BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of David Douglas School District 40	)	FINDINGS OF FACT,
	)	CONCLUSIONS,
	)	AND FINAL ORDER
	)	Case No. 25-054-037

I. BACKGROUND

On May 21, 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 David Douglas School District 40 (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 11, 2025.

The District submitted a *Response* on June 12, 2025, denying the allegations, providing an explanation, and submitting documents supporting the District's position. The District submitted the following relevant items:

1. Emails between the Parties, 04/09/25-05/20/25
2. Consent to Evaluate, 03/11/25
3. Behavior Support Plan (BSP), 03/18/25
4. Guide to Meetings and Paperwork Requirements, no date
5. Individualized Education Program (IEP) Amendment DRAFT, 03/11/25
6. Special Education Procedural Guidelines and Handbook, 24-25
7. Special Ed Student Contact Log, 06/12/25

[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 submitted a *Reply* on June 17, 2025, providing an explanation and rebuttal and documents in support of the Parent's position. The Parent submitted the following relevant items:

1. Email, re: Meeting Notice, 05/15/25-05/20/2025
2. Prior Written Notice, 05/20/25
3. Individualized Education Program Amendment DRAFT, 03/11/25

The Complaint Investigator interviewed the Parent and the Parent Advocate on June 24, 2025. On June 24, 2025, the Complaint Investigator interviewed District personnel. 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 22, 2024 to the filing of this Complaint on May 21, 2025.

Allegations	Conclusions
Access to Educational Records The Parent alleged that they requested a copy of the Student's Functional Behavior Assessment (FBA) on May 15, 2025 and did not receive the copy until May 20, 2025, after an IEP meeting had been convened on May 20, 2025. (OAR 581-015-2300; 34 CFR § 300.613)	**Not Substantiated** The District provided the documents to the Parent within 10 business days of the request. The meeting held on May 20, 2025 was not an IEP meeting.
Prior Written Notice (PWN) The Parent alleged that the District misrepresented the Parent's request to reschedule the May 19, 2025 IEP meeting in the subsequent PWN by incorrectly implying the Parent had cancelled the meeting. (OAR 581-015-2310; 34 CFR § 300.503)	**Not Substantiated** The District did not misrepresent the Parent's request to reschedule the May 19, 2025 IEP meeting in the PWN document.
Parent Participation	**Substantiated**

Allegations	Conclusions
The Parent alleged that the District convened an IEP meeting on May 20, 2025, reviewed and proposed a BSP, and issued a PWN with team decisions without the Parent's participation. (OAR 581-015-2190(1-5); OAR 581-015-2195 (1-3)(6); 34 C.F.R. §§ 300.322,300.501)	The meeting convened by the District on May 20, 2025 was a staffing to review the FBA and BSP. Holding this meeting in the absence of the Parent deprived the Parent of their right to participate in a meeting related to the delivery of FAPE to their child.

REQUESTED CORRECTIVE ACTION

The Parent requested the following corrective action:

- "Rescind and nullify all decisions and documentation from the May 20, 2025 IEP meeting. No BSP or IEP changes made on that date should be considered valid."
- "Require [the District] to convene a new IEP meeting within 10 school days of the findings, with at least 5 school days' PWN. All versions of the FBA, BSP, and draft IEP amendments must be provided to the parent and advocate in advance."
- "Require [the District] to issue a corrected PWN, accurately stating that the parent requested a reschedule, the meeting was improperly held, and no parental consent has been obtained for any proposed plan."
- "Require [the District] to provide 10 hours of compensatory behavioral consultation and parent training delivered by a qualified BCBA [Board Certified Behavior Analyst] of the parent's choosing, at district expense."
- "Require [the District] to implement a district-wide corrective action protocol to ensure that no IEP meetings occur without documented parent participation or valid attempts to reschedule."
- "Require [the District] to create and use a pre-meeting compliance checklist, sent to parents and advocates at least 5 school days in advance of any IEP meeting, verifying:"
    - "All required records have been sent."
    - "Meeting invitations include all authorized participants."
    - "Parent availability has been confirmed."
- Require [the District] to include all parent-authorized advocates in all communications, calendar invitations, and document sharing moving forward."
- Place [the District] under a 12-month state monitoring plan, with quarterly compliance reviews conducted by ODE."
- Require state-facilitated training (not just internal PD[Professional Development]) for all [of] [the District's] special education administrators, case managers, and related service providers on:"
    - "Parent participation and procedural safeguards under IDEA and OAR."
    - "Legally compliant use of PWN."

- "Lawful handling of evaluation timelines, IEP meeting scheduling, and advocate participation."
- "This training must be developed and delivered by ODE or a designated external contractor, not internally by [the District] staff or legal team."

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 22, 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 in first grade and is described as kind, empathetic, and helpful. They are curious, they love to learn, and they have a good relationship with their teacher. The Student is eligible for special education services under the category of Other Health Impairment (OHI).

2. On March 12, 2025, the Parent signed a "Consent to Evaluate," which provided consent for an FBA for the Student. The document indicated the Case Manager received it the same day it was signed.

3. On March 14, 2025, a Special Education Student Contact Log entry stated the Case Manager "confirmed [the] FBA meeting for [May 19, 2025] at 12:45 [p.m.]; [the Case Manager] will send [*sic*] meeting notice. We will also plan to review [the Parents'] request for Extended School Year [(ESY)] for writing."

4. A March 18, 2025 BSP outlines an implementation plan with nine "tasks" that state, "ongoing (in place [May 20, 2025])" in the "by when" column of the document.

5. On April 9, 2025, the Case Manager sent an email to the Parent that included the "final documents" from the Student's IEP, along with the consent form for the FBA process that was signed by the Parent on March 12, 2024. The Case Manager added that they would be "reaching out soon to schedule a meeting to review the FBA results."

6. On May 15, 2025, the Case Manager sent an email to the Parent with an attached meeting notice for the "meeting on Monday [May 19, 2025]." There was no attachment included in the email.

   The Parent replied to this email on May 15, 2025 and let the team know they were adding a "non-attorney special education advocate [the Parent Advocate] to provide additional support" and that this person would be attending the upcoming meeting. They also stated, "We would like to cancel the meeting scheduled for Monday and [then]

reschedule for a later time to make sure that everybody has ample time to review pertinent information. Before scheduling the meeting, please provide the FBA report, any draft IEP documents, and any other evaluation reports that will be discussed."

The Case Manager replied on May 19, 2025 and stated, "We're happy to postpone the meeting to review the draft FBA. I will work on rescheduling. Please be aware that this will put us beyond the 45 day timeline for completing the FBA."

The Parent replied the same day and requested the completed draft of the FBA so they could start reviewing it.

7. In a May 20, 2025 email responding to a Parent inquiry about progress reports, the Case Manager supplied a copy of the progress report and explained the timelines for the data.

8. On May 20, 2025 at 2:18 p.m., the Parent sent an email to the Case Manager as a follow up to the May 15 and May 19, 2025 requests for a copy of the FBA and asked for it to be sent "by the end of the business day today."

   On May 20, 2025 at 3:01 p.m., the Case Manager sent an email to the Parent (copied in the email was the Associate Principal, the Parent Advocate, the Learning Specialist, and one other school district employee) and stated, "I'm attaching a FBA/BSP and a draft IEP amendment to this email as you requested. I am working on getting possible meeting dates from the school team and will share those options with you as soon as I hear back from everyone. The school team reviewed the FBA/BSP today because it was the last day of our 45 day timeline. I look forward to discussing it with you when we meet."

   The Case Manager provided another reply on May 20, 2025 at 3:54 p.m. and attached the FBA, a BSP, a PWN document, and a draft IEP amendment with "proposed changes."

   The Parent replied to the Case Manager the same evening (copied in the email was the Associate Principal, the Parent Advocate, the Learning Specialist, the Principal, and one other school district employee) and stated, "I did not cancel the May 19, [2025] IEP meeting. I requested it be rescheduled due to the District's failure to provide the completed FBA and related records in time for review. This is my right … You proceeded to hold the meeting without me, reviewed and implemented a BSP, and issued a PWN documenting actions taken, all without my participation or access to records. … I do not consent to the implementation of any part of the FBA, BSP, or proposed IEP amendments that were discussed or drafted in my absence."

9. On May 20, 2025, the March 11, 2025 draft IEP included amendments to document a BSP, document data demonstrating that ESY is not applicable, and adding 60 minutes per week of Math Specially Designed Instruction (SDI) to the Service Summary and changing typos in present levels and measurable annual goals.
   a. The amendment to document a BSP on the IEP noted, "Based on the results of the FBA, a BSP is being added to support [the Student] at school. This is now

documented in the service summary page under accommodations." The following timeline was also noted.

i. On January 31, 2025, the Parent requested by email that an FBA be completed.
ii. On February 3, 2025, the IEP team, including the Parent, met to discuss the Student's attendance and ways to support attendance.
iii. On March 11, 2025, the IEP team, including the Parent, held the Student's IEP meeting.
iv. On March 12, 2025, the Parent signed consent to initiate an FBA.
v. On May 2, 2025, a meeting was scheduled by the Associate Principal (including the Parent) for May 19, 2025 to review the FBA and BSP.
vi. "On 5/18/25, [the Parent] cancelled the scheduled meeting by email."
vii. On May 20, 2025 "the school team met to review the FBA and BSP to be in compliance with the 45 day timeline. We will begin implementing the BSP starting on [May 20, 2025]. A copy of FBA and BSP documents was shared with [the] Parent by email. The school team is happy to review the plan with [the] Parent at their earliest convenience.
viii. The Supplementary Aids and Services; Accommodations portion of the IEP noted a BSP for 30 minutes throughout the day to start May 20, 2025.

b. The amendment to "Present Level of Academic Achievement and Functional Performance - Writing" was made because the Parent had concerns about the Student not making progress towards the writing goals during the 2023-24 school year. At the time of concern, the Student had two IEP goals targeting written expression and spelling.

i. "Writing Goal 1: [the Student's] goal was to write 2-3 sentences on a topic using correct spelling, grammar, and punctuation with 75% correct word sequences in 2 out of 3 opportunities. As of March, [the Student] was independently writing more than three sentences on preferred topics using speech-to-text technology. [They] had begun to check [their] work for basic editing, including capitalization and punctuation. However, [they] continued to use run-on sentences and at times became upset when prompted to revise or edit [their] writing. After spring break, data showed consistent writing of more than three sentences using speech-to-text, continued self-checking and improved sentence structure. Although run-on sentences persist, [the Student] is demonstrating growth in writing endurance and output."
ii. "[The Student's] goal targeted spelling of CVC, CCVC, and CVCC words with 80% accuracy. In March, [the Student] was independently spelling CVC words with 85% accuracy. After spring break, [they] spelled 10 CVC words with 100% accuracy. Although instruction in blends (CCVC/CVCC) had not been a consistent area of focus in small groups, [their] performance indicates mastery of CVC spelling patterns. When writing from dictation, [their] writing sequences were 80% accurate, and [the Student] showed improvement in letter formation. Errors such as formation of lowercase ''a' occasionally impact legibility but are not consistent."

iii. Based on this data, it was determined that the Student was making steady progress on both writing goals and there was "no significant evidence of significant regression or need for services beyond the school year to maintain progress. As a result, [the Student] does not qualify for ESY services."
iv. The ESY portion of the IEP had a checked box for "current data shows NO regression and/or recoupment of skills."

c. The amendment to include the addition of Math SDI minutes stated, "the addition of 60 min/week of SDI in math was intended to be documented at [the] March 11, 2025 [IEP] meeting."
   i. The Service Summary of the IEP listed 60 minutes per week of SDI for Math.
d. The amendment to correct typos within the Present Levels and Goals section of the IEP noted that those typos were corrected in this amendment.
e. The Parents Rights section of the IEP included, "I have had the opportunity to participate in the development of this IEP. I have received a copy of "Parent Rights for Special Education (K-12)". There was no parent signature.

10. A May 20, 2025 PWN detailed that the School Team met to review the FBA and BSP in order to meet the 45-day timeline. The PWN further noted, "The FBA is complete, and BSP will be implemented starting on 5/20/25." The District agreed to reschedule the meeting at the Parent's convenience.
    a. The PWN described the following as the basis for the proposed or refused action:
       i. "On [May 18, 2025], [the Parent] cancelled the scheduled meeting by email."
       ii. "On [May 20, 2025], the school team met to review the FBA and BSP to be in compliance with the 45-day timeline. We will begin implementing the BSP starting on [May 20, 2025]. A copy of FBA and BSP documents was shared with parents by email."
    b. Other options considered and why those items were rejected noted:
       i. "Not reviewing the FBA and BSP as a team was considered because [the Student's] Parent emailed to cancel the scheduled meeting. This was rejected in order to stay in compliance with the 45 day timeline."

11. In the District *Response* to this Complaint, it was noted, "The PWN issued inaccurately states: ''On 5/18/25, [the Parent] cancelled the scheduled meeting by email.' It should state the meeting was cancelled on May 15, 2025. The District's intent was not to misrepresent the parent's action but to document the reason the team proceeded with the FBA/BSP review on May 20, 2025, without parent attendance."

12. In the District's "Special Education Procedural Guidelines and Handbook" for the 2024-25 school year, under "Parent Participation and Holding an IEP Meeting Without the Parent," it states, "If staff are unsuccessful at getting parents to attend an IEP meeting, the meeting may be held without the parents under the circumstances described below. Even so, if it is possible to reschedule with the parent in attendance, that would be preferable to proceeding without the parent."

a. "If the parent was contacted directly and a mutually agreeable time was arranged, and [a] written meeting notice was sent to confirm this time, the meeting may proceed without the parent (if the parent does not call to reschedule)."
b. "If the written meeting notice proposes a specific meeting time, and there is direct confirmation that the parent received the notice, and the parent did not request a different meeting time, the meeting may proceed without the parent (if the parent does not call to reschedule)."

13. The Parent filed this Complaint on May 21, 2025.

14. In an interview with the Complaint Investigator, the Parent clarified that they said "cancel this one and reschedule it for another time" when they emailed the Case Manager about the May 19, 2025 IEP meeting. The Parent also pointed out that "the Case Manager understood it correctly and confirmed that we could reschedule the meeting."

15. When asked what the Parent expected would happen with their request to reschedule the meeting, they stated that they expected to receive the information they requested "to have a couple of days to review it with [the Parent Advocate] and then to have the meeting rescheduled."

16. The Parent stated, "They met without me, without even telling me that there [was] a meeting. And they sent me a PWN regarding that meeting that they had."

17. When asked about whether the District informed the Parent they were going to hold a meeting without the Parent present, the Parent stated they did not know about the meeting until "[The District] sent me an email saying we held the meeting anyway." They added, "I had no idea there was a meeting." The Parent Advocate added, "They met on the 20th [May 20, 2025] without even contacting [the Parent]."

18. The Parent stated they received "finalized" paperwork after the District team met on May 20, 2025, along with the information they requested. "And they did send me the information that I had requested and [when] I opened the information and it wasn't anything I was expecting because it had nothing to do with my request." The Parent Advocate stated, "They sent all the paperwork after the fact that they had met."

19. When asked if the May 20, 2025 IEP Draft had been finalized, the Parent and Parent Advocate noted that it had been put in the PWN that it was to be implemented. The Parent stated, "[The District] said that they were going to implement the FBA and we asked them not to, apart from the fact that it's not even on what I requested to begin with. But anyway, so yeah, they say it's finalized."

20. The Parent explained, "[The Parent Advocate] helped me understand that I can get the information before the meeting. And that's why I said let's cancel and reschedule because we need that information before we even have the meeting."

21. The Parent recalled "[It] was never that I wasn't going to go to the meeting. I would've gladly gone to the meeting, but I just needed that information first so that [the Parent Advocate] could advise me properly during the meeting."

22. The Parent indicated that the reason the District held the meeting on May 20, 2025 without them was to "stay in compliance." The Parent added, "[The District] could have just sent me the information. We could have still met on the 20th [May 20, 2025] and as a team, but that's not what happened."

23. In an interview with the Complaint Investigator, the Associate Principal stated "We received an email [from the] Parent requesting to postpone the meeting because they wanted to review records with their advocate before the meeting. When we reached out to [the Assistant Director and the Director of Student Services] … we were advised to move forward with just the FBA and BSP."

24. The Associate Principal indicated those in attendance at the May 20, 2025, meeting were themself, the Case Manager, the Speech-Language Pathologist (SLP), the Learning Specialist, and the Physical Therapist (PT).

25. The Associate Principal recalled that they were the person who developed a draft of the "Escalation Cycle" and BSP document on May 8, 2025 due to the Case Manager being on leave. They stated, "I handed [the document] off to [the Case Manager] when [they] returned from [their] leave. So I don't know what happened. It looks like [the Case Manager] did some work on it on May 14th, but I don't know what that process looked like and who was part of that. But I can see that there was an edit on May 14th."

26. When asked why the FBA meeting was held so close to the 45-day deadline, the Associate Principal explained that the team wanted the Case Manager to be a part of the process and they were on leave until the scheduled meeting.

27. When asked if the May 20, 2025 IEP Draft had been finalized, the Associate Principal said, "I don't know. I don't believe so. We discussed when we were reviewing the FBA and BSP that we would like to make some recommendations to the IEP team. And so I think that's where the draft IEP came from. But my understanding in that meeting was that we had some recommendations that we wanted to share with the team and that those recommendations were not moving forward until we had the IEP meeting."

28. In an interview with the Complaint Investigator, the Director of Student Services stated that they received a request for some guidance from the Case Manager. "The request was around, I have a 45 day timeline coming up, parents signed consent and I need to try and figure out what [to] do. Do I proceed forward with this meeting and not have the Parent present or do I postpone and miss this 45 day timeline because the Parent is unable to attend? And the team recommended to the Case Manager to proceed and let the Parent know that they were going to proceed with [the] meeting and that they would be able to re-meet to get additional information."

29. The Director of Student Services stated that their understanding was "[The] Parent was informed that [the meeting] would continue via email … from the Case Manager."

30. The Director of Student Services described the May 20, 2025 meeting as "Different people who met throughout the day. It wasn't everybody. I think [the Case Manager] kind of drafted [the IEP and BSP] throughout the day that day, but I don't know exactly."

31. When asked about the Parent being invited to the May 20, 2025 meeting, the Director of Student Services stated, "the Case Manager had scheduled the BSP development to coincide with an IEP team meeting. So they could add the FBA onto the IEP. And when they canceled to reschedule the meeting itself, they continued with the FBA portion. They did not do the IEP portion. So they met to develop the BSP, but they did not do the IEP portion of the meeting to add the FBA. So at this current time, the IEP still does not have [the] FBA embedded within there. So it's still a standalone document that has not been embedded onto the IEP because this process started and we've kind of been stalled out."

32. The Director of Student Services stated, "[The] Parent had asked for the meeting to be rescheduled … and they [the school team] ended up meeting Tuesday [May 20, 2025] … But [the May 19, 2025 meeting] had been confirmed [with a] phone call, in an email, and in person."

33. In an interview with the Complaint Investigator, the Principal explained that consent for the FBA was "given back in March" and they "wanted to make sure it was done in time, which would be [May 20, 2025]. So we went ahead and made sure we stayed in compliance and had that meeting about the draft FBA."

34. The Principal stated, "There [were] emails sent that we were going to proceed with the review of the FBA and I believe [the Case Manager] sent communication to the family that we had to proceed and then a PWN was made. So we communicated what we had to do."

35. The Principal clarified that the IEP was not finalized and that May 20, 2025 was "not about an IEP." They went on to explain that, "[May 20, 2025] was a meeting because the FBA had a deadline to it and we wanted to make sure that was in draft form to be able to present. It was not an IEP meeting."

36. When asked about implementation of the BSP created on May 20, 2025, the Principal stated, "It was implemented, but I don't know the exact date, whether it was after consultation with family or not."

IV. DISCUSSION

Access to Student Educational Records

The Parent alleged that they requested a copy of the Student's FBA on May 15, 2025 and did not receive the copy until May 20, 2025, after an IEP meeting had been convened on May 20, 2025.

To ensure the safeguards required for the education records of children with disabilities, the Department adopts by reference the provisions of the Family Educational Rights and Privacy Act (FERPA) and the IDEA. In this context, all education records encompass information regarding the child's identification, evaluation, and educational placement, as well as the provision of a free appropriate public education (FAPE). The district must comply with a parent's request to inspect and review records without unnecessary delay and within specific timelines. For children over the age of three, before any meeting regarding an IEP/IFSP, or any due process hearing, or resolution session related to a due process hearing, and in no case more than 10 business days after the request has been made.[3]

On May 15, 2025, the Case Manager sent an email with a meeting notice for May 20, 2025. The Parent replied the same day, stating they would be bringing a Parent Advocate and wished to cancel and reschedule the meeting to allow time to review documents, including the FBA report and draft IEP documents. The District agreed to reschedule the meeting.

On May 20, 2025, the Parent followed up, requesting the requested documents be sent by the end of the business day. Later that day, the Case Manager emailed the Parent, attaching PWN, a draft IEP amendment, and a completed FBA/BSP. The Case Manager explained that the school team had reviewed the FBA/BSP that day to comply with the 45-day timeline. The Parent confirmed in their interview that they received the information they requested after the school team met to review the FBA/BSP. The District did not consider that meeting an IEP meeting, but did provide PWN indicating proposals the District planned to implement as a result.

The Parent received the requested FBA and related documents on May 20, 2025, within 10 business days as legally required. The regulation dictates a maximum of 10 business days for document provision, and the District complied with this timeline.

The Department does not substantiate this allegation.

Prior Written Notice

The Parent alleged that the District misrepresented the Parent's request to reschedule the May 20, 2025 IEP meeting in the subsequent PWN by incorrectly implying the Parent had cancelled the meeting.

A school district must provide a PWN to the parent of a child within a reasonable period before a school 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 school district, an explanation of why the district proposes or refuses to take the action, a description

[3] OAR 581-015-2300(1)(2)(3)(a)(b)

of each evaluation procedure, assessment, test, record, or report the school district used as a basis for the proposed or refused action, a statement that the parents of a child with a disability have protection under the procedural safeguards and, if this notice is not an initial referral for evaluation, how a copy of the Notice of Procedural Safeguards may be obtained. The PWN must also include sources for parents to contact to obtain assistance in understanding their procedural safeguards, a description of other options that the IEP Team considered, the reasons why those options were rejected, and a description of other factors that are relevant to the agency's proposal or refusal. The PWN must be written in language understandable to the general public and provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so. Additionally, if the native language or other mode of communication of the parent is not a written language, the school district must take steps to ensure that the notice is translated orally or by other means to the parent in the parent's native language or other mode of communication, that the parent understands the content of the notice, and there is written evidence that these requirements have been met.[4]

On March 14, 2025, a Special Education Student Contact Log entry confirmed a May 19, 2025 meeting. On May 20, 2025, the Case Manager provided the Parent with the FBA, a BSP, PWN, and a draft IEP amendment. The PWN document indicated the School Team met to review the FBA and BSP to comply with the 45-day timeline and would implement the BSP. The PWN cited the Parent's "May 18, 2025" email canceling the meeting as the basis for proceeding without a team review, which was rejected to maintain compliance. This date was incorrect, as acknowledged by the District in their *Response* to the Complaint. The Parent email was sent and received by the District on May 15, 2025.

When the PWN was received, the Parent immediately replied, stating they "did not cancel the May 19, [2025] IEP meeting," but "requested it be rescheduled due to the District's failure to provide the completed FBA and related records in time for review." The Parent asserted their right to records before the meeting and expressed non-consent to actions taken in their absence. In an interview, the Parent clarified they requested to "cancel this one and reschedule it for another time," and believed the Case Manager understood this, expecting to receive requested information for review before a rescheduled meeting. The Parent explained they learned from their Parent Advocate the right to review information prior to a meeting, leading to their request to "cancel and reschedule." The Associate Principal confirmed receiving an email from the Parent requesting postponement for record review with the Parent Advocate. The Director of Student Services stated the Parent had asked for the meeting to be rescheduled, noting the May 19, 2025 meeting had been previously confirmed by phone, email, and in person.

While the Parent used the word "cancel" in their initial email, subsequent correspondence and the Parent's clarification during the interview clearly indicate their intent was to reschedule the meeting pending prior receipt and review of documents, not to permanently cancel it. All parties involved appeared to understand the Parent's request as a desire to reschedule the meeting. The actual language used on the PWN document does not constitute a violation, as it

[4] OAR 581-015-2310; 34 CFR § 300.503

demonstrates an understanding of the request as one to reschedule, rather than a definitive cancellation, and the District offered to hold another meeting at the Parent's convenience.

The Department does not substantiate this allegation.

Parent Participation

The Parent alleged that the District convened an IEP meeting on May 20, 2025, reviewed and proposed a BSP, and issued a PWN with team decisions without the Parent's participation.

School districts must provide one or both parents with an opportunity to participate in meetings regarding the identification, evaluation, IEP, and educational placement of the child, as well as the provision of a free appropriate public education for the child. Regarding the meeting notice, school districts must provide parents with a written notice of the meeting sufficiently in advance to ensure that one or both parents will have an opportunity to attend. Furthermore, the written notice must state the purpose, time and place of the meeting and who will attend, inform the parent that they may invite other individuals whom they believe have knowledge or special expertise regarding the child, inform the parent that the team may proceed with the meeting even if the parent is not in attendance, and inform the parent of whom to contact before the meeting to provide information if they are unable to attend. Additionally, the school district must take whatever action is necessary to ensure that the parent understands the proceedings at a meeting, including arranging for an interpreter for parents who are deaf or whose native language is other than English. It is also important to note that a meeting does not include informal or unscheduled conversations involving school district personnel, nor does it encompass discussions on issues such as teaching methodology, lesson plans, or coordination of service provision if those issues are not addressed in the child's IEP. A meeting also does not include preparatory activities that public agency personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting. Finally, regarding conducting a meeting without a parent in attendance, a meeting may be held without a parent present if the school district has provided the parent with notice in accordance with OAR 581-015-2195.[5]

Furthermore, IEP meetings should be scheduled at a mutually agreed-upon time and place. If neither parent can attend, the school district must use other methods to ensure parent participation, including, but not limited to, individual or conference phone calls or home visits. However, concerning conducting an IEP or placement meeting without a parent in attendance, a meeting may be conducted if the school district is unable to convince the parents to attend. In such cases, if the school district proceeds with an IEP meeting without a parent, the district must have a record of its attempts to arrange a mutually agreed-upon time and place, such as: detailed records of telephone calls made or attempted and the results of those calls, copies of correspondence sent to the parents and any responses received, and detailed records of visits made to the parent's home or place of employment and the results of those visits. Finally, when conducting IEP team meetings and placement meetings, the parent of a child with a

[5] OAR 581-015-2190(1-5); 34 C.F.R. §§ 300.322,300.501

disability and the school district may agree to use alternative means of meeting participation, such as video conferences and conference calls.[6]

Specific to evaluations and reevaluations, upon completing the administration of assessments and other evaluation materials, a team including two or more qualified professionals must determine eligibility and the educational needs of the child. This team must also include the parent and may be the child's IEP team.[7]

On March 12, 2025, the Parent consented to an FBA for the Student. On March 14, 2025, a Special Education Student Contact Log entry confirmed an FBA meeting for May 19, 2025, with plans to also review the Parent's request for ESY for writing. A March 18, 2025 BSP outlined an implementation plan set to be "ongoing (in place [May 20, 2025])."

On May 15, 2025, the Case Manager emailed the Parent regarding a meeting scheduled for May 19, 2025. The Parent replied the same day, informing the team that they would like to cancel and reschedule this meeting. The Parent explicitly requested the FBA report, any draft IEP documents, and other evaluation reports before rescheduling. On May 19, 2025, the Case Manager replied, stating, "We're happy to postpone the meeting to review the draft FBA. I will work on rescheduling. Please be aware that this will put us beyond the 45 day timeline for completing the FBA."

On May 20, 2025, the Case Manager sent an email to the Parent attaching the FBA, BSP, and a draft IEP amendment. The Case Manager stated, "The school team reviewed the FBA/BSP today because it was the last day of our 45-day timeline. I look forward to discussing it with you when we meet." A subsequent email from the Case Manager on May 20, 2025, included the FBA, BSP, a PWN documenting the team's review to comply with the 45-day timeline, and a draft IEP amendment with "proposed changes." The Parent immediately replied that evening, stating they "did not cancel the May 19, [2025] IEP meeting," but requested it be rescheduled due to the District's failure to provide records in time. The Parent asserted their right to records before the meeting and expressed non-consent to actions taken in their absence, including the review and implementation of a BSP. The May 20, 2025 PWN indicated the School Team met to review the FBA and BSP to meet the 45-day deadline and that the BSP would be implemented starting May 20, 2025.

In an interview, the Parent stated, "They met without me, without even telling me that there [was] a meeting. And they sent me a PWN regarding that meeting that they had." The Parent only learned of the May 20, 2025 meeting when the District sent an email confirming it had occurred. Both the Parent Advocate and the Parent indicated the May 20, 2025 meeting was held without contacting the Parent, to "stay in compliance." The Parent believed the District could have sent the information and still met as a team on May 20, 2025.

The Associate Principal stated in an interview that they were advised to "move forward with just the FBA and BSP" to meet the 45-day timeline, as the Case Manager, who was the "point person," was on leave until close to the time of the originally scheduled meeting. The Director

[6] OAR 581-015-2195(1-3)(6); 34 C.F.R. §§ 300.322,300.501
[7] OAR 581-015-2120; 34 C.F.R. § 300.306(a)(1)

of Student Services stated that they advised the Case Manager to proceed with the meeting to avoid missing the 45-day timeline, and to inform the Parent that the meeting would proceed and they could schedule another meeting for additional information. The Director stated their understanding was that the "Parent was informed that [the meeting] would continue via email." The Principal explained in an interview that they "wanted to make sure it [the FBA] was done in time, which would be [May 20, 2025]." The Principal emphasized that May 20, 2025, was "not about an IEP," but a meeting to ensure the FBA had a deadline and was in draft form to be presented. The Director of Student Services further clarified that the May 20, 2025 meeting was for the development of the BSP, and they did not conduct the IEP portion of the meeting to add the FBA to the IEP.

The Parent alleged the District convened an IEP meeting on May 20, 2025, reviewing and proposing a BSP, and issuing a PWN with team decisions without parent participation. The District's intent for the May 20, 2025 gathering was not to hold a formal IEP meeting, but primarily to review the FBA and BSP, and to develop a proposal that would be discussed at a later meeting. The District moved forward with this meeting in order to meet the 45-day timeline for completing these documents, as stipulated by District guidelines and OAR 581-015-2181(2)(a). District personnel, including the Associate Principal, Director of Student Services, and Principal, consistently stated that the meeting was focused on the FBA and BSP due to the impending deadline and the Case Manager's prior leave, and explicitly clarified that it was not intended to be an IEP meeting for amending the Student's IEP. However, holding this meeting in the absence of the Parent deprived the Parent of the ability to be actively involved in a meeting directly related to the provision of a free, appropriate public education to their Student. Further, when a team meets to review the educational needs of a student based on the results of an evaluation or reevaluation, the IDEA required that the Parent be part of that team. The District did not allow for that to occur.

The Department substantiates this allegation.

Additional Finding

Review and Revision of IEPs

Changes to a Student's IEP can be made through a written amendment, without holding a full IEP Team meeting, if both the Parent and the school district agree. When such changes are made, the district must ensure the IEP team is informed. IEP amendments can be made either by the full IEP team during a meeting or by amending the existing IEP through a written agreement. Upon request, the Parent must receive a revised copy of the IEP that includes all incorporated amendments.[8]

On March 14, 2025, a Special Education Student Contact Log confirmed an FBA meeting for May 19, 2025, and mentioned this meeting would also be to discuss the Parent's request for ESY for

[8] OAR 581-015-2225(2)(a-b)(3)(a-b); 34 CFR § 300.324(a)(4)

writing. On May 15, 2025, the Case Manager sent a meeting notice for May 19, 2025, which ended up being postponed upon the Parent's request.

On May 20, 2025, the school team met to review the FBA and BSP to meet the 45-day deadline. On May 20, 2025, a PWN documented this meeting and stated the BSP would be implemented that day, offering to review the plan with the Parent at their convenience.

An amendment to the IEP, drafted on May 20, 2025, aimed to document the BSP, indicate no need for ESY, add 60 minutes/week of Math SDI, and correct typos. The BSP was noted as added to the IEP's accommodation section to support the Student at school. Based on data from two writing goals, including the Student's independent writing with speech-to-text and spelling of CVC words, it was determined the Student made steady progress, showing no significant regression or need for ESY services. The IEP's ESY portion was amended and checked for "current data shows NO regression and/or recoupment of skills." The Math SDI addition was intended to be documented at the March 11, 2025 IEP meeting, but was added to this draft. The Parent's Rights section of the IEP was unsigned.

The Parent stated they were not informed of the May 20, 2025, meeting until after it occurred, and did not consent to the IEP amendments discussed in their absence, despite the District stating the BSP would be implemented. The Parent stated the District's reason for meeting without them was to "stay in compliance," but believed the District could have sent information and still met as a team to amend the IEP. The Associate Principal and Principal clarified that the May 20, 2025, meeting was not to finalize the IEP. The Principal stated that the BSP was implemented, but the exact date relative to when the Parent was consulted was unknown.

Although the meeting on May 20, 2025 was primarily to review the FBA and BSP to meet the 45-day deadline, the District proceeded to amend the Student's IEP by documenting the BSP, adding Math SDI minutes, and making a decision on ESY without a written agreement from the Parent to amend or modify the IEP without a meeting. Regulations allow changes to an IEP between annual meetings if the parent and district agree not to hold a meeting and instead develop a written document. The facts do not indicate such a written agreement was in place for the amendments made to the IEP on May 20, 2025. While the District had a compliance deadline for the FBA and BSP review, such a meeting also required the Parent's participation. Further, the District did not have the authority to amend the IEP without the Parent's agreed-upon participation or written consent to an amendment outside of a meeting.

V. CORRECTIVE ACTION[9]

In the Matter of David Douglas School District 40
Case No. 025-054-037

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

[9] 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)).

Action Required	Submissions	As Soon As Possible But No Later Than Due Date
1. The District must convene a new IEP Team meeting with the Parent to review the results of the FBA and discuss all amendments made to the IEP on May 20, 2025. This meeting should specifically address the documentation of the FBA and BSP on the IEP, the decision regarding ESY services, and the addition of 60 minutes/week of Math SDI.	The District shall submit the following: Completed IEP with evidence the Parent attended the meeting.	**August 29, 2025**
2. The District staff responsible for IEP development, review, and implementation must receive targeted training on proper procedures for amending IEPs, particularly focusing on the requirement for written parent agreement when changes are made outside of a full IEP Team meeting. This training should emphasize the regulations regarding parent participation and consent in all IEP decision-making processes.	Training agenda/materials to ODE for review/approval. Sign-in sheet for training.	**September 15, 2025** **December 15, 2025**
3. The District staff responsible for evaluations and eligibility determinations must receive targeted training on proper procedures for meetings held to review evaluation results, particularly focusing on the need for the Parent to be included in those meetings.	Training agenda/materials to ODE for review/approval. Sign-in sheet for training.	**September 15, 2025** **December 15, 2025**
4. The District must review its communication protocols to ensure that Parents are adequately informed about all meetings where IEP-related decisions might be made, even if the primary purpose is related to a deadline (e.g., FBA/BSP review). This includes clarifying the distinction between FBA/BSP review meetings and IEP amendment meetings. This review must be documented and	Proposed changes to communication protocols to ODE for review/approval prior to distribution to staff.	**August 29, 2025**

shared with District staff responsible for communicating with families regarding IEP development, review, and implementation.		

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).)