BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of Bend-La Pine Administrative School District 1	))))	FINDINGS OF FACT, CONCLUSIONS, AND FINAL ORDER Case No. 25-054-043

I. BACKGROUND

On June 16, 2025, the Oregon Department of Education (Department) received a written request for a special education complaint investigation from an outside therapist (Complainant) of a student (Student) residing in the Bend-La Pine Administrative School District 1 (District). The Complainant (Complainant) 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 Complainant 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 June 20, 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 July 7, 2025.

The District submitted a *Response* on June 27, 2025, denying the allegations, providing an explanation, and submitting documents supporting the District's position. The District submitted the following relevant items:

1. Phone Conversation Summary, 03/06/25
2. District *Response*, 06/27/25
3. Confidential Psychological Assessment, 02/19/24
4. Meeting Notes and Attendance, 05/20/25
5. Individualized Education Program, 05/20/25
6. Prior Notice of Special Education Action, 05/20/25
7. Meeting Notes and Attendance, 06/06/24
8. Individualized Education Program, 06/06/24

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

9. IEP Progress Report - Measurable Annual Goals, 01/31/25
10. 2024-25 Progress Report, no date
11. Email, re: [the Student], 09/10/24
12. Email, re: [the Student], 01/10/25-01/11/25
13. Email, re: [the Student], 05/13/25-05/15/25
14. Email, re: [the Student] Letter of Complaint, 06/11/25-06/13/25

The Complainant did not submit a *Reply*.

The Complaint Investigator interviewed District personnel on July 22, 2025. 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 Complainant's allegations and the Department's conclusions are set out in the chart below. The conclusions are based on the Findings of Fact in Section III and the Discussion in Section IV. This Complaint covers the one-year period from June 17, 2024, to the filing of this Complaint on June 16, 2025.

Allegations	Conclusions
When IEPs Must Be In Effect The Complainant alleged that the District violated the IDEA by not providing daily check-ins with the school counselor in accordance with the Student's IEP. (OAR 581-015-2220; 34 CFR § 300.323)	**Not Substantiated** The District did not fail to provide daily check-ins with the school counselor in accordance with the Student's IEP.
Review and Revision of the IEP The Complainant alleged the District violated the IDEA by not considering information about the Student having autism and not including special education and related services in the IEP to address the Student's needs related to autism. (OAR 581-015-2225; 34 CFR § 300.324)	**Not Substantiated** The District considered information about the Student having autism, and did not violate the IDEA.

REQUESTED CORRECTIVE ACTION
The Complainant requested the following corrective action: ● "Allow for the psychological assessment administered by a licensed psychologist to be used as sufficient evidence for substantiating an ASD diagnosis. Update IEP to add these diagnoses for eligibility purposes." ● "The Student to have check-ins throughout [their] scholastic career with the school counselor as outlined in [the Student's IEP] IEP." ● "Provide support to the client's teachers in understanding diagnoses in order to facilitate a positive IEP meeting."

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 June 17, 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 the third grade and attends an elementary school in the District. They are described as sweet, honest, helpful, artistic, athletic, and perseverant. The Student is highly motivated and enjoys building, math, singing, drawing, and sports.

2. A confidential psychological assessment from a private source was completed for the Student on February 19, 2024. This evaluation concluded the Student qualified for a diagnosis of "specific learning disorder, with impairment in reading, impairment in word reading accuracy, and reading comprehension," along with "impairment in written expression, impairment in grammar and punctuation accuracy and clarity or organization of written expression." This assessment also diagnosed the Student with Attention-Deficit Hyperactivity Disorder (ADHD), generalized anxiety disorder, depressive disorder with low self-esteem due to neurodivergence, and Autism Spectrum Disorder (ASD). In the Student's June 6, 2024 IEP, the "Present level of developmental and functional performance" listed a summary of the aforementioned assessment results and diagnoses. In addition, a June 6, 2024 Statement of Eligibility cited the aforementioned assessment as a data source for determining eligibility.

3. The Student's June 6, 2024 IEP noted the Student was eligible for special education services under Specific Learning Disability (SLD) and Other Health Impairment (OHI).

4. In the 2024-25 school year, the Student was enrolled 171 days, present 169 days, and absent two days.

5. The Student's school progress report for the 2024-25 school year demonstrated the Student Met or Sometimes Met all of the "Characteristics of a Learner." These characteristics included being cooperative, organized, resourceful, persistent, responsible, respectful, attentive, and reliable.

6. In a September 10, 2024 email to the Counselor, the Case Manager inquired about a "contract" for the Student and stated, "We do, however, have soft starts and daily checkouts … on the IEP. Is that happening/can it continue to happen?"

   The Counselor responded the same day that they had talked about a contract in the IEP meeting and stated, "Check in/out hasn't started yet. But [the Student] can definitely start whenever is best for [the Teacher]. As soon as today works for me. Last year [the Student] did the soft start 8:00-8:20 [a.m.], I'll probably keep that the same time because teachers didn't want students missing community time. [The Student] would then come down at 2:05 [p.m.] at the end of the day. I'm flexible with times this year, so let me know if different times would be better and I can do my best to make it happen."

7. In a January 11, 2025 email to the Teacher, the Case Manager said, "... we are going to stop doing [the Student's] contract. It's not in [their] IEP, [they] never do it, and [they] seem to think [they] can pick and choose it. So let's stop [the Student's contract]." The Complaint Investigator confirmed the June 6, 2024 IEP did not include an IEP accommodation for a "contract."

8. In a March 6, 2025 phone conversation between the Complainant and the Case Manager, the Case Manager documented that the Complainant wanted to support the Student and was under the impression there had been only one big meltdown at school. The Complainant stated in their conversation that there may be more of a clinical issue to work through at home. The Case Manager documented, "[The Complainant] will talk to [the Parent] and explain the autism thing (medical vs. school diagnosis)."

9. In a May 13, 2025 email to the Complainant requesting to speak on the phone, the Counselor offered a time and then stated, "I haven't met with [the Student] very much this year and I'm not sure how much insight I'd have." A few email exchanges later, the Counselor stated, "Because I've had limited interactions [with the Student] this year, would it be helpful if we scheduled a time where [the Case Manager] was there? I just want to make sure you get the information you need and that [the Student] gets the support [they] need."

10. In the May 20, 2025 IEP Meeting Notes, it was noted that the Teacher "doesn't see [the Student] needing a check-in/check-out." Under Supplementary Aids/Accommodations/ Modifications, it was noted that the IEP team agreed to remove access to soft start/checkouts and to add at least one daily scheduled break. In addition, the box that read "The parent/guardian agreed to the decisions to take action lined out in the PWN before receiving the PWN" was checked.

11. The May 20, 2025 IEP included the following relevant items:
    a. The Parent and the Complainant were present as part of the IEP team.
    b. Under "Additional Present Levels" and "Behavior/Social Skills," the IEP stated, "[The Student] has the option for a daily soft start and check-in with the school counselor in the mornings, as well as a checkout [*sic*] at the end of each day, if [they] choose to access it."
    c. Under "Present level of developmental functional performance," the "Former Testing" section described the "neuropsychological evaluation [that] was completed in February of 2024 by [Private Psychological Assessment Services]." It goes on to list the Student's scores and their multiple diagnoses.
    d. Under "Aids/Services; Accommodations" it was indicated:
        i. "Access to breaks as needed; along with a minimum of one daily scheduled break," 10 minutes per month starting May 20, 2025.
            1. This accommodation changed from the June 6, 2024 IEP, which offered "access to soft start in the morning, as well as end of day checkouts (as [the Student] requests/needs)," 10 minutes per month; and "access to breaks," 10 minutes per month.
        ii. "Frequent check-ins," 10 minutes per month starting May 20, 2025.
        iii. "Alternate areas to complete work," 10 minutes per month starting May 20, 2025.

12. A May 20, 2025 Prior Written Notice (PWN) documented the adoption and implementation of the IEP. Relevant factors indicated, "All service options were considered by the IEP Team and those detailed on the IEP were agreed to by the Team. There are no changes to areas of specially designed instruction for [the Student] at this time. Accommodations were reviewed and updated."

13. On June 11, 2025, the Principal provided a *Response* to the Complaint using "input gathered from the following staff members": the School Psychologist, the Vice Principal, the Counselor, the Case Manager, and the Teacher. The Principal stated, "The team talked through all special education eligibility categories, reviewed current school data and school functioning and did not suspect that [the Student] has ASD given [their] current social communication skills. … The full team reviewed the [Private Psychological Assessment] …" and then noted the presence of the findings in the June 6, 2024 and May 20, 2025 IEPs.

14. During an interview with the Complaint Investigator, the Executive Director of Student Services stated an outside evaluation diagnosing the Student with autism was completed in February 2024. They explained the evaluation included a medical diagnosis of autism, but noted it did not consider speech and language. They said, "So whenever a parent asks us to consider that, then we have to … consider the social language aspects of autism, which is one of the four domains that we have to do for educational autism. … the team considered, they did their obligation. … the team asked themselves if they suspected autism, and they felt like they didn't suspect based on social language observations and data that they have, but still agreed to do an

evaluation where they considered the other aspects of it into an [Other Health Impairment] OHI eligibility."

15. The Executive Director of Student Services explained the outside evaluation impacted the IEP team's decision to complete an evaluation because there were aspects of autism that were noted. They stated the IEP team agreed to do an evaluation to determine whether the Student was eligible for special education services under OHI. Regarding the outside evaluation, they said, "... I think it played a fairly significant role. I just don't know if it was enough to go all the way to the educational diagnosis of autism … ."

16. The Executive Director of Student Services shared the School was obligated to perform their own evaluation, under Child Find requirements, once a parent brought in an outside evaluation and requested it to be considered. They explained that the School considered outside evaluations, often integrating them with their own assessments, to conduct a comprehensive school-based categorical eligibility evaluation aligned with one of IDEA's eligibility categories.

17. Regarding the Student's check-in and check-out services, the Executive Director of Student Services said, "I do know from reading the records that [the Student], despite encouragement, chose not to do that and didn't want to do that. And even to the degree … in this year's annual IEP, the team agreed to remove that accommodation because it was something that [the Student] did not need and was not accessing."

18. On June 16, 2025, the Complainant filed this Complaint.

IV. DISCUSSION

When IEPs Must Be In Effect

The Complainant alleged that the District violated the IDEA by not providing daily check-ins with the school counselor in accordance with the Student's IEP.

At the beginning of each school year, a school district must have in effect an IEP for each child with a disability within the district's jurisdiction. School districts must provide special education and related services to a child with a disability in accordance with an IEP.[3] Each school district must ensure that the IEP is accessible to each regular education teacher, special education teacher, related services provider, and other service provider who is responsible for its implementation, and inform each teacher and provider described of their specific responsibilities for implementing the child's IEP and the specific accommodations,

[3] OAR 581-015-2195(1) and 34 CFR § 300.323

modifications and supports that must be provided for or on behalf of the child in accordance with the IEP.[4]

On September 10, 2024, the Case Manager emailed the Counselor, asking about a contract for the Student and whether the soft starts and daily check-outs outlined in the IEP were occurring. The Counselor confirmed a contract had been discussed, and that check-ins and check-outs had not yet begun but could start immediately. The first day of school was September 4, 2024, so five school days passed before the Case Manager inquired about the Student's check-in/check-out services. This lapse would not be considered a material failure, as defined in *Van Duyn v. Baker School District 5J*. However, as will be shown below, the lapse would also be mitigated because the Student's current IEP at that time–from June 6, 2024–indicated this service was at the request of the Student.

In a January 11, 2025 email to the Teacher, the Case Manager said they were going to stop implementing the Student's contract as it was not in the IEP and the Student did not utilize it. However, neither the materials or interviews clarified what the "contract" was, and whether it related to the daily check-ins. The Executive Director of Student Services was aware the Student was not utilizing their check-in and check-out services. In a May 13, 2025 email to the Complainant, the Counselor indicated they had not met with the Student much that year.

The May 20, 2025 IEP meeting notes indicated the Teacher didn't see the Student requiring check-in/check-out services any longer. The notes also indicated the IEP team agreed to remove access to soft start/check-outs and to add at least one daily scheduled break. The IEP documented the Parent was in agreement.

The May 20, 2025 IEP stated, "[The Student] has the option for a daily soft start and check-in with the school counselor in the mornings, as well as a checkout [*sic*] at the end of each day, if [they] choose to access it." This contrasted with the June 6, 2024 IEP which stated, "[The Student] has a daily soft start and check-in with the school counselor in the mornings as well as a checkout at the end of each day with the counselor." The language in the May 20, 2025 IEP made the daily soft starts and check-ins/check-outs an option for the Student, and placed a clearer responsibility on the Student to seek them out. However, it was written in the June 6, 2024 IEP the Student had "access to soft start in the morning, as well as end of day checkouts [*sic*] (as [the Student] requests/needs)" and "access to breaks." This accommodation changed in the May 20, 2025 IEP to, "access to breaks as needed; along with a minimum of one daily scheduled break."

Through documentation and interviews, specifically the Student's two IEPs, it was demonstrated the District did not fail to provide daily check-ins for the Student. While some evidence indicated the Student may not have had many daily check-ins, both IEPs indicated this service was at the request of the Student, and there was no evidence to show the Student was ever denied access to these services.

The Department does not substantiate this allegation.

[4] OAR 581-015-2220(1)(3) and 34 CFR §300.323

Review and Revision of the IEP

The Complainant alleged the District violated the IDEA by not considering information about the Student having autism and not including special education and related services in the IEP to address the Student's needs related to autism.

Each school district must ensure that the IEP team reviews the child's IEP periodically, but at least once every 365 days, to determine whether the annual goals for the child are being achieved. In addition, each school district must revise the IEP, as appropriate, to address any lack of expected progress toward the annual goals described in the IEP and in the general education curriculum, as well as consider the results of any reevaluation that had been conducted. Furthermore, the school district needs to consider information provided by the parents about the child, as well as the child's anticipated needs, in addition to other matters concerning the child.[5]

Each school district must ensure agreements to amend or modify IEPs by making changes to a child's IEP between annual IEP team meetings, in which the parent of a child with a disability and the school district may agree to hold an IEP team meeting to make the changes, or instead may develop a written document to amend or modify the child's current IEP. If changes are made to the child's IEP, the district must ensure that the child's IEP team is informed of these changes. When amendments are made to the IEP, changes to the IEP may be made either by the entire IEP team at an IEP team meeting or by amending the IEP rather than by redrafting the entire IEP. Upon request, the parent must be provided with a revised copy of the IEP with the amendments incorporated.[6]

A psychological assessment from an outside provider, completed on February 19, 2024, showed the Student qualified for a diagnosis of "specific learning disorder," encompassing impairments in reading and written expression. The evaluation identified diagnoses of ADHD, generalized anxiety disorder, depressive disorder, and ASD, which the Executive Director of Student Services confirmed. These findings were referenced in the Student's June 6, 2024 IEP and Statement of Eligibility. The Student's May 20, 2025 IEP indicated the Student was eligible for special education services under SLD and OHI.

On March 6, 2025, the Complainant and the Case Manager discussed the Student, and the Case Manager documented the Complainant would talk to the Parent and explain the distinction between a medical and school-based autism diagnosis. The May 20, 2025 IEP described the February 19, 2024 evaluation and listed the Student's scores and diagnoses. On June 11, 2025, the Principal provided a response to the Parent and stated the IEP team reviewed current data and did not suspect the Student had ASD. The Executive Director of Student Services

[5] OAR 581-015-2225(1) and 34 CFR § 300.324
[6] OAR 581-015-2225 (2)(3) and 34 CFR § 300.324

corroborated this and explained the IEP team agreed to complete their own evaluation because of aspects of autism noted in the outside evaluation.

A medical diagnosis of autism does not, in and of itself, entitle a student to receive special education and related services. Additionally, a student does not qualify as a child with autism for purposes of the IDEA because they demonstrate traits of autism outside of the educational setting. This was reinforced in *D.O. v. Escondido Union School District* (9th Cir. 2023), which found the educational impact and need for specially designed instruction were the ultimate determinants, not just the presence of a medical diagnosis from an outside source. Even with a suspected or confirmed medical diagnosis of autism, eligibility for special education under IDEA requires a determination that the disability adversely impacts the student's educational performance and necessitates special education. Documentation showed the IEP team reviewed the outside evaluation and noted it in the IEP; however, the IEP team did not believe there was sufficient data to support an educational eligibility of autism.

The Department does not substantiate this allegation.

V. CORRECTIVE ACTION

In the Matter of Bend-La Pine School District
Case No. 25-054-043

The Department does not order corrective action in this case.

Dated: this 13 Day of August 2025



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Ramonda Olaloye
Assistant Superintendent
Office of Enhancing Student Opportunities

E-mailing Date: August 13, 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).)