BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of Portland Public School District 1J	))))	FINDINGS OF FACT, CONCLUSIONS, AND FINAL ORDER Case No. 25-054-034

I. BACKGROUND

On May 19, 2025, the Oregon Department of Education (Department) received a written request for a special education complaint investigation from the parent (Parent) of a student (Student) residing in the Portland Public School District 1J (District). The Parent requested that the Department conduct a special education investigation under OAR 581-015-2030. The Department confirmed receipt of this Complaint and forwarded the request to the District.

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

On May 28, 2025, the Department's Complaint Investigator sent a *Request for Response (RFR)* to the District identifying the specific allegations in the Complaint to be investigated and establishing a *Response* due date of June 12, 2025.

The District submitted a *Response* on June 9, 2025, denying the allegations, providing an explanation, and submitting documents to support its position. The District submitted the following relevant items:

1. District *Response*, 06/09/25
2. IEP, 04/15-04/23/24
3. IEP, 04/29/24
4. PWN, 09/16/24
5. Student Discipline Profile, 2024-25
6. Discipline Referral Forms, 02/27-04/01/25
7. Report Card, Q3 2024-2025
8. High School Transcript, 05/28/25
9. Behavior Support Plan, 10/03/24
10. Daily Attendance Profile, 2024-2025
11. Emails from 10/31/24 through 05/14/25

[1] OAR 581-015-2030(12) and 34 CFR § 300.152(a)
[2] OAR 581-015-2030(12) and 34 CFR § 300.152(b)

The Parent did not submit a *Reply* or documentation for review.

The Complaint Investigator interviewed the District on June 25, 2025. The Parent did not respond to the Complaint Investigator's request for an interview. The Complaint Investigator reviewed and considered all of these documents, interviews, and exhibits in reaching the findings of fact and conclusions of law contained in this order. This order is timely.

II. ALLEGATIONS AND CONCLUSIONS

The Department has jurisdiction to resolve this Complaint under 34 CFR §§ 300.151-153 and OAR 581-015-2030. The Parent's allegations and the Department's conclusions are set out in the chart below. The conclusions are based on the Findings of Fact in Section III and the Discussion in Section IV. This Complaint covers the one-year period from May 20, 2024, to the filing of this Complaint on May 19, 2025.

Allegations	Conclusions
Disciplinary Removals The Parent alleged that the District violated the IDEA by suspending the Student for behaviors related to their disability without providing "a plan of action or support," and refused to allow the Student to engage in and complete school work during the disciplinary removal. Additionally, the Parent alleged that the Student was suspended for more than 10 days. (OAR 581-015-2405(1-3), OAR 581-015-2410, OAR 581-015-2415(1-3); 34 CFR §§ 300.530, 300.536)	**Substantiated** The District violated the IDEA by using disciplinary removals, totaling over 10 cumulative days, which included informal removals, and the Student was denied access to educational services during the removals.
Manifestation Determination Review The Parent alleged that the District failed to conduct a Manifestation Determination Review for the Student. (OAR 581-015-2420; 34 CFR § 300.530(e)(f))	**Substantiated** The District violated the IDEA by not conducting a manifestation determination review (MDR) within appropriate timelines.

REQUESTED CORRECTIVE ACTION
The Parent requested the following corrective action: ● "An official, written apology from the involved [Alternative School] staff." ● "A written promise from [the Alternative School] that no other child/student with a disability will be treated in this manner."

III. FINDINGS OF FACT

IDEA regulations limit complaint investigation to alleged violations occurring no more than one year before the Department's receipt of the special education complaint. This Complaint Investigation did not consider any IDEA violations alleged to have occurred before May 20, 2024. Any facts listed below relating to circumstances or incidents earlier than that date are included solely to provide the context necessary to understand the Student's disability and special education history.

1. The Student is social personable, and entering 10th grade for the 2025-26 school year. The Student qualifies for special education services under the disability category of Other Health Impairment (OHI).

2. The Student's Individualized Education Program (IEP), dated April 29, 2024, described the following:
   a. Annual review date: April 28, 2025; Reevaluation date: May 14, 2026.
   b. The Student's placement indicated 30-80% or more of their day in the regular education classroom, with this placement beginning on October 3, 2024.
   c. The Student's social skills goal indicated that "By the end of the IEP cycle, [the Student] will improve [their] social interactions skills by demonstrating appropriate communication and social behaviors with peers and adults with 80% accuracy in 4 out of 5 observed interactions, as measured by teacher/staff observations, self-assessment, and behavior checklists."
   d. The Student's Classroom/School Skills goal indicated that "By the end of this IEP cycle, when given specialized instruction in engagement, participation and organization, [the Student] will demonstrate personal management by independently beginning an assignment without prompts, ask clarifying questions, and request assistance as needed with 70% accuracy as measured by anecdotal data, teacher observation, and proficiency grading [*sic*]."
   e. Additional goals were included in the areas of math, reading, and writing.
   f. Specially designed instruction was provided by both special education and general education teachers for:
      i. Social and emotional skills and classroom/school skills each for 30 minutes per week from April 29, 2024 through April 28, 2025.
      ii. Math, reading, and writing skills each for 60 minutes per week from October 3, 2024 through April 28, 2025.
   g. Related services included psychological services by a school psychologist for 30 minutes per week from April 29, 2024 through April 28, 2025.
   h. Fourteen accommodations were provided by the special education and general education teachers in the general education setting for 0 minutes throughout the day. Two of the accommodations included:
      i. "Immediate, positive feedback for appropriate, expected behavior" by the special education and general education teachers in the general education setting for 0 minutes throughout the day from April 29, 2024 through April 28, 2025.

ii. "Behavior Support Plan" by the special education and general education teachers in the general education setting for 0 minutes throughout the day from October 3, 2024 through April 28, 2025.

3. A Prior Written Notice dated September 16, 2024 indicated that the District decided to accept "... the out[-]of[-]state Individualized Education Plan (IEP) and special education eligibility." The explanation for the action included that the "Out of state IEP and special education eligibility documents have been received. The available IEP can be used to guide the provision of services, but available information is insufficient or may require modification."

4. A Behavior Support Plan, dated October 3, 2024, created by the High School's IEP team, described the following: "Reason for the Support Plan: [The Student] is having difficulty regulating their behaviors in class and interpersonally, and keeping consistent attendance … ." Interventions outlined in the plan included the following: "Schedule change to add para education support in core classes - 1:1 conferencing with admin - reteaching the rules and expectations in class and in the halls/attendance (teachers, attendance coaches) - weekly check in … ."

5. The Student Discipline Profile indicated that the Student received 14 referrals from September 17, 2024 through October 24, 2024 while attending the High School. The referrals were for incidents including abusive language, property damage, teasing/bothering peers, leaving class without permission, threats, excessive talking, not following directions, harassment/bullying, disruption, cursing, and defiance of authority. Consequences ranged from re-teaching rules to removal from the school environment, with none of the removals listed as suspensions in the student's discipline records.

6. On October 31, 2024, an email from the High School Administrative Assistant indicated that they had been instructed to "drop" the Student from the High School's enrollment.

7. A District email dated November 2, 2024, confirmed the Student's enrollment in an unnamed District School. A District email dated December 13, 2024, confirmed the Student's enrollment in a different unnamed District School.

8. According to an email from the Counseling Office at the Resident High School, dated April 30, 2025, "The [Student] did not ever actually attend [the Resident High School]. [The Parent] registered the student back in December, but they never showed up for their appointment to build a schedule so we no[-]showed the student."

9. Attendance records indicated that the Student was enrolled at the Alternative School from January 21, 2025 through April 15, 2025 and had fourteen absences during this period.

10. On January 28, 2025, the Case Manager emailed the staff information about the Student intended to help them "understand [the Student] a little better" and included the Student's current IEP, Behavior Intervention Plan (BIP), and their current diagnosis of Attention-Deficit Hyperactivity Disorder (ADHD).

11. The following discipline referrals were submitted by the Alternative School staff:
    a. On February 27, 2025, for inappropriate language and skipping class.
        i. Action taken: "Sent Home."
        ii. Administration Final Decision: "[The Student] seems to be struggling with staying engaged and completing [their] work throughout the day. [The Student] has the potential to be [a] great student, but [their] behavior is getting in the way of [their] success. [A] meeting with [the Parent] and [their] case workers is planned for Monday morning."
    b. On March 13, 2025, for inappropriate language and disruption.
        i. Action taken: "Call Home" and "Sent Home."
        ii. Administration Final Decision: "[The Student] has been struggling to focus and get work done. Even after our re-engagement meeting. [The Student] is combative with [their] teachers and requires constant redirection." "The language and disrespect was becoming way too much for us to keep an eye on [the Student] all day."
    c. On April 1, 2025, for inappropriate language and disruption.
        i. Action taken: "Warning Verbally" and "Call Home."
        ii. Administration Final Decision: "[The] Student was issued another warning and will continue to work with [the] IEP specialist to try and get coursework completed."
    d. On April 1, 2025, for inappropriate language and disruption.
        i. Action taken: "Warning Verbally" and "Call Home."
        ii. Administration Final Decision: "The same behavioral disruptions continue to happen. Twice today alone. Admin[istration] has decided to have another meeting involving [the Parent], case workers, and [unknown] to determine if [a different school] is the best fit for [*sic*]."

12. The Quarter 3 Report card from the Alternative School listed the Student's grades:
    a. Literacy Support, incomplete, 10 total absences.
    b. Art, not passing, eight total absences.
    c. English Composition, not passing, 10 total absences.
    d. Algebra 1-2, incomplete, six total absences.
    e. Life Science/Health, not passing, 13 total absences.
    f. US History, incomplete, nine total absences, Comment/Concern noted, "attendance."
    g. Film Studies, incomplete, 10 total absences.
    h. Advisory, incomplete.

13. On March 11, 2025, a support meeting for the Student was conducted at the Alternative School. The objective of the meeting was to determine "how we could best support [the Student] for their academic and behavior success at the [Alternative School]."

14. On March 18, 2025, the Transition Specialist emailed the team, "I appreciate you providing space for me on Tuesdays to check in with [the Student] ... to offer one[-]on[-]one academic support. I think it is benefiting both students! … [The Parent] feels that [the Student] is being disciplined for behaviors that relate to their disability. [The Parent] is requesting that their IEP accommodations be reviewed, and followed. … [The Parent] is also requesting that [the Student] have more structured one[-]on[-]one support with [t]eachers or staff daily (other than Tuesdays)."

15. On April 1, 2025, the Vice Principal of the Alternative School emailed the Student's team to address parental concerns and reiterated the need for a meeting to discuss the Student's behavior since the previous meeting. The stated purpose of this meeting was to determine whether [the Alternative School] was the most appropriate placement for "future academic success." The Vice Principal specified that "[The Student] will not return to school until this meeting has taken place due to the disruption of our classroom learning environment. Could you all please provide your availability for the rest of this week and/or next week so we can coordinate a suitable time for everyone?"

16. On April 3, 2025, the Transition Specialist emailed the Student's team to ask "what alternative options are available for [the Student] ... pending this meeting … Are they able to come to school to collect packets? Or a Chromebook … ?" On April 5, 2025, the Vice Principal responded via email to the IEP team regarding the request for available alternative work options and a Chromebook for work completion. The Vice Principal wrote, "... there will be no packet work distributed, nor Chromebooks checked out to [the Student]."

17. On April 15, 2025, the following emails were sent:
    a. The Academic Advisor at the Alternative School emailed the Student's IEP team. The email concerned the ongoing effort to schedule the meeting.
    b. The Parent responded and indicated that they would be withdrawing the Student from the Alternative School and filing a complaint.

18. The Student's Daily Attendance Profile described the Student's "enter" date as January 21, 2025, and their "leave" date as April 15, 2025. "Attendance information" listed the following dates as "Class-Absent:"
    a. January 31, 2025.
    b. February 25, 27, and 28, 2025.
    c. March 3, 4, 6, 7, 10, 11, 14, and 18, 2025.
    d. April 3, 2025.

19. In the District *Response* dated June 9, 2025, the District stated that the District "... did not suspend the Student. [The Student] did not attend a District high school as of April 1. Rather, the administration of a community alternative high school notified the Parent that, following the April 1 referrals, [the Student] could return to [the Alternative School] once [the Student's] full team could meet and discuss supports for [the Student] moving forward. Despite efforts to schedule that meeting quickly, it did not take place before the Parent unenrolled the Student on April 15 … ."

20. On April 16, 2025, the Case Manager emailed the Principal with a detailed description of the support mechanisms implemented for the Student that were established during the March 11, 2025, meeting, "... the [Transition Specialist] and [the Juvenile Court Counselor] would be coming in once a week to check in with [the Student] and possibly work with them independently. [The Academic Advisor] and [the Case Manager] were supporting [the Student] in the classroom when [the Case Manager] was in the building. … Classroom accommodations were provided including options to take breaks, shortened assignments and

alternative assessments, tests taken with teacher support, preferential seating, and others. [The Student's] behavior support plan was also shared with staff to give them a better understanding of triggers and the best ways to support [the Student]. While [the Student] was out, [the Case Manager] and [the Principal] discussed some options for reinstatement. These included: possible schedule changes to increase work production, strategic scheduling to help limit distractions, and the possibility of an abbreviated schedule that would have to be addressed at the IEP meeting if that were to happen."

21. In an email dated April 23, 2025, with the subject "Recent Drops," the Principal indicated that the Student's enrollment drop date was April 15, 2025. The reason listed was "10+ day drop, referral sent to reconnection services."

22. A District email dated May 1, 2025, confirmed the Student's enrollment in a District School, presumably the Resident High School.

23. On May 1, 2025, a School Psychologist from the District Special Education Department emailed the Resident High School and shared that "... There are not any outstanding [special education] … processes other than [the Student's] IEP is now overdue ([because] as [the case manager] told me, [the Parent] never came in after the incident). So no MD [manifestation determination] or anything like that."

24. The Student Discipline Profile indicated the Student received a referral on May 16, 2025 for skipping class while attending the Resident High School. The Student received 0.25 days of in-school suspension as a result.

25. According to the Student's transcript, while in attendance at the Alternative School, the Student was enrolled in 8 classes, was "Not Passing" or had "Incompletes," and received no credit. When enrolled at the Resident High School, the Student was enrolled in 8 classes and did not earn any letter grades or credit.

26. In an interview with the Complaint Investigator, the Principal explained that the Alternative School was connected to the District as one of the "Community Based Option (CBO) partners for the District. We are their alternative school that supports [the District] students, particularly."

27. The Principal shared that the Student attended the Alternative School earlier this year from the beginning of January 2025 to the start of April 2025.

28. According to the Principal, the Parent, not the District, chose to place the Student at the Alternative School because, "... they needed a smaller space, that they can get more one-on-one support … So they felt that this was the best space for them and that's what [*sic*] they chose our school."

29. The Principal recalled that on April 15, 2025, they spoke with the Transition Specialist and informed them about the School's outreach team attempting to contact the Parent regarding the Student's return to school. The Principal inquired about alternative methods of contacting

the Parent. Less than an hour later, the Parent responded via email, stating that they would be removing their child from the School and filing a complaint.

30. When asked by the Complaint Investigator about their program not being an option for the Student on May 1, 2025, the Principal stated, "We've never stated that our school was not an option." They explained that the purpose of the emails was to schedule a meeting to discuss the Student's re-engagement and address the Parent's concerns regarding their IEP. According to the Principal, the School aimed to collaborate and develop the best support strategies for the Student. Their overarching goal was to re-engage the Student. However, the Principal received the email from the Parent un-enrolling the Student, which they had to follow.

31. During an interview with the Complaint Investigator, the Vice Principal shared that the supports in place for the Student included an IEP specialist [providing support] twice a week, the Transition Specialist for lunchtime support, an on-campus counselor, and an academic advisor.

32. When asked about not sending the work packet or Chromebook when the Parent requested both on April 4, 2025, the Vice Principal stated that the Student was unable to attain credits in quarter three but would be given the opportunity to recover the incompletes. The Vice Principal then stated, "... given the behaviors and things that were going on in school, we wanted to try and get ahead of the curve before anything else, and that's what we were trying to schedule that meeting for before [the Student] was pulled out."

33. When questioned about the communication to the Parent after the February 27, 2025 and March 13, 2025 incidents, the Vice Principal explained that, "Each disciplinary thing that was put into the system, they were contacted and we talked about that ultimately."
The Vice Principal shared, "When it came to suspensions, we never really had a suspension for [the Student]. They were more of resets for [the Student], trying to have them reset so that they could really analyze what was going on that day at school. They were never issued a suspension."

34. The Vice Principal recalled speaking to the Parent twice on April 1, 2025, after each of the Student's incidents. After the first incident, the Vice Principal recalled talking to the Student outside of the class and calling the Parent. The Parent shared that the Student really wanted to go home, but "[The Student] stayed for the day and [the Student] was good up until seventh period." The Vice Principal talked to the Parent again, noting the need for a meeting, "So at this point, it was twice in one day. We had already had our meeting earlier in March. ... So, it's been about two weeks, and I'm seeing no progress really. So I really wanted, we need to get back together to really address what's going on … ."

35. The Vice Principal described that for the April 1, 2025 incidents, it was the end of the day, "... so [the Student] technically wasn't sent home, but each time that [the Student] ended up being sent home, I had the conversation with [the Parent]." The Vice Principal shared that the Student was sent home twice for "resets." According to the Vice Principal, the "resets" were documented as "... excused absences … for the rest of the day."

36. During an interview with the Complaint Investigator, the Case Manager recalled that the purpose of the March 11, 2025 meeting was to discuss engaging the Student and putting a support plan in place. The Case Manager recalled the Parent was in attendance and was afforded an opportunity to provide input and participate in the discussion.

37. The Case Manager described that the IEP accommodations implemented for the Student were breaks, test retakes, small class size, shortened assignments, and pull-out support.

38. When asked about implementing the BIP and sharing it with the staff, the Case Manager stated, "I saw the intervention plan." The Case Manager explained they had "... told everybody what was happening …" and that everyone was made "aware" of the plan on the Wednesday after the March 11, 2025 meeting. Additionally, the staff had access to the plan via the District's Student Information System.

39. In an interview with the Complaint Investigator, the Transition Specialist described why they believed the Student left the Alternative School, "My understanding is that the Parent and the [the Student] felt like they weren't being treated fairly, especially in regards to their IEP and the accommodations on their IEP. They felt like they were being targeted because of some of the behaviors that [the Student] was displaying, but they felt like they were directly related to their disabilities. And so they had a couple meetings with the school staff, which I was present for, but it seemed like [the Student] kept getting in trouble and there was no action plan. … They felt like there was no support … . In the end, they just felt like their IEP wasn't being honored and that [the Student] was being singled out for behaviors that have to do with their disability. And there was a more punitive approach versus a restorative approach."

40. When asked if the Student was suspended while in their program, the Transition Specialist stated, "It's hard to say. [The Student] was asked not to come back to school … I don't know the definition of suspension, but from my understanding, that would be a suspension at least two times that I have a record of. In my case notes, the Student was asked not to come back to school for more than one academic school day."

41. The Transition Specialist shared, "So I have a case note on March 6, 2025, that I received communication from [the Alternative School] team that [the Student] cannot return to classes until [the Student] has a support meeting." The Transition Specialist indicated that "... they did hold a support meeting on March 11th, 2025." The Transition Specialist's notes indicated that there was another incident on February 28, 2025. They also received a voicemail from the Vice Principal on April 1, 2025 regarding two separate incidents on the same day, and the school team was calling another meeting. The Transition Specialist shared, "So looking at my email thread from April 1st to April 15th, there was communication between the school team, the parent, and I was included in that communication, trying to find a date that worked to have … a meeting to address this behavior [the Student] was having. … That never got scheduled. … So from April 1st to April 15th, [the Student] was suspended. There was no meeting that was scheduled, but then they were also saying, 'Well, [the Student's] about to be 10-day dropped.'" When asked if the Student was at home

between March 6, 2025 and March 11, 2025, the Transition Specialist explained, "It would seem that way. I don't have any documentation, but it would seem that way when they're asked to leave school, [and] they cannot return back to school at [the Alternative School] until they have that support meeting.

IV. DISCUSSION

Disciplinary Removals

The Parent alleged that the District violated the IDEA by suspending the Student for behaviors related to their disability without providing "a plan of action or support," and refused to allow the Student to engage in and complete school work during the disciplinary removal. Additionally, the Parent alleged that the Student was suspended for more than 10 days.

School districts have the authority to remove a child with a disability who violates the student code of conduct from their current educational placement. This removal can be to an appropriate interim alternative educational setting, another setting, or suspension, for up to ten school days in a school year. These removals are permitted to the same extent, and with the same notice, as for children without disabilities and are not considered a change in placement. During these disciplinary removals, school districts are not required to provide access to special education and the general education curriculum unless students without disabilities are also provided such access during this time. School districts are not mandated to determine whether the child's behavior leading to the disciplinary removal is a manifestation of the child's disability. To count days of suspensions, the following guidelines apply: suspensions of a half day or less are counted as a half day, and suspensions of more than a half day are counted as a whole day.[3]

Additional disciplinary removals of up to ten school days (no pattern) are permissible to the same extent, and with the same notice, as for children without disabilities, provided that these removals do not constitute a pattern. School personnel must determine, on a case-by-case basis, whether a series of removals constitutes a pattern of behavior. This determination is made because the child's behavior is substantially similar to their behavior in previous incidents that resulted in the series of removals. The duration of each removal, the total time the child has been removed, and the proximity of the removals to one another are taken into consideration. During the removals, school districts must provide necessary services to enable the child to continue participating in the general education curriculum, even if in an alternative setting. Furthermore, these services should enable the child to progress toward meeting the goals in their IEP. School personnel, in consultation with at least one of the child's teachers, will determine the extent to which these services are needed and the location for their delivery. However, school districts are not required to determine whether the behavior resulting in removal is a manifestation of the child's disability during these periods.[4]

[3] OAR 581-015-2405(1-3); 34 CFR §§ 300.530, 300.536
[4] OAR 581-015-2410; 34 CFR §§ 300.530, 300.536

A disciplinary removal for more than ten school days (either in a pattern or consecutively) is considered a change in educational placement. The school district must follow special education due process procedures under specific circumstances. These circumstances include whether the removal will be for more than 10 consecutive school days (e.g., expulsion). Alternatively, a change in placement is also triggered if the child will be removed for more than 10 cumulative school days from their current educational placement in a school year, and those removals constitute a pattern under OAR 581-015-2410. Furthermore, school personnel may consider any unique circumstances on a case-by-case basis when determining whether to order a disciplinary removal for a child with a disability who violates a code of conduct. Finally, regarding manifestation determination, within 10 school days of any decision to change the placement of a child with a disability due to a violation of a code of conduct, the school district must determine whether the child's behavior is a manifestation of the student's disability in accordance with OAR 581-015-2420.[5]

The Parent believed the Student's behaviors were directly related to their disability and felt the Student's IEP accommodations were not being reviewed or followed and requested more structured one-on-one support for the Student. Following the Student's behavior incidents at the Alternative School on April 1, 2025, which led to the Student's removal from school until a meeting could be scheduled, the Parent specifically inquired about obtaining packets or a Chromebook so that the Student could complete their assignments. The Vice Principal denied this request. Additionally, the Parent and the Transition Specialist considered that the period from April 1, 2025 through April 15, 2025, was an extended suspension while a meeting was being arranged. The Parent ultimately withdrew the Student on April 15, 2025.

The District maintained that the Student's removal from the Alternative School after April 1, 2025, was not a suspension but rather a requirement for a team meeting to discuss support before the Student could return. They emphasized that the Parent unenrolled the Student before this meeting could take place. The District highlighted the supports available to the Student at the Alternative School and indicated that the Behavior Support Plan was shared with staff to guide their understanding of triggers and support strategies. According to the District, "resets" were not suspensions. The Vice Principal characterized instances where the Student was sent home as "resets" for the Student to "analyze what was going on," and these were documented as excused absences, not suspensions.

In July 2022, the United States Department of Education Office of Special Education and Rehabilitative Services defined informal removals, or "resets" as termed by the Vice Principal, as "Action taken by school personnel in response to a child's behavior that excludes the child for part or all of the school day, or even an indefinite period of time. These exclusions are considered informal because the school removes the child with a disability from class or school without invoking IDEA's disciplinary procedures. Informal removals are subject to IDEA's requirements to the same extent as disciplinary removals by school personnel using the school's disciplinary procedures.[6]"

[5] OAR 581-015-2415(1-3); 34 CFR §§ 300.530, 300.536
[6] OSEP Q&A 22-02

Apart from the eight days of disciplinary action at the High School that may have resulted in formal or informal removals, the Student also experienced several informal removals from their educational setting at the Alternative School, with "resets" in February and March 2025 functioning as disciplinary exclusions. Specifically, on March 6, 2025, the Alternative School notified the Transition Specialist that the Student would not be allowed to return until a support meeting was held, which eventually occurred on March 11, 2025. The attendance records confirmed the Student's absence on March 6, 7, 10, and 11, 2025, supporting the possibility that these absences constituted an informal discipline removal. Following two additional incidents on April 1, 2025, the Vice Principal explicitly stated that the Student could not return to school until another meeting was convened. This direct, conditional exclusion, characteristic of an informal removal, led to the Student's absence from April 2, 2025 through April 15, 2025, at which point the Parent unenrolled them. ""The pattern of indefinite exclusions—conditioned on a future meeting rather than a defined suspension period with formal due process—indicates that the removals for "resets" in February and March, as well as those on March 6, 7, 10, 11, and April 2–15, were informal and therefore subject to the requirements of the IDEA. These cumulative disciplinary actions totaled at least 16 days.

The high frequency and similar nature of the Student's behaviors across both schools, coupled with the duration and close proximity of these removals, clearly establish a pattern of behavior substantially similar to previous incidents that resulted in exclusions. Because these cumulative disciplinary removals exceeded ten school days and constituted a discernible pattern, they triggered a change in educational placement under federal and state law. This change should have triggered the District to provide necessary services to ensure the Student could continue participating in the general education curriculum and make progress toward their IEP goals.

The Department substantiates this allegation.

Manifestation Determination Review

The Parent alleged that the District failed to conduct an MDR for the Student.

In the process of determining whether a child's behavior is a manifestation of their disability, the school district, the parent, and relevant members of the IEP team (as determined by the parent and the district) are required to review all relevant information in the student's file. This review specifically includes the child's IEP, any teacher observations, and any relevant information provided by the parents. The purpose of this comprehensive review is to determine if the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability, or to ascertain if the conduct in question was the direct result of the school district's failure to implement the IEP. If the school district, the parent, and relevant members of the IEP team determine that either of these conditions applies to the child, then the conduct must be determined to be a manifestation of the child's disability. Furthermore, if the basis for the team's determination is that the school district did not implement the child's IEP, the school district must take immediate steps to remedy those deficiencies.[7]

[7] OAR 581-015-2420; 34 CFR §300.530(e)(f)

As established in the aforementioned analysis, the cumulative disciplinary removals, including "resets" and extended absences, exceeded ten school days and demonstrated a clear pattern of behavior linked to the Student's OHI eligibility and IEP goals. Under the law, such a pattern and cumulative removal constitute a change in educational placement, which should have triggered the District to conduct an MDR within ten school days of the decision to change placement. The District's failure to initiate this review, which is designed to determine if the behavior was a manifestation of the Student's disability or a result of the District's failure to implement the IEP, and contributed to the denial of a FAPE as evidenced by the lack of credit received during the extended removals.

The Department substantiates this allegation.

Additional Findings

When IEPs Must Be in Effect

School districts must provide special education and related services to a student with a disability in accordance with the student's IEP.[8] The district must ensure that each staff member, including service providers, has access to a student's IEP and is informed of their specific responsibilities for implementing the IEP and the specific accommodations, modifications, and supports in accordance with the IEP.[9] "IEP Teams and other school personnel should be able to demonstrate that, consistent with the provisions in the child's IEP, they are providing special education and related services and supplementary aids and services."[10]

"IEP Teams must implement policies, procedures, and practices relating to… how a child's progress towards meeting annual goals will be measured and reported," to ensure that the district offers "an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances."[11] "IEP Teams should use the periodic progress reporting required [by the IDEA] to inform parents of their child's progress."[12]

There is no expectation that IEPs be implemented with perfection under the IDEA. "[A] district does not violate the IDEA unless it is shown to have materially failed to implement the child's IEP. A material failure occurs when there is more than a minor discrepancy between the services provided… and those required by the IEP."[13]

The District did not ensure that a current IEP was in effect for the Student for the entire period of their enrollment, as evidenced by the expiration of the Student's IEP on April 28, 2025 without a new IEP being developed and implemented.[14]

[8] OAR 581-015-2220(1)(a); 34 CFR § 300.323(c).
[9] OAR 581-015-2220; 34 CFR § 300.323.
[10] Questions and Answers on *U.S. Supreme Court Case Decision Endrew F. v. Douglas County Sch. Dist.,* Re-1, 71 IDELR 68 (EDU 2017).
[11] Q&A on *U.S. Supreme Court Case Decision Endrew F.*, 71 IDELR 68.
[12] *Id*.
[13] *Van Duyn v. Baker Sch. Dist. 5J*, 502 F3d 811, 815 (9th Cir. 2007).
[14] OAR 581-015-2220(1)(a); 34 C.F.R. § 300.323

Content of IEP

An Individualized Education Program (IEP) is a written statement of an educational program which is developed, reviewed, revised and implemented for a school-aged child with a disability[15]. The definition of IEP[16] in the federal IDEA regulations specify that an IEP must be developed, reviewed, and revised in accordance with regulations describing required participants, the process of development, review, and revision of the IEP, and IEP implementation.[17]

When developing a student's IEP, the IEP must include a statement of the student's present levels of academic achievement and functional performance, including how the student's disability affects the student's involvement and progress in the general education curriculum. It must also include measurable annual goals designed to meet the student's needs that result from the student's disability to enable the student to be involved in and make progress in the general education curriculum and meet each of the student's other educational needs that result from the student's disability. The IEP must also include information on how the student's progress toward meeting the annual goals will be measured and provided to the parents. Finally, each IEP must include a statement of the specific special education and related services and supplementary aids and services to be provided to the student, or on behalf of the student.[18]

The District did not describe the full scope of services in the Student's IEP in the area of Supplementary Aids/Services: Accommodations. The inclusion of multiple accommodations to be provided for 0 minutes per day resulted in excessive ambiguity in the IEP's content, and made the implementation of the IEP difficult.

Free Appropriate Public Education (FAPE)

Each school district is responsible for providing a free appropriate public education to school age children with disabilities for whom the school district is responsible.[19] In order to determine whether a student has been denied a FAPE, the courts review a district's compliance with 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 IDEA, and whether the school district met the substantive requirement to develop an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances.[20]

Not every procedural error is sufficient to rise to a denial of FAPE.[21] The procedural test consists of three pivotal procedural errors: (1) whether the student suffers a loss of educational opportunity;[22] (2) whether the parent's right to participate in the IEP process was infringed;[23]

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[15] OAR 581-015-2000 (15)
[16] 34 CFR §300.23
[17] OAR 581-015-2190 through 581-015-2235; 34 CFR §§300.320 through 300.324
[18] OAR 581-015-2205(1); 34 CFR §300.320
[19] OAR 581-015-2040(1); 34 CFR § 300.101(a).
[20] *Endrew F. v, Douglas Cty. Sch. Dist.*, 137 S.Ct. 988, 999 (2017).
[21] *Amanda J. v. Clark Co. Sch. Dist.*, 267 F.3d 877, 892 (9th Cir. 2001) (citing *Roland M. v. Concord 13684 Sch. Comm.*, 910 F.2d 983, 994 (1st Cir. 1990)).
[22] *W.G. v. Bd. of Trustees of Target Range Sch. Dist.*, 969 F.2d 1479, 1484 (9th Cir. 1992).
[23] *Id.*

or (3) whether the procedural error caused a "deprivation of educational benefit."[24] Procedural errors rise to the level of a denial of FAPE where, absent the errors, there is a "strong likelihood" that alternative educational possibilities for the student "would have been better considered."[25]

The Student's Quarter 3 report card and transcript show no credit received. The denial of access to schoolwork during these extended removals directly impeded the Student's ability to participate in general education and achieve their IEP goals, thereby resulting in a denial of a Free Appropriate Public Education (FAPE).

V. CORRECTIVE ACTION[26]

In the Matter of Portland Public School District 1J
Case No. 025-054-034

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

Action Required	**Submissions**	**As Soon As Possible But No Later Than Due Date**
1. The District must provide the Student with Compensatory Education to make up for SDI not provided pursuant to Student's IEP. The Compensatory Education to be offered to the Parent shall include at least: ● 36 hours of specially designed instruction in all goal areas. The District must hold an IEP meeting with the Parent to develop a plan to deliver this SDI.[27]	The District shall submit the following: Completed plan for delivery of Compensatory Education developed in IEP meeting with Parent; Evidence showing compensatory education was provided.	**September 15, 2025** **May 15, 2026**
2. The District must ensure that all District staff responsible for imposing disciplinary	Training agenda/materials to ODE for review/approval.	**November 1, 2025**

[24] *Amanda J.*, 267 F.3d at 892 (citing *Roland M.,* F.2d at 994).
[25] *M.L. v. Federal Way Sch. Dist*., 394 F.3d 634, 657 (9th Cir. 2005)
[26] The Department's order shall include any necessary corrective action as well as documentation to ensure that the corrective action has been completed (OAR 581-015-2030(13)). The Department expects and requires the timely completion of corrective action and will verify that the corrective action has been completed as specified in any final order (OAR 581-015-2030(15)). The Department may initiate remedies against a party who refuses to voluntarily comply with a plan of correction (OAR 581-015-2030(17) & (18)).
[27] The Department provides IEP Facilitation services when it is mutually desired by parents and school districts and is available to support the Student's IEP team in this meeting. If a Facilitated IEP meeting is desired, please email ode.disputeresolution@ode.state.or.us.

removals and developing IEPs receive training on the following topics: ● Formal removals; ● Informal removals; and ● Manifestation determination reviews. ● Placement Determinations; ● Prior Written Notices; ● Parent Participation; and ● Content of the IEP	Sign-in sheet for training.	**January 15, 2026**

Dated: this 18 Day of July 2025



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Ramonda Olaloye
Assistant Superintendent
Office of Enhancing Student Opportunities

E-mailing Date: July 18, 2025

Appeal Rights: Parties may seek judicial review of this Order. Judicial review may be obtained by filing a petition for review within sixty days from the service of this Order with the Marion County

Circuit Court or with the Circuit Court for the County in which the party seeking judicial review resides. Judicial review is pursuant to the provisions of ORS § 183.484. (OAR 581-015-2030 (14).)