

BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of)	FINDINGS OF FACT,
Marcola School District 79J)	CONCLUSIONS,
)	AND FINAL ORDER
)	Case No. 25-054-011

I. BACKGROUND

On February 25, 2025, the Oregon Department of Education (the Department) received a written request for a special education complaint (Complaint) from the parents (Parents) of a student (Student) residing in the Marcola School District (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 to engage in mediation or local resolution or for exceptional circumstances related to the complaint.²

On March 5, 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 March 19, 2025. Prior to the due date, the District requested an extension of two days to complete gathering responsive documents. On March 21, 2025, the District submitted a *Response*, disputing the allegations described in the Complaint. The District submitted the following relevant items:

1. District *Response*, 3/21/2025
2. Prior Notice about Evaluation/Consent for Evaluation, 2/19/2025
3. Prior Notice about Evaluation/Consent for Evaluation, 11/12/2024
4. Permission to Obtain and Release Information, 10/9/2024
5. Prior Notice about Evaluation/Consent for Evaluation, 2/19/2025
6. Referral for Services, 2/19/2025
7. CVI Screening Tool, 4/23/2024
8. Student IEP, 10/31/2023
9. Prior Notice of Special Education Action, 5/2/2024
10. School Based Physical Therapy Evaluation, 4/15/2024
11. Speech Evaluation, 4/15/2024

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

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

12. Student IEP, 10/31/2023 (Amended 5/2/2024)
13. Special Education Notice of Team Meeting, 1/5/2024
14. Prior Notice of Special Education Action, 5/2/2024
15. School Based Occupational Therapy Evaluation, 4/2/2024
16. Psychological Evaluation, 4/15/2024
17. Communication Evaluation, 3/27/2024
18. Occupational Therapy Evaluation, 8/27/2024
19. Plan of Care, Speech Therapy, 3/27/2024
20. Prior Notice about Evaluation/Consent for Evaluation, 1/26/2024
21. Authorization to Use and Disclose Protected Health Information, 1/23/2024
22. Physician Therapy Treatment Session, 8/1/2023—11/12/2015
23. Speech Services Plan of Care, 3/27/2024
24. School Based Physical Therapy Evaluation, 4/15/2024
25. Psychological Evaluation, 4/15/2024
26. Neuropsychological Evaluation Report, 4/17/2024
27. Functional Behavior Assessment Report, 2/8/2024
28. Positive Behavior Support Plan, 2/10/2023
29. Prior Notice of Special Education Action, 10/30/2023
30. Student IEP, 10/31/2023
31. Special Education Notice of Team Meeting, 10/27/2023
32. IEP Team Meeting Notes, 11/1/2023
33. Annual Academic and Functional Goals and Objectives, Progress Report, 10/31/2023
34. Student Grade Report, 2023/2024
35. IEP Team Meeting Transcript, 2/19/2025
36. IEP Team Meeting Transcript, 3/11/2025
37. District's Written *Response*, 25-045-011
38. IEP Team Meeting Transcript, 3/3/2025
39. IEP Team Meeting Transcript, 11/12/2024
40. IEP Team Meeting Transcript, 10/9/2024, 10/22/2024
41. Referral Team Meeting Notice, 2/5/2025
42. Referral Team Meeting Notice, 2/28/2025
43. Special Education Notice of Team Meeting, 9/13/2024
44. Special Education Notice of Team Meeting, 9/19/2024
45. Student IEP, 9/18/2024
46. Special Education Notice of Team Meeting, 9/13/2024
47. Prior Notice of Special Education Action, 11/12/2024
48. IEP Team Meeting Notes, 9/18/2024
49. IEP Snapshot, 9/18/2024
50. Parental Concerns Statement, 11/13/2024
51. Prior Notice of Special Education Action, 9/18/2024
52. Prior Notice of Special Education Action, 11/12/2024
53. Prior Notice of Special Education Action, 10/22/2024
54. Prior Notice of Special Education Action, 10/17/2024
55. Prior Notice of Special Education Action, 10/9/2024

56. Prior Notice of Special Education Action, 10/27/2024
57. Prior Notice of Special Education Action, 12/17/2024
58. Prior Notice of Special Education Action, 2/21/2025
59. Prior Notice of Special Education Action, 2/19/2025
60. Prior Notice of Special Education Action, 2/21/2025
61. Prior Notice of Special Education Action, 2/19/2025
62. Prior Notice of Special Education Action, 2/24/2025
63. Prior Notice of Special Education Action, 2/24/2024
64. Student Special Education Records sent to District, 9/24/2021
65. Special Education Notice of Team Meeting, 9/13/2024
66. Program Exit Form, 10/9/2023
67. Special Education Notice of Team Meeting, 3/6/2025
68. Referral Team Meeting Notice, 2/8/2025
69. Referral Team Meeting Notice, 2/5/2025
70. Referral Team Meeting Notice, 2/28/2025
71. Referral Team Meeting Notice, 9/19/2024
72. Special Education Notice of Team Meeting, 3/13/2025
73. Facilitated IEP Request Form, 1/14/2025
74. Referral for Services, 2/19/2025
75. Student Progress Report, 8/1/2024—3/21/2025
76. Special Education Service Delivery Model
77. Prior Notice about Evaluation/Consent for Evaluation, 2/19/2025
78. Student Progress in OT goals
79. Student IEP Progress Report, January 2025
80. Letter from District to Parent, Re: CVI Screener
81. Comprehensive Ophthalmology Exam, 8/14/2024
82. Student Overall Growth, January 2023
83. 24-054-043, 10/4/2024
84. Student IEP Draft, 9/18/2024
85. Physician Letter, 8/14/2024
86. Student IEP Draft, 9/18/2024
87. Parental Concerns Statement, 11/13/2024
88. Copies of relevant emails sent to District staff

On March 11, 2025, the Department's Complaint Investigator interviewed the Parents. On March 11, 2025, the Parents submitted documents in response to the complaint. On April 2, 2025, the Parents submitted a written response to the District's *Response*. On April 8, 2025, and April 15, 2025, the Department's Complaint Investigator communicated with the District's Attorney (Attorney) to clarify issues in the District's *Response*. 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 26, 2024, to the filing of this Complaint on February 25, 2025.

Allegations	Conclusions
<p>Evaluation and Reevaluation Requirements</p> <p>It is alleged that the District violated the IDEA when,</p> <ul style="list-style-type: none"> a. the District refused the Parents’ request to evaluate the Student for Specific Learning Disability (SLD), relevant to the Student’s reading comprehension needs, despite evidence in the Student’s educational history and education records; b. the District had reason to suspect that the Student may qualify for special education under additional eligibility categories but did not evaluate the Student; and, c. the District refused to evaluate the Student for visual impairment despite the Parents request and the Parents presenting the District with an outside evaluation of the Student’s needs in this area. <p>(OAR 581-015-2105; 34 CFR § 300.301 & § 300.303, and OAR 581-015-2180; 34 CFR § 300.8 & § 300.306)</p>	<p>Not Substantiated</p> <p>The District refused to evaluate the Student for SLD because the Student had been evaluated for this within a one-year period.</p> <p>The Student entered the District with a recent evaluation showing the Student capable of reading at grade level, and that data available to the Student’s IEP team suggested that the Student did not require Specially Designed Instruction (SDI) in reading.</p> <p>The record supports that the Parents raised concerns about the Student’s possible visual impairment. The nature of the impairment would require either clinical data or additional screening. The District communicated to the Parents on November 13, 2024, that it had not received the required clinical data. On February 19, 2025, following the District’s observations about the Student’s visual needs, the District proposed evaluating the Student. The Parents provided consent for these evaluations after the filing of this Complaint.</p>

<p>Content of the IEP</p> <p>It is alleged that the District violated the IDEA when,</p> <ul style="list-style-type: none"> a. the District failed to include accurate and complete present levels statements in the Student's IEP. It is alleged that this was due to the District's failure to appropriately evaluate the Student's needs especially in mathematics, reading comprehension, and visual impairment; b. the social skill goal formulated by the District was not appropriate in order for the Student to make progress toward attaining that goal; c. the IEP goals formulated by the District lacked detail concerning how the goals would be measured and when progress would be reported; and, d. the IEP formulated by the District lacked an explanation of the extent to which the Student would not participate with children without disabilities in the regular education classroom. <p>(OAR 581-015-2200; 34 CFR § 300.320)</p>	<p>Not Substantiated</p> <p>The Student's September 18, 2024, IEP, was completed over the course of four IEP team meetings, culminating with the November 12, 2024, IEP team meeting. The District reported that most of the information about the Student resulted from the Student's IEP from the prior school district that the Student transferred from, and from the Parents. The Student's present levels data reflect that information from the prior school district and the Parents concerns.</p> <p>The record supports that the Parents concern was not the goal, but the method by which the District implemented the SDI.</p> <p>The Student's IEP included how the District would measure progress toward goals, and that the District would provide written progress notes with grade reports.</p> <p>The Student's IEP did include a description of the extent to which the Student would be removed from the general education environment.</p>
<p>Prior Written Notice</p> <p>It is alleged that the District violated the IDEA when it did not issue a Prior Written Notice (PWN) despite refusing the Parents request to evaluate the Student on several</p>	<p>Not Substantiated</p> <p>The District issued PWN to the Parents on November 12, 2024, responding the Parents concerns about evaluating the</p>

<p>occasions for concerns including reading comprehension, visual impairment, and visual processing disorder.</p> <p>(OAR 581-015-2310; 34 CFR § 300.503)</p>	<p>Student for reading, observing that the Student was previously evaluated less than one year prior to the request.</p>
<p>When IEPs Must Be In Effect</p> <p>It is alleged that the District violated the IDEA when it failed to provide the Student with services and accommodations listed in the Student's IEP. Specifically, it is alleged that the District did not implement the Student's IEP from a previous school district after transferring into the District. It is further alleged that the District did not provide the Student with services and accommodations from the IEP formulated by the District. It is alleged that this was especially true for the Student's assistive technology services, sensory accommodations, and well as specially designed instruction in language arts and social skills.</p> <p>(OAR 581-015-2220; 34 CFR § 300.323 & § 300.324)</p>	<p>Not Substantiated</p> <p>The record supports that the Parents agreed to formulate a new IEP upon enrollment in the District and agreed that many of the services in the IEP from the Student's prior school district were not appropriate for the Student's new educational placement in a virtual charter school. While the District did fail to provide language arts consultation, there is no evidence that this impacted the Student's ability to make progress towards their goals.</p>
<p>IEP Team</p> <p>It is alleged that the District violated the IDEA when it made changes to the Student's IEP without convening an IEP team meeting with the requisite IEP team members, including the Parents. It is alleged that this occurred when the District removed physical therapy, behavior supports, and autism consultation from the Student's IEP.</p> <p>(OAR 581-015-2210; 34 CFR §§ 300.344, 300.321, & 300.324(1)(3) & (b)(3))</p>	<p>Not Substantiated</p> <p>The record supports that the Student's IEP team, including the Parents, discussed physical therapy, behavior supports, and autism consultation minutes over the course of the IEP team meetings convened to formulate a new IEP for the Student.</p>

<p>Access to Student Education Records</p> <p>It is alleged that the District violated the IDEA when it failed to provide the Parents with access to the Student's education records, specifically records relevant to individuals who may have had access to the Student's records, or to whom the Student's record were disseminated.</p> <p>(OAR 581-015-2300; 34 CFR § 300.501 & 34 CFR § 303.405(a))</p>	<p>Substantiated in Part</p> <p>The record supports that the District afforded the Parents an opportunity to review the Student's records on January 21, 2025, and that the Parents had access to other information requested.</p> <p>The record supports that personally identifiable information about the Student and Parents was disclosed to another family in the District.</p>
<p>Free Appropriate Public Education (Denial of FAPE)</p> <p>It is alleged that the District violated the IDEA when it did not implement the Student's IEP, specifically services, accommodations and specific specially designed instruction noted above. It is also alleged that the District violated the IDEA when it removed physical therapy, behavior services, and autism consultation time for staff from the Student's IEP, without an IEP team meeting. It is alleged that these actions denied the Student a FAPE.</p> <p>(OAR 581-015-2040; 34 CFR § 300.101)</p>	<p>Not Substantiated</p> <p>The record in this case supports that the Student's IEP team was working to formulate a new IEP, rather than implement the previous IEP, and did discuss changes to physical therapy, behavior services and autism consultation time during IEP team meetings held to develop the Student's new IEP.</p>

<p>REQUESTED CORRECTIVE ACTION</p> <p>The Parents request that the District:</p> <ul style="list-style-type: none"> • Require training of all staff in the district on the process of referral for special education testing, especially focusing on how students do not need to go through the MTSS/RTI process before they are eligible for testing under the IDEA. • Require training for the district and school staff on the process for testing students for special education. • Require district staff training on identifying students for visual impairment under the IDEA. • Direct the District to refer the Student to the regional ESD vision specialist for testing. • If the Student qualifies for services as a result of this testing, require the District to provide compensatory service due to delay in testing, reading comprehension, written

expression.

- Direct the District to convene an IEP meeting to:
 - Add goals in reading comprehension and math word problems.
 - Obtain consent to correct all the errors in the IEP as detailed in the complaint (nonparticipation justification, rewrite goals to be time sensitive and measurable, remove any modifications from the IEP).
 - Order specific tests or assessments to inform the team and update the present levels.
 - Recommend specific testing in reading comprehension and issue the consent to test.
 - Add SDI in reading comprehension to address written expression and speech goals, with a plan for the Student to make progress in written expression.
 - Discuss whether the services listed in the Student's IEP are appropriate.
- Direct the District to find or create an appropriate social skills group setting for the Student's SDI.
- Require the District to complete training:
 - How to write an IEP that meets state and federal [requirements];
 - Writing PWN that meet IDEA requirements;
 - Separating area of need in SDI;
 - Writing progress reports;
 - Writing IEPs for students who transfer into the District; and
 - Correct handling of protected student documents.
- Require the District to issue corrected PWNs with correct information regarding the action or refusal to take action and the reason for those decisions.
- Require the District to offer compensatory services, accommodations, or SDI should visual impairment/visual processing disorder and needs, if assessments determine these are needed.
- Require the District to provide the accommodations listed in the Student's IEP.
- Require the District to apologize to the Parents.
- Require the District to establish guidelines to avoid sharing protected student information.
- Require the District to have a specified staff member to track student privacy issues.
- Require the District to provide a list of people who may have had access to the Student's educational file.

III. FINDINGS OF FACT

1. The Student in this case is in the 6th grade, and attends Teach-NW (TNW), a virtual charter school sponsored by the District. The school was selected by the Parents. The Student attends class online and receives some services in person through

regional locations. During the 2023-24 school year, the Student attended school in a prior school district in person. The Student is eligible for special education under the categories of Autism Spectrum Disorder (ASD) and Other Health Impairment (OHI).

2. The Student is very polite and respectful and enjoys telling stories about what they know. Math and science are the Student's academic strengths. The Student loves learning how the world works.
3. On March 14, 2025, the Student's prior school district completed a School-based Physical Therapy Evaluation.
4. On March 15, 2024, the Student's prior school district completed a Speech Evaluation for the Student.
5. On March 27, 2024, the Student's prior school district completed a Communication Evaluation for the Student. The evaluation suggested speech-language pathology services for the Student to address social communication and higher-level thinking skills. The evaluation provided suggestions on therapy frequency and focus.
6. On April 2, 2024, the Student's prior school district completed a School Based Occupational Therapy Evaluation for the Student. The evaluation determined that the Student would likely require occupational therapy services to access the educational environment, especially services to address fine motor skills for writing.
7. On April 15, 2024, the Student's prior school district completed a Psychological Evaluation as part of the Student's triennial evaluation. The evaluation found that the Student continued to meet eligibility requirements for both ASD and OHI. The evaluation provided a summary of the various tests and evaluation tools utilized.
8. The Student's prior district completed an IEP on May 2, 2024, which was based on the completed evaluations. The results of those evaluations had been reviewed at meetings on April 15, 2024 and April 23, 2024. As the result of those evaluations the Student's present levels of academic achievement and functional performance were updated to include occupational therapy, physical therapy, speech, and psychological observations and assessment results, and information shared by the team.

The Student's goals were updated to include the removal of reading goals as the result of the Student nearly meeting their reading goal with 70% accuracy, and skills indicating the Student is in the average at grade level. The Student's math and writing goals were updated to align with new observations and assessment data. Speech goals were added.

The Student's reading services were removed given that no goals were needed.

However, The Student's IEP team left accommodations in place to assist the Student in reading. The team also made adjustments to service minutes times for the Student's physical therapy, speech language pathology services, and other program modifications and supports. The Student's prior school district documented these changes in a PWN document dated May 5, 2024.

9. On May 2, 2024, the Student's prior school district determined the Student's educational placement would be in their neighborhood school, where they would spend 80% or more of their time in the general education environment. The IEP team determined that the Student but would be removed from the general education environment for small group, individualized instruction in a separate setting for speech, language arts, math, and social skills. The Student would receive adult assistance, with scheduled time outside of the general education classroom for core subjects, but the IEP ensured times for participation in general education classrooms and activities.
10. The Student's May 2, 2024, IEP amended their October 31, 2023 IEP. The Parents noted concerns in academic progress, but voiced concern that the Student's progress may stall due to changes in setting and curriculum. The Parents had concerns that the Student's behaviors may limit their access to the general education environment, curriculum, and peers. The Parents reported that, if the Student becomes stressed or scared, they may elope, or have difficulty communicating appropriately. The Parents reported that the Student excels at math and science in the general education environment with accommodations, but may become easily distracted.
11. On May 2, 2024, the Student's IEP was amended by the prior district to remove the Student's reading goal because they met their goal. The Student was able to read grade level passages with 99% accuracy and was able to answer comprehension questions with 55% accuracy. The Student was then generally not showing a need for SDI.
12. The May 2, 2024, IEP included SDI in social skills. The Student's goals included that by October 29, 2024, the Student would initiate work tasks independently across settings without prompting as measured by teacher observation and data collection with 80% accuracy.
13. The May 2, 2024, IEP included SDI in Math. The Student's goal indicated that, given grade-level word problems, the Student will identify the correct function of the problems with 90% accuracy as measured by teachers' observations, work samples and informal assessments.
14. The May 2, 2024, IEP included SDI in language arts. The Student's goal indicated that, following teachers' guidance and support, using graphic organizers, anchor

charts, or sentence starters, the Student will independently type 3 complete paragraphs with 3-5 complete sentences to include correct capitalization and punctuation with 70% accuracy as measured by work samples and informational assessment.

15. The May 2, 2024, IEP included SDI in social skills. One of the Student's social skills goal indicated that they would increase their ability to use self-advocacy skills (communicate with teacher to seek help, clarify instruction or requirements for academic tasks) with 70% accuracy, as measured by teacher observations and data collection. Another social skills goal indicated that the Student will increase their ability to use self-evaluate/monitor skills with 70% accuracy, as measured by teacher observations and data collection.
16. The May 2, 2024, IEP included SDI in Speech and Language. The Student's goal indicated that the Student would read or listen to grade-level text (informational or literature) and make one inference from the text on 4 of 5 opportunities in the speech therapy setting with one reminder of the definition of an inference as needed. The Student would identify the clues in the text that facilitated that inference in 4 of 5 observed opportunities with one verbal hint from the therapist as needed during a speech therapy session.
17. The May 2, 2024, IEP included SDI in Speech and Language. The Student's goals included that, by the annual review, "when provided with visual organization strategies and minimum verbal cues given, [the Student] will tell and/or retell organized cohesive stories containing key and relevant components (organized notations, character, setting, initiating event, response/characters feeling, plan, attempts/details, consequence, resolutions organization (in sequence and makes sense), and accurate grammar for 8 out of the 10 questions collected data and/or informal language sample."
18. The May 2, 2024, IEP included SDI in speech therapy. The Student's goal indicated that, given a scenario or visual/video, the Student would demonstrate the ability to identify and discuss how to be a self-advocate for themselves within the general education classroom and learn strategies to increase their ability to use self-advocacy skills with 80% accuracy, as measured by Speech/Language Pathologist (SLP) observation data collection.
19. The Student's May 2, 2024, IEP indicated that the Student would receive 180 minutes of SDI in Written Language weekly in general education and specially education classrooms. The Student would receive 40 minutes of SDI in Math weekly in the general education and special education classroom. The Student would receive 30 minutes, weekly, of SDI in Communication, delivered virtually. The Student would receive 30 minutes of SDI in Social Skills, weekly, in all school sites.

20. The Student's May 2, 2024, IEP included related services of Occupational Therapy, delivered 480 minutes yearly, and Transportation daily to and from school.
21. The Student's May 2, 2024, IEP also included a variety of supplementary aids, services, and accommodations including that the Student never be required to write by hand, but may chose to when writing is less than one sentence. The Student is afforded alternate methods of demonstrating knowledge, multiple choice assessments when available, adult support to pre-teach routines and changes in routine. Additionally, the Student would receive alternate writing tools, flexible seating, preferential seating, frequent breaks, visual supports, technology devices, sensory supports, checks for understanding, chunking of assignments, transition warnings, a point card, and a health plan.
22. The Student's IEP May 2, 2024 IEP also included program modifications and support for school personnel, including 600 minutes of consultation for behavior, 180 minutes of consultation for autism, 15 minutes of consultation with the SLP, and 120 minutes of consultation for Physical Therapy.
23. At the conclusion of the 2023-24 school year, the Student's grade report indicated that the Student was passing all classes, showing partial mastery, mastery, or mastery that exceeds end-of-year grade-level learning.
24. On August 27, 2024, the Student's prior school district completed an Occupational Therapy evaluation for the Student. The evaluation documented deficits in fine and gross motor skills, with social emotional learning as contributing factors.
25. On September 9, 2024, the Parents enrolled the Student in the District.
26. On September 13, 2024, the District sent the Parents a Notice of Team Meeting scheduled for September 18, 2024 for the purpose of developing or reviewing the Student's IEP and educational placement. The meeting time was previously arranged and agreed to by the Parents through email correspondence with the District.
27. On September 18, 2024, the Student's IEP team met to work on the Student's IEP transferred from the Student's prior school district, and to craft an offer of FAPE for the Student. The Parents voiced concerns that the Student may have regressed in their skills during the prior school year, and that the Parents wanted the Student to have direct instruction for comprehension. The Parents raised concerns that the Student could not pragmatically share things that are wrong, and that the Parents were not comfortable with self-advocacy goals for the Student at this stage. The Parents requested a vision assessment for the Student.
28. On September 18, 2024, the District sent the Parents PWN documenting the agreement to reconvene the Student's IEP team after October 7, 2024, to continue

- work on the Student's transfer IEP. The PWN observed that the District stood ready to reconvene at an earlier date if the Parents were able to. The District documented that it offered a September 25, 2024 date, which was declined by the Parents in favor of the October 7, 2024 date. The PWN further observed that the available present levels data from the prior school district and information from the Parents indicated that continuing with the special education process best met the Student's needs. The PWN also included that the Parents voiced concerns then about additional area of eligibility in visual impairment. The PWN documented that "[c]lincial evidence provided at this time suggests no verifiable substantiation."
29. On September 19, 2024, the District sent the Parents a Notice of Team Meeting scheduled for October 7, 2024 to continue the IEP team meeting started September 18, 2024.
30. On October 9, 2024, the Student's IEP team met. As part of this meeting, the team discussed the Student's PT and OT needs. Mentioned during the meeting were PT and OT consult times and prior evaluations administered to the Student. The District's PT was present for the meeting and inquired of the Parents their observations and concerns with the Student's PT and OT needs. The Parents further discussed the various sensory needs and tools used in the home.
31. On October 9, 2024, the District sent the Parents PWN documenting that the District wished to proceed with providing the Student with a full offering of FAPE, with the District expressing a preference to have met at an earlier date. At the Parents' request, however, the team met on October 9, 2024, , in order to delay the meeting to await the outcome of a complaint to the Department regarding the Student's prior school district, anticipated on October 4, 2024. The District also noted that, during the October 9, 2024 IEP team meeting, the team was unable to review all existing, present information to craft the complete offering of FAPE to meet the Student's needs. As a result, the IEP team would need to meet again to make determinations around goals and services in the new parent-selected placement at TNW, a virtual public charter school. On October 9, 2024, the team convened and made determinations around goals and services for the area of social skills to start the 2024-25 school year. The team further determined that to "facilitate conversation and decision making at the next meeting, preliminary, brainstorming conversations with the OT, SLP and any other necessary specialists may and should occur before the next IEP meeting, which has been scheduled for 10-22-24, 2:30-3:30 PM, via Google Meet. In the interim, Marcola SD/TNW continues to stand ready to craft and implement a complete and appropriate offering of FAPE since the date of enrollment, 9-9-24, or within 10 school days thereafter. It is proposed that this team continue to move process forward in as expedited manner as possible to ensure [the Student's] full access to FAPE."
32. On October 17, 2024, the District sent the Parents PWN reporting that the District

continue to stand ready to craft an offering of FAPE without delay in the new Parents-selected placement due to; “parent requested and accommodated meeting dates/times, complete team availability at those times, accommodated preliminary conversations among service providers and parent between meeting 10-9-24 and 10-22-24, and structure/flow of accommodated team review of complete and relevant information during meetings on 9-18-24 and 10-9-24. Marcola SD/TEACH-NW stand ready to propose a calculation of compensatory service minutes in all remaining, yet-to-be-initiated service areas, from meeting adjournment on 10-22-2024 forward, based on the following criteria: - any and all amended team determined services and minutes existing in the transfer IEP, as a part of this reasonable offering of FAPE in the parent selected placement - within new placement, and despite recent April 2024 re-evaluation, parent preference to not abide by all recommendations within transfer IEP from [prior school district] - retroactive from date of service initiation for the 24-25 school year (9-23-24), until said time goals and minutes in service area can be determined by team, on or anytime after 10-22-2024.”

The District indicated that the decision not to add SDI in math at that time was based on two IEP team meetings held to date and discussions therein, specifically, that the District had convened IEP team meetings on September 18, 2024, noon to 2:00 p.m., and October 9, 2024, 8:00-9:45 a.m. The District reported that during these meetings, the following pieces of crafting of offering of FAPE were discussed:

“9-18-24:

- Team introductions
- Review of transfer IEP attempted
- Parent expressed concerns around visual needs, and other areas that the prior district presented in error
- Team unable to review all information, recommend, discuss and craft goals in all services areas
- Per parent preference to await a meeting date after 10-7-24, while responses from an ODE complaint from other district could be received, the team scheduled to reconvene 10-9-24.
- After meeting, per email thread on 9-18-24, team agreement and parent consent to initiate social skills services, which were initiated on 9-23-24.”

“10-9-24 (Recorded Meeting, proposed agenda shared in advance):

- Team introductions
- Present levels for writing, math, OT (large and fine motor, sensory), communication (artic[ulation], social communication, and self advocacy), social skills
- Goal(s) crafted for social skills and team agreement to continue with these services 30 min/week
- Team unable to further discuss information, or craft goals in remaining

service areas.

- Team schedules to reconvene 10-22-24, 2:30-3:30 PM
- From transfer IEP, remaining service and goal areas around which team must make determinations, to craft a complete offering of FAPE:
 - written language
 - math
 - communication
 - occupational therapy”

The District recorded that this action was “based on the following evaluation procedures, tests, records, or reports:

- Oregon Parent Rights and Procedural Safeguards
- [Prior school district] transfer IEP and recent evaluation reports (April 2024)
- Parent and family team member reports and observations
- Direction Service Advocacy and Support
- School team reports and observations.”

The District considered continuing “with an offering of FAPE without consideration for a courtesy offering of compensatory services due [sic] extended timelines, while accommodations could be offered to family to complete process.” The District “rejected these options because: Following these guidelines supports parent and student rights, and fulfills LEA legal obligations as the provider of FAPE.” The District reiterated its interest in expediting the “process to extend a complete offering of FAPE to [the Student] without delay.”

33. On October 22, 2024, the District sent the Parents PWN declining to add SDI in math while the team worked to craft an IEP and offer of FAPE for the Student for the 2024-25 school year. The October 22, 2024, PWN stated, “After reviewing all relevant information available, multiple present level data points indicate that math is an area of strength for [the Student], and [they are] able to access grade level instruction in math with accommodations and supports at this time. These data points also show that [the Student] experiences impactful challenges the [sic] areas of social skills, sensory/motor, language and communication, and written language, which sometimes impact [their] processing of language based aspects to approaching and solving math problems. Therefore, the IEP team has crafted an offering of FAPE and an IEP which address these identified needs.”

The PWN indicated that this action was based on “[p]resent level data from: Most recent comprehensive re-evaluation, and associated data, as well as prior IEP team recommendations for this academic area, April 2024 Present level data from: IXL, Fall 2024 - 570-680 Composite - Within ‘at or near 6th grade skills’ range, MAPS, Fall 2024 - 223 Composite - Within “higher achieving range” for 6th grader in the fall ALEKS assessments, Fall 2024 - 70th percentile, demonstrating readiness for courses with prerequisite of QR 101, or equivalent, and within just above average range for

6th grade.”

The PWN further indicated that Parents request that, “Per parent request, crafting a math goal around mechanics of math operations, and visual replication of those steps, dependent on visual supports. In addition to not providing SDI in this area, also not providing services and accommodations associated with the sensory/motor and language needs impacting [the Student]’s continued progress in math.”

The PWN responded to these concerns observing that; “While [the Student] does not demonstrate a need for SDI in the area of math at this time, other impactful needs related to [their] primary eligibility of ASD do continue to impact [their] access to education at this time. According to multiple current data points, [the Student] demonstrates readiness to respond well to consistent and appropriate 6th grade math instruction, with application of accommodations to support [their] needs around language and sensory motor while receiving instruction, and when practicing and working to master new skills. As this [sic] complete offering of FAPE at this time, the district stands ready to provide appropriate and continued accommodations, direct and consultative services related to needs and eligibility that still impact [the Student] in making continued growth in math. [The District] further stands ready to revisit the potential suspected need for additional services and goals in math at any time they may become relevant to data indicated needs.”

The PWN further included that, “Parent is insistent that math goals are needed at this time, and is not in agreement with this part of [the District]’s offering of FAPE at this time. The Parents asserted that SDI in math was appropriate because, “[p]rior math goals showed little to no progress for 2 years prior, despite similar goal remaining.”

The PWN included reports from the District team addressing the following:

- “Since all other math data indicators demonstrate an area of strength in math, with readiness to access instruction at grade level, while challenges related to identifying, prioritizing, and applying key information in problem solving remain, both the prior school IEP team, and this IEP team suspect this to be a language related issue, rather than one related to math skills.
- This IEP team believes serving language based needs will support [the Student] in improving in this area.
- Fall data indicated some decline in performance and achievement, but this is not unusual at the beginning of the year for any benchmarking or diagnostic assessment, and at any grade level, as students have not yet received a full year of grade level instruction in this academic area, but are exposed to questions covering that content. This is still a typical and developmentally appropriate part of growing in math skills throughout a student’s education, at various stages. Math remains a consistent area of

strength for [the Student].”

34. On October 27, 2024, the District sent the Parents PWN documenting the IEP team’s progress toward formulating the Student’s IEP and offer of FAPE following IEP team meetings held on September 18, 2024, October 9, 2024, and October 22, 2024, the District provided the following offer of FAPE for the 2024-25 school year, and stood ready to implement it starting the week of 10-28-24:

Goals: “Academics, speech and language, and OT, as written and agreed to during last recorded meeting, 10-22-24.”

SDI and Related Services: “Academic Skills: 30 min/week in written language, (to be scheduled and initiated without delay); Social Skills: 30 min/week, (already offered since week of 9-23-24, and initiated, with two unexcused missed sessions, 10-7-24, and 10-14-24); Study Skills: 30 min/week, (to be scheduled and initiated without delay);” and, “Related Services: 40 min/week in speech and language (increase made after parent expressed concern w/ proposed 30 min/week in possible small group sessions, to be scheduled and initiated without delay week of 10-28-24), and 30 min/week in OT (already scheduled, to be initiated week of 10-28-24).”

Accommodations and Supports to Personnel: “In correlation to current team determined needs, goals and services in this parent selected placement, and as written in the transfer IEP, until future amendments can be made. (Service areas and correlating accommodations not yet discussed can and will be considered, discussed, and presented for team determinations, inclusive to any and all compensatory service minutes relevant at that time, during future meeting(s), while all relevant information is reviewed.)”

Progress reports: “During regular reporting periods.”

Compensatory services: “At this time, and using annual metrics for the presently recommended services as part of the initial partial offering of FAPE, with services initiating for same age peers the week of 9-16-24:

- Social skills - Initiated week of 10-23-24, with two 30 minute sessions missed (10-7-24, and 10-14-24): 120 minutes of compensatory services to be provided
- Academic skills - Proposed to be initiated as part of the initial, partial offering of FAPE, week of 10-28-24: 150 minutes of compensatory services to be provided
- Study skills - Proposed to be initiated as part of the initial, partial offering of FAPE, week of 10-28-24: 150 minutes of compensatory services to be provided

Related services: “Speech and Language - Proposed to be initiated as part of the

initial partial offering of FAPE, week of 10-28-24: 200 minutes of compensatory services to be provided;” and “OT - Proposed to be initiated as part of the initial partial offering of FAPE, week of 10-28-24: 150 minutes of compensatory services to be provided.”

The PWN recounted the previous IEP team meetings to date held September 18, October 9, and October 22, 2024, and referenced data, testing, the Student’s prior IEP, and IEP team meetings referenced above and in previous PWNs.

The October 27, 2024, PWN listed additional questions the Parents had and the District’s response:

- “1. Scheduling - How are service minute recommendations formulated, and why are small groups, rather than 1:1 sessions sometimes offered?
- 2. When will [the Student] receive speech and language direct service, and academic SDI for written language and study skills?
- 3. Remaining parts of IEP process - When will the team meet again to make team determinations on these details?
- 4. Team’s focus should remain on meeting [the Student’s] needs.”

The PWN included the District’s responses to these questions from the Parents:

- “1. Re: Scheduling - Direct service areas still needing to be scheduled are:
 - i. Speech and Language
 - ii. Study Skills
 - iii. Academic Skills in Written Language
 - iv. Direct service areas already scheduled, waiting to be implemented:
 - v. Occupational Therapy
 - vi. Direct service areas already scheduled and implemented:
 - vii. Social Skills
- 2. Re: Remaining areas of process still needing to be completed during a 4th meeting - The team will discuss how recommendations on service minutes are formulated, as well as recommendations around small group vs. 1:1 at next meeting.
- Scheduling in advance for the week of Nov. 10, 2024 has been suggested, and [the District] stand[s] ready to proceed.
- 3. Re: Meeting [the Student’s] needs – [the District] is focused on meeting [the Student’s] needs in this parent selected placement.”

35. On November 11, 2024, the District sent the Parents PWN, proposing to evaluate the Student to determine the Student’s needs in receptive and expressive language skills and what special education services may be necessary to support their educational needs.

36. On November 12, 2024, the Student’s IEP team met again to complete the Student’s September 18, 2024, IEP. At this time the Student’s present levels statements were

updated to include information observed to date about the Student, and include information and concerns from the Parents.

37. The Student's September 18, 2024, IEP, completed November 12, 2024, included goals in the following areas:

Occupational Therapy - 1, "[The Student] will independently following visual directions (in picture form) to sequence a multi-step activity (e.g. robotics, art projects, etc.) with 80% accuracy 3/4 opportunities." Progress toward this goal would be measured through teacher and parent data, and observations.

Occupational Therapy - 2, "[The Student] will independently identify the steps required to complete a project/long term assignments, create a checklist, estimate time needed for each step, schedule the tasks, and use the checklist to complete the tasks 3/4 opportunities." The goal included the following objectives:

- "[The Student] will independently identify the steps required to complete a project/long-term assignment and create a checklist with these steps with 80% accuracy 3/4 objectives"
- "[The Student] will independently estimate the time needed for each step and schedule the tasks in a planner/calendar 3/4 opportunities."
- "[The Student] will independently use the checklists to complete the project/long-term assignment 3/4 opportunities."
- Progress toward this goal would be measured through teacher and parent data, and observations, and Student work.

Occupational Therapy, "[The Student] will independently identify when [they are] feeling dysregulated, select a strategy for self-regulation, and use that strategy in order to maintain a calm and focused state for learning 3/4 opportunities."

- "[The Student] will independently identify when [they are] dysregulated (as determined by parent/teacher observation) 3/4 opportunities."
- "[The Student] will independently select a strategy for self regulation 3/4 opportunities."
- "[The Student] will independently use the strategy selected 3/4 opportunities.]"
- Progress toward this goal would be measured by teacher and parent evaluations and observations.

language arts, "Given specially designed instruction as well as visual supports such as a graphic organizer, [the Student] will create a five or more sentence summary paragraph on a familiar topic which includes a topic sentence, relevant details, and a conclusion sentence in 3 out of 5 opportunities."

- "[The Student] will Identify a thesis/topic/main idea by December of 2024."
- "[The Student] will identify 3 details that support [their] main idea by March

of 2024.”

- “[The Student] will create a conclusion sentence by June of 2024.”
- Progress toward this goal would be measured by Student work, Curriculum Based Measures, and teacher and parent data.

Social Skills, “When participating in a social interaction, [the Student] will demonstrate the ability to share or understand perspective with others in 3/5 opportunities.”

- “When interacting in a group, [the Student] will ask curious questions of [their] partners to understand what they already know, or may need to know, by January 2025.”
- “When interacting in a group, and discussing a topic of interest, [the Student] will allow opportunities for partners to share their knowledge in 3/5 opportunities by April 2025.”
- “When interacting in a group, [the Student] will actively listen and summarize/retell what [they understand] of others’ experience in 3/5 [sic] by June 2025.”
- “When interacting in a group, [the Student] will actively listen and compare/contrast details of others’ experience in 3/5 opportunities by November of 2025.”
- Progress toward this goal would be measured by observations and teacher and parent data.

Communication – Self Advocacy, “In a 1:1 or small group setting, in picture/video/real-life scenarios, [the Student] will identify, explain and demonstrate self-advocacy skills by requesting help and/or communicating [their] needs in 4/5 observed opportunities a) with 1-2 prompts, b) with a visual prompt, then c) independently by the time of [their] next annual IEP review.” Progress toward this goal would be measured by SLP and, or [sic] teacher observations and data taking probes.

Speech – Expressive & Receptive Language, “Given [their] reading level text read aloud (informational or fictional text), [the Student] will make at least one inference from the text and identify the clues that facilitated that inference with 80% success, a) with one prompt/hint or b) independently.” Progress toward this goal would be measured by SLP data and observation.

38. Speech – Expressive & Receptive Language, “When given visual organizers and supports (e.g., sentence frames) and minimal verbal cues, [the Student] will tell and/or retell informational or narrative text read aloud (e.g., stories, preferred information, paragraphs such as math word problems, etc[.]) in a cohesive and complete manner by providing the following within [the Student’s] telling with 80% success in 3/4 data taking opportunities by the time of [their] next annual IEP review:

- “identify all story elements (e.g., character, setting, problem/event, plan, solution, etc)”
- “identify key words and their meaning if applicable”
- “identify at least 3 details”
- “provide all information together in an organized/sequenced manner”
- “produce complete and grammatically correct sentences”

Progress toward this goal would be measured by SLP and, or teacher data and observation.

The Student’s IEP provided 30 minutes of SDI weekly for each of the following services: language arts, Social Skills, and Communications. The Student’s IEP include 30 minutes per week of Occupational Therapy services.

The Student’s IEP included supplementary aids and services to include noise cancelling headphones, text to speech/speech to text, scribe and/or typing available or speech to text, including that the Student is not required to write by hand. Additionally the Student’s IEP included the accommodations to have alternate methods to demonstrate mastery of material, multiple choice assessments when available, flexible seating such as ball chair, or chair with arms, preferential seating to ensure the Student has space to spread out, frequent breaks, visual supports, sensory support, access to tech devices, checks for understanding, work reduced to show proficiency, chunking of assignments, and transitions warnings.

The Student’s IEP also included 30 minutes per month of ELA Instructional Consult, and 30 minutes per month of Speech and Language Consult.

39. Each of the Student’s goals indicated that the written progress notes would be provided with regular grading periods.

Attached with the Student’s IEP was the Student’s Special Education Placement Determination. The placement determination indicated that the Student would spend 30-80% of the day in general education classes. The Student would have access to general curriculum, support services designed to meet the Student’s unique needs, and receive individualized, small group instruction in a focused environment.

40. During the November 12, 2024, IEP team meeting the Parents inquired about consultation service minutes for OT. The District responded that the Student’s case manager was always available to respond to emails to support the Parents. The District also observed that consult times were generally related to direct services, and that the Student’s IEP did not include direct OT and PT, and therefore no consult services. As part of this conversation, the District noted that it would add ELA instructional consult to address the Parents concerns.

At this same meeting, the team discussed whether the Student's behavior impeded their learning. The meeting transcript reflects that the Parents noted that the checkbox, whether behavior impedes the student's learning, had always been checked on the Student's IEP, and that to date the team had not discussed the issue. In response, the District inquired whether this was still relevant, to which the Parents responded, "but we can address during the re-eval this spring."

41. On November 12, 2024, the District sent the Parents PWN, documenting the District declining to add SDI in reading. The District also noted that it would continue to gather more information and plan interventions to assist the Student. The District wrote in relevant part that the "team has information to support the initiation of instructional interventions in the area of reading, and will review progress monitoring data over time. The team will review all available information to determine when/if reading should be added to the IEP." The PWN recounted that the Student's most recent evaluation in the Spring of 2024, the Student's transfer IEP, report card from the transferring district, fall 2024 benchmark data from MAP and IXL testing, showed grade level instructional readiness, and need for skill strands for intervention. The PWN went on to recount and respond to the specific concerns the Parents raised which gave rise to the PWN.

"Parent wishes to add reading SDI at this time. Parent has concerns regarding IEP goals which repeat from year to year. Parent believes [Student] needs reading SDI at this time in order to access FAPE and prefers this to interventions with progress monitoring before reading SDI is added. Parent has provided the following additional information to include as a part of this record: November 2023 progress report: When given a 3rd grade level passage, [the Student] was able to answer inferential question with 50% accuracy. When given a 2nd grade level passage, [the Student] was able to answer inferential question[s] with 75% accuracy."

"Response: [the District] receive[d] this information and understand that more current comprehensive evaluation data indicate average levels of skill and function for reading, according to the Woodcock Johnson assessment conducted spring of 2024, transfer IEP present levels, and Trimester 3 report card. [The Student] continues to make steady progress, and demonstrate readiness for intervention and grade level instruction according to these indicators. May 2024: [the Student] is using a direct instruction curriculum to work on [their] comprehension skills. [The Student] has a hard time finding the answer if they are implied or [the Student] needs to use context clues."

"Response: Needs associated with inference and implied information are grade level appropriate at 6th grade, and are addressed in the current IEP as a part of the language arts goal and SDI, as well as Communication and Language services and goals as a part of this offering of FAPE. Data indicators demonstrate readiness for

grade level instruction and interventions. The team will continue to gather and review information as interventions progress for reading. During the meeting 11-12-24, parent disclosed that interventions have not yet begun this school year.”

The Parents asserted that specific test data supported that the Student required SDI in reading, specifically, “Winter 2024 EasyCBM: Winter: 11 (55% accuracy, 18th percentile.”

“Response: [the District] receive[d] this information and understand that more current comprehensive evaluation data indicate average levels of skill and function for reading, according to the Woodcock Johnson assessment conducted spring of 2024, transfer IEP present levels, and Trimester 3 report card. [The Student] continues to make steady progress, and demonstrate readiness for intervention and grade level instruction according to these indicators.

The Parents provided the following data in support of SDI in reading: “DIBELS 8th ed Maze (administered by a private speech therapist):

- 5th Grade - March 27, 2024: 8.5 (The cutoff for intensive support in the Fall is 10, Winters *[sic]* is 14, and Spring is 17.5)
- 6th Grade - August 22, 2024: 9.5 (The cutoff for intensive support in the Fall is 12, Winter is 14.5, and Spring is 20)”

“Response: [the District] stands ready to perform a more current DIBELS assessment in the parent selected educational placement, and provide information to advise interventions based on that data. The team will continue to review all information and amend the IEP as needed, as well as provide all data for comprehensive review for the triennial evaluation, Spring 2025.”

The Parents also cited the following in support of SDI in reading: “The information provided above shows a history of struggling in the previous school by their own progress reports and by an outside speech therapist’s administration of the DIBELS Maze test in addition to the testing done at [the District] since [the Student] transferred back (IXL and MAPS).”

“Response: The level of challenge indicated by multiple other data points support the recommendation for interventions while additional data is gathered, and continued access to grade level instruction. The team stands ready to review all information as it is collected.

In support of SDI in reading, the Parents also asserted that: “There is more than enough data to show specifically how [the Student] struggles, that interventions have not been successful (as [the Student] was getting a specific program last year), and that this is either part of an identified disability or an additional disability that needs to be tested for. I am again asking for [the Student] to be tested for a

disability in the area of reading comprehension as shown by years of tests and specialized instruction is a definite area of need.”

“Response: A comprehensive evaluation was conducted in the spring of 2024, by the prior district. This evaluation ruled out the need and eligibility for reading SDI at this time. Fall data shows readiness for grade level instruction and interventions, specifically with needs associated with inference and implied information, which are grade level appropriate at 6th grade. These needs are addressed in the current IEP as a part of the language arts goal and SDI, as well as Communication and Language services and goals as a part of this offering of FAPE. The team will continue to gather and review information as interventions progress for reading. During the meeting 11-12-24, parent disclosed that interventions have not yet begun this school year.”

42. On November 13, 2024, the Parents provided consent for the evaluations proposed by the District on November 11, 2024.
43. On November 13, 2024, the Parents provided a statement of concern that was incorporated into the Student’s IEP as part of the Parents concerns section of the Student’s IEP.

The Parents raised concerns that the Student’s medical providers suspect that the Student may have Cortical Vision Impairment (CVI), and that the Student may benefit from academic strategies to work on 3D objects, visualizing, and understanding graphical academics such as geometry, graphs, pictures, and visual instructions.

The Parents raised concerns that the Student’s self-advocacy goals may not be appropriate for the Student and that they may lead the Student to advocate for activities that may injure them. The Parents reported high levels of anxiety for the Student and general concerns about self-advocacy goals, specifically that requiring the Student to speak up socially are not directly related to self-advocacy and may have inaccurate results, may not be measurable, and may not be reasonable.

The Parents reported concerns about some of the data gathered by the Student’s previous school district, specifically questioning data around math, and whether it is reasonable to see regression or stagnation of math skills between fifth and sixth grade. The Parents advocated for addressing the Student’s math regression specifically.

The Parents asserted that, despite the removal of the Student’s reading goal, that the Student still struggles with reading comprehension. The Parent described that the Student reads so fast that they can’t comprehend what they are reading, and that this, coupled with their ADHD, requires them to read passages multiple times for comprehension. The Parents reported that these reading comprehension

difficulties follow the Student to math and all areas of their education. The Parents asserted that the Student required natural text-to-speech devices rather than those utilizing AI voices.

The Parents included concern that the Student's goals have been similar over multiple areas for at least the last two years, and that the Student's IEP then under consideration would include similar goals. The Parents reported concern that the Student had stagnated in some areas, and that the Student's goals are not achievable, not well written, and potentially not measurable.

44. On November 13, 2024, the District provided a response to the Parents concerns as outlined in their November 13, 2024, letter. This response was included in the Student's Present Levels statement for the September 18, 2024, IEP, completed in November.

The District observed that the Student's IEP team reviewed two clinical statements disclosing no new diagnoses, nor any known abnormalities. The team reported awareness that combining visual directions with verbal directions can be overwhelming to the Student. The most recent psychoeducational evaluation report from April 2024, indicated that the Student may experience dysgraphia, and reported results in the extremely low range in the visual spatial block design and visual spatial puzzles subtests. The District noted that these, "assessments involve multi-step directions that also require the subject to understand and apply multiple pieces of verbal information with specific details in order to carry out the tasks at hand with high levels of accuracy. Other subtests which require visual processing and reasoning, where subjects must apply these skills are fluid reasoning and working memory. For these tests, [the Student] scored within low average to average ranges, respectively. The IEP team is also aware of impactful ASD-related pragmatic language challenges, ADHD-related decreased focus and attention, and ASD-related sensory avoidance that may effect [sic] consistent functionality for more challenging demands requiring overlapping skills. It is not known if [the Student] has corrective lenses prescribed at this time. The IEP team has worked to craft an offering of FAPE that focuses goals, services, accommodations and supports around areas where consistent information substantiates suspected eligibility. Visual impairment is not an area of suspected potential eligibility at this time, as the team would need to agree that [the Student] may meet all criteria under OAR 581-015-2180, and then submit a referral for a visual specialist's inclusion among the team. These are not yet determinations among this IEP team. [The Student's] IEP team does stand ready to review all available information to consider this and all relevant suspected areas of eligibility at any time available information presented substantiates the suspicion."

The District further noted that Parents indicated that they "filled out CVI screeners for [the Student] provided by the Lane ESD Vision Specialist, though no referral has

been filed with Lane ESD for these screeners to be performed.” Further, the Parents share, “The score on each of the two screeners came back elevated far beyond the cutoff to initiate vision testing. During the screening process, we learned things [the Student] has always done that we didn’t know were markers for vision problems. This IEP team has not received these scores, or any associated report, and since no referral for [the Student] has been submitted to Lane ESD from this IEP team, nor [their] prior, no report is available that we are aware of.”

The District noted that the Parents “also [stated]: ‘As the [District] has refused to continue with vision screening by the Lane ESD Vision Specialist, we are concerned that the issues we see that impact [the Student’s] access to [their] education will not be addressed and that [they] will develop severe problems down the road that could have been mitigated had a Vision Specialist had the chance to evaluate [them] and provide intervention.’ No refusal has occurred. Further, no team recommendation for additional referral and evaluation for visual impairment has been determined by this IEP team. A referral was pending receipt of clinical information that would indicate diagnosis of a condition correlated to suspected visual impairment. No such clinical report has been received, but [the Student’s] IEP team stands ready to consider and refer to a visual specialist at such time a potential visual impairment is suspected.” The District noted that, in line with “parent preference, the team has determined that visual supports are beneficial to [to the Student], and have elected to write goals that include visual directions in OT, Speech and language arts to encourage continued growth and progress.”

Responding to the Parents concerns about the Student’s self-advocacy goals, the District observed that the “concerns outlined in this portion of the parent concern letter are being disclosed for the first time. During 4 prior meetings, parent indicated agreement to a self advocacy goal, which now reads: ‘In a 1:1 or small group setting, in picture/video/real-life scenarios, [Student] will identify, explain and demonstrate self-advocacy skills by requesting help and/or communicating [their] needs in 4/5 observed opportunities a) with 1-2 prompts, b) with a visual prompt, then c) independently by the time of [their] next annual IEP review.’ The IEP team stands ready to honor parent right to review this [sic] goals and amend according to team determinations. [The District] recommend[s] implementation of the IEP as written and a current offering of FAPE in order to determine efficacy, while gathering data to measure and observe growth.”

With regard to the Parents concerns about regression, the District noted that the Parents voiced concerns that the District stated that “regression is normal over the course of an instructional year. This is not what has been classified as normal. The statement was made that some ‘summer slide’ is normal, and [Extended School Year] can be considered at a later time if the team agrees there is a pattern of regression and extended recoupment after summer breaks. The IEP team spent a great deal of time crafting goals in every area where data shows they are needed,

and an offering of FAPE was extended 11-14-24 inclusive to extensive compensatory minutes offered in good faith, to recover lost SDI during the time the IEP team took to meet multiple times and provide parent necessitated accommodations. The IEP team further stands ready to keep [the] process open and review information as it becomes available, as well as schedule and hold SDI sessions as written into the IEP team [sic].”

In response to the Parents concerns about reading comprehension, the District reported that it had “accepted the transfer IEP as written and stood ready to review all available and relevant information as it was presented. From there, the IEP team spent a great deal of time crafting goals in every area where present level data showed they are needed. By law, this data needed to include the most recent re-evaluation, and from there, and after 4 IEP meetings, an offering of FAPE was extended 11-14-24, inclusive to extensive compensatory minutes offered in good faith, to recover lost SDI during the time the IEP team took to meet multiple times and provide parent necessitated accommodations. Reading comprehension was not an area of service the team determined [the Student] showed present level needs, but the IEP team further stands ready to keep [the] process open and review information as it becomes available, as well as schedule and hold SDI sessions as written into the IEP team [sic]. The team also determined to add an assistive tech specialist to the IEP team, and they stand ready to connect with [the Student] and [their] family to plan for next steps.”

Finally, regarding the Parents concerns about stagnant or repeating goals, the District noted that the Student’s “IEP team spent a great deal of time crafting goals in every area where present level data showed they were needed.” The District reported that many of the Student’s goals changed “in their entirety from the transfer IEP. Still, the present level data needed to craft the goals did include the most recent re-evaluation, as well as fall benchmarking. After 4 IEP meetings, an offering of FAPE was extended 11-14-24, inclusive to extensive compensatory minutes offered in good faith, to recover lost SDI during the time the IEP team took to meet multiple times and provide parent necessitated accommodations. The crafting of all goals included extensive parent input, discussion, and preference. [The District] stand ready to schedule and hold SDI sessions in all areas, and begin gathering progress monitoring data. In addition, the IEP team further stands ready to keep [the] process open and review information as it becomes available, as well as schedule and hold SDI sessions as written into the IEP team [sic].”

45. On December 17, 2024, the District sent the Parents PWN addressing the District’s offer of compensatory services. The PWN indicated that “using annual metrics for the presently recommended services as part of the continued offering of FAPE for the 24-25 school year, with services initiating for same age peers the week of 9-16-24.” The PWN indicated that compensatory services in social skills, academic skills, language arts, study skills, related services including speech and language,

occupational therapy services, consultative service included, “ELA Instructional Consultation,” and “Speech and Language Consultation”. As part of this PWN, the District documented the Student’s attendance at session, missed sessions, and the Parents acknowledgment of the District efforts to provide compensatory services.

46. In January 2025, the District produced an IEP progress report for the Student. On January 24, 2025, the District reported that the Student showed progress toward their goal in communication self-advocacy. On January 28, 2025, the District reported that the Student showed limited progress toward their first occupational therapy goal, limited progress toward their second occupational therapy goal, and was making progress toward their general occupational therapy goal. On January 24, 2025, the District reported the Student was making progress toward their speech—expressive and receptive language goal.
47. On January 21, 2025, the Parents sent an email to the District inquiring about a list of all persons who have accessed the Student’s IEP at school and outside of the school. On the same date, the District responded, acknowledging the Parents visit to the school office, writing, “As we discussed, we keep all [special education] records locked in Student Services, apart from the [general education] records. With the exception of myself and my assistant...no one outside of the assigned case managers and/or service providers are able to access this information at any time. Digital files are secured within our student information system, and only staff with login credentials assigned to specific students are able to view this information from this platform.”
48. On February 5, 2025, the District sent the Parents a Notice of Team Meeting scheduled for February 19, 2025, to review begin triennial reevaluation planning.
49. On February 19, 2025, the District sent the Parents PWN, documenting the District’s proposal to complete a comprehensive evaluation of the Student ahead of their triennial reevaluation date. The PWN observed that the Student was then eligible for special education under the categories of ASD and OHI. The PWN included the Parents additional concerns regarding executive functioning, augmentative communication, suspicions of Cortical Visual Impairment (CVI). The District proposed conducting a file review, Woodcock-Johnson Test of Cognitive Abilities, WJ Auditory and Phonological Processing Subtests, Behavior Rating Inventory of Executive Functioning, Conners behavior rating scales, and rating scales completed by the Parents, teachers, caregivers, and the Student. In addition, the District proposed administering Autism Spectrum Rating Scales (ASRS), TAPS-4—Listening Comprehensive and Processing Informal Social Communications Assessment with language, sample, Test of Visual Perception Skills (TVPS) Non-Motor, observations, and additional assessment such as file reviews and rating scales.
50. On February 19, 2025, the District referred the Student for evaluation of visual

processing due to the Parents suspicion of CVI.

51. On February 19, 2025, the District sent the Parents PWN documenting the District's readiness to complete the Student's triennial reevaluation. For all areas of eligibility, the District proposed observations and a complete file review. The District documented the rationale for this decision, stating that OAR 581-015-2130 (ASD) and OAR 581-015-2165 (OHI) require observations, and observing that conducting a file review is the best practice to validate academic impact, progress, and history.

The District further documented that at the request of the Parents, the District would evaluate the Student for executive function, to include a Behavior Rating Inventory of Executive Functioning (BRIEF) Rating Scales, TAPS-4 Phonological Processing, and Woodcock Johnson Cognitive (Auditory processing and comprehension subtests only). The District documented its rationale for these tests as, "Conducting renewed BRIEF in new parent-selected placement will reveal information relevant to that new placement. (Last BRIEF conducted in 2024 in prior placement.) Students with ADHD and ASD often experience challenges with executive function, which can impact their language and auditory processing and comprehension."

The District also noted that, for visual (impairment) processing, in good faith and at request of the Parents, the District would conduct the following assessments, "Inclusion of Visual Impairment Specialist from Lane ESD, Test of Visual Perception Skills (TVPS) Non-Motor, Review of Current Clinical Information." The District documented its rationale for these assessments including the inclusion "of visual impairment specialist in good faith, per parent request, may provide team with recommendations for further assessment, as well as additional information to consider around eligibility, accommodations, or services. TVPS will provide the team with information about visual perception and processing skills. OAR 581-015-2180 (VI) requires the review of current clinical information."

The PWN included that, to inform the Student's ASD eligibility determination, the District proposed the following testing, "Informal Social Communication Assessment, Review of Current Clinical Information, Autism Spectrum Rating Scales (ASRS)." The District documented that rationale for these assessments as, "OAR 581-015-2130 (ASD) requires social pragmatic language assessments to be conducted. OAR 581-015-2130 (ASD) requires the review of current clinical information. OAR 581-015-2130 (ASD) requires the review of behavioral, executive function, social, and self regulation assessment data."

The PWN included that, to inform the Student's OHI eligibility determination, the District proposed the following testing, "Conners Comprehensive Behavior Rating Scales, Review of current Clinical Information." The District documented that rationale for these assessments as, "OAR 581-015-2165 (OHI) requires the review of

behavioral, executive function, and self regulation data. OAR 581-015-2165 (OHI) requires the review of current clinical information.”

The District further documented that it stood ready to complete these assessments while considering the gathering of additional information as the team determines, if new needs reveal themselves during the process. The PWN went on to observe that since the Student’s “last evaluative assessments have been performed, [the District] presents as a new placement for [the Student], so despite some assessments having been performed a year ago, the renewal of this data in the new placement will support the IEP team in making eligibility determinations for this triennial cycle.”

The PWN indicated that the proposed assessments were based on teacher reports, concerns of the Parents, present levels data, and a review of case history. The District indicated that the Parents also wished to discuss Augmentative/Assistive Communication, and Learning Styles.

52. On February 19, 2025, the District sent the Parents PWN, declining specific testing requested by the Parents including the following assessments evaluating attention: IVA-CPT-2, TOVA, CPT, and CEFI 2. Assessments evaluating working memory, CVLT-C, WRAML-2, CEFI. Assessments for Planning and Organization, Rey Complex Figure Test, Tower Tests: Tower of Hanoi, D-KEFS Tower Test, and CEFI. Assessments for Inhibitory Control, Stroop Color-Word, Color Word D-KEFS, NEPSY-II, and CEFI. Assessments for Concept Formation, NEPSY-II, and D-KEFS. Assessments for Shifting Flexibility, Wisconsin Card Sort Test, D-KEFS, and Trail Making Test A & B. Assessments for Executive Function, BRIEF-2, CEFI, CVLT-C, D-KEFS, and GORT-5.”

The PWN responded to the Parents requested testing with explanations regarding the Parents proposals and the District’s counter proposals.

In the area of Executive Functioning and ADHD, the District proposed, “1. Behavior Rating Inventory of Executive Function, Second Edition (BRIEF-2): Widely used and recognized instrument to evaluate executive functioning. BRIEF-2 - The Behavior Rating Inventory of Executive Function, Second Edition measures executive function in home and school environments. This new edition maintains the original’s intrinsic qualities that made it so popular. It is efficient, comprehensive, and useful for evaluating children and adolescents with developmental and acquired neurological conditions such as learning disabilities, ADHD, traumatic brain injury, low birth weight, Tourette’s Disorder [*sic*], and autism. Executive functions are a collection of processes that are responsible for guiding, directing, and managing cognitive, emotional, and behavioral functions, particularly during active, novel problem solving. The BRIEF-2 is designed for individuals ages 5 to 18 for whom there may be a concern about self-regulation. The Examinee’s functioning is assessed through three broad Composites: Behavior Regulation, Emotion Regulation, and Cognitive Regulation. The BRIEF-2 also provides a Global Executive Composite (GEC) score that

serves as an overall estimate of executive functioning. Behavior Regulation Index: This composite represents a student's ability to regulate and monitor behavior effectively. This looks at the examinee's ability to control [their] impulses (inhibit), and [their] ability to self-monitor. Emotional Regulation Index: The Emotion Regulation Index (ERI) represents a student's ability to regulate emotional responses including responding to changing situations. This looks at the examinee's ability to transition (Shift), and ability to regulate [their] emotions (Emotional Control). Cognitive Regulation Index: The Cognitive Regulation Index (CRI) represents a student's ability to control and manage cognitive processes and problem-solve effectively. This Index looks at the examinee's ability to begin an activity or generate ideas (Initiate) and [their] ability to hold information in [their] mind to be within the average range. It also includes the examinee's ability to check [their] work, ability to keep [their] work/play area clean and orderly, and plan/organize set goals; develop steps; grasp main ideas. Gain a multi-rater perspective of the youth's difficulties with a Parent, Teacher, and Self-report version 2. Conners - 4th Edition (Conners-4) - Attention, Behavior and Social Emotional Abilities Key Features: Assistance with differential diagnosis and ADHD Hyperactivity and Inattentive Types. Conners 4 provides a comprehensive assessment of symptoms and impairments associated with ADHD and common co-occurring problems and disorders in children and youth aged 6 to 18 years. Gain a multi-rater perspective of the youth's difficulties with a Parent, Teacher, and Self-report version."

In the area of Working Memory, the District proposed, "WISC-V was conducted 2/2025 by Clinical Psychologist. The WISC-V includes Verbal Learning and Working Memory. Verbal Comprehension was in the Average range, Standard Score 108, Working Memory was in the Low Average range, Standard Score 85 / No further Testing Warranted at this time."

In response to the Parents request, the District documented that "RCFT was conducted last year 2/2025 by Clinical Psychologist - The RCFT standardizes the materials and procedures for administering the Rey complex figure, measures recognition memory for the elements of the Rey complex figure, and assesses the respondent's ability to use cues to retrieve information. Appropriate for use with children and adults, the instrument enables you to gather information on major aspects of neuropsychological functioning. CVLT-C was conducted last year 2/2025 by Clinical Psychologist."

In the area of Planning & Organization the District proposed, "BRIEF-2 – Executive Functioning evaluates planning and organization. Behavior Rating Inventory of Executive Function, Second Edition (BRIEF-2): Widely used and recognized instrument to evaluate executive functioning. BRIEF-2 – The Behavior Rating Inventory of Executive Function, Second Edition measures executive function in home and school environments. This new edition maintains the original's intrinsic qualities that made it so popular. It is efficient, comprehensive, and useful for

evaluating children and adolescents with developmental and acquired neurological conditions such as learning disabilities, ADHD, traumatic brain injury, low birth weight, Tourette's Disorder [*sic*], and autism."

The District, responding to the Parents requests to conduct specific testing, observed that the Rey Complex Figure Test was a clinical assessment not appropriate for school setting, and that the DKEFS was conducted the prior year 2/2024 by a clinical psychologist, and was not appropriate for telepractice.

In response to the Parents request to assess the Student in the area of Inhibitory Control, the District proposed conducting the BRIEF-2, observing that Executive Functioning assesses the examinee's inhibit control, the Behavior Rating Inventory of Executive Function, Second Edition which measures executive function in home and school environments. "This new edition maintains the original's intrinsic qualities that made it so popular. It is efficient, comprehensive, and useful for evaluating children and adolescents with developmental and acquired neurological conditions such as learning disabilities, ADHD, traumatic brain injury, low birth weight, Tourette's Disorder [*sic*], and autism."

The PWN included the Parents requests to administer, "Stroop Color-Word - F Scarpina 2017 — The Stroop Color and Word Test (SCWT) is a neuropsychological test/clinical test. DKEF – Completed last year 2025 by clinical psychologist. NOT appropriate for telepractice. NEPSY-II - NEPSY®-II results provide information relating to typical childhood disorders, enabling accurate diagnosis and intervention planning for success in school and at home." The District observed that this test was completed, "last year 2025 [*sic*] by clinical psychologist. NOT appropriate for telepractice," and the "CEFI - Offers a comprehensive yet specific assessment of executive functioning," which is a clinical assessment not appropriate for the school setting."

In the area of Shifting Flexibility the District proposed, administering the "BRIEF-2 - Executive Functioning covers planning and organization. - The Behavior Rating Inventory of Executive Function, Second Edition measures executive function in home and school environments."

Responding to the Parents request to administer, "NEPSY-II - NEPSY®-II results provide information relating to typical childhood disorders, enabling accurate diagnosis and intervention planning for success in school and at home." The District observed this test was previously administered, was a clinical assessment, and was not appropriate for telepractice.

The PWN included that the BRIEF-2 did not address the area of Concept Formation. In response, the District observed that the WISC-V was administered 2/2025 – resulting in a Fluid Reasoning Index 94 standard score, which falls in the average

range. Therefore, no further testing was warranted.

In the area of Word Generation, the District proposed, “WJ Cognitive, 4th Edition and TAPS-4 – Auditory processing and Listening Comprehension, WISC-V – Given 2/2025 Verbal Comprehension Index = 108 standard score, Average range includes subtests: Similarities, High Average range and Vocabulary, Average range / No further testing warranted.”

In response to the Parents request to administer the COWAT – The Controlled Oral Word Association Test (COWAT), “a neuropsychological test that measures a person’s ability to produce words quickly and spontaneously. It’s a common tool for assessing verbal fluency and brain dysfunction,” the District noted that it is not “a highly recommended or widely used instrument.” The District reiterated its observations about the NEPSY-II - NEPSY®-II, DKEFS, and Wisconsin Card Sort Test, previously noted. The District noted that the WIAT III, is out of date, and that the WIAT IV, a test of Oral Language and Listening comprehension, generally assesses Higher Order Language.

Instead, the District proposed the WISC-V which was given 2/2025 by a clinical psychologist. The Student’s Verbal Comprehension Index was 108 standard score, which fell into the average range. This test included the following subtests: Similarities, High Average range and Vocabulary, Average range, suggesting no further testing was warranted. The District further noted that the WIAT-4 was administered by the Student’s previous school district on April 15, 2024, showing that the Student’s reading and reading comprehension, were in the average range.

The PWN further addressed the Parents request to assess the Student in Fluency. The District reiterated the above observations about the DKEFS, GORT-5, WIAT, and CVLT-C. In response the District proposed the TVPT – 4th edition. The District noted that the “TVPS-4 is the latest update of the standard comprehensive assessment of visual analysis and processing skills. It can be used by many professionals, including occupational therapists, learning specialists, optometrists, and school psychologists.” The District observed that the WISC-V – Visual Spatial Index was administered 2/2025, where the Student’s standard score 67, fell into the very low range, which included Block Design and Visual Puzzles. The District noted that this is a deficit area that is in the very low range. Therefore, the District proposes the administration of the TVPT-4.

The PWN also recounted the Parents requests listed as, “Visual Closure, Visual Discrimination, Visual Figure-Ground, Visual Memory, Visual Sequencing, Visual Spatial, Visual Processing Speed,” which the District observed were “subtests from an assessment that was not named.”

The PWN went on to list the relevant law applicable to the evaluations in the IDEA,

and the Student's specific evaluation criteria for their eligibility categories. In addition, the District, responding to the Parents request, announced that it stood "ready to assess and evaluate [the Student's] potential eligibility under Visual Impairment, and in accordance with eligibility criteria under OAR 581-015-2180."

The PWN also listed the assessments the District proposed and the specific rationale for the proposed assessment and areas of concern the proposed assessments intended to address.

The PWN went on to address that the Parents suggestions likely came from an external source that was not relevant to Oregon law or the educational environment.

53. On February 19, 2025, the District sent the Parents PWN, proposing to reevaluate the Student for their current special education eligibility categories of OHI and ASD, observing that the current eligibilities expire this school year. This proposal was based on Parents' reported observations, teacher and specialist reports and observations, present levels information, and clinical diagnoses. The PWN also noted that the Parents expressed concern about executive functioning, augmentative communication, and suspicions of CVI. The District noted that it would seek additional evaluative information with the inclusion of a CVI specialist in good faith.
54. On February 21, 2025, the District sent the Parents PWN documenting the District's good faith agreement "to accommodate for parent needs relating to scheduling SDI sessions in the parent-selected placement, [the District] stand ready to honor the parent request to adjust scheduling of [the Student's] current SDI sessions, to occur at the same time every day. The District conditioned this agreement on the availability of specialists, current contracted hours, and to the degree that it does not require the rescheduling or shifting of other students' SDI or service sessions. The District also conditioned this agreement on the Student maintaining 85% or better attendance and participation rate once the adjustment is made. The PWN documented the challenges faced by the family with irregular scheduling of services when making this accommodation.
55. On February 21, 2025, the District sent the Parents PWN documenting the District's refusal to increase language arts SDI for written language at that time. The PWN recounted the Student's current language arts services which included academic skills, "language arts: 150 minutes compensatory services + (30 min/week x 27 weeks) = 150 minutes compensatory services + 810 minutes regularly scheduled services = 960 total service minutes/year / 27 remaining weeks of school = 36 minutes/week." The Student also received language arts Instructional Consultation, "60 minutes compensatory service + (30 min/month x 7 remaining months of school) = 60 minutes compensatory services + 210 minutes regularly scheduled services = 270 total service minutes/year / 7 remaining months of school = 40

minutes/month.”

The PWN further observed that at the time the PWN was issued the Student “attends 70% of [their] SDI sessions. Missing 30% of SDI sessions contributes to a need for more services when instructional opportunities as written in the IEP cannot be fulfilled. [The District] stand ready to implement the IEP as written, focusing [language arts] SDI on written language.”

The District also noted that virtual instruction is best utilized from a quiet environment and that the Student sometimes joins from a noisy environment at home, and that the District would revisit the Parents request should the Student achieve “85% or better attendance for [their] SDI sessions, and progress is still not being made, or if other present levels data indicate an immediate need to increase.”

56. On February 24, 2025, the District sent the Parents PWN informing the Parents that the District stood ready to provide special education language arts instruction consultation services to the Student’s family for 30 minutes each month as stated in the Student’s IEP. This would include compensatory services for the months of November, December, January, and February, totaling 120 minutes. The PWN indicated that the Student’s IEP team met February 19, 2025, but did not have enough time to discuss IEP progress and goals before adjourning. The PWN further observed that the Parents had not responded to inquiries about rescheduling the IEP team meeting, and also had declined the March 18, 2025, meeting invitation.
57. On February 24, 2025, the District sent the Parents PWN, informing the Parents that based on Present Levels data and Parents’ preferences, the District stood ready to gather more information and amend the OT goals and services for the Student via email or to wait until the next IEP team meeting.
58. On February 25, 2025, the Parents filed this Complaint.
59. On February 28, 2025, the District sent the Parents a Referral Team Meeting Notice, inviting the Parents to a March 3, 2025, IEP team meeting to review the Student’s educational status, and existing information and decide whether additional testing is needed.
60. On March 4, 2025, the Parents provided consent for the evaluations proposed by the District on February 19, 2025.
61. On March 11, 2025, the Department’s Complaint Investigator interviewed the Parents regarding their concerns in this matter. The Parents reported that they requested that the District evaluate the Student for SLD in prior years when the Student previously attended school in the District before the current enrollment in the District. The Parents expressed displeasure that the Student’s prior school

district removed reading comprehension goals from the Student's IEP. The Parents reported that the prior school district removed reading goals from the Student's IEP, prior to the Student completing the goal. The Parents reported that the Student struggles in some areas of reading, and that the District had not justified its testing nor provided or explained the reason for its decision.

The Parents reported that the Student's prior school district conducted a screening for CVI, and that, because CVI is a visual impairment, it requires a doctor's evaluation. The Parents reported that the Student's Physician wanted the District to conduct these evaluations. The Parents reported that after the date of this Complaint, they did provide their consent to the District to evaluate the Student.

The Parents reported that, despite a request to add the Student's reading goal back into the Student's IEP, the District had declined this request. The Parents reported that teachers cannot work with the Student because of their reading ability, specifically their comprehension.

The Parents suggested that the District erred in not providing PWN declining to test for the Student's needs in reading. Similarly, the Parents alleged that the District erred by not issuing PWN for the Student's vision needs, and the District declining testing for the Student's vision needs. The Parents reported that this was especially important because the May 22, 2024, IEP from the Student's prior district showed no progress in math around word problems.

The Parents reported that the District had not provided relevant services in the Student's IEP, including OT and other services after the Student transferred into the District. The Parents reported that the Student needed additional assistive technologies such as chewie, a fidget chair, a quiet space to work and study, and that these supports were not provided by the District. The Parents reported that the Student displayed significant anxiety behaviors at home as part of virtual learning. The Parents also reported that they took issue with the social skills group the Student was assigned to, finding it ineffective because the other classmates in that group were too young in their opinion. The Parents alleged that the Student had additional OT needs that the District was not aware of, and questioned whether these needs were not observed because the Student receives services virtually.

62. On March 21, 2025, the District provided a written *Response* to the allegations. As part of the District's *Response*, it reported that the concerns about the Student's need for consult minutes in physical therapy, behavior consult, and autism consult, as provided in the Student's May 2, 2024, IEP were likely not relevant to the virtual environment. The District reported that these matters were discussed as early as the September 18, 2024, IEP team meeting, and reiterated in a September 10, 2024, email to the Parents. The District also noted that the Parents November 13, 2024, letter listing various concerns, received by the District after the completion of the

Student's IEP, did not raise concerns in this area.

As part of the District's *Response* it noted that at a March 18, 2025, IEP team meeting it was reported that the Student may exhibit behaviors that impeded their learning, specifically work avoidance and executive dysfunction.

The District's *Response* also included that on November 12, 2024, the District mistakenly sent a meeting invitation for one of the Student's IEP team meetings, by email to another Parent in the District who shared the same first name as one of the Student's grandparents who at times attended IEP team meetings for their grandchild. The District reported that the unintended recipient reported the mistake to the District on the same day. The District further reported that the documents linked to the meeting invitation are set to restricted by default, and that they can only be accessed when the District manually adjusts those permissions. The District noted that "the owner of the document would have received an email requesting access. No request for such access was ever received by anyone outside the authorized team, and most documents have still not changed from restricted settings, therefore, no access to unauthorized information occurred." The individual who received the email by mistake was identified to the Parents by the email address of the recipient.

63. On April 2, 2025, the Parents provided a written *Reply* to the District's *Response* which contained additional information relevant to the allegations in the Parents Complaint.

The Parents *Reply* included observations about the District's *Response* and issues in the Complaint. The Parents report that they did not ask the District to disregard the Student's prior IEP but rather to "start from scratch." The Parents went on to explain their reasoning, writing, "[t]he reasoning behind 'starting from scratch' was multifaceted. First, the transfer IEP was written for a different setting. As written, it was intended to be implemented inside the classroom, but the setting is now almost exclusively at home or online...." The Parents further noted that they, "had hoped...that the IEP could be better written as a collaborative document by the new team."

The Parents' *Reply* cites at least two occasions when the District should have issued PWN in response to the Parents requests to evaluate the Student. The Parents cite a November 13, 2024, email exchange where the Parents ask that the November 12, 2024, PWN be amended to specify that the District was "choosing to provide MTSS supports to 'gather data' instead of choosing to perform special education testing to identify a suspected area of disability..."

The Parents reported that the November 12, 2024, email mistakenly sent about the Student to another parent in the District, included email attachments which could

have been viewed by that parent or anyone with the email. The Parents cited the email address of the other parent to whom the email was sent. The Parents further reported that the receiving parents forwarded the email with the meeting link and attached documents to a third parent in the District. The identity of that parent was also known to the Parents.

IV. DISCUSSION

Evaluation and Reevaluation Requirements

It was alleged that the District violated the IDEA when,

- a. The District refused the Parents request to evaluate the Student for Specific Learning Disability, relevant to the Student's reading comprehension needs, despite evidence in the Student's educational history and education records;
- b. The District had reason to suspect that the Student may qualify for special education under additional eligibility categories but did not evaluate the Student; and,
- c. The District refused to evaluate the Student for visual impairment despite the Parents request and the Parents presenting the District with an outside evaluation of the Student's needs in this area.

A district must conduct an evaluation or reevaluation process before determining that a child is a child with a disability, continues to have a disability, or changing or terminating a child's eligibility. A parent may initiate a request for an initial evaluation to determine if a child is a child with a disability. An initial evaluation should also be conducted when a district suspects or has reason to suspect that a child has a disability that has an adverse impact on the child's educational performance.³ A reevaluation for each child with a disability may occur not more than once a year, unless the parent and public agency agree otherwise.⁴

It was alleged that the District failed to evaluate the Student for Specific Learning Disability, relevant to the Student's reading comprehension needs, despite evidence in the Student's educational history and education records. In its *Response*, the District's reported that it was not aware that the Parents had ever requested that the Student be evaluated for Specific Learning Disability. During interviews with the Department's Complaint Investigator, the Parents acknowledged that they had not made a request of the District but had made such requests in years prior.

It was alleged that the District had reason to suspect that the Student may qualify for special education under additional eligibility categories but did not appropriately evaluate

³ OAR 581-015-2105(1)—(3)

⁴ OAR 581-015-2105(4)

the Student. The Parents reported that the Student displayed significant difficulty with reading comprehension that suggested additional special education eligibility categories. The District issued several PWNs to the Parents, observing on several occasions that the Student's prior school district had removed the Student's SDI in reading because the Student had nearly met the goal the prior school year. The Student's prior IEP noted that reading goals were removed because the Student was able to read grade level passages with 99% accuracy and was able to answer comprehensive questions with 55% accuracy, suggesting that they no longer required at that time. The record reflects that, during much of the fall of 2024, the Student's IEP team was in the process of formulating the transfer IEP for the Student. As such, the District lacked information about the Student's reading needs beyond what was contained in the IEP from the prior school district.

On November 12, 2024, the District sent the Parents PWN, documenting the District declining to add SDI in reading. The District reported that it would continue to gather more information and plan interventions to assist the Student. The District wrote in relevant part that the, "team has information to support the initiation of instructional interventions in the area of reading, and will review progress monitoring data over time. The team will review all available information to determine when/if reading should be added to the IEP." The PWN recounted that the Student's most recent evaluation in the Spring of 2024, the Student's transfer IEP, report card from the transferring district, fall 2024 benchmark data from MAP testing and IXL testing, showed grade level instructional readiness, and need for skill strands for intervention. The PWN further makes reference to not reevaluating the Student within the same year, writing that the "team will continue to review all information and amend the IEP as needed, as well as provide all data for comprehensive review for the triennial evaluation, Spring 2025." The record supports that the Student did not display a need for SDI during the period of time covered by this Complaint, but that the District offered to evaluate the Student should they demonstrate such a need. Furthermore the District noted, in conformity with OAR 581-015-2015(4) that the District should not reevaluate the Student for the same issue within the same year.

The record supports that the Parents raised questions about the Student's need for additional testing for visual impairment. On April 23, 2024, while the Student was enrolled in the prior school district, the Parents completed a CVI screener, which suggested additional testing was warranted for the Student. On November 13, 2024, the Parents provided a written statement to the District containing a list of the Parents concerns. The Parents reported that the Student's prior school district and the Student's physician had concerns about CVI, and that the District should test the Student. The District's *Response* noted that the Parents had not provided medical information to support a diagnosis of CVI. On November 13, 2024, responding to the Parents concerns about CVI, the District wrote to the Parents, "No such clinical report has been received, but [the Student's] IEP team stands ready to consider and refer to a visual specialist at such time a potential visual impairment is suspected." On February 19, 2025, given subsequent observations about the Student's visual needs and the Parents concerns, the District sent the Parents PWN proposing to a complete evaluation of the Student to include concerns about CVI. On the same date, the

District referred the Student for an evaluation of visual processing. On March 4, 2025, following the filing of this Complaint, the Parents provided consent for the visual processing evaluation of the Student. The record supports that the District responded to the Parents concerns with an offer to evaluate the Student.

The Department does not substantiate this allegation.

Content of the IEP

It was alleged that the District violated the IDEA when,

- a. The District failed to include accurate and complete present levels statements in the Student's IEP. It is alleged that this was due to the District's failure to appropriately evaluate the Student's needs especially in mathematics, reading comprehension, and visual impairment;
- b. The social skill goal formulated by the District was not appropriate in order for the Student to make progress toward attaining that goal;
- c. The IEP goals formulated by the District lacked detail concerning how the goals would be measured and when progress would be reported; and,
- d. The IEP formulated by the District lacked an explanation of the extent to which the Student would not participate with children without disabilities in the regular education classroom.

A Student's IEP must include a statement of the child's present levels of academic achievement and functional performance, including how the child's disability affects the child's involvement and progress in the general education curriculum. The IEP must also include a statement of measurable annual goals, including academic and functional goals designed to meet the child's needs resulting from their disability and enable them to be involved in and make progress in the general education curriculum. The IEP should also include goals designed to meet the child's other educational needs resulting from their disability. The IEP must contain a description of how the child's progress toward meeting the annual goals will be measured and when periodic reports on the progress the child is making toward meeting the annual goals will be provided. Additionally, the IEP should include a statement of the specific special education and related services and supplementary aids and services to be provided to the child, and a statement of the program modifications or supports for school personnel that will be provided for the child. These supports are included to assist the Student toward advancing appropriately toward attaining the annual goals, be involved and progress in the general education curriculum, and to participate in extracurricular and other nonacademic activities. These supports should also assist the student in being educated and participating with other children without disabilities. The IEP must include the projected dates for initiation of services and modifications and the anticipated frequency, amount, location, and duration of the services and modifications. The IEP also needs to include an explanation of the extent, if any, to

which the child will not participate with children without disabilities in the regular class and activities. Finally, the IEP must include a statement of any individual appropriate accommodations necessary to measure the academic achievement and functional performance of the child on State and district-wide assessments of student achievement that are needed for the child to participate in the assessment.⁵

As observed above, during much of the fall semester of 2024, the Student's IEP team was engaged in formulating the Student's IEP from the transfer IEP from the Student's prior school year. When the Student's IEP team convened initially on September 18, 2024, the only present levels data available to them was the information from the prior school district. Parent input on present levels were included in the parent input section of the Student's IEP. The Student's IEP team completed the Student's September 18, 2024, IEP, on November 12, 2024, whereupon updated present levels data was added to the Student's IEP. The Parents in their April 2, 2025 *Reply* argue that additional detail from the Student's test data and observations should have been included in the Student's present levels section. The Parents also requested that the District "start from scratch" in developing the IEP. The Student's September 18, 2024 IEP was updated to include present levels data for all areas of SDI in the Student's IEP. As observed above, the District was working to craft the IEP from the transfer IEP beginning September 18, 2024. Prior to filing this Complaint, the District sent the Parents PWN proposing to reevaluate the Student for their current special education eligibilities, and additional areas of need as determined by data gathered. The District observed that it had comparatively little independent information on the Student prior to completing the Student's IEP in November, relying instead on the information from the prior school district to craft an offer of FAPE.

It was alleged that the Student's social skills goal was not appropriate for the Student. On October 22, 2024, the District noted that the Student's needs around social skills were evident in their math curriculum observing in part that the "data points also show that [the Student] experiences impactful challenges the areas of social skills, sensory/motor, language and communication, and written language, which sometimes impact [their] processing of language based aspects to approaching and solving math problems. Therefore, the IEP team has crafted an offering of FAPE and an IEP which address these identified needs" Through social skills goals that had been updated from the prior school district's May 2, 2024, IEP.

The key aspect that the Parents took issue with was not the goal, but that part of the District's implementation of SDI included placing the Student in a small group with younger classmates, wherein the Student would have opportunity to practice these skills. The District addressed this Parents concern in the October 27, 2024 PWN, by observing that, while the Parents did not prefer the small group work setting, this concern would be addressed at the next IEP meeting.

⁵ OAR 581-015-2200(1)(a)—(1)(g)

It was alleged that the IEP goals formulated by the District lacked detail concerning how the goals would be measured and when progress would be reported. The record supports that the Student's September 18, 2024, IEP included how data would be gathered for each goal, which often included parent observations. Each goal included that written progress notes would be provided with regular grading periods.

It was alleged that the Student's IEP lacked an explanation of the extent to which the Student would not participate with children without disabilities in the regular education classroom. Attached with the Student's September 18, 2024, IEP, was the Student's Special Education Placement Determination. This document described the extent to which the Student would be removed from the general education environment and the support services provided to the Student.

The Department does not substantiate this allegation.

Prior Written Notice (PWN)

It is alleged that the District violated the IDEA when it did not issue PWN despite refusing the Parents request to evaluate the Student on several occasions for concerns including reading comprehension, visual impairment, and visual processing disorder.

A school district must provide PWN to the parent of a child with a disability within a reasonable period before the district proposes or refuses to initiate or change the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to the child. The PWN must include a description of the action proposed, or refused by the district, an explanation why the district takes such a position, and a description of the evaluation procedure, assessment, test, record, or report the district used as the basis for the proposed or refused action.⁶

A district must ensure that a reevaluation of each child with a disability is conducted in conformity with relevant provisions if a district determines that the educational or related services needs warrant a reevaluation. A district must also reevaluate a student if the parent or teacher requests a reevaluation. However, a reevaluation may not occur more than once per year, unless the parent and district agree otherwise.⁷

The Parents report that the District should have revised the November 12, 2024, PWN, or issued a separate PWN to address the Parents November 13, 2024, request that the PWN reflect that the District was choosing to utilize "MTSS supports to 'gather data' instead of choosing to perform special education testing to identify a suspected area of disability..." The Parents April 2, 2025, *Reply* to the District's *Response*, cites past testing data that the

⁶ OAR 581-015-2310(1)–(3)

⁷ OAR 581-015-2105(4)

Parents suggest indicate that the District should have either tested the Student, or issued PWN declining the request. The November 12, 2024 PWN issued by the District stated that the Student's IEP team would review progress monitoring and data over time, would utilize DIBELS assessment to provide more information, and observed that a comprehensive evaluation was conducted in the spring of 2024 by the prior school district, which ruled out the need and eligibility for reading SDI. The District's November 12, 2024 PWN responds to the Parents request for the reevaluation when it observes that the Student was evaluated for the same issue within the same year. The District provided a more detailed response to the Parents other specific concerns in the Student's IEP, in response to the Parents November 13, 2024 communication.

The Parents allege that the District similarly failed to issue PWN when the Parents requested that the District evaluate the Student for CVI. The District sent the Parents PWN on September 18, 2024, writing in part, that the Parents voiced concerns then about additional area of eligibility in visual impairment, but that "[c]lincial evidence provided at this time suggests no verifiable substantiation." The PWN notes that the development of the Student's IEP was then not complete and would be continued at future meetings. On February 19, 2025, the District issued PWN agreeing to include visual processing as part of upcoming assessments of the Student.

The Department does not substantiate this allegation.

When IEPs Must Be In Effect

It is alleged that the District violated the IDEA when it failed to provide the Student with services and accommodations listed in the Student's IEP. Specifically, it is alleged that the District did not implement the Student's IEP from a previous school district after transferring into the District. It is further alleged that the District did not provide the Student with services and accommodations from the IEP formulated by the District. It is alleged that this was especially true for the Student's assistive technology services, sensory accommodations, as well as specially designed instruction in language arts and social skills.

At the beginning of each school year, a district must have in effect an IEP for each child with a disability within the district's jurisdiction. A district must provide special education and related services to a child with a disability in accordance with that IEP. Districts must also ensure that the IEP is accessible to each regular education teacher, special education teacher, and related services provider who is responsible for its implementation. Districts must also inform said teachers and services providers of their specific responsibilities for implementing the child's IEP, including the specific accommodations, modifications, and supports that must be provided in accordance with the IEP.⁸

⁸ OAR 581-015-2220(1)—(3)

A district violates the IDEA when it materially fails to implement a student's IEP: "A material failure occurs when there is more than a minor discrepancy between the services a school provides to a disabled child and the services required by the child's IEP." The court noted further that, "[t]he 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 show 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."⁹

It was alleged that the District failed to implement aspects of the Student's IEP from their prior school district when the Student transferred into the District. Specifically, the Parents report that the District did not provide required services and accommodations, specifically assistive technology devices, sensory accommodations, and SDI in language arts and social skills. The District's *Response* points out the Student's IEP from the prior district was written for the Student's needs in an in-person educational setting, making many of the accommodations unsuitable for the Parents' selected placement of the Student in a virtual environment. Further, the Parents and the District agreed that the Parents requested that the District formulate a new IEP for the Student, rather than continue to implement the Student's IEP from the prior school district. The Parents, in their April 2, 2025 *Reply*, characterized the formulation of a new IEP as "starting from scratch" and hoped that the new IEP team could produce an IEP that was "better written..." On September 18, 2024, and October 9, 2024, the District sent the Parents PWNs documenting that the Student was best served by a full offering of FAPE, but that the formulation of the new IEP was not yet completed.

The Parents agreed to formulate a new IEP upon enrollment in the District and agreed that many of the services in the IEP from the Student's prior school district were not appropriate for the Student's new educational placement in a virtual charter school. Delivery of services were delayed by the formulation of the IEP, something which was addressed as early as October 17, 2024 in PWN from the District offering to calculate compensatory services covering the time during which the Student's IEP team worked to formulate a new IEP. However, until the formation of a new IEP on November 12, 2025 (which also included the 30 minutes of language arts consultation), the previous IEP remained in effect. While the IEP was not implemented in its entirety, this did not rise to a material failure to implement the IEP.

The Department does not substantiate this allegation.

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

IEP Team

It is alleged that the District violated the IDEA when it made changes to the Student's IEP without convening an IEP team meeting, with the requisite IEP team members, including the Parents. It is alleged that this occurred when the District removed physical therapy, behavior supports, and autism consultation from the Student's IEP.

School districts must ensure that the IEP team for each child with a disability includes specific required participants. Among these must be one or both of the child's parents, at least one regular education teacher of the child, a special education teacher of the child, and a representative of the school district who is qualified to provide or supervise the provision of specially designed instruction. This person should also be knowledgeable about the general education curriculum, knowledgeable about district resources, and authorized to commit district resources and ensure services set out in the IEP will be provided. Additionally, the team must include an individual who can interpret the instructional implications of evaluation results. Other individuals may be included at IEP team meetings, including related services personnel, and others invited by the parents or the district because they have special knowledge or expertise regarding the child.¹⁰

The District reported that the issues of consultation minutes were discussed over the course of several IEP team meetings in the fall of 2024. The District also reported that consultation services in the virtual setting would differ greatly compared to those in the Student's previous placement. In the Parents April 2, 2025 *Reply*, the Parents reported that the District had not provided a specific location in the Meeting Notes or recordings where the removal of the consultation services were discussed. The District reports that the IEP team discussed the Student's need for OT and PT consultation services at the September 18, 2024, IEP team meeting. This meeting was not recorded. During the October 9, 2024 IEP team meeting, these needs were again discussed, with the Parents and District discussing review of the Student's most recent PT evaluation conducted by the prior school district. The October 27, 2024, PWN issued by the District also documents that service time for consultation and support were discussed at that October 22, 2024 IEP team meeting, writing, "[i]n correlation to current team determined needs, goals and services in this parent selected placement, and as written in the transfer IEP, until future amendments can be made." The transcript of the Student's November 12, 2024, IEP team meeting contains evidence that these consultation services were further discussed with the Parents asking for consultation minutes for OT, and the District suggesting instead, and the Parents accepting, consultation minutes in language arts. The District also reported at that meeting the Student's Case Manager was present. On February 24, 2025, the District sent the Parents PWN informing the Parents that the District stood ready to provide the special education language arts instruction consultation services listed in the Student's IEP.

¹⁰ OAR 581-015-2210(1)(a)—(1)(h)

It was also alleged that although the Student's IEP indicated that behavior impedes the Student's access to their education and that the IEP from the Student's prior school district included consultation minutes for behavior, the IEP developed by the District does not include comparable consultation time for behavior, and that the Parents did not recall the IEP team discussing this point. During the November, 12, 2024 IEP team meeting the Parents raised the concern that the special factor that behavior impeded the Student's learning had always been checked on the Student's IEP. The District inquired of the team whether this concern was still relevant, likely given the change in educational placement from the in-person school environment to the virtual school environment. The transcript of the meeting records the Parents were reporting that the team had yet to discuss the issue "in great detail, but we can address this during the re-eval this spring." In the Parents' April 2, 2025, *Reply*, the Parents reported that the Student engages in behaviors that impede learning such as work avoidance. The District observed that, following the filing of this Complaint, during a March IEP team meeting, it was reported that the Student engages in work avoidance and executive dysfunction.

The record of this specific concern is spread over multiple IEP team meetings, discussions, and email correspondence both about the virtual service model and consultation minutes. The Student's final September 18, 2024, IEP, completed on November 12, 2024, included the language arts consultation minutes and omitted the PT and OT consultation minutes from the Student's prior May 2, 2024, IEP. While the records could more clearly document the discussions here, there is insufficient information to suggest that the consultation time was not discussed or removed unilaterally by the District. The District did inquire whether behavior impeded the Student's education, to which the Parents voiced their preference to address that concern as part of the Student's reevaluation in spring, rather than during the IEP then under discussion.

The Department does not substantiate this allegation.

Access to Student Education Records

It is alleged that the District violated the IDEA when it failed to provide the Parents with access to the Student's education records, specifically records relevant to individuals who may have had access to the Student's records, or to whom the Student's records were disseminated.

School districts must comply with a parent's request to inspect and review education records without unnecessary delay. A school district must provide access to the education records within 10 days of the parent's request. Without a legitimate educational interest, school districts may not disclose personally identifiable information contained in education records by any means to any party other than the party that provided or created the record. Education records include records directly related to a student that are maintained by an educational agency or institution. Personally identifiable information includes the student's

name, the names of parents or family members, indirect identifiers, or other information that is linkable to a specific student.¹¹

The Parents and the District agree that, on November 12, 2024, the District mistakenly sent a meeting invitation to a different parent in the District with the same name as a prior IEP team meeting participant in the Student's IEP team meetings. The identity of the individual or individuals to whom the email was mistakenly sent was known to the Parents. The Parents contend that the records linked or attached to the email could have been accessed by the unintended recipient. The Parents' concern is the potential unauthorized disclosure of protected personally identifiable student information, rather than their own access to their Student's education records. The record reflects that the Parents are in possession of the identities of those individuals to whom the email was inadvertently sent.

The District also reported that the Parents requested to review the Student's educational records and were granted that access on January 21, 2025. The files were provided to the Parents in person. On the same date the District provided a response to the Parents email inquiry about who has access to the Student's education records. The District responded at that time that documents are secured and only those people specifically granted access can view the education records.

The District provided the Parents with access to the Student's records when requested. The identities of those to whom the District inadvertently sent email invitations to were provided to the Parents as a consequence of being copied on the same email. Concerns about inadvertent disclosure of student education records fall outside of the scope of the IDEA.

The Parents and the District agree that a meeting notice was inadvertently sent to another parent in the District. This meeting invitation contained the name of the Student and the Parents, and information linked to them such that the receiving parent could identify the Parents and notify them of the misdirected email. The content of the meeting notice contained personally identifiable information of the Student and the Parents.

The Department substantiates this allegation in part.

Free Appropriate Public Education (Denial of FAPE)

It is alleged that the District violated the IDEA when it did not implement the Student's IEP, specifically services, accommodations and specific specially designed instruction noted above. It is also alleged that the District violated the IDEA when it removed physical therapy, behavior services, and autism consultation time for staff from the Student's IEP, without an IEP team meeting. It is alleged that these actions denied the Student a FAPE.

¹¹ 34 CFR § 99.3

School districts must provide FAPE to all school-age children with disabilities for whom the district is responsible.¹² Procedural violations may only lead to finding that a child did not receive a FAPE if they: “(I) impeded the child’s right to a free appropriate public education; (II) significantly impeded the parents’ opportunity to participate in the decision making process regarding the provision of a free appropriate public education to the parents’ child, or (III) caused a deprivation of educational benefits.”¹³ In determining whether a student was denied a FAPE, courts review a district’s compliance with both the procedural and substantive components of the Student’s education. Reviewing courts must inquire whether the school district complied with the procedural requirements of the IEP, and whether the school district met the substantive requirements to develop an IEP reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances.¹⁴

The record supports that the Parents agreed to formulate a new IEP upon enrollment in the District and agreed that many of the services in the IEP from the Student’s prior school district were not appropriate for the Student’s new educational placement in a virtual charter school. In the Parents April 2, 2025, response in this Complaint they reported that they asked that the District “start from scratch” to create a new IEP, rather than implement the IEP from the Student’s prior school district.

As noted above, over the course of four IEP team meetings held on September 9, 2024, September 18, 2024, October 9, 2024, and November 12, 2024, the Student’s IEP team did discuss consultation time for the Student, and staff needs in the virtual setting, as compared with the Student’s prior in-person setting. The Student’s September 9, 2024, IEP, completed November 12, 2024, did not include consultation minutes for staff.

The Department does not substantiate this allegation.

VII. CORRECTIVE ACTION
In the Marcola School District
Case No. 25-054-010

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

¹² OAR 581-015-2040

¹³ 20 USD § 1415(f)(3)(E)(ii)

¹⁴ *Andrew F.*, 137 S.Ct. at 999.

Action Required	Submissions	Due Date
1. Provide training to staff on personally identifiable student information and proper handling of such information.	Training agenda/materials to District Support Specialist for review/approval.	June 1, 2025
	Sign-in sheet for training.	September 1, 2025

Dated: this 25 Day of April 2025



Ramonda Olaloye
Assistant Superintendent
Office of Enhancing Student Opportunities

Emailing Date: April 25, 2025

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