability, in an understandable manner.</p> <p>(OAR 581-015-2190, OAR 581-015-2195, OAR 581-015-2250; 34 C.F.R. §§ 300.322, 300.501, 300.327)</p>	<p>Not Substantiated</p> <p>The District did not deny the Parent their right to participate in the special education reevaluation and IEP process. The District provided information to the Parent in an understandable format.</p>
<p>Personnel Qualifications</p> <p>The Complaint alleged that the District failed to provide qualified special education personnel on the Student's IEP team who "demonstrate competency regarding Autism/Autistics."</p> <p>(OAR 581-015-2210; 34 CFR §§ 300.207, 300.156)</p>	<p>Not Substantiated</p> <p>The District provided qualified special education personnel to implement the Student's IEP.</p>
<p>Consent for Evaluation</p> <p>The Complaint alleged that the District failed to obtain informed parental consent before conducting a reevaluation.</p> <p>(OAR 581-015-2090, OAR 581-015-2115(4), OAR 581-015-2310(2)(a)(4)(5); 34 CFR § 300.300, 300.303, 300.503(c))</p>	<p>Not Substantiated</p> <p>The District was not required to obtain the Parent's consent for a file review.</p>

REQUESTED CORRECTIVE ACTION
<p>The Parent requested the following corrective action:</p> <ul style="list-style-type: none">• “Impose sanctions. Systemic changes to support autistic students. Compensatory services and a tutor to help with math. Update the IEP. Notify parents, stakeholders, and school board members about the District’s non-compliances and steps taken to address them.”

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 December 31, 2023. Any facts listed below relating to circumstances or incidents earlier than that date are included solely to provide the context necessary to understand the Student’s disability and special education history.

When IEPs Must Be In Effect

1. The Student is sixteen years old and attends a high school in the District. The Student is eligible for special education services under the eligibility of Autism Spectrum Disorder. The Student “...is very observant and notices small details. [The Student] participates in class by answering questions verbally and has an academic strength in math. [The Student] enjoys sharing [their] interests outside of school such as video games like Zelda or anime. [The Student] has a strong sense of justice and has a nice group of friends at school. Since coming to high school this year [the Student] has grown quite a lot and has a strong support system with [their] teachers.”
2. When asked by the Complaint Investigator to describe what they liked about school, the Student indicated they liked their Broadcast Social Media and Content Creation classes. When asked if they disliked anything about school, the Student said, “Teacher's [sic] not following IEP.”
3. An Attendance Note from the Parent on January 2, 2024 indicated the Student left class to take a break due to a teacher not following the Student’s IEP and BSP.

The Case Manager did not recall an incident regarding an attendance note from January 2, 2024, about the Student leaving class due to a teacher not following the Student's IEP and BSP. The Case Manager added they were not aware of a situation in which the Student's IEP and BSP may not have been implemented in a classroom specifically around taking breaks. The Case Manager stated they did not know about the Student being denied a break in math class.

4. In Complaint materials, the Parent wrote, “[The Student] became dysregulated during 5th period and [the Student] was still on break during 6th period. ... although 1/2/2024 is when this first incident happened, the issue with this substitute would span over several days. After Winter Break [*sic*], [the Student] had a substitute math teacher... . The substitute kept doing things in a way that was changing up [the Student’s] expected routine. ... [The Student] says that [they] can’t recall ever getting a pre-warning or an explanation as to why [their] routine or expectations were being disrupted and causing [them] to become dysregulated.”
 - a. The Parent indicated in the email that neither they nor the Student were given an explanation as to why the substitute changed the Student’s routine.
 - b. The Parent wrote they believed it was reasonable for the substitute to be provided with the Student’s IEP and BSP, since the Student had several math classes with them.
5. An email exchange dated January 8, 2024 between the Parent and the Case Manager indicated:
 - a. At 9:40 a.m., the Parent asked the Case Manager to check on the Student because the Student had not responded to the Parent’s text messages for more than 30 minutes. The Parent suggested the substitute math teacher should review the Student’s IEP and BSP.
 - b. At 9:44 a.m., the Case Manager replied they would check on the Student.
 - c. At 9:49 a.m., the Case Manager replied to the Parent and told them they had found the Student, and that they told the Student and the substitute teacher the Student could come to their room for a break.
 - d. The Parent replied and wrote they thought the Student was in autistic shutdown and asked if the substitute teacher had been given a copy of the Student’s IEP and BSP.
 - e. The Case Manager replied that the substitute teacher had copies, but they would check with the teacher later in the day.
 - f. The Parent replied and indicated the Student’s IEP should be updated to include teachers and staff explaining changes in the Student’s routine to the Student.
 - g. The Case Manager agreed and wrote they could discuss it at the next IEP meeting.
6. Text message dated January 8, 2024:

Parent: “Just emailed [Case Manager] to check on you. If the substitute hasn’t been following your IEP or BSP we will be requesting a new substitute for math class. ... [Case Manager] asked me to remind you that you can take a break in [their] room anytime today.”

Student: “Thank you for helping me.”
7. The Student’s annual IEP meeting was held on January 23, 2024.
8. An IEP dated January 23, 2024 included:

- a. Input from the Health Sciences Teacher which stated larger assignments were broken up so the Student “gets little breaks when needed.” The English Teacher wrote they perceived the Student “... would much rather be playing games on [their] Chromebook.”
 - b. Usage of a behavior tracker.
 - c. The Student made good use of their breaks, and would go to one of the support classes or the case manager’s room when they felt overwhelmed.
 - d. The Student completed an informal student transition survey.
 - e. The Student had a Behavior Support Plan (BSP) and a communication goal.
 - f. The Student did not need assistive technology or devices.
 - g. The Student had two Communication Goals:
 - i. “[The Student] will increase [their] language skills related to social problem solving to the level set in the objective”; and
 - ii. “[The Student] will increase [their] language skills related to perspective taking to the level set in the objective.”
 - h. Accommodations with a start date of January 23, 2024, to be implemented in all school settings, included:
 - i. “Access to breaks, with one scheduled break per day for 10-15 minutes”;
 - ii. “Access to cell phone for reminders and when upset or unable to communicate verbally”;
 - iii. “Communication with parents via electronic tracker”;
 - iv. “Access to fidgets and sensory items”;
 - v. “May use noise cancelling earbuds, to muffle external noise, for sensory regulation”; and
 - vi. “Access to the resource room for self-regulation.”
9. The Student explained they used in-class breaks to focus on the lesson while regulating. The Student said they mainly went to the bathroom to take breaks outside of class because it was a quiet area. The Student didn’t think the bathroom was listed as an allowable break spot. The Student stated that School staff expected them to take breaks in the spots listed in their IEP, and not in the bathroom. The Student recalled one of the break spaces listed in their IEP was the Case Manager’s classroom. The Student indicated they had used that as a break space before. The Student explained sometimes they would not go to the Case Manager’s room because there was usually a class there.
10. According to the Student, no teachers had told them they could not use the bathroom as a break space, and the Student had not been denied a break outside of class. When asked if they were allowed to take a break when they needed to, the Student said, “Usually, except for my math class where I would try to raise my hand other days to ask for a break and then I’ll probably wait until [the teacher] looks in my direction or goes around my way. But then [the teacher] just never, even while I look at my direction [*sic*], I’ll have my hand up and [the teacher] just never really did it except for a few times throughout last year.” The Student explained they would respond to a lack of break or acknowledgement by staying on the Chromebook the rest of class or going to sleep.

The Parents indicated the Student had forced themselves to fall asleep more than five times as a response to not being acknowledged when asking for a break.

11. The Health Teacher said, "I offered for [the Student] to either take breaks in another classroom. I know when we had kind of a stimulating lesson and there was lots of noise in the room or just people moving around, [the Student] was always offered an opportunity to go to another room, but [they] never ... took me up on it."
12. The Math Teacher indicated that at the start of the 2024-25 school year, the Student would ask to take a break, but later the Student stopped asking for breaks. The Math Teacher perceived that the ability to stay on their computer eliminated the Student's need for a break.
13. A Function-Based Behavior Support Plan (FBBSP) dated January 16, 2024 described:
 - a. A summary of behavior, including: Presets, Setting Event, Antecedent, Behavior and Consequence for the Student.
 - b. Antecedent strategies included:
 - i. "Access to cell phone to support communication needs at school"; and
 - ii. "Access to ear buds to support sensory regulation."
 - c. Instructions to help stop escalation or reduce the Student's anxiety:
 - i. "Offer[ing] a break";
 - ii. "[The Student] has an accommodation for [their phone] (and earbuds). [Their] phone can only function to communicate with family at school";
 - iii. "Typically [the Student] is only texting parents if something is wrong, so it's a clue to staff that something is amiss if you see [the Student] on [their] phone"; and
 - iv. "[The Student] uses [their] Chromebook to de-escalate when feeling overwhelmed. Do not attempt to take [their] device."
14. When asked how their phone was used at school, the Student said, "I primarily use it to message my parents when I need to let 'em [*sic*] know what's going on or ... if something's going on, if I am dysregulated or stressed"
15. Regarding the rules for using their phone at school, the Student said, "For my IEP one, I'm allowed to have it out with the screen time restrictions on most apps, and I could only message people who I'm supposed to, like my [parents] and with the certain apps helping me regulate when I need it for a break if I can't access my Chromebook." The Student described that some rules about using their phone were not to disrupt other students' learning or to go to a break area to regulate. The Student stated they had not broken the rules for using their phone.
16. The Student indicated their Government Teacher had asked them to put their phone away when they were texting Parent 1. The Student described the incident as a "one-time thing." The Student did not recall any other times when their teachers did not allow them to use their cell phone.

17. The Case Manager stated the Student did not use their phone much, if at all, in their classroom.

The Government Teacher reported the Student did not use their phone in their classroom.

When asked how the Student used their phone in the classroom, the Science Teacher stated the Student always had an earbud in, so they assumed the Student was using their phone for music or sensory stimulation to help them self-regulate. The Science Teacher stated they had not seen the Student's phone. The Science Teacher indicated they understood the Student had an exception for use of the cell phone in their IEP, and they would have never confiscated the phone.

The Health Teacher explained that if the Student was working, they were allowed to have their phone, Chromebook, and earbuds at their desk. If the Student wasn't focused on work, the Health Teacher would talk to them about it. The Health Teacher stated they generally allowed the Student access to their phone as they saw fit, only intervening with a conversation if it was interfering with their work.

The Health Teacher explained they were on leave for seven weeks in the fall, and left notes for the substitute about the Student's phone accommodation. The Health Teacher stated they checked in with the Student upon their return, and the Student expressed no frustrations with the substitute. When the Health Teacher was in class, they did not refuse the Student the use of their phone or tell them to put it away.

The English Teacher stated they had not seen the Student use a phone in their classroom. Regarding the IEP revision, the English Teacher said, "... the revision said that [the Student] would have access to [their] Chromebook and [their] phone. And like I said, I haven't seen the phone, but I know [the Student] does now have access to the Chromebook and [the Student] has access to the internet and particularly YouTube in order to be able to self-soothe."

18. In an email dated February 23, 2024, the Theater Director stated the Student refused to work on their solo monologue assignment, choosing to use their Chromebook instead. The Theater Director stated that despite multiple requests and warnings, the Student remained uncooperative and left the classroom when asked to turn in their Chromebook.

19. In an email to the Case Manager on February 26, 2024, the Government Teacher wrote, "[The Student] is new to me this semester. [The Student's] pretty much on [their] Chromebook for the majority of class watching Tiktok. Reminding [the Student] that [they] can take a break has not been an effective redirection technique thus far. I've tried setting up GoGuardian limits to pages [they] can view, but [the Student] finds a

way around them. Has anyone found a successful method for peeling [them] away from Tiktok/Youtube?”

20. On May 3, 2024, the Government Teacher wrote in a Synergy notification that the Student did not attend a morning field trip, and also, “... [the Student’s] reliance on non-academic activities on [their] phone and Chromebook has been a major distraction and has affected [their] classroom grade. ... When I ask [the Student] to close [their] Chromebook or put away [their] phone, [the Student] usually ignores me. I know that it is a goal ... in [their] IEP to use the computer as expected 90% of the time, however; in my class [the Student] is not progressing toward that goal.”
 - a. On May 6, 2024, the Parent replied and stated the Student told them they engaged in those activities as a way to self-regulate.
 - b. On May 8, 2024, the Case Manager asked via email if there were other coping methods the Student could use to help mitigate their tech use.
 - c. On May 10, 2024, the Assistant Principal emailed the Parent and asked them to meet in person about how to best support the Student.
21. When asked by the Complaint Investigator about the Student’s phone access before the policy change, one of the Parents explained that the Student needed the phone to communicate, especially because the Student was prone to eloping and becoming dysregulated. The phone allowed staff to locate the Student and the Student’s Parents to communicate with the Student. One of the Parents emphasized the importance of communication, especially since the Student experienced verbal shutdowns when dysregulated. The Parents confirmed that the Student’s accommodation for phone access allowed for the phone to be on the Student’s person.
22. An email from the Assistant Principal to the Parents, the School Psychologist and the Case Manager on September 5, 2024 stated the District was implementing a cell phone ban. They explained that to honor the Student’s cell phone accommodation in their IEP, the special education team and administration developed a solution, which was that the Student would go to the office where they could unlock their cell phone from the Yondr pouch. There would also be a short form to complete each time the Student unlocked their phone.
 - a. One of the Parents replied the same day and stated the plan was “insufficient.”
 - b. The Parents felt they should have been part of the meeting regarding the new cell phone policy and that a decision was made without their input.
 - c. According to the Case Manager, the District sent surveys and had town halls prior to summer break about the new cell phone policy. Upon returning, the Case Manager said they identified students, including the Student, who might need exceptions and initially discussed an informal accommodation for the Student. After seeking the Parents’ feedback on this plan, the Case Manager explained the Parents requested a formal IEP meeting and amendment. The Case Manager stated the School proposed a plan for the Student, and the Parents’ request for an IEP meeting led to the formalized amendment with the new phone accommodation.

- d. One of the Parents described their understanding of the new solution as when the Student felt dysregulated, they were to go to the office, and the School would then allow the Student access to their phone. This Parent felt this was a bad idea because it required the Student to go through a series of steps when they were dysregulated. This Parent shared their concerns with the School staff.
 - e. On September 9, 2024, the Parents requested a meeting to update the Student's IEP and BSP regarding the District's new cell phone policy. The Parents perceived the plan offered by the District was created without input from themselves or Student, and did not align the Student's IEP.
 - f. The Assistant Principal replied and requested an in-person meeting to develop a plan for the Student. A meeting was scheduled for September 26, 2024.
23. One of the Parents indicated that a workaround was agreed upon where the Student did not have to keep their phone in the Velcro pouch, but just had to show it to staff, which would act as a cue that the Student had an accommodation.
24. The Case Manager explained that when the District implemented the new cell phone policy, they anticipated there would be some students that would need exceptions, including the Student. The Case Manager said the team preemptively reached out and tried to have a plan for the Student. The Case Manager stated the Parents requested meetings to discuss a plan, and the team created an amendment for the IEP, which had an accommodation that the Student could access to their cell phone without a Yondr pouch. The Case Manager indicated they gave the Student a Velcro Yondr pouch so the Student could access their phone anytime.
- The Case Manager stated they held multiple virtual meetings with the Parents in which they discussed the Parents' requests, which were then included in the amendment. The Case Manager indicated the IEP Team was informed of the changes, and the Student was given access to their phone even before the amendment was finalized. The Case Manager believed they incorporated both Parents' and Student's input.
25. The Assistant Principal described the meeting on September 26, 2024 as one where the Parent, the Student's case managers, District personnel and the School Psychologist discussed concerns about the Student's access to a phone given the District's new policy. The Assistant Principal stated the goal was to balance the Student's needs with the policy. They stated a solution reached was that the Student could have access to their phone, but it would be kept in a Yondr pouch to allow the Student access while also making it less obvious that they had special accommodations. The Assistant Principal did not recall having any communication with the Parent that the IEP was going to be amended prior to that meeting.
26. The Student explained the School's current policy was that cell phones were to be put inside of Yondr pouches and then opened at the end of the day. The Student stated they did not have to use the Yondr pouch, but they were later given a Velcro pouch to

avoid possible issues with staff during phone checks. The Student indicated they had not used the Velcro pouch and had not been asked to use it.

27. The Student confirmed they had permission to use their phone for their self-regulation break, but chose not to because it might bring them unwanted attention.
28. One of the Parents believed the Student switched to their phone once they were on a break and in an area where it was less noticeable to other students. This Parent explained they have the capability to grant the Student access to certain things on their phone for specific amounts of time, which usually indicated the Student was on a break.
29. A behavior spreadsheet from September 12 through October 31, 2024, indicated:
 - a. Nine occasions when the Student was on their Chromebook during class.
 - b. Five occasions when a teacher asked the Student to put their Chromebook away or turn it off.
30. An updated FBBSP dated September 30, 2024 included:
 - a. New "Alternate Behaviors" under "Behaviors to Teach":
 - i. "When starting to feel unfocused or dysregulated, [the Student] will try to remain in class by accessing [their] Chromebook or phone to utilize self[-]soothing apps that assist with regulation. If this does not work, [the Student] will use [their] break card or verbally ask for a break";
 - ii. "When [the Student] is feeling very dysregulated, and knows spending 20 minutes on a device during class won't help, that *sic* [the Student] needs to ask to take a break at that moment instead of waiting 20 minutes"; and
 - iii. "After a peer conflict or disappointing adult decision, [the Student] will move past the incident, self-regulate using [their] Chromebook or phone, or ask for break."
 - b. An additional strategy to help with agitation:
 - i. "[The Student] may use [their] [C]hromebook and phone to de-escalate while feeling overwhelmed. [The Student] is allowed 20 minutes cumulatively per class and not during class instruction."
31. When asked what their IEP said about using their Chromebook, the Student said, "So I have access for around 20 minutes ... of using the Chromebook to help me regulate. And if it goes past the time, then I would probably need a break."
32. When asked what they did on their Chromebook at school, the Student said, "I'll either usually go on YouTube, watch something or listen to music or go on Google. Go on Google ... and play that while regulating." The Student indicated that sometimes they noticed their 20 minutes on the Chromebook was up, but other times they did not because they were regulating. The Student did not recall a time when a teacher had reminded them time was up, and did not recall a teacher asking them to stop using the Chromebook for their self-regulation break.

33. One of the Parents explained when the Student could not leave to take a break, they would use the Chromebook “more excessively” to try and regulate. This Parent stated the Student did not use the Chromebook inappropriately to avoid doing work.
34. The Case Manager stated the Student used their Chromebook regularly throughout class for either doing assignments, watching their preferred videos, listening to music or playing a game. The Case Manager indicated the Student had not been refused the use of their Chromebook for self-regulation, and had not been asked to put it away or told to stop using it.
35. The Government Teacher stated that during their class, the Student spent most of their time on their computer, either watching videos or playing games. The Government Teacher indicated the Student sometimes did their schoolwork, but generally sat in the back and did not socialize much, but stayed in the classroom most days for the entire period.

According to the Government Teacher, the Student’s IEP stated they should not use their Chromebook during direct instruction, and they indicated the Student struggled with being engaged during direct instruction. The Government Teacher reported they allowed the Student full access to their Chromebook and never took it away, and recalled the one time they would have told the Student to close their Chromebook would be during a test. The Government Teacher stated the Student passed their class, and completed most of their work in support classes where they received one-on-one instruction.

36. The Science Teacher stated the Student was never refused use of the Chromebook to self-regulate in their classroom. The Science Teacher indicated they only asked the Student to put the Chromebook away during direct instruction, which was in the Student’s IEP.
37. The Broadcast and Social Media Teacher stated the Student did not use their phone, and that everyone used Chromebooks in their class. The Broadcast and Social Media Teacher did not know how the Student used the Chromebook for self-regulation. The Broadcast and Social Media Teacher stated the Student did not express any concerns about needing to use the Chromebook for self-regulation in their class.
38. The Health Teacher stated that if they saw the Student playing video games on their Chromebook, they would initiate a conversation, asking if the Student was taking a break, feeling distracted, or had any questions. The Health Teacher found the Student to be easily redirected and patient when approached in this way. The Health Teacher also stated they never asked the Student to put their Chromebook away.

39. The English Teacher stated the Student used a Chromebook everyday in their classroom. The English Teacher said, “[The Student] opens it up right away. When [the Student] comes into class. [The Student] usually uses it for YouTube videos or Minecraft.”

The English Teacher explained that unlike other students, the Student was allowed to have their Chromebook out during class due to an accommodation that allowed them to use it for self-soothing. The English Teacher said that while the Student was supposed to refrain from using it during direct instruction, they typically had it out for most of the period, switching between engaging with the Chromebook and participating in instruction.

40. The English Teacher explained they saw what the Student was doing on the Chromebook by walking around and looking at the screen. The English Teacher stated at the beginning of the school year before the IEP was revised, they used GoGuardian to monitor and block sites. After the IEP revision, the English Teacher indicated they stopped blocking sites. The English Teacher stated they never refused the use of the Chromebook after the IEP revision. The English Teacher explained prior to the IEP revision they used GoGuardian, which did not physically remove the Chromebook, but blocked the Student’s access to the internet.

41. The English Teacher stated they did not know what types of videos the Student watched on YouTube, but did not think it was inappropriate. English Teacher said, “I would say during direct instruction, [the Student’s] generally looking at YouTube or games. I noticed sometimes during direct instruction [the Student] perks up and I can see that I have [their] attention and [the Student’s] listening to me. ... So I think [the Student] kind of toggles back and forth between paying attention to instruction and paying attention to [their] Chromebook.”

The English Teacher said, “[The Student] doesn't take self-regulation breaks in my class. I know that's part of [their] accommodation, but because [the Student] has access to that Chromebook throughout class, it feels like [the Student] is kind of coming and going from those breaks and kind of an organic way and doesn't then take a specified break.” The English Teacher said the Student had not asked for or taken any breaks in their class.

42. The Math Teacher explained the Student had accommodations to take breaks, and also use their phone and Chromebook to self-soothe. The Math Teacher indicated they had not seen the Student use their phone in class, but that the Student often used their Chromebook. The Math Teacher said the Student seemed to mostly watch YouTube videos. The Math Teacher stated they knew what the Student was doing on the Chromebook by walking by and glancing at the screen.

43. The Math Teacher said, “Well, at the beginning of the year, I was only allowing people to use Chromebooks for specifically math. ... So other than that, we tried to not have anybody be on Chromebooks. But after talking with [the Student’s] case manager ... I

was told that [the Student] should be allowed to use [their] Chromebook for a certain amount of time every day. And originally we tried to block him from sites and whatnot. [The Student] could find [their] way around any kind of sites we blocked. So ... I was hearing from [the Student's] case manager and seeing emails from [the Parent] that [the Student] needed these things, so I just stopped fighting it and ... let [the Student] use it. And that was probably early October to mid-October or something."

44. The District indicated that teachers had access to the Student's IEP and behavior support plan. The IEP Team met on September 30, 2024 and October 4, 2024, and the Case Manager emailed the updated documents to the general education teachers on November 7, 2024.
45. The Student described GoGuardian as, "A thing teacher uses [*sic*] to either monitor or restrict or block access to computer, access to websites browser." The Student indicated GoGuardian was usually on during the school day, but it depended on the teacher, and that some teachers would restrict websites while others turned off the browser. The Student said, "... but usually teachers would not enforce [GoGuardian] on me."
46. When asked by the Complaint Investigator if the Student had to ask to have GoGuardian adjusted, the Student said, "My science teacher said a while ago I could ask, but it was also I didn't want to raise my hand really to ask if I could be specifically unblocked for GoGuardian in a class with other people around me." The Student confirmed they did not use the Chromebook during science class for that semester and said, "... which was hard when I ... got dysregulated." The Student stated they would sleep when GoGuardian was active.
47. Regarding GoGuardian, the Case Manager said, "But in my class I use it to block some certain websites, but not the websites that [the Student] has asked to use, like YouTube for [their] deregulation or deescalation when [the Student is] deregulated. And if [the Student] needs a website opened, which [the Student] usually doesn't on my GoGuardian, I open it for [them]."
48. The Assistant Principal explained GoGuardian as a way teachers could monitor students to make sure they accessed appropriate websites, and also monitor if they required support. The Assistant Principal stated the Case Manager communicated with the Student through GoGuardian's chat function, because the Student did not like the verbal attention or acknowledgement.
49. The Government Teacher said, "Sometimes I would institute a monitoring system we use called GoGuardian that gives me access to every student's computer screen so that I can see if they're on task or not."

The Government Teacher explained they used a GoGuardian setting that they applied to the entire class, not just the Student. The Government Teacher stated they did not use GoGuardian every day. The Government Teacher said, "... it just depends on the

websites that were being blocked. So if [the Student] was trying to get onto Instagram, then it would've prevented [them] access from that particular site, but it only blocks the sites that are input into GoGuardian. So [the Student] would still have access to any other websites that [they] wanted to utilize."

50. When the Complaint Investigator asked how the Student used their Chromebook for self-regulation, the Science Teacher explained that after an IEP meeting in October [2024], they checked in with the Student and told them anytime the Student needed a break, to let the Science Teacher know and they would disable GoGuardian for the Student. The Science Teacher stated the Student didn't utilize this option much in the first semester, but started to request breaks and access to YouTube videos a few times in the current semester by indicating their need to Science Teacher. The Science Teacher did not know why the Student had not approached them previously. The Science Teacher explained last semester the Student took most of their breaks outside of the classroom.
51. The Student recalled a couple of incidents when their math teacher disabled the browser through GoGuardian when the Student was still regulating. The Student said, "It happened midway through, which made me very upset. So I just did nothing for the rest of that class."

The Student described a time in their Chemistry class when they had to ask for GoGurdian to be disabled, but was uncomfortable raising their hand to do so. During the interview, the Student shook their head "no" when asked if they had told the Chemistry Teacher they were uncomfortable asking about GoGuardian. The Student indicated they would not have been comfortable walking up to the teacher. The Student believed they had only told their parents they were uncomfortable about having to ask for help regarding GoGuardian.

52. Text message dated November 21 (no year):
[The Parent]: "Have you burned through your 20 minutes of being able to play a game on your phone or Chromebook during class?"
[The Student]: "Go guardian was on the whole class"
[The Parent]: "What class are you on [sic] right now?"
[The Student]: "Chemistry"
53. Text message dated December 2 (no year):
[The Student]: "I got blocked by go guardian"
[The Parent]: "Which class?"
[The Student]: "Math"
54. The Student indicated they had concerns about being "called out in front of the class" for using their Chromebook. The Student stated they had not been openly called out, but said, "I don't like to be put on the spotlight, especially for something that might view me as causing issues, even though if I'm not [sic]." When asked if anything upset them

about the Chromebook during first semester, the Student said, “Mainly just the Go Guardian [*sic*] part and restricting it during class or regulating.”

55. When asked if there were alternatives to having the Student raise their hand or asking to have GoGuardian adjusted, Parent 2 stated the Student had used break cards in the past, but that the Student felt it drew too much attention to them. Parent 2 explained they discussed using sign language to indicate when the Student needed a break, but that “... it's still not necessarily going to get [the Student] unblocked from things when [the Student] should already be unblocked.”
56. In the Parent *Reply*, the Parents indicated the Student told them that the Student’s math and chemistry teachers had blocked their access to their Chromebook with GoGuardian.
- a. In the Student’s 2024-2025 Behavior Tracker, on October 4, 2024, notes indicated that “... reminded [the Student] that if [the Student] needs a youtube [*sic*] break to let me know and GG can be disabled.”
57. In the written *Response*, the District indicated:
- a. They allowed the Student to have access to technology and did not confiscate it.
 - b. The Student was allowed to take breaks as needed throughout the school day.
 - c. Some staff used the electronic tracker to communicate with the Parents during the 2023-24 school year, but it was not used by all teachers and it was not completed frequently. It was not used during the 2024-25 school year. The District acknowledged that this accommodation was not implemented.

IEP Team Members

58. On December 11, 2024, the Broadcast and Social Media Teacher indicated they would not attend the meeting on December 13, 2024.
59. The Government Teacher indicated they would join the meeting on December 13, 2024 after 3:10 p.m.
- a. The Government Teacher said if it was stated they attended the meeting on December 13, 2024, then they likely did. The Government Teacher did not recall if it was an eligibility meeting or an IEP meeting.
 - b. The Coordinator of Special Education explained the meeting on December 13, 2024 was an eligibility meeting, and that their Google Meet invitation showed that Government Teacher was the general education teacher who attended.
60. The Case Manager stated the meeting on December 13, 2024 was an eligibility meeting to determine if the Student remained eligible for special education, and explained the IEP Team agreed that the Student did continue to qualify. The Case Manager confirmed the required general education teacher at the meeting was the Government Teacher.

61. The Case Manager indicated the Parents may have believed Broadcast and Social Media Teacher was a required team member because Broadcast and Social Media Teacher initially RSVP'd "yes" to the meeting on December 13, 2024. The Case Manager stated they included the Broadcast and Social Media Teacher's name on the official meeting document sent to the Parents based on this response. According to the Case Manager, although the Broadcast and Social Media Teacher was unable to attend, their initial confirmation led the School to list them as an expected participant. The Case Manager said, "Well, [Broadcast and Social Media Teacher] was on the calendar invite and the meeting notice, but we removed [them] from the official meeting notice after [Broadcast and Social Media Teacher] wasn't there."

- a. The invited guests on the Google meet invite from December 10, 2024 included the School Psychologist, the Science Teacher, the Government Teacher, the Parents, the Broadcast and Social Media Teacher, the Math Teacher, the Coordinator of Special Education, the Case Manager, the Health Teacher and the English Teacher.
- b. An Eligibility Summary Statement dated December 13, 2024 listed the following attendees as present: the Parents, the Coordinator of Special Education, the Government Teacher, the School Psychologist, the Speech/Language Therapist, and the Case Manager.

62. The Case Manager believed there might have been some confusion because the Parents noticed the Broadcast and Social Media Teacher's absence at the IEP meeting, even though their name was on the pre-meeting participant list. The Case Manager indicated the Broadcast and Social Media Teacher was not a required attendee. The Case Manager said they removed the Broadcast and Social Media Teacher's name from the documents because they did not attend, and Government Teacher attended instead. The Case Manager stated they did that for all IEPs.

63. The Associate Director of Teaching and Learning stated that if a meeting was scheduled for the future, and a notice had been sent, a new notice should be sent if there was a change in attendees before the meeting occurred. They added that retroactively changing a meeting notice after the meeting happened was not a practice they endorsed. The Associate Director of Teaching and Learning stated they did not know what happened with the meeting on December 13, 2024.

Content of IEP

64. One of the Parents stated they received feedback from the Student's teachers and IEP Team that the Student was struggling to work with their peers, but could not recall when they received that information. This Parent indicated they told the IEP Team the Student struggled with sharing personal information about themselves and did not feel comfortable sharing personal information with their teachers. The Student could converse and advocate for themselves while outside of school, but during school, was more apt to "shut down."

One of the Parents did not believe the School was addressing the Student's social skills, and the District's response was not very clear when they brought up the need for social skills instruction for the Student. The Parents stated they had not received a PWN with a refusal to provide the Student with social skills services.

65. The Case Manager explained the Student received social skills instruction in several ways: through social groups led by their communication and speech teacher, which included social stories and discussions about neurotypical/neurodiverse interactions; and informally through daily check-ins with the Case Manager.
66. The present level of developmental and functional performance section of the January 23, 2024 IEP stated, "[The Student] at times demonstrates difficulty comprehending the perspectives of others and conveying them with language. [The Student] can also have difficulty with social problem solving and would benefit from [a] focus on this area."
67. The Student's social communication skills goals in the January 23, 2024 IEP were:
 - a. "[The Student] will independently state the problem[-]solving steps ... in 4/5 opportunities" and "[The Student] will apply the problem[-]solving steps to social problems presented in videos or social stories in 4/5 opportunities when provided no more than two prompts."
 - b. "When presented with a video or social stories, [the Student] will determine how a character feels based on clues (e.g. facial expressions, body language, tone of voice, situation) in 4/5 opportunities" and "When presented with a video or social stories, [the Student] will infer the distinct points of view of varying characters in 4/5 opportunities when provided no more than two prompts."
 - c. The Speech/Language Therapist provided 420 minutes per year of specially designed instruction (SDI) to address the Student's communication goals.
68. The Student indicated they received social skills instruction at school, but did not want to attend because it seemed too simple.
69. An IEP Progress Report dated June 18, 2024 indicated the Student had made progress toward both of their communication goals.
70. The IEP was amended on October 4, 2024 to include:
 - a. The use of assistive technology devices or services:
 - i. "[The Student] will have access to [their] family provided cell phone and earbuds for safety purposes if [the Student] elopes, if [the Student] needs [sic] communicate if in verbal shutdown (unable to verbally communicate) and to help stay regulated or to self-regulate faster to rejoin [their] classmates."
 - b. An additional Behavioral goal:
 - i. "[The Student] will use the computer or [their] phone to play games, watch short videos, and/or listen to music in order to stay regulated and help keep focused on class assignments while remaining in class. [The Student]

must use headphones or earbuds so no sound plays out loud and the intervals of use of these devices doesn't exceed 20 minutes for each class. [The Student] can't utilize these assistive devices while teachers are providing instructions. [The Student] keeping a program up, but paused does not count towards the 20 minutes of use."

- c. Additional accommodations to be implemented schoolwide:
 - i. "Velcro Yondr pouch";
 - ii. "[The Student's] technology (phone, Chromebook, AirPods, etc) cannot be confiscated by staff. Tech can be used to locate [the Student]"; and
 - iii. "Access to cell phone for reminders and when upset or unable to communicate verbally (verbal shutdown), to stay regulated or to self-regulate, for reminders or notifications from parents. [The Student] will carry a Velcro pouch but will have access to [their] cell phone at all times for use for up to 20 minutes of self[-]regulation during a class period and during unstructured times (such as passing, travel to and from Sabin Schellenberg, and lunch)."

71. An October 4, 2024 Prior Written Notice (PWN) indicated:

- a. "The team proposed to update the IEP and BSP to accommodate for the district's new cell phone policy."
- b. "[The] Parent requested an IEP team meeting to address the implementation of the BSP and the IEP including the accommodations in relation to the district's cell phone policy. The team agreed to updates to the Behavior Support Plan, the accommodations, the assistive technology special factor, and an additional writing goal."

72. The Coordinator of Special Education sent a draft of the Student's IEP and BSP on October 9, 2024. The Coordinator of Special Education then sent the updated drafts to the Parent on October 29, 2024. The Parent accepted them as the final versions of the IEP and BSP on October 30, 2024.

73. During an email exchange between the Coordinator of Special Education, the Parents, the Assistant Principal, the Case Manager, and the School Psychologist from December 17 through December 19, 2024:

- a. The Case Manager attached a draft of the Student's IEP and stated the IEP Team needed to meet prior to January 22, 2025 for an annual meeting.
- b. In their reply, the Parent stated there was more added to the IEP than the Case Manager stated in their email. The Parent requested the IEP be changed back to what was finalized in November.
- c. On December 19, 2024, the Coordinator of Special Education addressed the Parent's concerns via email about teacher comments in the IEP draft and stated the IEP Team could develop a new IEP.

74. The Case Manager explained a new IEP draft was started in December 2024 because the Student's annual IEP and reevaluation were due on January 22, 2025. Given the

upcoming holiday, the Case Manager said they needed to start early to ensure the reevaluation and new IEP were completed on time.

75. According to the District, since the Student was 16 years or older, the Case Manager was required to gather information about the Student's preferences, needs, interests, and strengths to be included in the IEP "Summary of Present Levels of Performance for Transition Planning." The Case Manager posted a link to an online survey for all students in their classroom to complete at the beginning of the school year. The Student completed the survey.
76. According to the Associate Director of Teaching and Learning, the Case Manager shared with them that the Case Manager explains to their students that they will be sent a Google Form survey that contains questions about their interests and focuses on transition. The Case Manager also tells students the information will be shared with their parents and will be included in the IEP. The Associate Director of Teaching and Learning explained the form is completed during a special education class at the beginning of the school year and all students in the class work on it at the same time.
77. The Parent stated the Student was surprised by the Case Manager's request to work on the questionnaire. The Parent alleged the Student was not provided context of what the questionnaire was for and did not know it was something that would end up in their IEP.

The Parent perceived this violated the accommodation in the Student's January 23, 2024 IEP which included, "Pre-warn (to the greatest extent possible) for significant changes including digital spaces." The Parent stated the Student's BSP from September 30, 2024 included a statement to "Pre-warn [the Student] for changes/disruptions to routines and expectations as much as possible." The Parent believed the transition survey was significant enough to provide the Student with a warning about the change in routine.

Parent Participation

78. When asked if they had a preferred method of communication with the District, one of the Parents said, "I asked for writing. And the reason why is because verbal communication, especially when there's multiple people having faces in front of me, just makes it more difficult. And just written communication is really helpful because ... I can reread what they say, make sure I understand it correctly, but I can also get my thoughts out in a more understandable way."

This Parent indicated they provided the District with the reason for their request multiple times, "I'm autistic ... I have benefits and I have deficits. It's just because of my deficits of verbal communication and being able to get everything out of my brain, out my mouth. Yeah, writing works best." The District had been consistent in providing documents in writing prior to the IEP meetings. The Parent did not feel their concerns

were addressed. However, having the Student's IEP meetings via Google Meet was a useful middle ground between them and the District.

79. The Case Manager confirmed one of the Parents requested communication via email due to their disability, and indicated the Assistant Principal and Coordinator of Special Education were the primary responders to the Parent's emails. The Case Manager stated materials were provided to the Parents in writing at meetings.
80. Team Meeting Notes on January 23, 2024 indicated Parent input was included in reviewing the IEP.
81. In an email exchange starting on November 7, 2024, the Case Manager wrote that the Student's re-evaluation for special education services was due by January 22, 2025 and they needed to have a planning meeting. The Parent replied on November 8, 2024 that they were available the following Friday.
82. A Notice of Team Meeting on November 12, 2024 indicated:
 - a. A meeting would be held on November 15, 2024 to review existing information about the Student and decide whether additional testing was needed, and if they should be evaluated for special education eligibility.
 - b. The meeting was confirmed on November 8, 2024 by the case manager and the parents.
83. During an email exchange between November 12 and November 15, 2024:
 - a. The Parent expressed confusion regarding why the Student needed a re-evaluation and if they could forgo it. On November 14, 2024, the School Psychologist replied they could cancel the meeting as long as the District had all the paperwork to find the Student eligible.
 - b. Later that same day, the School Psychologist indicated via email they would cancel the meeting on November 15, 2024. The Parent confirmed the cancellation and perceived it meant there was no new information about the Student that warranted a re-evaluation.
 - c. The School Psychologist emailed the IEP Team on November 15, 2024, three hours before the meeting, that the meeting was canceled.
 - d. On November 15, 2024, the Coordinator of Special Education wrote, "We all agree that we do not need to do any further testing in order to determine that [the Student] continues to remain eligible for special education services. [The School Psychologist] will review the file, and we will have a meeting when that is complete to sign eligibility."
84. District records indicated a meeting with the Parents was held on November 15, 2024 to discuss the re-evaluation process. At the meeting, the IEP Team agreed to conduct a file review and to gather current information from teachers, the Parents, and the Student. The District and Parents agreed no further evaluation data was needed to determine eligibility for special education services.

85. The Investigator asked the School Psychologist why some emails between November 12-14, 2024 stated the re-evaluation meeting on November 15, 2024 was canceled, but the District *Response* stated it happened. The School Psychologist said, "... it is on my calendar and I'm assuming that it happened. I don't have [a] specific recollection of whether or not it happened."
86. In an email exchange from December 2, 2024 through December 4, 2024 between the Parent, the School Psychologist, and the School's Scheduler, the Parent expressed confusion about being asked to schedule an IEP meeting, because they perceived the IEP had been finalized and the next meeting would be the Student's annual review at the end of January 2025. The District clarified the meeting request was for the Student's three-year re-evaluation.
87. The District indicated the eligibility meeting was held on December 13, 2024.
- a. On December 3, 2024, the Parent agreed to meet on December 13, 2024, and asked to receive the meeting agenda at least a week beforehand, as they are an adult who experiences autism.
 - b. The Parent asked for an agenda again on December 6, 2024 and on the morning of December 10, 2024.
 - c. The Parent was provided with an agenda on December 10, 2024. The Parent replied via email, "I require more information in the meeting agenda than 'Purpose of Meeting'. [sic] I can't properly provide 'Parent information and/or concerns' with such a vague agenda."
 - d. In an email on December 11, 2024, the Parent indicated the agenda sent to them was inappropriate due to their autism diagnosis and how they communicate.
 - e. In an email dated December 11, 2024, the Assistant Principal explained the purpose of the December 13, 2024 meeting was primarily for compliance and "... intended to review and confirm the IEP and complete the required file review."
 - f. In an email on December 12, 2024 to the Assistant Principal, the Parent wrote, "My accommodation requests are reasonable and they have not been provided. As I've already shared with you in the past, written communication is my preferred form of dialogue as I do struggle to keep up in verbal conversations. ... I think it's only fair that I get a written statement to review ... so I have time to process and respond to them."
 - g. In an email dated December 12, 2024, the Coordinator of Special Education explained the purpose of the meeting was to use the data from past evaluations to determine if the Student continued to remain eligible for special education services. The team believed they had the proper information, but that must be determined by the IEP Team, which would happen at the meeting.
 - h. In an email to the Coordinator of Special Education on December 13, 2024, the Associate Director of Teaching and Learning stated, "I do not believe the agenda is detailed enough, especially for a family who requested the agenda to be sent ahead of time."

88. The School Psychologist stated they were going on leave and saw they needed to make an agenda for the Parents for the meeting on December 13, 2024, so they created and sent it. The School Psychologist did not remember how long before the meeting the Parents requested an agenda. The School Psychologist could not recall specifically, but believed they sent the agenda to the Parents 2-3 days before the meeting.
89. A document titled, “[The Student], December 13th Meeting Agenda” stated the agenda items as introductions, purpose of meeting, parent information and/or concerns, file review results, and re-evaluation.
90. A Google Meet link was sent to the Parents on December 10, 2024 for the meeting on December 13, 2024.
91. A Statement of Eligibility for Special Education dated December 13, 2024 indicated the Student met the eligibility criteria for special education services with an eligibility of Autism Spectrum Disorder.
92. An Eligibility Summary Statement dated December 13, 2024 indicated:
- a. Meeting attendees included the Parents, a District Representative, a General Education Teacher, the School Psychologist, the Speech/Language Therapist, and the Case Manager.
 - b. The Parents received a copy of the evaluation or assessment reports.
 - c. The team reviewed the following:
 - i. “Information from the parent(s)”;
 - ii. “The student’s cumulative records”; and
 - iii. “Any previous Individualized Education Programs (IEP) or Individualized Family Service Plans (IFSP).”
 - d. The Student met the eligibility criteria for special education services with an eligibility of Autism Spectrum Disorder.
93. A File Review Summary dated December 13, 2024 stated, “At the request of parents, the team has come together and decided that there is no additional testing needed to see if [the Student] continues to qualify for special education services under the category of Autism Spectrum Disorder. By history and by the evidence presented, it is evident that [the Student] is supported by the special education program and its services and [the Student’s] eligibility should continue. The Special education team and parents both agree to this decision.”
94. Team Meeting Notes for an Initial and Three Year Reevaluation on December 13, 2024 stated, “Team agrees that [the Student] continues to qualify for special education under category of Autism Spectrum Disorder. Continued to receive services for SPED.”

Personnel Qualifications

95. In the District *Response*, the District listed five staff members who attended IEP meetings between December 2023 and December 2024, and their qualifications. Each staff member had experience working with students who experience autism.
96. Oregon Teacher Standards and Practices Commission certificates for the Case Manager, the Coordinator of Special Education, and the School Psychologist; as well as a Board Certified Behavior Analyst for the Coordinator of Special Education. All certifications were current.
97. In the Parent *Reply*, the Parent explained they had previously asked to have the Student's prior case manager assist the IEP Team, or to have the Autism Behavior Specialist added to the IEP Team.
98. The Coordinator of Special Education explained that general education staff worked with their building teams to receive training on IEPs, and a school psychologist in each high school facilitated learning and training on plans with high school general education teachers. The Coordinator of Special Education was unaware of any specific training the staff or teachers on the Student's team had.
99. The Associate Director of Teaching and Learning explained the District had a team of six behavior specialists, some of whom are autism specialists, who provided district-wide training on various topics, including autism. They stated these trainings are available to all district employees, including general education teachers. The Associate Director of Teaching and Learning was unsure if the Student's teachers utilized this resource, but it was available to them. The Associate Director of Teaching and Learning said, "... in most of our cases, it's the case manager who plays a key role in making sure teachers are aware of the accommodations, aware of how to support a student, and they spend a lot of time working and consulting individually with teachers."
100. The Coordinator of Special Education stated the School Psychologist had provided professional development to the entire School staff on IEP accommodations and how to provide them. They stated it was not specific to the Student, and believed it had taken place at the end of the 2023-24 school year.
101. The Coordinator of Special Education said, "I do know that while the plan is specifically available to teachers on Synergy, that in this case we did have the team specifically send it directly to teachers via email to give them an opportunity to ask any questions and to have that PDF in their inbox. So I know the team did do an extra step to ensure that the teachers had access to the plan and had an opportunity to ask questions."

Consent for Evaluation

102. The Case Manager stated an evaluation of the Student was not performed after the Parents requested not to do one. The Case Manager believed there may have been miscommunication over what the School was going to do to have the Student

reevaluated for special education, but believed the School gave the Parents the proper notice. The Case Manager indicated it was a file review, not an assessment.

103. A Parent Guardian Consent for Individual Evaluation dated November 15, 2024 indicated:

- a. A checked box beside the statement, “Based on a review of existing information, no additional evaluation data are needed to determine if your child is, or continues to be, eligible for special education services or to determine your child's educational needs.”
- b. A checked box beside the statement, “I give the [District] my permission for the evaluation. I understand my consent is voluntary and may be revoked any time before the evaluation process begins.”
- c. On November 18, 2024, the School Psychologist emailed the Parents the parent permission form for the Student’s file review. The Parents signed the form on November 18, 2024.

104. The Parents perceived the IEP Team conducted an evaluation after the December 13, 2024 meeting, even after the Parents stated they did not want an evaluation done. The Parents explained they had not been given an explanation of what a file review consisted of. (

105. On December 30, 2024, one of the Parents filed this Complaint.

IV. DISCUSSION

When IEPs Must Be In Effect

The Complaint alleged that the District violated the IDEA by failing to implement the Student’s IEP accommodations related to self-regulation methods that utilize the Student’s phone or Chromebook, and a behavior tracker. It also alleged that the Student did not have access to accommodations that allow classroom breaks when needed.

At the beginning of each school year, a school district must have in effect an IEP for each child with a disability within the district’s jurisdiction. School districts must provide special education and related services to a child with a disability in accordance with an IEP.³

A district violates the IDEA when it materially fails to implement an IEP.⁴ “A material failure occurs when the services a school provides to a disabled child fall significantly short of the services required by the child’s IEP. Minor discrepancies between the services provided and the services called for by the IEP do not give rise to an IDEA violation.”⁴ As further explained by the court in *Van Duyn*:

³ OAR 581-015-2220(a)(b), 34 CFR § 300.323

⁴ *Van Duyn v. Baker Sch. Dist.* 5J, 502 F3d 811 (9th Cir. 2007) (“Van Duyn”)

“The materiality standard does not require that the child suffer demonstrable educational harm in order to prevail. However, the child’s educational progress, or lack of it, may be probative of whether there has been a significant shortfall in the services provided. For instance, if the child is not provided the reading instruction called for and there is a shortfall in the child’s reading achievement, that would certainly tend to that the failure to implement the IEP was material. On the other hand, if the child performed at or above the anticipated level, that would tend to show that the shortfall in instruction was not material.”⁵

The Parent’s Attendance Note from January 2, 2024, stated the Student left class due to a teacher not following their IEP and BSP. The Case Manager had no recollection of this incident or if the Student’s IEP or BSP, particularly regarding breaks, had not been implemented. In the Complaint materials, the Parents described a time when a substitute math teacher disrupted the Student’s routine after winter break, which caused the Student to dysregulate. On January 8, 2024, the Parents contacted the Case Manager, who located the Student and offered them a break. The Parents inquired if the substitute had the IEP and BSP, and the Case Manager confirmed they did.

The Student’s January 23, 2024 IEP included accommodations for breaks, cell phone access, and parent communication. A January 16, 2024 FBBSP instructed staff not to remove the Student’s phone, as it was used for de-escalation.

The Student reported using breaks to focus and self-regulate. They also stated they had used the Case Manager’s classroom as a break space and had not been denied breaks outside of class. The English Teacher reported the Student hadn’t requested or taken breaks in their class. The Student stated sometimes their Math Teacher didn’t acknowledge their requests, leading the Student to stay on their Chromebook or sleep. The Math Teacher confirmed the Student initially requested breaks but later stopped. The Health Teacher offered breaks in another room, but the Student declined.

The Student described their phone use rules and claimed they hadn’t broken phone rules. Teachers reported the Student didn’t use their phone much in class. A district-wide cell phone ban was implemented at the start of the 2024-25 school year. The District offered an accommodation for the Student to unlock their phone from a Yondr pouch in the office, but the Parents felt this was insufficient. A solution was reached where the Student only needed to show their phone pouch to staff as a cue for their accommodation.

A behavior spreadsheet from September 12 to October 31, 2024, showed the Student on their Chromebook during class nine times and asked to put it away five times. A revised FBBSP, dated September 30, 2024, detailed the Student’s use of their Chromebook and phone for self-soothing and regulation, allowing 20 cumulative minutes per class outside of instruction. The Student explained they used their Chromebook for YouTube, music, etc., while regulating, sometimes exceeding the 20-minute limit. They didn’t recall teachers asking them to stop using it.

⁵ *Id.*

Teachers generally reported the Student was not refused use of their Chromebook for self-regulation. The Math Teacher initially restricted Chromebook use but later allowed access after discussions with the Case Manager. The Science Teacher stated the Student was only asked to put the Chromebook away during direct instruction. The English Teacher stopped using GoGuardian to monitor the Student's Chromebook after the IEP revision.

The Student stated teachers rarely enforced GoGuardian. While at times GoGuardian may have been employed, the Student was able to ask to have it disabled and still had access to their Chromebook. The Student stated they were uncomfortable requesting this, but had not expressed that to their teachers. The Case Manager stated they would open websites through GoGuardian when needed. The Government Teacher stated GoGuardian would block social media but allow other sites.

In the written *Response*, the District indicated that some staff used the electronic tracker to communicate with the Parents during the 2023-24 school year, but it was not used by all teachers and it was not completed frequently. It was not used during the 2024-25 school year. The District acknowledged that this accommodation was not implemented. There was no evidence that the District's failure to consistently implement the behavior tracker or the confusion around the use of the Chromebook impacted the Student's ability to make progress towards their IEP goals resulting in a material failure to implement the Student's IEP.

The Department does not substantiate this allegation.

IEP Team Members

The Complaint alleged that the District violated the IDEA by not ensuring all required team members were in attendance for the December 13, [2024] IEP meeting.

School districts must ensure that the IEP Team for each child with a disability includes the following participants: one or both of the child's parents, the child where appropriate; at least one regular education teacher of the child; at least one special education teacher of the child or, if appropriate, at least one special education provider of the child; a representative of the school district, who may also be another member of the team; an individual who can interpret the instructional implications of the evaluation results; other individuals, including related services personnel as appropriate; and transition services participants.⁶

On December 11, 2024, the Broadcast and Social Media Teacher indicated they would not attend the meeting on December 13, 2024, which was an eligibility meeting to determine if the Student remained eligible for special education. The Broadcast and Social Media Teacher was not a required team member for the meeting. The Case Manager confirmed the general education teacher who attended was the Government Teacher. The invited guests on the Google Meet invite from December 10, 2024 included the School Psychologist, the Science Teacher, the Government Teacher, the Parents, the Broadcast and Social Media Teacher, the

⁶ OAR 581-015-2210(1)(a)(b)(c)(d)(e)(f)(g)(h), 34 CFR §300.321

Math Teacher, the Coordinator of Special Education, the Case Manager, the Health Teacher and the English Teacher. An Eligibility Summary Statement dated December 13, 2024 listed the following attendees as present: the Parents, the Coordinator of Special Education, the Government Teacher, the School Psychologist, the Speech/Language Therapist, and the Case Manager.

The Case Manager indicated the Parents may have believed Broadcast and Social Media Teacher was a required team member because the Broadcast and Social Media Teacher initially replied "yes" to the meeting on December 13, 2024. The Case Manager stated they included the Broadcast and Social Media Teacher's name on the meeting document sent to the Parents based on that initial response. The Case Manager said they later removed Broadcast and Social Media Teacher's name from the documents because they did not attend the meeting.

The Department does not substantiate this allegation.

Content of IEP

The Complaint alleged that the District violated the IDEA by failing to provide social skills instruction although the Student demonstrated a need for it. It also alleged that the IEP did not accurately document IEP revisions or necessary support for a transition services questionnaire.

An IEP means a written statement for each child with a disability that is developed, reviewed, and revised in a meeting in accordance with §§ 300.320 through 300.324, and that must include a statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided.⁷

One of the Parents did not believe the School was addressing the Student's need for social skills instructions. The Parents stated they never received a PWN with a refusal to provide the Student with social skills services. The Case Manager explained the Student received social skills instruction through social groups led by their Communication and Speech teacher and through daily check-ins with the Case Manager.

The January 23, 2024 IEP included the Student's present levels regarding their social skills, in addition to two communication skills goals. The Student indicated they received social skills instruction at school, but did not want to attend because it seemed too simple. An IEP Progress Report dated June 18, 2024 indicated the Student had made progress toward both of their communication goals. The Student's January 23, 2024 IEP was amended on October 4, 2024 to include: access to their phone for safety, communication and self-regulation purposes; use of the computer or phone to play games, watch videos, and/or listen to music to stay regulated and help stay focused on assignments while remaining in class; a Velcro Yondr pouch; and that the Student's technology could not be confiscated by staff.

⁷ 34 CFR §300.320(a)(4)

A PWN dated October 4, 2024 detailed that the IEP Team agreed to updates to the BSP, as well as the new accommodations and assistive technology. The Coordinator of Special Education sent a draft of the Student's IEP and BSP on October 9, 2024. The Coordinator of Special Education then sent the updated drafts to the Parent on October 29, 2024, who accepted them as the final versions on October 30, 2024. The Student's IEP and BSP were also amended after a meeting on September 26, 2024 to reflect their phone accommodation as it related to the new District cell phone policy. Additionally, an updated FBBSP dated September 30, 2024 included the Student's new accommodations regarding using their Chromebook for self-regulation.

During an email exchange between December 17-19, 2024, the Case Manager attached a draft of the Student's IEP and stated the IEP Team needed to meet prior to January 22, 2025 for an annual meeting. Given the upcoming holiday, the Case Manager said they needed to start early to ensure the re-evaluation and new IEP were completed on time. In their reply, the Parent stated there was more added to the IEP than the Case Manager stated in their email, and the Parent requested the IEP be changed back to what was finalized in November 2024. On December 19, 2024, the Coordinator of Special Education addressed the Parent's concerns via email and stated the IEP Team could develop a new IEP.

The Parent stated the Student was surprised by the Case Manager's request to work on the questionnaire. The Parent alleged the Student was not provided context of what the questionnaire was for and did not know it would end up in their IEP. The Parent perceived this violated the accommodations in the Student's January 23, 2024 IEP and September 30, 2024 BSP, which included pre-warning the Student about significant changes in their routine. The Parent believed the transition survey was significant enough to provide the Student with a warning.

According to the District, since the Student was 16 years or older, the Case Manager was required to gather information about the Student's preferences, needs, interests, and strengths to be included in the IEP "Summary of Present Levels of Performance for Transition Planning." The Case Manager posted a link to an online survey for all students in their classroom to complete at the beginning of the school year. The Student completed the survey. The Associate Director of Teaching and Learning stated the Case Manager shared with them that the Case Manager explained to their students that they would be sent a Google Form survey that contained questions about their interests and focused on transition. The Case Manager also told students the information would be shared with their parents and included in the IEP. The Associate Director of Teaching and Learning explained the form was completed during a special education class at the beginning of the school year and all students in the class worked on it at the same time.

The Department does not substantiate this allegation.

Parent Participation

The Complaint alleged that the District denied the Parent their right to participate in the special education reevaluation and IEP process, including not providing information to the Parent, who has a disability, in an understandable manner.

School districts must provide one or both parents with an opportunity to participate in meetings with respect to the identification, evaluation, IEP and educational placement of the child, and the provision of a free appropriate public education to the child. The school district must take whatever action is necessary to ensure that the parent understands the proceedings at a meeting, including arranging for an interpreter for parents who are deaf or whose native language is other than English.⁸ School districts must take steps to ensure that one or both of the parents of a child with a disability are present at each IEP or placement meeting or are afforded the opportunity to participate.⁹ School districts must ensure that the educational placement of a child with a disability is determined by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options.¹⁰

The Parent's preferred method of communication with the District was in writing, due to their autism. The Parent indicated they made this request to the District multiple times and believed having the Student's IEP meetings via Google Meet was a useful middle ground between them and the District. The Case Manager indicated the Assistant Principal and Coordinator of Special Education were the primary responders to the Parent's emails and that materials were provided to the Parents in writing at meetings.

Team Meeting Notes from January 23, 2024 indicated Parent input was included in reviewing the IEP. The Case Manager emailed the Parent on November 7, 2024 about scheduling a meeting for the Student's special education re-evaluation and the Parent replied the next day. District records indicated a meeting with the Parents was held on November 15, 2024 to discuss the re-evaluation process. At the meeting, the IEP Team agreed to conduct a file review and to gather information from teachers, the Parents, and the Student. The District and Parents agreed no further evaluation data was needed to determine eligibility for special education services.

An email exchange from December 2-4, 2024 between one of the Parents, the School Psychologist and the School Scheduler, discussed the Student's three-year re-evaluation meeting. On December 3, 2024, the Parent agreed to meet on December 13, 2024, and asked to receive the meeting agenda at least a week beforehand. A Google Meet link was sent to the Parents on December 10, 2024 for the meeting on December 13, 2024. One of the Parents asked for an agenda again on December 6, 2024 and December 10, 2024, and was provided with an agenda on the 10th. The Parent indicated via email they perceived the agenda was too vague and requested a written statement to review. In an email dated December 11, 2024, the Assistant Principal explained the purpose of the December 13, 2024 meeting was intended to review and confirm the IEP and complete the required file review.

⁸ OAR 581-015-2190(1)(3), 34 C.F.R. §§ 300.501

⁹ OAR 581-015-2195, 34 C.F.R. §§ 300.322

¹⁰ OAR 581-015-2250(1)(a), 34 C.F.R. §§ 300.327

A Statement of Eligibility for Special Education, dated December 13, 2024, indicated the Student met the eligibility criteria for special education services with an eligibility of Autism Spectrum Disorder. An Eligibility Summary Statement dated December 13, 2024 indicated the meeting attendees included the Parents, a District Representative, a General Education Teacher, the School Psychologist, the Speech/Language Therapist, and the Case Manager. It also detailed that the Parents received a copy of the evaluation or assessment reports; that the IEP Team reviewed different documents and information from the Parents, and that the Student met the eligibility criteria for special education services with an eligibility of Autism Spectrum Disorder.

A File Review Summary dated December 13, 2024 stated, “At the request of parents, the team has come together and decided that there is no additional testing needed to see if [the Student] continues to qualify for special education services under the category of Autism Spectrum Disorder. By history and by the evidence presented, it is evident that [the Student] is supported by the special education program and its services and [the Student’s] eligibility should continue. The Special education team and parents both agree to this decision.”

The Department does not substantiate this allegation.

Personnel Qualifications

The Complaint alleged that the District failed to provide qualified special education personnel on the Student’s IEP team who “demonstrate competency regarding Autism/Autistics.”

School districts must ensure that the IEP Team for each child with a disability includes at least one special education teacher of the child or, if appropriate, at least one special education provider of the child.¹¹ The LEA must ensure that all personnel are appropriately and adequately prepared.¹² The SEA must establish and maintain qualifications to ensure that personnel necessary to carry out the purposes of this part are appropriately and adequately prepared and trained, including that those personnel have the content knowledge and skills to serve children with disabilities.¹³

The District provided qualification information for five staff members who attended IEP meetings between December 2023 and December 2024. These staff members included the Case Manager, the School Psychologist, the Speech Language Pathologist, an Autism Behavior Specialist, and the Coordinator of Special Education. Each staff member had experience working with students who experience autism. The District *Response* contained current Oregon Teacher Standards and Practices Commission certificates for the Case Manager, the Coordinator of Special Education, and the School Psychologist; as well as a Board Certified Behavior Analyst for the Coordinator of Special Education.

The Coordinator of Special Education explained that general education staff worked with their building teams to receive training on IEPs, and the School Psychologist had provided

¹¹ OAR 581-015-2210(1)(d)

¹² 34 CFR § 300.207

¹³ 34 CFR §§ 300.156(a)

professional development to the entire School staff on IEP accommodations and how to provide them during the 2023-24 school year. The Associate Director of Teaching and Learning explained the District had a team of six behavior specialists, some of whom were autism specialists, who provided district-wide training on various topics, including autism. These trainings were available to all District employees, including general education teachers.

The Department does not substantiate this allegation.

Consent for Evaluation

The Complaint alleged that the District failed to obtain informed parental consent before conducting a reevaluation.

A school district must obtain informed parent consent before conducting any reevaluation of a child with a disability. If a parent refuses to consent to the reevaluation or revokes consent for the reevaluation, the school district may, but is not required to, pursue the reevaluation by using mediation or due process hearing procedures. A district does not violate its child find obligations if it declines to pursue the reevaluation using these procedures.¹⁴ The school district must document its reasonable efforts to obtain parent consent in accordance with OAR 581-015-2195 (Additional Parent Participation Requirements for IEP and Placement Meetings).¹⁵ Consent means that the parent or adult student has been fully informed, in his or her native language or other mode of communication, of all information relevant to the activity for which consent is sought; and understands and agrees in writing to the carrying out of the activity for which his or her consent is sought.¹⁶

According to OAR 581-015-2115, if the child's IEP or IFSP team determines that no additional data are needed to determine whether the child is or continues to be a child with a disability, and to determine the child's educational and developmental needs, the public agency must notify the child's parents of that determination and the reasons for it; and of the right of the parents to request an assessment to determine whether, for purposes of services under this part, the child continues to be a child with a disability, and to determine the child's educational and developmental needs. The public agency is not required to conduct an assessment of the child unless requested to do so by the child's parents.¹⁷

The Parents perceived the IEP Team conducted an evaluation of the Student even though the Parents stated they did not want an evaluation done. The Case Manager refuted this claim, indicating it was a file review, not an assessment.

A Parent Guardian Consent for Individual Evaluation dated November 15, 2024 included a checked box beside the statement, "Based on a review of existing information, no additional evaluation data are needed to determine if your child is, or continues to be, eligible for special education services or to determine your child's educational needs", and another checked box

¹⁴ OAR 581-015-2090(5)(a)(b)

¹⁵ OAR 581-015-2090(8)(a)

¹⁶ OAR 581-015-2090(1)

¹⁷ OAR 581-015-2115(4)(a)(A)(B)(b)

beside the statement, “I give the [District] my permission for the evaluation. I understand my consent is voluntary and may be revoked any time before the evaluation process begins.” On November 18, 2024, the School Psychologist emailed the Parents this consent form for the Student’s file review. The Parent signed the form that day.

The Department does not substantiate this allegation.

Dated: this 28 Day of February, 2025

A handwritten signature in cursive script that reads "Ramonda Olaloye".

Ramonda Olaloye
Assistant Superintendent
Office of Enhancing Student Opportunities

E-mailing Date: February 27, 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).)