

BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of)	FINDINGS OF FACT,
St. Helens School District 502)	CONCLUSIONS,
)	AND FINAL ORDER
)	Case No. 25-054-007

I. BACKGROUND

On February 4, 2025, the Oregon Department of Education (the Department) received a written request for a special education complaint (Complaint) from the parent (Parent) of a student (Student) residing in the St. Helens School District (District). The Parent requested that the Department conduct a special education investigation under OAR 581-015-2030. The Department confirmed receipt of this Complaint and forwarded the request to the District.

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

On February 11, 2025, the Department's Complaint Investigator sent a *Request for Response (RFR)* to the District identifying specific allegations in the Complaint to be investigated and establishing a *Response* due date of February 25, 2025. On February 25, 2025, the District submitted a *Response*, disputing the allegations described in the Complaint. The District submitted the following relevant items:

1. District Written Response
2. January 4, 2024, Audio Recording
3. January 4, 2024, Video Recording
4. February 13, 2024, Audio Recording
5. February 13, 2024, Video Recording
6. June 5, 2023, Audio Recording
7. Student Special Education Placement Determination, 6/5/2023
8. Notice of Team Meeting, [6/5/2023], 5/26/2023
9. Student IEP, 6/5/2023
10. Student IEP, 6/5/2023, Addended 6/15/2023
11. IEP Team Meeting Minutes, 6/5/2023
12. IEP Team Meeting Minutes, 6/15/2023

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

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

13. Prior Notice of Special Education Action, 1/21/2025
14. Prior Notice of Special Education Action, 6/5/2023
15. Prior Notice of Special Education Action, 2/13/2024
16. Prior Notice of Special Education Action, 2/13/2024
17. Special Education Placement Determination, 2/13/2024
18. Notice of Team Meeting, 2/2/2024
19. Prior Notice of Special Education Action
20. Student IEP, 2/13/2024
21. Prior Notice of Special Education Action, 2/27/2023
22. Prior Notice of Special Education Action, 6/5/2023
23. Prior Notice of Special Education Action, 6/15/2023
24. Prior Notice of Special Education Action, 1/2/2024
25. Prior Notice of Special Education Action, 1/2/2024
26. Prior Notice of Special Education Action, 2/13/2024
27. Notice of Team Meeting, 6/8/2023
28. Deaf/Hard of Hearing reevaluation, 4/5/2023
29. Speech/Language Evaluation Report, 11/16/2023
30. Autism Spectrum Disorder Evaluation Report, 1/3/2024
31. Occupational Therapy Evaluation, 11/15/2023
32. Statement of Eligibility for Special Education, Emotional Behavior Disability, 1/2/2024
33. Email: Re: Eligibility Signature for Today's Meeting, 1/3/2024
34. Email: Re: Eligibility Signature, 1/2/2024
35. Email: First Eligibility Signature for EBD, 1/2/2024
36. Statement of Eligibility for Special Education, Autism Spectrum Disorder, 1/2/2024
37. Email: Re: Second Eligibility Signature for ASD, 1/3/2024
38. Email: Second Eligibility Signature, 1/2/2024
39. Email: Re: Second Eligibility Signature for ASD, 1/3/2024
40. Statement of Eligibility for Special Education, Deaf or Hard of Hearing, 6/5/2023
41. Statement of Eligibility for Special Education, Other Health Impairment, 6/5/2023
42. Statement of Eligibility for Special Education, Specific Learning Disability, 6/5/2023
43. Email: Eligibility Signatures, 5/5/2023
44. Student Education Evaluation, 4/6/2023
45. Special Education Progress Notes for [Student], IEP Date: 6/5/2023
46. Special Education Progress Notes for [Student], IEP Date: 2/13/2024
47. Email: [Student], 12/21/2024
48. Email: Re: [Student], 1/6/2025
49. Email: Re: [Student] Sped Action..., 1/21/2025
50. Letter from District to Parent Re: IEE, 1/21/2025
51. Email: Re: Wanted to share something, 1/5/2024
52. Student Report Card 2022—2025
53. Video File – December 17, 2024
54. Video File – January 27, 2025
55. IEP Meeting Attendees, 1/27/2025
56. Notice of Team Meeting, [1/27/20205], 1/6/2025

57. Meeting Audio Transcript

58. Notice of Team Meeting, [12/17/2024], 12/16/2024

On March 3, 2025, the Parent's submitted a written response to the District's February 25, 2025, response and materials.

On February 7, 2025, the Department's Complaint Investigator interviewed the Parent. Present for the interview was the Parent's advocate. On February 26, 2025, the Department's Complaint Investigator interviewed the District's Director of Special Education, and the Student's Principal. Following the interview the District provided the Department with additional documents arising out of the February 26, 2025, interview. The Complaint Investigator reviewed and considered all these documents, interviews, and exhibits in reaching the findings of fact and conclusions of law contained in this order. This order is timely.

II. ALLEGATIONS AND CONCLUSIONS

The Department has jurisdiction to resolve this Complaint under 34 CFR §§ 300.151-153 and OAR 581-015-2030. The Parents' allegations and the Department's conclusions are set out in the chart below. The conclusions are based on the Findings of Fact in Section III and the Discussion in Section IV. This Complaint covers the one-year period from February 5, 2024, to the filing of this Complaint on February 4, 2025.

Allegations	Conclusions
Independent Education Evaluation It was alleged that the District violated the IDEA when it declined the Parent's request for an independent education evaluation (IEE). The Parent further alleges that the District did not follow the appropriate procedure when declining the IEE, when it did not initiate a hearing to show that the District's evaluation of the Student was appropriate. (OAR 581-015-2205; 34 CFR §300.502)	Substantiated The Parents requested IEEs in several areas. The District did not grant the IEEs nor file for due process to demonstrate the appropriateness of the District evaluations.
IEP Team Considerations and Special Factors It was alleged that the District violated the IDEA when it: a. failed to consider the Parent's concerns regarding the Student's potential need for American Sign Language instruction and support;	Not Substantiated The record supports that the Student's IEP team did consider over the course of several IEP team meetings, the Parents' concerns about ASL instruction,

<p>b. determined the Student's potential need, or lack of need for American Sign Language (ASL) instruction and support by a single IEP team member, rather than by the Student's entire IEP team; and,</p> <p>c. did not consider the Student's communication needs in response to concerns raised by the Parent.</p> <p>(OAR 581-015-2205; 34 CFR §§ 300.320, 300.324(a)(1) & (2) & ((b)(2))</p>	<p>did consider the input of numerous IEP team members regarding the Student's potential need for ASL, and did consider the Parents' concerns about the Student's communication needs.</p>
<p>Requirement for Least Restrictive Environment</p> <p>It is alleged that the District violated the IDEA when it suggested a change in the Student's educational placement in response to the Parent's request that the Student receive additional instruction or support in American Sign Language.</p> <p>(OAR 581-015-2240; 34 CFR §300.114)</p>	<p>Not Substantiated</p> <p>The record supports that the District inquired about a request made by the Parents' advocate about including experts from other schools in the Student's IEP team meetings, not that the District proposed a change in placement.</p>

REQUESTED CORRECTIVE ACTION
<p>The Parents request that the District:</p> <ul style="list-style-type: none"> • Approve the Parent's request for an IEE at public expense without delay; • Provide staff training on the legal requirements for IEE requests and procedural safeguards under the IDEA; • Amend its Prior Written Notice to align with the legal requirements of the IDEA and Oregon law; • Conduct a comprehensive evaluation of the Student's current communication needs, including access to instruction and peers; • Provide the Student with an ASL assistant or other necessary communication support for the Student's current education placement if evaluation support that need; • Train staff on IDEA language and communication access requirements for deaf and hard-of-hearing students.

III. FINDINGS OF FACT

1. The Student in this case is in the 11th grade, and attends a District high school. The Student is eligible for special education under the categories of Deaf or Hard of Hearing (DHH), Other Health Impairment (OHI), and Specific Learning Disability (SLD).
2. The Student is hardworking and enjoys learning. The Student often volunteers to participate in class, works collaboratively with teacher and peers, comes to school regularly and is performing well academically so is set to graduate with a regular diploma. The Student enjoys participating in elective classes. The Student had completed more than half the needed credits to graduate as of their February 13, 2024, IEP, and had a 3.10 GPA at the time.
3. The Student's February 13, 2024, IEP documented numerous Parent concerns including lack of Parent participation in IEP team decisions, and concerns around the terms and content of IEPs being dictated by the District. The Parents expressed concerns about the Student's lagging social skills, concerns for the Student's ability to utilize ASL to communicate, and behavior concerns leading to disciplinary actions, among other concerns.
4. The Student's hearing impairment and additional IDEA eligibility categories require specially designed instruction (SDI) to assist the Student in meeting their educational needs. The Student has bilaterally severe and profound hearing loss. The Student wears a cochlear implant and contralateral hearing aid. The Student utilizes a HAT/FM system, but often chooses not to use it in class. The Student's speech recognition is better in quiet environments and in close proximity, but is compromised at distance and in competing noise environments. The Student's hearing impairment can make it difficult for them to understand teachers, peers, and can lead to misunderstandings or missed messaging. The Student's IEP includes SDI in self-advocacy to assist them with their hearing needs in the educational setting.
5. The Student shows strengths in reading grade level coursework, and receives SDI in writing to assist with research, and the creation of documents relevant to future job searches, and grade level writing assignments. The Student receives SDI in math to support grade level curriculum specifically multi-step mathematical assignment.
6. On February 27, 2023, the District sent the Parents Prior Written Notice (PWN) documenting its proposal to add a Weschler Intelligence Scale for Children, 5th Edition to the Student's evaluation, to give the IEP team more information about the Student's learning needs. The PWN indicated that the Parents agreed with this decision.
7. On April 5, 2023, the District completed a Deaf/Hard of Hearing evaluation in advance of the Student's triennial reevaluation. The evaluation recommended that the District continue to find the Student eligible for special education under DHH, and that the Student continue to receive direct and consult services from a teacher of DHH students.

8. On April 6, 2023, the District completed an educational evaluation for the Student's triennial reevaluation. The evaluation noted that additional testing was requested to obtain current information on the Student's cognitive and academic level. At the time of the evaluation the Student qualified for special education services in the areas of DHH and OHI. The Student scored in the average range for verbal comprehension, visual spatial, fluid reasoning, and processing speed, but with weakness in the area of working memory. The Student's reading scores were average, but math scores were below average. At the time of the assessment the Student was earning grades of B or higher. The Student's intelligence testing showed average ranges for all scores. The evaluation made recommendations to assist the Student in their education where their hearing impairments obstructed their progress in the educational environment.
9. On May 26, 2023, the District sent the Parents a Notice of Team Meeting for an IEP team meeting to determine eligibility and formulate an IEP for the Student, scheduled for June 5, 2023.
10. On June 5, 2023, the Student's IEP team formulated an IEP for the Student. The Student was then in the ninth grade.
11. On June 5, 2023, the District sent the Parents PWN documenting the IEP team's decision to remove the provision of SDI in speech/articulation and instead provide consult with classroom teacher and specialists. The District noted that this decision was based on data showing that the Student was no longer demonstrating a need for SDI in the area of articulation.
12. On June 5, 2023, the District found the Student did qualify for special education in the category of SLD.
13. On June 5, 2023, the District sent the PWN documenting the IEP team's decision to continue to find the Student eligible for DHH and OHI in addition to SLD.
14. On June 8, 2023, the District sent the Parents a Notice of Team Meeting for an IEP team meeting scheduled for June 15, 2023. The notice indicated that the purpose of the meeting was the development of the Student's IEP and review of recent evaluations.
15. On June 15, 2023, the District sent the Parents PWN documenting the Parents' assertion that the District had not evaluated the Student "in all areas of eligibility or educational need and requested additional evaluation in the areas of Social-Emotional Learning/Behavior, Organization (Executive Functioning), Speech/Language, and Autism Spectrum Disorder." The District indicated that it stood ready to provide these evaluations and had included a Prior Written Notice about Evaluation/Consent for Evaluation for the Parent's review and signature. The District noted that given the timing of the request, and the evaluation would commence during the 2023-24 school year.

16. On November 15, 2023, the District completed an Occupational Therapy evaluation of the Student to determine sensory processing skills as part of the then ongoing special education evaluations. The evaluation concluded that the Student was “exhibiting differences in sensory registration and sensory sensitivity. It is important to note the correlation between hearing loss and sensory processing and how those two interact. Research...indicate, ‘Children with CIs (cochlear implants) and HAs (hearing aids) are increasingly susceptible to auditory processing disorders. Higher risks of balance, multisensory processing, social-emotional, and fine motor problems are in children with CIs.’ Research also indicates a higher risk of sensory difference with a higher age of cochlear implantation.” The Student’s specific “medical diagnosis, including ADHD and Pendred syndrome, along with the findings from the sensory profile assessment, highlight the complex interplay between sensory processing, hearing impairment, and associated challenges. Understanding these interactions is crucial for developing targeted interventions and support strategies tailored to the individual's specific needs.”
17. On November 20, 2023, the District completed a Speech Language Evaluation for the Student. The Report indicated that the Student demonstrated receptive and expressive language skills that are commensurate with their same-aged/grade peers. “[The Student] presents with language skills that are helping [them] participate in the language based activities of the curriculum.” The Student displayed some articulation concerns consistent with their hearing impairment, but the evaluation found that their “volume and rate of speech that was appropriate to the conversation.” The evaluation further indicated that “[o]bservations and a social communication evaluation were conducted to examine [the Student’s] social communication skills to provide an analysis of [their] abilities to initiate communication, to respond to communication, and to navigate [their] way through social interactions in the school environment. As evidenced by these observations and social communication assessment, [the Student] demonstrated many age appropriate communicative skills and strengths with regards to social-emotional reciprocity, non-verbal communication, and developing, maintaining, and understanding relationships.”
18. In December 2023, the District completed numerous assessments. Those assessments indicated that the Student was in the clinically significant range in the areas of aggression and depression. The Autism Spectrum Disorder evaluation found that the Student did not satisfy the criteria for eligibility in this area. The evaluation indicated that the Student, “presents with minimal behavioral characteristics often associated with, but not necessarily exclusive to, an Autism Spectrum Disorder. [The Student] struggles with self-regulation and knowing when to terminate interactions with peers when they demonstrate to [them] that [their] insertion into the situation is unwelcome. These behaviors adversely impact [their] ability to engage safely with [their] peers and maintain an environment that is conducive to [their] learning and that of [their] peers. [The Student] shows relative strength in the areas of demonstrating non-verbal communication, and reading the non-verbal cues of others, in showing interest in [their]

peers and adults in the school environment, accessing the curriculum [in the District], and navigating two different schools and various school schedules independently. The area of restrictive, repetitive patterns of behavior, interests, or activities is an area in which [the Student] appears within the typical range within the school setting and therefore does not experience educational impact. It is notable that [the Student] appears to present differently at home than in the school setting and that, per parent report, [the Student] requires a great level of support in order to do every day adaptive tasks, has limited access to activities outside the home because of [their] unpredictable behavior, and [their behavior has impacted her relationships with [their] siblings because of [their] behavior as well.”

19. On January 2, 2024, the Student’s IEP team determined that the Student did not qualify for special education services in the eligibility categories of Emotional Behavioral Disability (EBD) or Autism Spectrum Disorder (ASD). The Parents did not agree with the team’s determination with respect to ASD. The District issued PWN documents related to these findings later that day, as well as PWN that the Student did qualify for eligibility under HI, OHI, and SLD, and that the Student had lagging skills in behavior/social-emotional sensory and may benefit from additional goals or accommodations to their current IEP.
20. On January 4, 2024, the Student’s IEP team met. As part of this meeting the team discussed the Parent’s concerns about the Student’s potential need for ASL instruction. The team discussed the Student’s past use of an ASL interpreter, adding the instruction to the Student’s IEP as a skill for post-graduation needs, adding the accommodation as a backup to the potential of the Student’s hearing aid or cochlear implant failing. During the meeting the Student’s IEP team addressed the Student’s current educational needs and compared that with hypothetical needs, and the purpose of the IEP being to address current needs. During this meeting the team also discussed the Student’s peer conflict. The Parent’s asserted that peer conflict resulted from the Student’s communication needs, and could be addressed through the addition of ASL to the IEP. The Student’s IEP team discussed how ASL could be of assistance in this case and considered whether this was a lagging social skill rather than a communication issue. During this meeting the Parent’s advocate suggested that the District invite a representative from the Oregon School of the Deaf to provide expertise on the Student’s potential needs around ASL.
21. On January 5, 2024, the Parents sent an email to the District sharing a quote regarding deaf students which read, “The only real handicap of deafness is when deaf children are deprived of true communication—ASL,” and “To equate the fluency of English to hearing people, a SL [sic] is the match for deaf people. They are not meant to use the language that is not their own, nonetheless, be forced to.” The Parents added that they hoped these quotes helped the District understand why the Parents wanted the Student to start learning sign language. The Parents also speculated that some of the Student’s “behavior issues in class may be caused from the disconnect of [the Student’s] hearing

and [their] ability to communicated [sic] at [their] full potential.”

22. On January 5, 2024, the District sent an email to the Parents observing that the Student had not required an ASL interpreter for approximately 8 years, and that the Student had not used that mode of communication in the school setting to have full access to the educational curriculum an environment. The District noted that at the January 4, 2024, IEP team meeting, some “statements” were made about “inviting a representative from the Oregon School of the Deaf [sic] to our next meeting, that the [Student] need to meet and be around other hearing-impaired students, providing the district with the ‘Deaf Students Bill of Rights,’ that [the Student] needs to become familiar with other hearing impaired students/individuals who have the same needs...” Based on that recap of the previous day’s conversation, the District asked, “Are you wondering or would you like more information about the Oregon School of the Deaf [sic] or would you like the district to add a placement option that included the Oregon School of the Deaf [sic] to that list of placement options?”
23. On January 5, 2024, the Parents, responding to the District’s question about the Oregon School for the Deaf, responded writing, “The school for the deaf is not an option at this time for us. But thank you for extending that offer.”
24. On January 5, 2024, the District responding thanking the Parents for allowing them to ask the question “for clarity and for sharing [their] response to that question.”
25. On January 23, 2024, the District created a Behavior Support Plan (BSP) for the Student, to address specific behavior exhibited by the Student. The BSP observed that the Student often yells, uses profanity, and would leave the classroom when upset. When escalated, the Student was unable to listen to another point of view, and could become visibly upset, and when told “no” could have difficulty listening to another point of view. The BSP noted that this most often occurred when the Student experienced an altercation with a peer, adult, or situation that the Student perceives as unjust. The BSP included proactive strategies, for District staff to recognize and respond to specific behavior exhibited by the Student, and a de-escalation recovery plan.
26. On February 2, 2024, the District sent the Parents a Notice of Team Meeting for an IEP team meeting scheduled for February 13, 2024 to review the Student’s IEP, and develop and review a behavior support plan for the Student.
27. On February 13, 2024, the Student’s IEP team met to discuss the Student’s needs. During the meeting the Parents raised concerns about the Student’s social skills. The Student’s IEP team discussed the Student’s self-advocacy goals related to hearing. In response to the Parent’s request for ASL instruction, the Student’s IEP team discussed that ASL would be a foreign language for the Student, and not something they needed to access their education. As such the District indicated that it would deny the Parent’s request and issues PWN related to this denial. The Parents reiterated the Student’s

need for ASL to address their lagging communication needs such as understanding sarcasm, tone of voice, and intent in conversations. The Student's IEP team reviewed that the removal of the ASL interpreter in elementary school due to the Student's ability to directly access their education.

28. As part of the February 13, 2024, IEP, the Student's speech services were changed from direct services to consultative services as the Student had previously met their speech goals.
29. The Student's February 13, 2024, IEP included SDI in Hearing Self-Advocacy, with a goal of the Student being able to explain their hearing loss, audiogram, and accommodations they need, and list organization for the Deaf/Hard of Hearing, and services they provide in 4/5 opportunities. Progress toward this goal would be reported with the Student's report cards. Data reported on April 12, 2024, June 14, 2024, and November 8, 2024, indicated that the Student was making progress with this goal.
30. The Student's February 13, 2024 IEP included SDI in math, with a goal of using the correct formula in grade level essential standards and follow the correct steps as outlined with a passing score, and increase transition skills related to money management and personal finance with at least 70% accuracy. Progress toward this goal would be reported with the Student's report cards. Data reported on April 15, 2024, June 14, 2024, and November 8, 2024, indicated that the Student was making excellent progress toward this goal, especially with regard to personal finance and budgeting skills.
31. The Student's February 13, 2024, IEP included SDI in written language, with a goal of completing grade level essential skill standards in written expression, such as completing assignments with a passing score in 4 out of 5 opportunities. The goal had a specific focus on assisting the Student with producing a written resume and cover letter. Data reported on April 12, 2024 and November 8, 2024, indicated that the Student was able to create a resume and cover letter with assistance from their teacher, and that the Student was making progress toward progressing in development of written expression skills.
32. The Student's February 13, 2024 IEP included SDI in social emotional/problem solving, with a goal of demonstrating improved emotional control and self-regulation skills to problem-solve with 80% accuracy in 4 out of 5 situations. Data reported on April 12, 2024, June 14, 2024, and November 8, 2024, indicated that the Student began struggling to use calm words in communicating with peers when angry, but that by November 2024, the Student made significant strides in their ability to recognize feelings and emotions and find appropriate ways to express them.
33. The Student's February 13, 2024 IEP included SDI in self-advocacy, with a goal of facing challenging task or situations by approaching staff to obtain an answer to a question, or

seeking assistance with a problems in 4 out of 5 situations. Data reported on April 12, 2024, and November 8, 2024, indicated that the Student started displaying progress in four out of six occasions, and that by November 2024 had made significant efforts to advocate for themselves and shown confidence and willingness to seek support when necessary.

34. The Student's February 13, 2024 IEP included the related services of audiology and transportation. The IEP also included supplementary aids and services such as including an FM system throughout the day, copies of any required class notes to address hearing loss, movement breaks, alternate PE class, no group ball games, no requirement for headphones or earbuds, extended testing time, closed captions with videos, printed guides with due dates for independent study classes, access to a computer to stay in one classroom, extra time for assignments for math, provision of verbal directions with Student paraphrasing back for math only, and fidgets. Additionally, the Student's IEP included, teacher provision of progress reports once per month on the last Friday of the school months, provision of math notes and formulas, access to sentence starters/outline/frames for written assignments, classroom rules explained with Student paraphrasing back, provision of verbal prompts, access to quiet space, reminders to turn in work, formulas notes and books allow on math tests, visuals provided for math and written work, teacher step by step instruction for math, calculator, breaking longer assignments/projects into chunks, and a behavior support plan.
35. On February 13, 2024, the District sent the Parents PWN refusing the Parents' request to consider adding SDI to the Student's IEP through the addition of an ASL assistant to teach the Student ASL. The District noted that the Student did not require an ASL assistant as an accommodation to access the curriculum, instruction, or special education services at that time as demonstrated by the Student's rate of progress toward IEP goals and objectives, grades, and progression with course completion to obtain their regular educational diploma. The PWN further noted that since January 30, 2017, when the Student's IEP team initially terminated the ASL assistant support from the Student's IEP, the Student could access their general education and special education content without these supports.
36. On February 13, 2024, the District sent the Parents PWN refusing the Parents' request to increase SDI in Hearing self-advocacy to the Student's IEP. The PWN indicated that the District did not believe that an increase in specially designed instructional time was required because it was projected that the Student would make meaningful progress on their goals and objectives given the 60 minutes of 1:1 instruction received monthly coupled with past progress.
37. On February 13, 2024, the District sent the Parents PWN proposing to implement the changes to the Student's IEP and Behavior Support plan, arising out of the February 13, 2024, IEP team meeting, commencing February 14, 2024. The PWN documented the inclusion of the Parents' suggestions to add a third placement option (combined pull-out

and inclusionary services). The Parents also requested the addition of an objective (recognize and state feeling) to the social-emotional goal, and adding an objective to the hearing self-advocacy goal (expressing feelings and learning how to access the resources to increase the Student's understanding of their disability). The District also agreed to the Parents' suggestion to an objective to the transition advocacy goal (increase coping skills), and the inclusion of a "safe person" to the Student's Behavior Support Plan, to provide a resource for the Student to talk to.

38. On February 13, 2024, the District sent the Parents PWN proposing to initiate new specially designed instruction to increase skills with social/emotional and self-advocacy as outlined in the Student's evaluation results and team agreements stemming from the District evaluating the Student for Autism Spectrum Disorder.
39. On December 17, 2024, the Student's IEP team met. During the meeting, the Parents discussed concerns for the Student related to potential scenarios where the Student's hearing aids or cochlear implants may fail, and advocated for ASL instruction for such eventualities. The IEP team discussed apps for closed captioning, and speech to text services that could be immediately utilized by the Student were they needed. The Parents discussed the recent occurrence of a failure in the Student's cochlear implant, and the Student's IEP team reviewed how that situation was accommodated through the provision of class notes, written instructions, and speech to text services. The Parents asserted that the Student's first language was ASL, and as such the District should provide ASL instruction. As part of the meeting, the Parents acknowledged that the Student's behavior issues they had concerns with were likely social rather than linguistic. The team discussed a variety of other factors that largely impacted the Student's behavior.
40. On December 19, 2024, the Parents sent the District an email informing the District that the Student would not have the use of their hearing aid the following day, and thus there would be a need for accommodations for their hearing impairment.
41. On December 21, 2024, the Parent sent an email to the District requesting an Independent Educational Evaluation (IEE) at public expense for the Student. The Parents wrote that they believed "additional evaluations are necessary to adequately address [the Student's] educational needs and to ensure all appropriate support and services are in place." The Parents went on to write that they were requesting IEE's for the following:

"Audiological Evaluation To assess hearing capabilities with the cochlear implant and hearing aid, as well as functional hearing in educational settings.

Speech and Language Evaluation To evaluate receptive and expressive language skills, articulation, and overall communication abilities.

Cognitive and Academic Achievement Evaluation To determine intellectual functioning an academic performance, with appropriate accommodations for hearing-related

challenges.

Social-Emotional and Behavioral Evaluation To assess emotional well-being, social interactions, and behavior in the school environment.

Functional Listening and Communication Skills Assessment To evaluate listening abilities and communication effectiveness in various settings.

Assistive Technology Evaluation To determine the need for assistive technology tools to support learning and communication.

Communication Access and Environmental Assessment To evaluate classroom acoustic, access to instructional materials, and effectiveness of communication supports such as FM/DM systems or visual aids.”

42. The Parents included a summary of the relevant law applicable to IEE requests and District response procedures.
43. On January 6, 2025, the District, responding to the Parents’ December 21, 2024, IEE request, asking for additional information to clarify the scope of the Parents’ request. The District wrote in part, “A parent may request an IEE when they disagree with an evaluation conducted by the district or when they disagree with the district’s denial of a request for an evaluation in a particular area of need. When you asked for the IEE, you didn’t state which of the district’s evaluations you disagreed with. Are you disagreeing with the evaluation conducted in 2023? And if so, which ones? If you are willing, it would be helpful for you to provide your reasons for your disagreement with the district’s evaluations, but it is not required for us to move forward with processing your request.” The District asked for additional clarification about the “Functional Listening and Communication Skills Assessment” requested by the Parents. The District also noted that Audiological Evaluations, Assistive Technology Evaluations, and Communication Access and Environmental Assessments, were not part of the Student’s 2023 evaluation plans, or “have not been evaluated for a significant time or have not been evaluated by the district at all.”
44. On January 7, 2025, the Parents, responding to the District, reiterated their IEE request in the seven areas identified. The Parents went on to write that their email had acknowledged that “several of these areas ‘either have not been evaluated for a significant time or have not been evaluated by the district at all.’” The Parents continued, noting that this “directly supports [their] position that the district has not met its professional responsibility to evaluate all areas of suspected need, as required under IDEA.” The Parents also wrote that the “district had the opportunity to address these areas during the 2023 evaluations but failed to do so. [We] are not willing to allow the district to now conduct additional evaluations in these areas. [Our] request for IEEs reflect [our] lack of confidence in the district’s ability to conduct comprehensive and unbiased assessments of [our] child’s need.”
45. On January 21, 2025, the District sent the Parents the District’s response to their IEE request. The District wrote in part, that an IEE “is only available in areas where the

district has completed an assessment or if the district has denied a request for an evaluation in a particular area. However, it has been over one (1) calendar year since the district last conducted evaluations of your student...Your request is not because of a disagreement with evaluations conducted, which would trigger the applicable provision of the IDEA surrounding IEEs, but is actually a request for new evaluations of your student...the district is denying your request for an IEE, because your request has not been properly raised under OAR 581-015-2305...as it is not based on a disagreement regarding an evaluation conducted by the District. Also, because your request was not properly raised, the District is not obligated at this stage to defend this decision by filing a due process complaint. However, the District is willing to convene an evaluation planning meeting with you as soon as possible to discuss your request for new evaluations of your student in the areas listed."

46. On January 21, 2025, the District sent the Parents PWN denying the Parents' request for an Independent Educational Evaluation (IEE). The District listed several reasons for the denial including that the Parent's IEE request dated January 7, 2025, stated that the request was due to "the district's failure to conduct comprehensive and adequate evaluations in critical areas of [their] child's needs." The District noted that the IEE request was not made due to a disagreement with an evaluation conducted by the District. As such the District interpreted the IEE request as a request by the Parents to conduct new evaluations of the Student. The PWN further stated that, "[t]he District has not yet had a chance to conduct an evaluation in many of these areas in over one (1) calendar year, and in other areas, the District has not yet had a chance to even consider conducting an evaluation by meeting with you to discuss your request." The PWN also observed that the District was "willing to convene an evaluation planning meeting with [the Parents] as soon as possible to discuss [their] request for new evaluations of [their] student in all areas listed." The PWN further observed that following the District's evaluation process that the Parents could request an IEE and that the District would provide the Parents with a copy of its IEE criteria and procedures. The District observed that the Student's IEP team had an upcoming preplanned IEP/Placement meeting scheduled for January 27, 2025, and would be willing to discuss the Parents' concerns further then or work on scheduling a separate evaluation planning meeting.
47. On January 27, 2025, the Student's IEP team met. As part of the meeting the District's teacher for the deaf and hard of hearing presented research about possible ASL instruction and the variety of ways the Student might access that instruction. The Parents explained their interest in this instruction to address peer conflict and the Student's perceived communication needs. The Student's Principal addressed the Student's social communication during the meeting, observing that in their experience, the Student understood jokes, sarcasm, and other nuance in verbal communication.
48. On February 4, 2025, the Parents filed this Complaint.
49. On February 25, 2025, the District submitted its *Response* to this Complaint. As part of

the *Response*, the District provided a copy of the Student's report card for the 2022-23, 2023-24, and 2024-25 school years. The Student was then maintaining a 3.03 GPA. The *Response* also included recording of relevant IEP team meetings where issues raised in this Complaint were discussed by the Student's IEP team.

50. On March 3, 2025, the Parents submitted a written rebuttal to the District's *Response*.
51. On March 7, 2025, the Department's Complaint Investigator interviewed the Parents and the Parents' Advocate regarding the concerns in this matter.
52. The Parents reported that the District should have granted their request for an IEE because many of the intended areas of evaluation for the proposed IEEs were areas not evaluated by the District. The Parents expressed interest in having the IEE address the cause for behaviors exhibited by the Student in the school environment.
53. The Parents explained their interest in having the Student instructed in ASL was due to the Student's inability to hear and understand the tone of conversations. Being unable to understand tone, and decipher meaning, was in the Parents' estimation leading to peer conflict and behaviors witnessed in the school environment. The Parents reported that the Student would become frustrated, or misinterpret the tone or intent of speech, which could lead to altercations with peers. The Parents suggested that the Student's inability to hear or understand the tone or intent of speech, was obstructing the Student's progress in their education, electives and transition services.
54. The Parents reported interest in the District conducting a Functional Behavioral Assessment (FBA) due to the Student's behavior arising from the Student's hearing impairment. The Parents suggested that the District had not understood these needs on the part of the Student and had therefore not appropriately addressed the underlying cause of the Student's behaviors. The Parents asserted that the Student's various behavior issues were caused by unmet communication needs.
55. The Parents reported that the District offered to pay for ASL instruction for the Student, but that such services had not commenced. The Parents suggested the addition of an ASL assistant to assist the Student with communication in the classroom and school environment. This would also provide someone fluent in ASL with whom the Student could speak.
56. The Parents reported that the District had proposed a change in placement for the Student from the District high school to the Oregon School for the Deaf, and had not held an IEP team meeting to discuss this move, nor provided the Parents with PWN of the proposed change in educational placement. The Parents noted that this would be a more restrictive placement were it to occur. The Parents also reported that the District was not responsive to accommodating the potential needs of the Student were their hearing aids to break or malfunction, one of the other rationales for requesting ASL

instruction.

57. On March 13, 2025, the Department's Complaint Investigator interviewed the District's Director of Student Services and Coordinator for Students Services. Present for the interviews was the District's Attorney.
58. The District reported that the Student had displayed behaviors largely during the 2022-23 school year, and to some degree during the 2023-24 school year. To address these behaviors the District formulated a BSP. On January 23, 2024, the District formulated a BSP for the Student to address those concerns. The District reported that since implementing the BSP the Student's behavior concerns had significantly decreased.
59. The District noted that it had conducted the initial evaluations of the Student completed in June 2023. The District observed that the Student was evaluated for ASD and EBD and conducted an FBA. Following the FBA, the District formulated a BSP on January 23, 2024, which was still in place for the Student. The District reported that the Student had made significant progress toward their behavior goals since the BSP was put into place.
60. Given the Parents' concerns about ASL the District included a Deaf and Hard of Hearing specialists in the Student's IEP team meetings. The District reported that the Student had an ASL interpreter in second or third grade, but that the accommodation was removed after the Student's IEP team determined that it was not necessary. The District recounted the efforts made at that time, which included observations of the Student in a variety of settings with and without the ASL interpreter. The District found that the Student was capable of accessing their education without the ASL interpreter, and that they could more easily engage in class with the use of their hearing aids and frequency modulated (FM) system. The District noted that the ASL interpreter was also a more restrictive accommodation, and that following the removal of that accommodation, the Student more easily engaged with peers. The District reported that the Student had not utilized ASL since elementary school, nor would they have anyone at the school with whom to communicate with using ASL.
61. The District noted that the Parents' request for ASL services was also positioned as backup solution in the case of the failure of the Student's hearing aids, cochlear implants, or the FM system used at school. The District noted that the Student had no current need, so these services were not part of their IEP, but were they to have a need, the Student's IEP team would review the IEP. The District reported that there were other solution in place such a speech to text devices, and close captioning devices.
62. With regard to the Parents' specific request for ASL services, the District noted that it had offered to pay for ASL classes and set the class up as an elective for credit. The Parents requested additional staffing around the provision of ASL, and the District reported that the terms of the potential ASL course were still under discussion.

63. The District denied suggesting a change in placement for the Student, rather the District inquired of the Parents whether they wanted a representative from the Oregon School of the Deaf to attend the Student's IEP team meeting to provide insight, as requested by the Parents' Advocate.

IV. DISCUSSION

Independent Education Evaluation

The Parents alleged that the District violated the IDEA when it declined the Parents' request for an independent education evaluation (IEE). The Parents further allege that the District did not follow the appropriate procedure when declining the IEE, when it did not initiate a hearing to show that the District's evaluation of the Student was appropriate.

The Parent of a child with a disability has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the school district. If a parent requests an independent evaluation at public expense, the district must provide information to parents about where an independent education evaluation may be obtained, and the district criteria applicable for independent educational evaluations. If a parent requests an independent education evaluation at public expense, the school district must, without unnecessary delay, either ensure that the independent educational evaluation is provided at public expense or initiate a due process hearing to show that the district's evaluation is appropriate. If the parent requests an independent educational evaluation, the district may ask why the parent disagrees with the public evaluation. The parent may, but is not required, to provide an explanation. A parent is entitled to only one independent educational evaluation at public expense each time the public agency conducts an evaluation with which the parent disagrees.³

The parent of a child with a disability has the right to request an IEE of the child, under 34 CFR §300.502(b)(1), if the parent disagrees with an evaluation obtained by the public agency.⁴ When parents lack confidence in the evaluation conducted and relied upon by a district, they are entitled to an independent educational evaluation.⁵ Students should be evaluated when a public agency suspects or has reason to suspect that a child has a disability that has an adverse impact on the child's educational performance.⁶ A parent may initiate a request for an initial evaluation to determine whether a child is a child with a disability.⁷ Parents do not have the right to request an IEE before a district completes its evaluations.⁸

³ OAR 581-015-2305(1)–(9)

⁴ *Schaeffer v. Weast*, 546 U.S. 49 (U.S. 2005)

⁵ *Meridian Joint Sch. Dist. No. 2 v. D.A.*, 792 F.3d 1054, 1060 (9th Cir. 2015)

⁶ OAR 581-015-2105(3)(a)

⁷ OAR 581-015-2105(2)

⁸ 71 Fed. Reg. 46689 (August 14, 2006)

On December 21, 2024, the Parents requested, by email, IEEs for the Student for the following stated areas: Audiological Evaluation, Speech and Language Evaluation Cognitive and Academic Achievement Evaluation Social-Emotional and Behavioral Evaluation Functional Listening and Communication Skills Assessment Assistive Technology Evaluation, and Communication Access and Environmental Assessment. The Parents' email was sent during the winter break. Following the winter break the District asked to clarify the reason for the Parents' request, and observed that the Parents had not indicated which evaluation conducted by the District they disagreed with. On January 21, 2025, the District sent the Parents PWN refusing the IEE. The PWN stated that basis of the District's refusal was that the Parents' had not indicated which if any of the District's evaluations they disagreed with, rather the Parents indicated that the reason for the IEE was "the district's failure to conduct comprehensive and adequate evaluations in critical areas of [the Student's] needs." The District further observed that some of the areas requested by the Parents for the IEE were areas where the District had not evaluated the Student in over a year, or had not yet had an opportunity to evaluate the Student.

"The IDEA affords a parent the right to an IEE at public expense and does not condition that right on a public agency's ability to cure the defects of the evaluation it conducted prior to granting the parent's request for an IEE. Therefore, it would be inconsistent with the provisions of 34 CFR §300.502 to allow the public agency to conduct an assessment in an area that was not part of the initial evaluation or reevaluation before either granting the parents' request for an IEE at public expense or filing a due process complaint to show that its evaluation was appropriate."⁹ Here, the Parents requested IEEs in numerous areas. The District observed in response that the areas identified by the Parents in its PWN dated January 21, 2024, that the IEE "is only available in areas where the district has completed an assessment or if the district has denied a request for an evaluation in a particular area...Your request is not because of a disagreement with evaluations conducted, which would trigger the applicable provision of the IDEA surrounding IEEs, but is actually a request for new evaluations of your student..." However, an IEE is available to Parents where there is disagreement with the district's "evaluation because the child was not assessed in a particular area" in order "to determine whether the child has a disability and the nature and extent of the special education and related services that child needs."¹⁰ As such, the District should have either granted the IEEs or filed for due process to show that the evaluations conducted by the District, and areas where the Student was not evaluated, were appropriate based on data about the Student.

The Department substantiates this allegation.

IEP Team Considerations and Special Factors

The Parents alleged that the District violated the IDEA when it;

- a. failed to consider the Parents' concerns regarding the Student's potential need for

⁹ OSEP Letter to Carroll, 68 IDELR 279 (October 22, 2016)

¹⁰ OSEP Letter to Baus, 65 IDELR 81 (February 23, 2015)

- American Sign Language instruction support;
- b. determined the Student's potential need, or lack of need, for American Sign Language instruction or support by a single IEP team member, rather than by the Student's entire IEP team; and,
- c. did not consider the Student's communication needs in response to concerns raised by the Parent.

In the development, review, and revision of a child's IEP, the IEP team must consider a variety of information about the student. The IEP team should consider the strengths of the child, the concerns of the parents, the result of recent evaluations, and the academic, developmental, and functional needs of the child.¹¹

The Parents report that the District was not responsive to their concerns that behaviors manifested by the Student in the educational environment stemmed from communication barriers. To address the social communication concerns the Parents suggested the addition of ASL instruction for the Student asserting that the Student's first language was ASL. The Student's IEP team during numerous team meetings reported that the Student's ASL interpreter was removed in elementary school and that the Student was capable of accessing their education without using ASL or the assistance of an ASL interpreter. The team also discussed how the Student's SDI around self-advocacy relative to their hearing needs assisted with addressing the Parents' concerns around communication. The District included numerous individuals in these IEP team meetings. District staff reported that the Student's concerning behaviors had largely abated since the development of the January 23, 2024, BSP. In response to the Parents' requests about providing ASL instruction or ASL interpretation, the District did offer to provide access to ASL instruction for the Student as an elective.

The record supports that the Student's IEP team did, on numerous occasions including the January 4, 2024, February 13, 2024, and December 17, 2024, IEP team meetings, consider the Parents' concerns for including ASL instruction for the Student. These meetings further evidenced discussion among a variety of IEP team meeting members, including teachers, administrators, and the teacher for the deaf and hard of hearing. During these meetings the Student's IEP team discussed how the social communication component of the Parent's concerns were being supported by SDI in the Student's IEP as well as the Student's BSP.

The Department does not substantiate this allegation.

Requirement for Least Restrictive Environment

The Parents alleged that the District violated the IDEA when it suggested a change in the Student's educational placement in response to the Parent's request that the Student receive additional instruction or support in American Sign Language.

¹¹ OAR 581-015-2205(1)—(5)

Districts must ensure that, to the maximum extent possible, students with disabilities are educated with students who do not have disabilities. Districts should only use special classes, facilities, and removal from the general education environment when the nature and severity of the disability makes educating such students impractical in the regular education classroom.¹² The educational placement of a child with a disability is determined by a group of persons, including the parent, and other person knowledgeable about the child, the meaning of evaluation data, and placement options.¹³ District must provide prior written notice to the parent of a child when they propose or refuse, to initiate or change the educational placement of a child.¹⁴

On January 5, 2024, the Parents and the District exchanged emails regarding the Student's potential need for instruction in ASL. During the previous day's IEP Team meeting on January 4, 2024, the Parents' Advocate had suggested that the Student's IEP team could benefit from the presence of a representative from the Oregon School for the Deaf attending the Student's IEP Team meetings. In response to this suggestion the District, but email, asked if the Parent if they wanted the District to follow-up with that request. The Parent declined the request. The record does not support that the District proposed a change of placement for the Student. Furthermore, the alleged events are outside of the timeframe for this Complaint.

The Department does not substantiate this allegation.

VII. CORRECTIVE ACTION

*In the St. Helens School District
Case No. 25-054-007*

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

Action Required	Submissions	Due Date
1. Grant the Parents' IEE requests or file for due process to demonstrate the appropriateness of the District's evaluations of the Student.	Copies of communication to Parents granting IEE request or notice of District filing for Due Process.	Within 30 calendar days from the date of this order.
2. Provide training to staff on the legal requirements of IEE requests.	Training agenda/materials to District Support Specialist for review/approval.	June 5, 2025

¹² OAR 581-015-2240(1)—(2)

¹³ OAR 581-015-2250(1)

¹⁴ OAR 581-015-2310(2)(a)—(2)(b)

	Sign-in sheet for training.	September 1, 2025
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Dated: this 4th Day of April 2025

Ramonda Olaloye

Ramonda Olaloye
Assistant Superintendent
Office of Enhancing Student Opportunities

E-mailing Date: April 4th, 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 provision of ORS § 183.484. (OAR 581-015-2030 (14).)