BEFORE THE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of	)	FINDINGS OF FACT,
Central School District 13J	)	CONCLUSIONS, AND FINAL ORDER
	)	Case No. 25-054-036

I. **BACKGROUND**

On May 21, 2025, the Oregon Department of Education (the Department) received a special education complaint (Complaint) from a Parent (Parent) regarding the special education of a Student (Student) who resides in the Central School District. The Parent alleged that the District had violated one or more provisions of the Individuals with Disabilities Education Act (IDEA). The Department conducted a special education complaint investigation pursuant to Oregon Administrative Rule 581-015-2030.

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 27, 2025, the Department's Complaint Investigator (Investigator) sent a *Request for Response* to the District identifying the Parent's allegations of IDEA violation and requesting a narrative response and specified documents to be submitted to the Investigator by June 10, 2025.

The District submitted a *Response* to the Complaint on June 10, 2025 to the Investigator and to the Parents. The District and submitted the following documents in support of its position:

1. Narrative *Respons*e
2. Table of Contents
3. Special Education Documents
    a. OHI Eligibility 05/28/24
    b. Initial IEP, 06/11/24
    c. Consent for Initial Provision of Special Education, 06/11/24
    d. Multidisciplinary Evaluation Report - 1.22.25.pdf
    e. ASD Eligibility, 01/22/25
    f. IEP Revision, 01/22/25
    g. Progress Reports, 01/28/25
    h. The Student's IEP, 05/19/25
    i. Annual IEP PWN, 05/19/25
4. Email communications between District staff and Parent during the Complaint period

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

5. Parent Square communications between District staff and Parent during the Complaint period
6. Miscellaneous items, including:
    a. 2024-25 School Schedule
    b. Attendance Overview 2023-24 School Year
    c. Attendance Overview 2024-25 School Year
    d. Log Entries 2024-25 School Year_(Redacted)
    e. Parent Square Communication 2024-25 _(Redacted)
    f. Student Incident Report—24-25 School Year
7. A list of staff knowledgeable about the circumstances related to the Complaint

The Investigator spoke by phone with the Parent on May 25, 2025 to discuss the allegations in the Complaint. The Investigator determined that the documents submitted by the District provided sufficient information so that staff interviews were unnecessary. The Parent did not submit a *Reply* to the *Response* and did not respond to any of the Investigator's efforts to follow up. The Investigator reviewed and considered the information provided by the Parent in the initial phone call and the District's exhibits in reaching the findings of fact and conclusions of law contained in this order.

II. Allegations and Conclusions

The Department has jurisdiction to resolve this Complaint under 34 CFR §§300.151-153 and OAR 581-015-2030. The Complainant's allegations and the Department's conclusions are set out in the chart below. The conclusions are based on the Findings of Fact in Section III and the Discussion in Section IV. This Complaint covers the one-year period from May 22, 2024 to the filing of this Complaint on May 21, 2025.

Allegations	Conclusions
Content of the IEP The Parent alleges that the District violated the IDEA by not addressing chronic verbal and physical bullying that causes anxiety and interferes with the Student ability to be educated with and participate with peers. The Parent alleges that the Student's IEP lacks appropriate services and accommodations designed to protect the Student from peer bullying or developing strategies to respond to bullies. Furthermore, the District's offered solutions involve removal of the Student from peers, e.g., encouraging the Student to use a staff restroom rather than a student restroom, and offering a separate place to eat lunch apart from peers.	**Not Substantiated** The IDEA does not mention bullying, and the Student's IEP did not explicitly reference protecting the Student from bullying. However, IEP goals, objectives, and SDI focused on the Student's need to develop social skills and emotional regulation, which would, among other things, improve the Student's ability to distinguish bullying from innocuous peer behavior and to respond appropriately to real or perceived slights from peers.

Allegations	Conclusions
(OAR 581-015-2200 34 CFR § 300.323)	
Free Appropriate Public Education (FAPE) The Parent alleges that the District has violated the IDEA entitlement to a FAPE by failing to provide IEP services and accommodations that would enable the Student to be safe from bullying. (OAR 581-015-2040; 34 CFR §300.17, 34 CFR § 300.101)	**Not Substantiated** The Department finds that appropriate IEP services and accommodations were provided, which enabled the Student to make progress toward IEP goals.

REQUESTED CORRECTIVE ACTION
The Parent requests the following corrective action: "I need to hear suggestions on how to keep [the Student] safe and provide …. an equal opportunity to learn. There could be an aide that stays with [the Student]. The school could potentially work with me to work with Polk County DDS to secure a potential support worker or something. I am not sure. Bottom line is that [the Student] should be able to succeed with [their] education and feel safe while doing so."

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 investigation does not consider facts before or after the Complaint period. However, facts outside of the Complaint period may be included to provide context necessary to understand the circumstances surrounding this Complaint.

1. The Student is 12 years old. During the Complaint period, the Student was in sixth grade at a District middle school.

2. The Student was found eligible for special education as a child with an Other Health Impairment (OHI) on May 28, 2024.

3. On June 11, 2024, the District convened a meeting of the Student's IEP team, which included the Parent, to develop the Student's initial IEP. The IEP provided in relevant part:

    a. Special factors:
        i. The Student exhibits behavior that impedes their learning or the learning of others.
        ii. The Student needs assistive technology devices or services.

b. Input from Parent
    i. “Worry about [them] and not wanting [them] to be left behind. [They] would benefit from a male teacher and a calm down period.”
c. Present levels of academic achievement
    i. Reading: aReading-518 -519. On AUTOreading [they] went from 516-536. “[The Student] does well in class.”
    ii. Math: aMath-went from a 216 to a 217 and in AUTOmath went from a score of 10 to 90. “Math is not difficult for [the Student]. [They] didn’t engage the entire year until just recently. [They] just finished learning about money, geometry and [they] did well with those concepts.”
    iii. Writing: “[The Student] does ok in class. [Their] handwriting is good. [Their] vocabulary is high. [The Student] needs more practice in the actual act of writing. [The Student] is currently writing a book with a peer.”
    iv. Present data: “[The Student] struggled somewhat in basic fact fluency with multiplication where [they were] only able to move up 3 points from the beginning of the year. Despite this however, [their] Winter screening score of 50, indicates that the lowered score of 13 is most likely not representative of [the Student’s] abilities.”
d. Present levels of functional performance
    i. “[The Student's] SAEBER's [*sic*] scores indicate a significant difference between [their] perception of [their] own actions from that of the regular classroom and of a lack of confidence in [their] own abilities. [The Student] has also had ongoing struggles with emotional regulation and compliance with adult directives, as was noted by [the] 4th Grade teacher in the 504 meeting on 5/3/2023 ‘Happening since January. Last several weeks it’s been getting more physical (pushing chairs, banging head)’ and by [the] current teacher in 5th grade from the 504 meeting on 1/24/2024 ‘[The Student] is doing well lately, seeing improvement and progress from a few months ago, doesn't always handle situations appropriately, but after communication and medication ... is showing a lot of progress.’”
e. Measurable annual goals and objectives
    i. Social Skills
    Measurable Annual Goal: “By May 2025, [the Student] will distinguish between a small problem and a big problem and match [their] reaction and act according to the size of the problem with 96% accuracy in 4 out of 5 opportunities.”
    Objective: “By May 2025, [the Student] will be able to recognize [their] feelings prior to becoming upset and formulate a plan for dealing with those emotions in 4 out of 5 opportunities.”
    ii. Behavior-Emotional Regulation
    Measurable Annual Goal: “By May 2025, when verbally prompted to practice handling a hypothetical high-pressure situation, [the Student] will practice 1 self-selected coping strategy (e.g., deep breathing, visualization) by demonstrating 1 observable element (e.g. chest

rising/falling, thinking aloud while visualizing) for 20 seconds, for 4 out of 5 practice sessions, as measured by an observation tool."
Objective: "By May 2025, when verbally prompted to evaluate personal stressors (e.g. test-taking), [the Student] will identify at least 1 personal stressor, scoring in 4 out of 5 progress monitoring assessments."

f. Specially Designed Instruction (SDI)
    i. Social skills: 30 minutes weekly in all school sites, monitored by case manager.
    ii. Behavior-Emotional Regulation: 60 minutes weekly in all school sites, monitored by case manager.
g. Related services. The team determined related services were not needed.
h. Accommodations. To be delivered in all school sites and monitored by case manager.
    i. Copy of class notes—"For each class session where lengthy notes are presented or needed at teacher discretion"
    ii. Break large projects into shorter goals—To assist with task completion and lessen stress.
    iii. Preferential seating—"To lessen distractions and increase student engagement"
    iv. Testing supports—"During class or state tests and exams to reduce stress, provide noise buffers, separate setting to testing, small sessions"
    v. Breaks—"when teacher or student initiated during class work or assessments"
    vi. Clear expectations—"Give clear expectations and check in to make sure expectations were understood, particularly with new or novel directions."
    vii. Visual checklist—"To assist in completing work, knowing daily schedule and relieving stress about [their] day."
i. Supplementary aids/services; modifications. The team determined modifications were not needed.
j. Program modifications/supports for school personnel.
    i. Consultation: To teaching staff, 60 minutes yearly, in all school sites, to be monitored by case manager.
k. Non-Participation Justification
    i. The Student receives social skills and behavior-emotional regulations services apart from non-disabled peers.
    ii. "[The Student] benefits from having instruction delivered both in [the] classroom to facilitate peer interaction and in a pull[-]out environment to allow for less distraction."
l. Placement determination. The team considered two options: (a) full-time in the regular classroom with push-in special education instructions and supports, and 30-80% of the day in the regular class with pull-out special education instruction. The team selected the second option because the Student "will do best in a small group setting where [they] can focus on skill building and self-regulation."

4. Meeting notes from June 11, 2024 IEP meeting align closely with IEP content. According to the notes, the Parent mentioned, among several other concerns, that the Student had been bullied in elementary school.

5. On September 4, 2024, the Student's regular education teacher (Teacher A) sent a message to the Parent describing an incident in which a student made a "really inappropriate" comment to the Student. Teacher A told the offending student that the comment was "disrespectful and harmful" and had the student apologize. The Parent thanked Teacher A and asked whether the Student had responded inappropriately. Teacher A responded that the Student accepted the apology.

6. On September 20, 2024, the special education case manager (Case Manager) sent a message to the Parent describing an incident in the lunchroom in which the Student and some other students were talking and "both said some unkind things." The Student told Case Manager that the other students were teasing about a mistake the Student had made while playing a video game a few days earlier. The Student "retaliated by making a comment about the other student's father who had passed away." The Parent replied to Case Manager that the Student sometimes "struggles with understanding that what [the Student] says can be hurtful and then on flip side is very sensitive about what others say to [them]." The Parent mentioned another student who had been kicking the Student's backpack and banging the Student's locker. The Parent said the same student had also bullied the Student the previous year. Case Manager replied "Good to know. I'll put some teachers on lookout."

7. A January 22, 2025 Special Education Multidisciplinary Evaluation Report, to which the Parent contributed information, describes the Student's strengths in academic areas and relative weaknesses in social communication and emotional regulation. The Student "talks a lot and makes lots of noises …. and is impulsive and has limited spatial awareness. … struggles with social cues and takes everything very personally." The Parent does not believe that [the Student] is bullied very much, but [the Student] does not perceive it that way. The Student at times "misinterprets interactions with peers and will name a list of peers who the Student feels have mistreated [them]".

8. A reevaluation conducted on January 22, 2025 led to a secondary eligibility determination, Autism Spectrum Disorder (ASD).

9. According to January 22, 2025 Meeting Notes, the team discussed cognitive and academic assessment data from the Student's May 28, 2024 OHI evaluation, which yielded average to high average cognitive and achievement scores. The Student displayed great academic communication skills. The team reviewed the results from the Autism Diagnostic Observation Schedule (ADOS-2), which indicated characteristics and behaviors typical of children with ASD.
   The team discussed the Student's challenges:
   a. Can perseverate in topics, ideas, and events [and] can make noises that annoy others that [the Student] is not aware of … making the sounds.

b. [The Student] super struggles with subs. [The student] becomes dysregulated and needs time to re-regulate.
c. [The Student] struggles with recognizing emotions of others, waiting [their] turn, topics that are not preferred, and does things in a repetitive actions/motions/ sounds.
d. Strong need for routine.
e. Needs closure - cannot move to next task before completing the first.
f. Difficulty in asking for help, following directions, maintaining attention, and organizing materials.

10. The team amended the Student's IEP on January 22, 2025 by adding:
    a. An addition to the Demographics table, indicating that the Student had a secondary eligibility category, ASD.
    b. Notes added to Present Levels of Performance stating that "[The Student] now qualifies for Autism Spectrum Disorder."
    c. Consultation: Autism, 100 mins per year, to be monitored by Case Manager.

11. An IEP Progress Report dated January 24, 2025 described the Student's progress as follows:
    a. Social Skills: "[The Student] is greatly improving in this area. [They are] still having moments of struggling to match … response to the size of a problem (real life events) but [they are] able to recognize and talk through the events after [they are] regulated."
    b. Behavior-Emotional Regulation: "With a trusted adult, [the Student] is able to do this. When being prompted by an adult but needs to complete the coping strategy independently, [the Student] struggles. [They are] progressing in this area but it is still a need. [The Student's] IA and [them] are doing a great job finding ways … to regulate and get back on task!"

12. On January 29, 2025, the Parent sent a message to unidentified District staff member(s) stating that a health class would not work for the Student because of some other students who had "jumped" the Student and who would be in the same class. The Parent asked about alternative class options. Case Manager immediately responded that the Student could be scheduled to take a different health class.

13. A March 10, 2025 message exchange between the Parent and the Assistant Principal A mentions an episode involving the Student and some other students who made threats. The Assistant Principal A spoke with the offending students, who said the threat was just a "bad joke". The Parent said, "thank you so much for following up on that! I really appreciate it!" The Parent added, "I hope parents will be notified too, just as a precaution that their kids are making these threats." The Assistant Principal A replied, "I just finished reaching out to them 😊" The Parent replied, "Thank you! I really appreciate you all!"

14. On March 20, 2025, the Parent sent a message to the Assistant Principal B stating that the Student had called home and said that "somebody threw wet toilet paper on [the Student] again today. It seems almost weekly now that there is some sort of bullying or talk of

jumping [the Student]. I am not sure what to do, because [the Student] deserves a safe place to learn and to not be scared just to walk the halls or go to the bathroom alone. The Assistant Principal B replied that [the Student] had just reported the incident and that Assistant Principal B was "working on identifying the who."

15. The District convened the Student's annual IEP review meeting on May 19, 2025. The content of the IEP was very similar to the content of the June 11, 2024 IEP, with changes noted as follows:
    a. Parent input: The Parent asked for "a study hall of some sort next year" so the Student could get work done.
    b. Present levels of academic performance: The Student continued to score in the average to high average range in academic areas.
    c. Present levels of functional performance:
        i. The Student's attendance was 91.1%, in part because of a week-long family vacation.
        ii. The Student had 4 behavior referrals, 3 categorized as minor and 1 one major.
        iii. The Autism Specialist reported that the Student was doing well in groups, sharing ideas, working on turn-taking in communication, and working on identifying stressors and finding calming strategies.
    d. Annual Goals and Objectives
        i. Social Skills
        Measurable Annual Goal: unchanged
        Objectives:
        One objective unchanged
        One new objective: "[The Student] will be able to choose a calming strategy that can be done in a classroom when a frustration arises, in 3 out of 4 observed trials."
        ii. Behavior-Emotional Regulation
        Measurable Annual Goal: The IEP includes the same annual goal, but this goal area now has three objectives.
        Objectives:
        "When verbally prompted to evaluate a personal stressor (e.g. test-taking), [the Student] will identify at least 1 personal stressor about that event, in 3 out of 4 trials."
        "When verbally prompted to practice handling a hypothetical high-pressure situation, [the Student] will be able to identify at least one way [their] body might be [signaling dysregulation] in 3 out of 4 trials."
        "When verbally prompted to practice handling a hypothetical high-pressure situation, [the Student] will practice 1 self-selected coping strategy (e.g., deep breathing, visualization) to help [them] re-regulate."
    e. Specially Designed Instruction
        i. Social Skills SDI unchanged
        ii. Behavior-Emotional Regulation SDI reduced from 60 minutes to 30 minutes weekly

f. Related Services: The team determined related services were not needed.
g. Accommodations: Identical to previous IEP.
h. Program modifications/supports for school personnel. Consultation to nursing staff and Autism consultation same as previous IEP. 100 minutes per year Nursing consultation added.
i. Placement Determination identical to June 11, 2024 IEP.

16. May 19, 2025 Meeting Notes align closely to IEP content. Neither the IEP nor the meeting notes include any express reference to bullying. The meeting notes indicate that the team agreed that the Student should be allowed to use the single stall bathroom "so [the Student] feels safe."

17. On May 21, 2025, the Parent sent a message to Assistant Principal A asking for a meeting to discuss "how to keep [the Student] feeling safe for the rests [*sic*] of the school year." The Parent also asked to review the video of an incident. Assistant Principal A agreed to meet the Parent the following morning.

18. On May 21, 2025, the Parent filed this Complaint.

IV. DISCUSSION

Content of the IEP

The Parent alleged that the District violated the IDEA by failing to develop an IEP that would protect the Student from bullying and make them feel safe at school.

The IDEA is silent on the issue of bullying. Nothing in the statutorily mandated content of IEPs expressly or implicitly requires bullying-specific content. The US Department of Education (USDOE) has published a number of "Dear Colleague" letters, all of which assert that bullying of a student with disabilities that results in the student not receiving educational benefit constitutes a denial of FAPE. Accompanying these letters was policy guidance describing research-based practices for schools to protect students with disabilities from bullying. USDOE policy letters or practice guidance do not have the force of law without first going through the rule-making process.[3] The Supreme Court has never addressed the question of what obligation, if any, the IDEA imposes on school districts to include services specific to bullying in a Student's IEP. However, school districts in Oregon should be aware that the 9th Circuit Court of Appeals has briefly touched on this topic. In a 2005 decision, stated that "If a teacher is deliberately indifferent to teasing of a disabled child and the abuse is so severe that the child can derive no benefit from the services that he or she is offered by the school district, the child has been denied a FAPE."[4] In a more recent case, the 9th Circuit agreed with that premise but declined to

[3] 20 USC § 1406(c) & (d)
[4] M.L. v. Federal Way School District, 394 F.3d 634 (9th Cir 2005)

give the force of law to USDOE policy guidance on bullying by adopting it as a minimum standard binding on school districts.[5]

The IDEA does not expressly require school districts to create IEPs to protect students with disabilities from bullying or to ensure that students with disabilities feel safe from bullying. However, the IDEA does require that IEPs address all of a student's disability-related needs. In this case, the IEP team recognized that the Student's deficits in social skills and emotional regulation may have made the Student vulnerable to bullying or to teasing that the Student perceived as bullying. For that reason, the IEP included goals and objectives and SDI geared toward helping the Student to hone their social communication skills and to develop stress management skills.

The IDEA also requires IEP teams to consider the concerns of the parents for enhancing the education of their child.[6] While the Parent did reference concerns related to bullying with school officials, the record indicates that those instances were separate from the IEP process and addressed satisfactorily. Further, nothing in the IEP indicates that the IEP Team considered bullying as a specific concern. The Parent input, as recorded in the IEP and in IEP meeting notes, mentioned not wanting the Student to be left behind, a preference for a male teacher, and a study hall where the Student could get work done.

The Department does not substantiate this allegation.

Free Appropriate Public Education (FAPE)

The Parent alleges that the District has violated the IDEA entitlement to a FAPE by failing protect the Student from bullying.

School districts must provide a free appropriate public education (FAPE) to all school-age children with disabilities for whom the district is responsible. The IDEA defines FAPE as special education and related services that:[7]

a. Are provided at public expense, under public supervision and direction, and without charge;
b. Meet the standards of the [state educational agency];
c. Include an appropriate preschool, elementary school, or secondary school education; and
d. Are provided in conformity with an individualized education program (IEP).

The IDEA does not include a standard for determining whether a school district has provided FAPE. However, in 1982, the US Supreme Court articulated a two-prong FAPE test that includes procedural and substantive elements:

[5] JM v. State of Hawaii Department of Education, 729 F. App'x 585 (9th Cir 2018)
[6] OAR 581-015-2205(a)(b); 34 CFR § 300.324(a)(ii)
[7] 34 CFR § 300.17

a. Procedural: Did the school district comply with IDEA procedural requirements, and
b. Substantive: Was the IEP reasonably calculated to enable the child to receive educational benefit?[8]

If a school district demonstrates that it has observed IDEA's procedural requirements, the question remains whether the IEP is substantively adequate. In a 2017 decision the US Supreme Court attempted to clarify a substantive standard for educational benefit. The Court held that "[t]o meet its substantive obligation under the IDEA, a school must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances".[9]

The Investigator found no indication that the District failed to comply with IDEA procedural requirements, so the remaining question is whether the Student made progress in light of their circumstances. The documents provided to the Investigator describe a Student who is intelligent and academically adept but who also experiences ASD, which affects [their] behavior and social interactions.

The District produced one IEP Progress Report during the Complaint period, midway through the school year. That report indicates that the Student made "great progress" in social skills and was making progress toward the behavior-emotional regulation goal when prompted by an adult. A second IEP Progress Report was due at the end of the school year, but that date was outside of the Complaint period. However, the present levels of performance included in the May 11, 2024 IEP indicate that the Student was continuing to make progress.

The Department does not substantiate this allegation.

V. CORRECTIVE ACTION[10]

In the Matter of Central School District 13J
Case No. 25-054-036

The Department does not order corrective action in this case.

Dated: this 18 Day of July 2025

[8] Hendrick Hudson Central Sch. Dist. v. Rowley, 458 U.S. 176 (1982)
[9] Endrew F. v. Douglas County Sch Dist RE-1, 137 S.Ct. 988 (2017)
[10] 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))



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).)