**BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION**

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| In the Matter of<br>Portland Public School District 1J | )<br>)<br>)<br>) | FINDINGS OF FACT,<br>CONCLUSIONS,<br>AND FINAL ORDER<br>Case No. 25-054-041 |

## I. BACKGROUND

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

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

On May 14, 2025, the Department's Complaint Investigator sent a *Request for Response (RFR)* to the District identifying specific allegations in the Complaint to be investigated and establishing a *Response* due date of June 25, 2025. The District requested, and the Department granted, a brief extension to submit the response. On June 27, 2025, the District submitted a *Response*, disputing the allegations described in the Complaint. The District submitted the following relevant items:

1. District Response, 6/25/2025
2. Notice of Team Meeting, 4/11/2024
3. Student IEP, 4/11/2024
4. Meeting Minutes, 4/11/2024
5. Prior Written Notice, 4/11/2024
6. Notice of Team Meeting, 3/19/2025
7. Student IEP, 4/2/2025
8. Special Education Placement Determination, 4/2/2025
9. Meeting Minutes, 4/2/2205
10. Prior Written Notice, 4/2/2025
11. Student IEP Amendment, 4/2/2205
12. IEP Amendment Meeting Minutes, 4/11/2025,

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

13. Prior Written Notice, 6/1/2025
14. Parent/Guardian Consent for Individual Evaluation, 1/24/2023
15. Psychoeducational Evaluation, 4/3/2023
16. Student Confidential Academic Report, 3/28/2023
17. Functional Communication & Speech-Language Assessment, 4/3/2023
18. Eligibility Summary Statement, 4/3/2023
19. Prior Written Notice, 4/3/2023
20. IEP Progress Report, 1/27/2025
21. IEP Progress Report, 4/2/2025
22. IEP Progress Report, 6/17/2025
23. Correspondence between Parent and District
24. Student Daily Attendance Profile, 2024—2025
25. Student Report Card, 2024-2025
26. Parent Letter to District, IEP Modifications
27. List of Knowledgeable Staff

On July 9, 2025, the Parent submitted additional documents in support of their Complaint. The Parent submitted the following:

1. Email: Mathnasium Progress Report for [Student], 2/1/2025
2. Email: Mathnasium Progress Report for [Student], 3/6/2025
3. Email: Mathnasium Progress Report for [Student], 4/9/2025
4. Email: Mathnasium Progress Report for [Student], 5/1/2025
5. Email: Mathnasium Progress Report for [Student], 6/5/2025
6. Student Mathnasium Assessment Chart, 6/3/2025
7. Student Mathnasium Assessment Chart, 6/25/2025
8. Student Mathnasium Assessment Chart, 12/3/2024
9. Email: Re: Invitation [Student's] IEP Review @ Tues Jun 10, 2025..., 5/29/2025
10. Email: Formal Request for Prior Written Notice Due to Procedural Violation…, 6/12/2025
11. Email: Re: ACTION: Request for Immediate IEP Meeting and Addition of Parent Input to IEP, 5/27/2025
12. Email: Re: Quick note – modified curriculum, 6/9/2025
13. Email: RE: Invitation to [Student's] IEP Review @ Tue Jun 10, 2025…, 5/30/2025
14. Student IEP Amendment, 4/2/2025, 6/10/2025
15. Prior Written Notice, 6/10/2025
16. Letter from Parent to District, 6/11/2025
17. IEP Amendment Meeting Minutes, 6/10/2025
18. Student IEP, 4/2/2025
19. Meeting Minutes, 4/2/2025
20. Special Education Placement Determination, 4/2/2025
21. Notice of Team Meeting, 3/19/2025
22. Prior Written Notice, 4/2/2025
23. Parent Consent to Access Public Insurance, 4/2/2025
24. Prior Written Notice, 6/27/2025

25. Parent Letter to District
26. Prior Written Notice, 6/13/2025
27. TILLS Scoring Chart, 6/7/2025
28. Student Mathnasium Prescriptive Learning Plan, 7/8/2025
29. Parent Letter to District, 6/11/2025
30. Email: Amendment IEP, 6/13/2025
31. Email: Re: Formal Request for Prior Written Notice Due to Procedural Violation—[Student], 6/27/2025
32. Parent outline of concerns

On July 16, 2025, the Department's Complaint Investigator interviewed the District's Director of Special Education regarding the allegations in this matter. On July 11, 2025, the Department's Complaint Investigator interviewed the Parent. The Complaint Investigator reviewed and considered all these documents, interviews, and exhibits in reaching the findings of fact and conclusions of law contained in this order. This order is timely.

## II. ALLEGATIONS AND CONCLUSIONS

The Department has jurisdiction to resolve this Complaint under 34 CFR §§ 300.151-153 and OAR 581-015-2030. The 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 June 5, 2024, to the filing of this Complaint on June 4, 2025.

| Allegations | Conclusions |
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| **Review and Revision of IEPs**<br><br>It is alleged that the District violated the IDEA when it did not revise the Student's IEP to appropriately address a lack of expected progress toward annual goals, information provided by the Parent, and the child's anticipated needs. Specifically, it is alleged that:<br>a. The Student continually tests below grade average, has shown academic regression, and that the Student's IEP was not revised appropriately in response;<br>b. The Student's IEP was not revised when the Student met their IEP goals;<br>c. The Student's IEP team did not convene to address the Student's lack of progress; and,<br>d. The Student's IEP was not revised given information received from the Parent, namely requests to | **Not Substantiated**<br><br>The Student showed academic progress during the 2024-25 school year. The District documented a variety of factors contributing to the Student's academic progress; the Student's IEP goals were adjusted as they made progress toward goal, and the Student's IEP team did convene during the 2024-25 school year to revise the IEP. The District convened an IEP team meeting to address the Parent's concerns, which occurred after the filing of this Complaint. |

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| convene an IEP team meeting to address the Student's needs.<br><br>(OAR 581-015-2225; 34 CFR §§ 300.324(a)(4), (a)(5), (a)(6), & (b)(1)) | |
| **Content of IEP**<br><br>It is alleged that the District violated the IDEA when it did not meet the Student's needs that result from their disability, and enable the Student to be involved in, and make progress in, the general education environment. Specifically, it is alleged that:<br>a. The District has not included appropriate interventions or specially designed instruction (SDI) to allow the Student access to grade level curriculum;<br>b. The Student's IEP services minutes are insufficient;<br>c. The Student's IEP does not contain appropriate or clear accommodations, or the accommodations they need; and,<br>d. Some goals, services, accommodation, or related services that the Student receives, such as the Student's reading group intervention, are not documented in the Student's IEP.<br><br>(OAR 581-015-2200; 34 CFR § 300.320) | **Substantiated**<br><br>The IEP team did not determine how progress towards multiple measurable annual goals would be measured. |
| **Parent Participation**<br><br>It is alleged that the District violated the IDEA when it provided delayed communication, or insufficient notice of IEP team meetings, thereby denying the Parent an opportunity to participate in meetings regarding the identification, evaluation, IEP, and educational placement of the Student.<br><br>(OAR 581-015-2190; 34 CFR §§ 300.500, 300.327 & 300.501(b)) | **Not Substantiated**<br><br>The Parent sent an email to the District containing suggestions for and modifications to the Student's IEP. The IEP team meeting convened by the District was later than the date the Parent requested. The District did consider the input provided by the Parent. |

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| **When IEPs Must Be In Effect**<br><br>It is alleged that the District violated the IDEA when it did not implement the Student's IEP. Specially it is alleged that:<br>a. The District has not collected data regarding the Student's progress toward IEP goals as outlined in the Student's IEP; and,<br>b. Have provided different interventions or services than those documented in the Student's IEP, such as reading services.<br><br>(OAR 581-015-2220; 34 CFR §§ 300.323, & 300.324) | **Not Substantiated**<br><br>The record indicated that at times some of the Student's IEP accommodations were not implemented. However, the record reflects that the Student met or exceeded their IEP goals in the April 11, 2024, IEP, over the course of the 2024-25 school year. As such there is no evidence that the Student was materially impacted by the District's failure to implement the Student's IEP with fidelity. |
| **Prior Written Notice**<br><br>It is alleged that the District violated the IDEA when it did not provide prior written notice (PWN) of its refusal to revise the Student's IEP, or refusal to change the provision of a free appropriate public education (FAPE) to the Student, to appropriately address the Student's needs, as detailed above.<br><br>(OAR 581-015-2310; 34 CFR § 300.503) | **Not Substantiated**<br><br>The Parent alleged that the District did not properly respond to their May 20, 2025, email requesting an IEP team meeting to discuss changes to the Student's IEP. The Parent filed this Complaint on June 4, 2025. The District convened an IEP team meeting to respond to those concerns on June 10, 2025. Following the meeting, the District documented its response to the Parent's concerns in a June 10, 2025 PWN. On June 27, 2025, the District sent an additional PWN to the Parent in response to later communications and a request from the Parent for changes to the Student's IEP. Those communications are outside the scope of this Complaint. |

| Free Appropriate Public Education (FAPE) | Not Substantiated |
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| It is alleged that the District violated the IDEA when it did not appropriately review and revise the Student's IEP, nor appropriately document the Student's accommodations and services, as described above. It is alleged that these actions denied the Student a FAPE.<br><br>(OAR 581-015-2040; 34 CFR § 300.101) | The record supports that the Student made progress toward their IEP goals during the 2024-25 school year. While the Student started and ended the school year behind grade level, the District documented a variety of factors contributing to this. The record does not support that the Student's academic performance was due to a failure to implement or revise the Student's IEP. |

**REQUESTED CORRECTIVE ACTION**

The Parent requests that the District:

- Immediately schedule a properly staffed and facilitated IEP team meeting with leadership oversight to develop an appropriate plan for the Student;
- Compensatory education service to address the academic progress lost due to alleged failure to provide timely interventions;
- Develop and revise the Student's IEP to include: intensive, evidence-based instructional strategies designed to accelerate the Student's learning and close the achievement gap; clearly defined accommodations and service minutes, and measurable, data-driven academic goals aligned to current needs.
- Provide intensive academic supports and interventions specifically designed to accelerate the Student's learning and close the Student's achievement gaps between their current performance and grade-level expectations. The Parent requests that this plan should include increased service minutes, specialized instruction, and regular da-based progress monitoring to ensure the Student makes meaningful progress.
- Fully integrate the Parent's input accurately into future IEP documents;
- Approve the Parent's request for a school transfer; and
- Accept ongoing technical assistance and monitoring by the Department to ensure compliance.

## III. FINDINGS OF FACT

1. The Student in this matter is 10 years of age and attended the fourth grade during the

2024-25 school year, in a District elementary school. The Student is eligible for special education under the category of Autism Spectrum Disorder (ASD).

2. The Student works hard, enjoys playing basketball, animals, and talking about their dog and younger sibling. The Student is empathetic and can express themselves well.

3. The Student presents with a learning style that needs specially designed instruction (SDI) to access their academics, and to communicate effectively with others. The Student benefits from SDI in receptive/expressive/social pragmatic language, reading, writing, math, classroom skills, and social-emotional skills to improve their academic success and communication skills.

4. The District completed an Academic Report for the Student on March 28, 2023. As part of that report, the District noted delays in reading and writing of approximately one grade level. Similarly, the Student was one grade level behind in math. The assessment also noted that the Student's anxiety contributed to their absences, which then accounted for approximately 20% of the school year. This pattern was the same for the Student's performance in math, science, social studies, and health, but with greater improvement shown over the course of the school year.

5. The District completed a Psychoeducational Evaluation of the Student on April 3, 2023, during their second-grade year. The District initially evaluated the Student in April 2020, determining then that the Student met criteria for ASD. The assessment noted that the Student's academic skills were below grade level in reading and math, and that the Student had missed a significant number of school days. The assessment noted that the missed school days likely contributed to the Student's academic delays.

6. The Student began the 2024-25 school year with 12 absences, which steadily declined as the school year progressed. Most of the Student's absences occurred in the fall of 2024, with the Student having more consistent attendance in the spring of 2025. Overall, the Student largely performed below grade level expectations in Language Arts, for most of the school year, showing progress toward grade level expectations by the end of the year.

7. The Student began the 2024-25 school year with an April 11, 2024, IEP, developed in the spring of their third-grade year, in place. The April 11, 2024, IEP had a review date of April 10, 2025. When the team developed the IEP, the Student was performing at a kindergarten level in numbers and operations, algebra and algebraic thinking, and geometry. The Student was performing at a first-grade level in measurement.

8. The April 11, 2024, IEP noted that the Student was performing at least one grade level behind. The Student's IEP indicated that students at the school are assessed twice yearly using Measures of Academic Progress (MAP) in both reading and math. MAP growth using the Rasch Unit (RIT) scales to measure what students know, and measured growth

over time. The Parent expressed that many things contributed to the Student's performance including the impact of Comprehensive Distance Learning during the COVID-19 pandemic, and the emotional impact of issues in the family.

9. The Student received SDI in communication, specifically related to receptive/expressive language. The Student's April 11, 2024, IEP goal expected the Student to increase their receptive and expressive language skills by demonstrating specific skills in 75% of observed opportunities given visual prompts as needed, as measured by the SLP/teacher, collected data, and observation. These skills included: use 3-4 grammatically correct sequential sentences while participating in short answer activity and when describing a personal event; during story retells, use 4-5 different sequential vocabulary to connect events; and identify problems and solutions within stories.

10. The Student received SDI in communication, specifically pragmatic/social language. The Student's April 11, 2024, IEP goals planned that, by the end of the IEP cycle, the Student would increase their perspective taking skills to improve their social interaction with others by accurately demonstrating specific skills during structured activities, given prompts then fading to independent in 75% of opportunities as measured by SLP/teacher data and observation. These skills included: identifying what others are communicating nonverbally and describe how the speaker should respond, describing the concept of a "social filter" then identify and generate comments/questions, showing "social filter" was used; and make "smart guesses" about what others may be thinking and/or feeling based upon the verbal and nonverbal information they are communicating.

11. The Student's IEP indicated that the District would measure progress toward this goal with reference to "SLP/teacher data and observation." The Student received 210 minutes per quarter of SDI for these communication goals.

12. The Student received SDI in writing. The Student's April 11, 2024, IEP goal stated that, when asked to spell a grade-level word with no more than three syllables that is read aloud by the teacher, the Student would independently use a pre-taught, self-selected spelling strategy to spell the word, for four out of five multi-syllabic words. The Student's IEP did not specify how data for this goal would be gathered. The Student received 45 minutes per week of SDI in writing.

13. The Student received SDI in classroom/school skills. The Student's April 11, 2024, IEP goal expected that, when given a task, the Student will continue the task to completion by asking for help, trying a different approach, taking deep breaths in four out of five tasks as measures by teacher report data. The Student received 30 minutes per week of SDI in social skills.

14. The Student receives SDI in reading. The Student's April 11, 2024, IEP goal established that, given 15 words at their instruction level, the Student will sound out each word

with 80% accuracy in three out of five progress monitoring assessments. The Student's IEP does not specify how data for this goal would be gathered. The Student received 150 minutes per week of SDI in reading.

15. The Student receives SDI in mathematics. The Student's April 11, 2024, IEP goal stated that, given an addition or subtraction problem within 1,000, the Student will write the sum or difference by using a computation strategy for four out of five problems, on one out of two monitoring assessments. The Student's IEP does not specify how data for this goal would be gathered. The Student received 60 minutes per week of SDI in mathematics.

16. The Student received SDI in social and emotional skills. The Student's April 11, 2024, IEP goal expected that, during a moment of frustration, given a list of three pre-taught calming strategies, the Student would independently select one strategy and use it within three seconds, in four out of five moments of frustration. The Student's IEP does not specify how data for this goal would be gathered. The Student received 45 minutes per week of SDI in social and emotional skills.

17. The Student's April 11, 2024, IEP included 120 minutes per year of Occupational Therapy.

18. The Student's April 11, 2024, IEP included a variety of supplementary aids and services including: access to visual supports for schedules, break down task and classroom expectations, explicit instructions, social stories for classroom and behavior expectations, provide verbal warnings for transitions, speech-to-text for written work, provide concise directions allowing for additional time to process direction and check-ins for understanding, positive behavior support including high ratio of praise to correction with opportunities for earning reward and reparation of errors, change open ended writing prompt to explicit questions to generate more ideas, and access to headphones for sensory regulation school wide.

19. The Student's April 11, 2024, IEP included supports for school personnel including 15 minutes per quarter for special education consultation to general education teachers and 60 minutes per year of SLP consultation with general education teaching staff.

20. On October 1, 2024, the Student's Teacher sent an email to staff in the District writing that they had been unable to begin implementing or consistently implementing all of the Student's IEP accommodations, including "[a]ccess to visual supports for task breakdown" "social stories for classroom behaviors and expectations", "[c]heck in or understanding of directions," and "[c]hange open ended writing prompt to explicit questions to generate more ideas".

21. On October 27, 2024, the Student's Teacher sent an email to staff in the District observing that the Student's reading and math skills were then at the kindergarten level.

The Teacher advocated for more staffing in the classroom to properly support the Student and provide all their IEP accommodations. The Teacher suggested that the Student continued to struggle with progressing toward grade level standards because they required more support.

22. On October 29, 2024, the Student's Teacher sent an email to staff in the District, observing the Student's poor performance, lack of progress, and significant absences that were then contributing to a lack of instruction time for the Student. The Teacher noted that the Student was then not meeting their goals in reading and spelling. The Teacher reported concerns regarding compliance with the Student's IEP due to staffing.

23. On November 15, 2024, the Student's Teacher sent an email to staff in the District observing that the Student required a higher level of support than was then being offered. The Teacher also asked for "clear guidelines on what to do when students can't access the work independently even with accommodations." The Teacher reported concerns that they were not in compliance with the IDEA regarding the Student's education.

24. On December 4, 2024, the District, responding to the Teacher, suggested a "listening session" to hear the Teacher's concerns for the Student's IEP.

25. On December 13, 2024, the District, in response to the Teacher's concerns, suggested adding additional SDI minutes to the Student's IEP for math and language arts.

26. On January 27, 2025, the District's SLP requested to work with the Student's Teacher on language questions to assist them.

27. On January 27, 2025, the District produced an IEP progress report for the Student. The Student was then showing significant progress toward their communication goal and pragmatic/social language goals. The Student was expected to meet their IEP goals in writing, mathematics, reading, classroom/school skills, and social and emotional skills by the following IEP review.

28. On April 2, 2025, the Student's IEP team met to review the Student's IEP. The District sent an agenda for that day's IEP team meeting. The agenda included the Student's IEP, Parent concerns, present levels of academic performance, special factors, testing accommodations, goals, and input from the Student's teachers. The Student's IEP team revised the Student's goals in reading, writing, and math. The Student's services in reading, writing, math, and speech and language services, were increased. The team also added more accommodations.

29. During the April 2, 2025, IEP team meeting, the Parent expressed concern that the Student had a hard time connecting with peers socially, and that the Student feels alone at school.

30. The Student receives SDI in receptive/expressive language. The Student's April 2, 2025, IEP goal planned for the Student to increase their receptive and expressive language skills by demonstrating specific skills in 80% of opportunities during structured activities in the Speech room, given prompts then fading to independent, as measured by the SLP/teacher, collected data, and observation. These skills included: describing attributes and comparing or contrasting objects and words; identifying and using the correct irregular past tense verb form; using 4-5 different sequential vocabulary to connect events during oral retells; identifying the main idea, including problems and solutions within stories, and identifying various types of figurative language within sentences and stories. The Student receives 280 minutes per quarter of SDI in communication.

31. The Student receives SDI in pragmatic/social language. The Student's April 2, 2025, IEP goals expected that, by the end of the IEP cycle, the Student would increase their perspective taking skills to improve their social interactions with others by accurately demonstrating the specific skills during structured activities, given prompts then fading to independent, 80% of opportunities as measured by SLP/teacher data and observation. These skills included, describing the concept of a "social filter", then identify and generate comments/questions, showing "social filter" was used identifying when a social filter was or was not used; and generating comments/questions using a "social filter".

32. The Student receives SDI in writing. The Student's April 2, 2025, IEP goal established that, when asked to spell an instruction-level word with no more than three syllables that is read aloud by the teacher, the Student will independently use a pre-taught, self-selected, spelling strategy to spell the word, for four out of five multi-syllabic words. The Student receives 150 minutes per week of SDI in writing.

33. The Student receives SDI in mathematics. The Student's April 2, 2025, IEP goal expected that, given a division problem with up to four-digit dividends and one-digit divisor, the Student would calculate the quotient and remainder by using a place value strategy (e.g., area model, partial quotients, grid methods, etc.) for four out of five problems, on one out of two progress monitoring assessments. The Student receives 90 minutes per week of SDI in mathematics.

34. The Student receives SDI in reading. The Student's April 2, 2025, IEP goal states that given 15 words at their instruction level, the Student will sound out each word with 90% accuracy in three out of five progress monitoring assessments.

35. The Student receives SDI in classroom/school skills. The Student's April 2, 2025, IEP goal established that, when given a task, the Student will continue the task to completion by asking for help, trying a different approach, and taking deep breaths in four out of five tasks as measured by teacher report data. The Student receives 30 minutes per week of SDI in social skills.

36. The Student's April 2, 2025, IEP included 120 minutes per year of Occupational Therapy.

37. The Student's April 2, 2025, IEP included a variety of supplementary aids and services including: extra time to process verbal information, change to open ended writing prompt to elicit questions to generate more ideas, give wait time after asking questions, access to headphones for sensory regulation schoolwide, positive behavioral support, check for understanding after giving multi-step directions, provide verbal warnings for transitions, speech-to-text for written work, access to visual supports for schedules, task breakdown and classroom expectations, explicit instructions, social stories for classroom and behavior expectations, provide concise directions allowing for additional time to process directions, and check-ins for understanding.

38. The Student's April 2, 2025, IEP included supports for school personnel including 15 minutes per quarter for special education consultation to general education teachers and 60 minutes per year of SLP consultation with general education teaching staff.

39. The Student's April 2, 2025, IEP described removing the Student from the general education environment for 16% of their day for the delivery of SDI.

40. On April 2, 2024, the District sent the Parent PWN documenting the changes decided upon during the Student's April 2, 2024, IEP team meeting. These changes included, revised goals in the areas of reading, writing, and math; increased services in reading, math, and speech and language services; and the addition of more accommodations. The team did not change the Student's placement.

41. On April 2, 2025, the District produced an IEP progress report for the Student. The Student was then showing significant progress toward their communication goal and pragmatic/social language goals. The Student was expected to meet their IEP goals in writing, mathematics, reading, classroom/school skills, and social and emotional skills, by the following IEP review. The Student showed additional progress since the January 27, 2025, IEP progress report.

42. On April 14, 2025, the Parent sent an email to the District with concerns about the Student and suggesting a transfer to a different school to address those concerns.

43. On May 20, 2025, the Parent sent an email to the District requesting that the District add additional information to the parent input portion of the Student's IEP. The Parent also requested a PWN should the district refuse to add the text of their email to the Parent input portion of the Student's IEP. The Parent included observations about the Student's educational history. The Parent requested that the Student's "annual goals and service levels be revised to accurately reflect their current readiness and lived experience, including the long-standing impact of developmental delays, trauma, and academic gaps."

44. The Parent also noted their concern "that several current goals appear misaligned with [the Student's] demonstrated present levels. Some goals expect mastery of advanced academic concepts (e.g., division strategies, figurative language, 90% reading fluency) that do not reflect where [the Student] currently is developmentally — nor the emotional distress [the Student] experiences when [the Student] feels overwhelmed or unable to meet expectations."

45. The Parent requested "a correction to the 'Need for Aids/Services; Modifications' section of [the Student's] IEP. The current statement incorrectly reads that 'modifications are not needed,' when in fact the IEP contains and requires curriculum modifications in core academic areas based upon measured academic data. Please update this section to reflect that modifications are required and include the following: '[The Student] requires curriculum modifications in reading, math and writing to align instruction with [their] current instructional level and performance data. These modifications include changes to content, complexity, and performance expectations, in order to provide access to essential academic skills rather than grade-level standards.' If the team declines to make this change, I am requesting a Prior Written Notice explaining the reason for refusal and the data used to support that decision."

46. The Parent requested a change to the amount of time the Student spent in the general education environment, requesting curriculum modifications in reading, math, and writing, to include instruction outside of the general education curriculum. The Parent also requested that the District revise the Student's goals and services "to reflect a more accurate, developmentally appropriate trajectory."

47. On May 27, 2025, the Parent sent an email to the District observing that their previous email had not been responded to. The Parent asked that the District convene the requested meeting by June 6, 2025, and that if any part of their request was denied that the District issue PWN.

48. On May 28, 2025, the Parent sent an email to the District reiterating their request for an IEP team meeting, observing the passage of time since the initial May 20, 2025, request.

49. On May 29, 2025, the District, responding to the Parent's request to convene an IEP team meeting, scheduled the meeting for June 10, 2025, observing the challenge of scheduling during the final weeks of the school year.

50. On May 30, 2025, the Parent sent an email to the District stating that they would attend the June 10, 2025, IEP team meeting under protest. The Parent noted that their request had asked for a meeting sooner than the date proposed by the District. On the same date, the Parent expressed hope that the upcoming meeting would result in positive change for the Student's education.

51. On June 4, 2025, the Parent filed this Complaint with the Department.

52. On June 6, 2025, the Parent sent an email to the District with suggestions for the Student's IEP.

53. On June 10, 2025, the Student's IEP team met to revise the Student's IEP. During the meeting the team reviewed the Student's growth in math (99th percentile), observing the use of outside math tutoring. The Student's reading improved to 78 words per minute (with grade level being 120 words per minute), exceeding the expected growth in reading. The Student showed steady gains with their occupational therapy and was on track to meet their speech therapy goals. The Parent expressed concerns that the District had not provided the Student with enough academic support.

54. On June 10, 2025, the District sent the Parent PWN documenting revised goals in math, the addition of reading fluency goal and objective in receptive/expressive language, updated present levels to reflect current ability, and the addition of accommodations to address social-emotional, executive functioning, and writing needs.

55. On June 10, 2025, the District produced an IEP progress report for the Student. The Student was then showing significant progress above that required to meet the IEP goal in all goal areas including their communication goal, and pragmatic/social language goals, writing, mathematics, reading, classroom/school skills, and social and emotional skills.

56. On June 12, 2025, the Parent sent an email to the District requesting PWN for "multiple significant procedural failures and a fundamental lack of alignment between [the Student's] amended IEP and the discussions, agreements, and needs previously documented and acknowledged by the team." The Parent alleged that many of the services and supports discussed in the meeting were not included in the final IEP produced by the District. The Parent also noted that the Test of Integrated Language and Literary Skills (TILLS) "validate the severity and specificity of [the Student's] academic needs and reinforce concerns [the Parent has] raised for years." The Parent further asserted that numerous points agreed upon at the meeting were not included in the Student's IEP.

57. On June 13, 2025, the District sent the Parent PWN documenting the IEP team's amendment of the Student's IEP, revising the Student's goals in math, adding a reading fluency goal and objective in receptive/expressive language, updating the present levels to reflect current ability, and adding accommodations to address social-emotional, executive functioning, and writing needs. The PWN also documented that the Parent had obtained a TILLS report, but that the team had not had an opportunity to review the information ahead of the meeting.

58. On June 27, 2025, the District sent the Parent PWN in response to the Parent's June 12,

2025, email, following the Student's IEP amendment of June 10, 2025, responding to the Parent's request to modify the Student's IEP.

59. On June 11, 2025, the Department's Complaint Investigator interviewed the Parent regarding their concerns in this matter. The Parent explained that, ahead of the Student's April 2, 2025, IEP team meeting, that they met with a Teacher on Special Assignment (TOSA) to discuss the additions and changes to the Student's IEP. The Parent explained their understanding that the input and agreement coming from the meeting with the TOSA would be added to the Students IEP. The Parent reported that, during the Student's April 2, 2025 IEP team meeting, the team reviewed the discussions between the Parent and the TOSA and agreed to include those modifications part of changes to the Student's IEP. The Parent reported that the IEP received from the District did not include all the change as discussed and agreed upon with the TOSA, and as part of the April 2, 2025, meeting. Having not seen all the agreed upon changes in the IEP following the meeting, the Parent explained that they then sent emails to the District asking for the inclusion of the agreed upon changes to the Student's IEP. Following these email requests, the Parent noted that the District sent PWNs responding to their emails.

60. The Parent agreed that the Student made progress during the academic year. The Parent reported that the IEP progress reports reflect the results of private tutoring that the Parent arranged, rather than efforts by the District. The Parent provided evidence of the Student's participation in private tutoring during the school year. The Parent reported that the Student was behind grade level for several years before the prior school year, and that the District had not made significant changes to their IEP to address that deficiency.

61. The Parent reported that the Student's Teachers had concerns about the Student's math skills and grade level. The Parent noted that they requested a follow-up IEP team meeting in their May 20, 2025, email, which was not responded to for a week. The Parent further reported that, at the April 2, 2025, IEP team meeting, they had requested another meeting to complete the Student's IEP. The Parent expressed concerns with the delay, resulting in the Student's IEP team meeting at the end of the school year on June 10, 2025.

62. On July 17, 2025, the Department's Complaint Investigator interviewed the District's Assistant Director of Special Education. The Assistant Director of Special Education reported that the Student was 1-1.5 grade levels behind at the start of the 2024-25 school year. They noted that this was due to several factors, including regression from the COVID-19 pandemic and Comprehensive Distance Learning, attendance issues, and factors outside of school impacting the family. They further reported that the Student showed significant improvement over the course of the 2024-25 school year, ultimately meeting all goal areas, and showing additional progress in some areas. The Assistant Director of Special Education reported that the Student was near grade level by the end of the 2024-25 school year.

63. The Assistant Director of Special Education explained that the Student received reading interventions as part of the District's general education reading supports. In this model, student needs are identified and addressed through a variety of supports including 1:1 support, small group work, or independent work times, or some combination of such supports. The Assistant Director of Special Education understood that the Parent had requested that these supports be added to the Student's IEP and explained that these were general education supports directed by the general education teacher. As such, these were not special education supports provided to the Student as part of the Student's IEP.

64. The Assistant Director of Special Education clarified that they assigned a TOSA to review with the Parent their May 20, 2025, email which included suggestions for additions and changes to the Student's IEP. They explained that they directed the TOSA to discuss with the Parent what could or could not be added to the IEP, and the intent was for this to function as a pre-meeting ahead of the June 10, 2025, IEP team meeting. The Assistant Director of Special Education noted that the Parent's May 20, 2025, email request to amend the Student's IEP, came soon after the April 11, 2025, IEP team meeting, and that the District responded and convened an additional IEP team meeting to address the Parent's concerns by June 10, 2025. The District observed the complexity in convening a meeting requested at the end of May, given scheduling around the end of the school year. The District noted that some of the requests made by the Parent in their May 20, 2025, email were outside the scope of special education services and accommodations and could not competently be provided by District staff, specifically, mental health services.

65. The District observed that the Student made significant progress during the past school year. The District opined that the Student would make additional progress were their attendance to increase. The Student's attendance was reportedly approximately 82%, with the Student missing approximately 20% of their SDI.

## IV. DISCUSSION

**Review and Revision of Individualized Education Plan (IEP)**

It was alleged that the District violated the IDEA when it did not revise the Student's IEP to appropriately address a lack of expected progress toward annual goals, information provided the Parent, and the child's anticipated needs. Specifically, it is alleged that the Student continually tests below grade average, has shown academic regression, and that the Student's IEP was not revised appropriately in response; the Student's IEP was not revised when the Student met their IEP goals; the Student's IEP team did not convene to address the Student's

lack of progress; and, the Student's IEP was not revised given information received from the Parent, namely requests to convene an IEP team meeting to address the Student's needs.

A school district must ensure that a student's IEP team reviews the student's IEP at least yearly, to determine whether the annual goals for the student are being achieved. A student's IEP team should also review the IEP to address information about the student provided by the parents, or other matters.[3] A student's IEP is reviewed annually, and as needed to address any lack of expected progress toward the annual goals.[4] Changes to the IEP may be made either by the entire IEP team at an IEP team meeting, or by amending the IEP.[5]

The Student's April 11, 2024, IEP was in effect at the beginning of the 2024-25 school year. The Student's April 11, 2024, IEP present levels section documented that the Student was below grade level owing to a variety of factors including attendance, residual impacts of Comprehensive Distance Learning, and factors impacting the family outside of the school environment. IEP progress reports produced for the Student over the course of the school year indicated that the Student began the school year not making much progress toward goals, but improving over the course of the year, ending the year having attained their goals, and in some cases exceeding them. The Parent reported that this was largely due to outside tutoring and support.

On April 2, 2025, the Student's IEP team met to review and revise the Student's IEP. While still behind, the Student was then making progress but was negatively impacted by attendance. The Student's IEP team revised the Student's goals given their progress during the year. On May 20, 2025, the Parent requested an IEP team meeting to suggest additional supports for the Student's IEP. The District convened an IEP team meeting on June 10, 2025, and updated the Student's IEP with input from the Parent.

The Student showed academic progress during the 2024-25 school year. While the Student remained behind grade level during the year, the record reflects that a variety of factors appear to impact the Student's academic progress including attendance and impact outside of school. The record further reflects that the Student's goals were adjusted as they made progress toward goals in the Student's prior year IEP.

The Department does not substantiate this allegation.

**Content of IEP**

It was alleged that the District violated the IDEA when it did not meet the Student's needs for their disability, and enable the Student to be involved in, and make progress in, the general education environment. Specifically, it is alleged that the District has not included appropriate

[3] OAR 581-015-2225(1)—(2)
[4] OAR 581-015-2225(1)(b)
[5] OAR 581-015-2225(3)

interventions or SDI to allow the Student access to grade level curriculum; the Student's IEP services minutes were insufficient; the Student's IEP did not contain appropriate or clear accommodations, or the accommodations the Student needed; and, some goals, services, accommodation, or related services that the Student receives, such as the Student's reading group intervention, were not documented in the Student's IEP.

A Student's IEP must include a statement of the child's present levels of academic achievement and functional performance, including how the child's disability affects the child's involvement and progress in the general education curriculum. The IEP must also include a statement of measurable annual goals, including academic and functional goals designed to meet the child's needs resulting from their disability and enable them to be involved in and make progress in the general education curriculum. The IEP should also include goals designed to meet the child's other educational needs resulting from their disability. The IEP must contain a description of how the child's progress toward meeting the annual goals will be measured and when periodic reports on the progress the child is making toward meeting the annual goals will be provided. Additionally, the IEP should include a statement of the specific special education and related services and supplementary aids and services, to be provided to the child, and a statement of the program modifications or supports for school personnel that will be provided for the child. These supports are included to assist the Student toward advancing appropriately toward attaining the annual goals, being involved and progressing in the general education curriculum, and participating in extracurricular and other nonacademic activities. These supports should also assist the student in being educated and participating with other children with and without disabilities. Finally, the IEP must include a statement of any individual appropriate accommodations necessary to measure the academic achievement and functional performance of the child on State and district-wide assessments of student achievement that are needed for the child to participate in the assessment.[6]

The Parent reported concern that the Student was not performing at grade level and opined that the Student's IEP was insufficient to address the Student's needs. The Parent suggested that the Student's lack of progress indicated an IEP which was insufficient for the Student's needs. The District reported that the Student's progress toward their IEP goals was greatly impacted by attendance, residual effects of Comprehensive Distance Learning, and factors outside of school. The Student's April 3, 2023, assessment indicated that the Student was then approximately one grade level behind, which was attributed to factors such as the student's anxiety that led to numerous absences. The District noted that the Student made progress during the 2024-25 school year, meeting or exceeding all their IEP goals by the end of the year.

The Student's April 11, 2024 and April 2, 2025 IEPs included SDI in the specific areas where the Student showed academic need, including writing, reading, and mathematics. The Student showed improvement over the course of the 2024-25 school year. As part of the April 2, 2025, IEP team meeting, the team did not identify new or different areas of need for the Student; rather, the Student's IEP goals were updated to reflect the Student's progress. As part of this

[6] OAR 581-015-2200(1)(a)—(1)(g)

investigation, the District reported that the reading services addressed by the Parent were general education supports, and as such were not made part of the Student's IEP.

While the Student clearly progressed towards their goals, for multiple goal areas in IEPs in effect during this Complaint period, the District did not ensure that the IEP team included a statement of how progress towards meeting the Student's goals would be measured. IEP goals must include a description of how the child's progress toward meeting the annual goals will be measured.

The Department substantiates this allegation.

**Parent Participation**

It is alleged that the District violated the IDEA when it provided delayed communication, or insufficient notice of IEP team meetings, thereby denying the Parent an opportunity to participate in meetings regarding the identification, evaluation, IEP, and educational placement of the Student.

School districts must provide one or both parents with an opportunity to participate in meetings with respect to the identification, evaluation, IEP, and educational placement of the child. Districts must provide parents with notice of meetings sufficiently in advance to ensure that they have an opportunity to attend. The notice must state the purpose, time, and place of the meeting and who will attend. That notice must also inform the parents that they may invite other individuals whom they believe have special knowledge or expertise regarding the child. Furthermore, the district must take whatever action is necessary to ensure that the parent understands the proceedings at a meeting.[7] IEP team meetings should be scheduled at a mutually agreeable time and place.[8]

On May 20, 2025, the Parent sent an email to the District that included a variety of suggested changes to the Student's IEP. With the email, the Parent requested an IEP team meeting to discuss the suggestions and amend the Student's IEP. On May 29, 2025, the District responded to the Parent, suggesting a June 10, 2025, IEP team meeting date. The Parent reported concern with the time the District took to respond to their May 20, 2025, IEP team meeting request, and the subsequent scheduled date for the IEP team meeting. The District reported that the Parent's request came near the end of the school year which presented certain complexities for scheduling an IEP team meeting. On May 28, 2025, the District sent the Parent an invitation for a June 10, 2025, IEP team meeting for the Student. The invitation included a list of invited participants. In its communications responding to the Parent, the District noted that this was a date when all the required participants could attend the meeting. On May 30, 2025, the Parent

[7] OAR 581-015-2190(1)—(3)
[8] OAR 581-015-2195(1)(b)

responded to the District expressing hope that the upcoming meeting would result in meaningful and positive changes for the Student's education.

The Department does not substantiate this allegation.

**When IEPs Must Be In Effect**

It is alleged that the District violated the IDEA when it did not implement the Student's IEP. Specifically, it is alleged that the District has not collected data regarding the Student's progress toward IEP goals as outlined in the Student's IEP; and has provided different interventions or services than those documented in the Student's IEP, such as reading services.

At the beginning of each school year, a district must have an IEP in effect for each child with a disability within the district's jurisdiction. The district must provide special education and related services to the child in accordance with that IEP. As soon as possible, following the development of the IEP, special education and related services must be made available to the child in accordance with that child's IEP. In addition, the district must ensure that the IEP is accessible to each regular education teacher, special education teacher, and related services provider responsible for its implementation. Each teacher and service provider responsible for implementing the IEP must be informed of their specific responsibilities therein.[9]

A district violates the IDEA when it materially fails to implement a student's IEP: "A material failure occurs when there is more than a minor discrepancy between the services a school provides to a disabled child and the services required by the child's IEP." The court noted further that, "[t]he materiality standard does not require that the child suffer demonstrable educational harm in order to prevail. However, the child's educational progress, or lack of it, may be probative of whether there has been a significant shortfall in the services provided. For instance, if the child is not provided the reading instruction called for and there is a shortfall in the child's reading achievement, that would certainly tend to show that the failure to implement the IEP was material. On the other hand, if the child performed at or above the anticipated level, that would tend to show that the shortfall in instruction was not material."[10]

The Parent alleged that the District failed to implement the Student's IEP by not appropriately implementing specific intervention or IEP services. The Parent also alleged that the District had not collected data regarding the Student's progress toward IEP goals. The Student's April 11, 2024, IEP indicated that data regarding the Student's progress toward their IEP goals would be reported in a variety of ways. For the Student's Communication goals data would be collected by the SLP and teacher through observation of the Student's progress toward mastery of the goals. The Student's IEP did not list how progress would be measured towards some goals. Regardless, the District produced progress monitoring reports for the Student quarterly. These

[9] OAR 581-015-2220(1)—(3)
[10] *Van Duyn v. Baker Sch. Dist. 5J*, 502 F3d 811 (9th Cir. 2007)

reports included information about the Student's progress toward goals relevant to the specific SDI provided. Those reports indicated that the Student made progress toward their IEP goals.

The Parent also raised concerns about the reading services delivered to the Student. As observed above, the Student received general education reading interventions. Those interventions are not part of the Student's IEP.

The record does contain communication from the Student's teachers discussing the difficulty of implementing the Student's IEP accommodations given a variety of factors in the school and classroom. The Student's Teacher requested assistance from the District to address those obstacles. However, the record reflects that the Student met or exceeded the goals in the April 11, 2024, IEP, over the course of the 2024-25 school year. As such there is no evidence that the Student was materially impacted by the District's failure to implement the Student's IEP with fidelity.

The Department does not substantiate this allegation.

**Prior Written Notice**

It is alleged that the District violated the IDEA when it did not provide PWN of its refusal to revise the Student's IEP, or refusal to change the provision of FAPE to the Student, to appropriately address the Student's needs, as detailed above.

The IDEA requires a school district to give parents PWN within a reasonable period before it proposes or refuses to initiate or change anything related to the identification, evaluation, educational placement, or the provision of FAPE to a child with a disability.[11] PWN must be both specific and explanatory, including: a description of the action the school proposed or refused; an explanation of why the school proposes or refuses to take the action; a description of each evaluation procedure, assessment, record, or report the school used as a basis for the proposed or refused action; a statement that the parents of a child with a disability have procedural safeguards under IDEA and how parents can obtain a copy of the procedural safeguards notice; sources for parents to contact to obtain assistance in understanding the IDEA; a description of other options considered and the reasons why those options were rejected; and, a description of other factors that are relevant to the school's proposal or refusal. The purpose of such detailed PWN requirements is two-fold. First, it assists school personnel to consider options carefully and to make decisions on the basis of articulable criteria or reasoning. Second, it gives parents definitive statements of school district decisions and enables their understanding of exactly what considerations led to those decisions.

The Parent raised the concern that the District did not appropriately respond to the concerns raised in their May 20, 2025, email. In the email, the Parent requested an IEP team meeting to

[11] OAR 581-015-2310; 34 CFR §300.503(a)

discuss a variety of suggested changes to the Student's IEP and requested than an IEP team meeting be convened within a specific time. The Parent filed this Complaint on June 4, 2025. The District convened an IEP team meeting to respond to the concerns raised by the Parent in their May 20, 2025 email, on June 10, 2025. Following the meeting, the District documented those specific requests refused by the District in a June 10, 2025, PWN. On June 27, 2025, the District sent an additional PWN document to the Parent in response to later communications and request from the Parent for changes to the Student's IEP. Those communications, requests, and decisions following June 4, 2025, are outside the one-year complaint period for this complaint.

The Department does not substantiate this allegation.

**Free Appropriate Public Education (FAPE)**

It is alleged that the District violated the IDEA when it did not appropriately review and revise the Student's IEP, nor appropriately document the Student's accommodations and services, as described above. It is alleged that these actions denied the Student a FAPE.

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

The Student began the 2024-25 school year performing below grade level in reading, math. The Student's IEP indicated that many factors impacted their academic performance. Over the course of the 2024-25 school year, the Student made positive improvement eventually meeting or exceeding their IEP goals for the year. The record supports that the Student's IEP team convened an IEP team meeting on April 2, 2025, to review and revise the Student's April 11, 2025, IEP to coincide with the annual review period. Following the Parent's May 20, 2025, request to revise the April 2, 2025, IEP, the Student's IEP team convened on June 10, 2025, to make changes and additions pursuant to the Parent's request. As observed above, the Student received general education reading interventions that were not part of the Student's SDI. The record does not support that District staff or the Parent had concerns about the Student's

[12] OAR 581-015-2040
[13] 20 USD § 1415(f)(3)(E)(ii)
[14] *Endrew F.*, 137 S.Ct. at 999.

academic progress ahead of the April 2, 2025 IEP team meeting that suggest the Student's IEP required revision at an earlier date. While the District did fail to provide several accommodations required by the Student, this failure did not result in a loss of educational benefit or denial of FAPE.

The Department does not substantiate this allegation.

## VII. CORRECTIVE ACTION

*In the Portland Public School District*
*Case No. 25-054-041*

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

| Action Required | Submissions | Due Date |
|---|---|---|
| The District must ensure that school's staff are trained on:<br>a. Content of the IEP, especially related to the measuring and reporting of student progress on measurable annual goals. | Training agenda/materials to ODE District Support Specialist for review/approval.<br><br>Sign-in sheet for training. | November 15, 2025<br><br>December 1, 2025 |

Dated: this 1 Day of August 2025



_____

Ramonda Olaloye
Assistant Superintendent
Office of Enhancing Student Opportunities

Emailing Date: August 1, 2025

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