**BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION**

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| In the Matter of<br>North Clackamas School District 12 | )<br>)<br>)<br>) | FINDINGS OF FACT,<br>CONCLUSIONS,<br>AND FINAL ORDER<br>Case No. 25-054-047 |

## I. BACKGROUND

On June 30, 2025, the Oregon Department of Education (the Department) received a written request for a special education complaint investigation from the parents (Parents) of a student (Student) residing in the North Clackamas School District 12 (District). The Parents 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 Parents 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 July 7, 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 21, 2025.

The District submitted a *Response* on July 17, 2025, denying the allegations, providing an explanation, and submitting documents in support of the District's position. The District submitted additional documents on July 22, 2025. The District submitted the following relevant items:

1. Table of Contents, 7/17/25
2. District's Written *Response* to Complaint, 7/17/25
3. School Personnel Contact Information, 7/17/25
4. Individualized Education Program (IEP), 7/17/25
5. IEP Progress Report, 11/1/24
6. IEP Amendment, 3/14/24
7. Statement of Eligibility (SLI), 2/29/24
8. Statement of Eligibility (EBD), 2/29/24
9. Eligibility Statement Summary, 2/29/24

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

10. Prior Written Notice (PWN), 1/28/25
11. PWN, 2/29/24
12. Special Education Placement Determination, 3/14/24
13. PWN of Evaluation, 1/30/24
14. District Team Meeting Notes, 2/29/24
15. Written Agreement Between the Parent and the District, 2/22/24
16. Notice of Team Meeting on 1/30/24, 1/22/24
17. Notice of Team Meeting on 2/29/24, 2/15/24
18. Parent Guardian Consent for Individual Evaluation, 1/30/24
19. Psychoeducational Evaluation, 2/23/24
20. Communication Evaluation, 2/29/25
21. IEP, 2/26/25
22. IEP Progress Report, 6/12/25
23. PWN, 2/26/25
24. Special Education Placement Determination, 2/26/25
25. Function-Based Behavior Support Plan, 2/26/25
26. Notice of Team Meeting on 3/26/24, 1/22/25
27. District's Team Meeting Notes, 1/28/25
28. District's Team Meeting Notes, 2/26/25
29. Email exchange between District Staff and Parents and amongst District Staff, 10/1/24 – 7/1/25
30. Classroom Observation Notes, 11/21/24 and 1/15/25
31. IEP Goal Tracking Form and Notes, 2/18/25 – 2/21/25
32. School Timetable for Student, 2024-25 school year
33. Resource Room Schedule, 2024-25 school year
34. Teacher Input Form, 2/19/25
35. IEP Meeting Power Point, 2/26/25
36. Daily Check-in / Check-out Form, 2024-25 school year
37. FAIR Plan, undated
38. Direct Messages between Principal, Teacher, and Parents, 11/15/24 – 6/9/25
39. FAST Family Report, Spring 2025
40. Email exchange between District Staff and Parents and amongst District Staff, 9/19/24 – 11/21/24
41. Daily Check-in / Check-out Form, 11/20/24
42. Function-Based Behavior Support Plan, 6/2/23

The Parents submitted a *Reply* on July 24, 2025, providing an explanation and rebuttal. The Parents submitted the following relevant items:

1. *Reply*, 7/24/25
2. Draft IEP, 2/26/25

The Complaint Investigator interviewed the Parents on July 30, 2025. On August 4, 2025, the Complaint Investigator interviewed District personnel. Virtual interviews were conducted instead of on-site interviews. 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 July 1, 2025, to the filing of this Complaint on June 30, 2025.

| Allegations | Conclusions |
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| **IEP Content**<br><br>The Complaint alleged that the District violated the IDEA when it failed to include specific special education and related services and supplementary aids and services in the Student's IEP necessary to fully address the Student's needs that result from the Student's disabilities.<br><br>(OAR 581-015-2200; 34 CFR § 300.320) | **Not Substantiated**<br><br>Although evidence indicated that the IEP team agreed that the language of the Teacher's input in the February 26, 2025 IEP present levels would be revised, there was no clear understanding amongst team members on what would specifically be amended. The Case Manager revised the language and removed the sentence that they believed the Parents found most objectionable. The Parents did not object to the language when they received the updated IEP nor inform the Case Manager of specific language they wanted removed. |
| **When IEPs Must Be in Effect**<br><br>The Complaint alleged that the District violated the IDEA by not providing special education and related services in accordance with the Student's IEP. | **Not Substantiated**<br><br>It is unclear to what extent the District failed to appropriately implement some IEP accommodations. Although there is conflicting evidence, there is sufficient information to determine that the Student's |

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| (OAR 581-015-2220; 34 CFR § 300.323) | accommodations were not always implemented with fidelity throughout the complaint period. However, this did not constitute a material failure to implement the Student's IEP. |
| **Free Appropriate Public Education (FAPE)**<br><br>The Complaint alleged that that the District's failed to provide the Student with a free appropriate public education.<br><br>(OAR 581-015-2040; 34 CFR § 300.101) | **Not Substantiated**<br><br>The District's failure to consistently implement all of the Student's IEP accommodations did not result in a denial of FAPE. |

| **REQUESTED CORRECTIVE ACTION** |
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| The Parents requested the following corrective action:<br>• Provide training to the Student's general education teachers (current and next school year's teachers) around their role as an IEP team member, including the importance of accurate input and data being shared with the entire IEP team and following through on agreements they make in an IEP meeting.<br>• Provide training to the Student's general education teachers around working with and teaching students who have neuro differences, and around legal requirements for IEPs.<br>• Provide training to the Student's general education teachers to make sure they are able to implement the Student's IEP.<br>• Provide training to the Student's general education teachers about the Student's disability so they are able to understand the Student's needs.<br>• Ensure that the Student's IEP is properly implemented in the Student's educational setting. |

## 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 July 1, 2024. Any facts listed below relating to circumstances or incidents earlier than that date are included solely to provide context necessary to understand the Student's disability and special education history.

1. The Student is 10 years old and recently completed the fourth grade.

2. The Student is currently eligible for special education services under the disability category of emotional behavior disability (EBD).

3. The Student's medical history included diagnoses of adjustment disorder with mixed disturbance of emotions and conduct, and anxiety.

4. The Student attended the same District elementary school (the School) since kindergarten, starting in the 2020-21 school year.

5. The Student was initially evaluated during the 2022-23 school year and found eligible for special education services under the categories of EBD and speech or language impairment (SLI).

6. A summary of the February 5, 2023 Psychoeducational Evaluation Report included the following information:

    a. Teacher Input: "[The second grade teacher's] primary concerns are [the Student's] large reactions to small problems, quick changes in behavior, stubbornness, unwillingness to use regulation strategies, aggression towards peers and adults, and screaming. When [the Student] is regulated, [they love] participating in class, sharing [their] ideas, and learning. [The Student] is exceeding expectations in reading and writing and meeting expectations in math. [The Student's] needs include using [their] emotional regulation tools when upset, solving problems with peers, collaborating with others, applying logic to situations where things aren't going [their] way, and understanding consequences."

    b. Behavior Assessment: "Overall, ratings of [the Student's] behavior demonstrated a higher level of need in the school setting than the home setting. This may be due to increased structure and expectations while at school."

    c. "Observations showed that at times [the Student] was able to engage in learning activities in the classroom, and at other times demonstrated significant difficulty following adult directions and regulating [their] emotions."

7. The Student's June 2, 2023 Function-Based Behavior Support Plan (2023 BSP) included the following information, among other things:

    a. Antecedent: inconsistent triggers; losing access to preferred item; when something is perceived as unfair; and when the Student perceives someone is doing something they are not supposed to be doing.

    b. Antecedent Strategies: preferential seating; "[p]ositive reinforcement minimum of 4:1 (4 positives to one redirection)"; frequent positive adult attention; access to calming break space in classroom; and visual timers and pre-warnings for transitions or changes in routine.

    c. Corrective Feedback/Staff Reactions: ignore minor problem behavior; and have the Student practice expected behavior and give verbal praise, among others.

8. On September 5, 2023, the Student started the 2023-24 school year as a third grader.

9. In February 2024, the District conducted an updated evaluation of the Student as the IEP team suspected that the Student no longer required speech services.

10. The February 23, 2024 Psychoeducational Evaluation Report included extensive teacher input, which was included in the present levels of performance in the subsequent March 14, 2024 IEP. In addition, the Report included the following information, among other things:

    a. Reading: "Writing and responding to reading is limited and more difficult for [the Student]. [The Student] does not work well with other adults in this area."

    b. Writing: "Taking feedback for next steps and learning is difficult in this area."

    c. Social Skills and Behavior: "[The Student] prefers to pick [their] partners and this is not always feasible." Needs improvement with "keeping hands and feet to self, listening without interrupting [their] peers, staying calm with transitions or when anything unexpected happens, Not [*sic*] to yell, stomp or growl with frustration."

11. On February 29, 2024, the District convened a meeting to review recent evaluations and eligibility. The team determined the Student continued to be eligible for special education services under emotional behavioral disability, but not speech or language impairment.

12. On March 14, 2024, the District convened the Student's annual IEP meeting.

13. The Student's IEP, dated March 14, 2024, (March 2024 IEP) included the following information, in relevant part:

    a. Strengths: "The [Student] is academically strong in all areas… able to tell [their] teacher what is going on when [they are] feeling overwhelmed or anxious… has been making consistent growth this year academically and behaviorally."

    b. Parent concerns: The Student has friendship conflict, and sometimes needs help getting back on track. The Student "likes to have autonomy and options as much as possible."

    c. Present Levels: No concerns for reading, math, or writing.

       Evaluation: "Teacher notes a lot of anxiety if [the Student] doesn't have time to take out [their] materials or hear the instructions especially if [they are] being pulled for a small group. BSP is helping immensely… teacher verbalized key points for the team that has seemed helpful. [The Student] is taking breaks of 3-5 breaks a day, mostly reading or resting… Teacher feels moving to a check in/check out model would be helpful. Academic

demands are very triggering and where teacher sees dysregulation happening… [The Student] loves to be a leader and a helper."

"[The third grade teacher's] primary concern is that [the Student] frequently shares feelings of anxiousness and is often uncomfortable, either physically or emotionally. When something feels difficult in [their] learning or work, [they] will often shut down and not complete the work. This has an impact on [their] academic performance and that [they are] not always working to [their] ability level. [The Student] can become dysregulated quickly when [they have] these feelings. This results in yelling and at times slamming things down. It has become less frequent that [the Student] becomes physical with others but this has happened at times this year. [The third grade teacher] intervene[s] very quickly when [the Student] is upset, which seems to be a big help… also very concerned about continuing support for [the Student] as [they grow] and social situations might change… also worried about [their] willingness to take direction from various adults. This inhibits [the Student] from moving forward in [their] learning… [the Student] will sometimes miss the cues and reminders for transitions. [The Student] becomes very upset and vocal when this happens… it takes a lot of teacher support to calm [the Student]… For the most part, [the Student] has learned to get along well with their classmates… [The Student] has needed additional support for problem-solving this year with [the third grade teacher] and the counselor when conflict does occur."

d. Effect of Disability: "[The Student's] emotional dysregulation leads to [the Student] missing instruction and difficulty managing [their] emotions with general education supports alone."

e. Special Factors: The Student exhibits behavior that impedes their learning or the learning of others, which is addressed by their BSP and behavior goals and services.

f. Annual Goals: One goal in the area of behavior ("Given direct instruction and social emotional skills, staff support and access to problem solving and self regulation tools," the Student will "demonstrate kind, safe and respectful behavior… as measured by daily behavior tracker." This included using appropriate tone, speaking kindly to others, responding appropriately and use a tool when upset, keep body to self, develop a plan first with an adult and then independently handle a situation that is creating anxiety or discomfort).

g. Specially Designed Instruction (SDI): Behavior (60 minutes per week).

h. Accommodations: Access to sensory tools or fidgets; checking for clarification; prompts to use regulation strategies; preferential seating (near teacher or appropriate peer model and close to break area); access to break space; access to calming tools; problem-solving and plan development for times that the Student is anxious about; behavior support plan; allowing for trips to the office for ice or band[-]aids when needed, allowing the Student to address small medical needs; check in/check out with familiar adult; extra time when

needed; schedule for classroom activities; access to private redirection; repeated directions; warning timers; and reminders to use coping strategies.

i. Non-Participation Justification: "[The Student] will be removed from class for x [*sic*] minutes per week for specially designed instruction in behavior. [The Student] will be removed in order to support [the Student's] progress to [their] goals in a smaller, less distracting setting where [they] can get specific feedback on [their] goal areas."

14. The Case Manager reported the accommodations included in the March 2024 IEP came directly from the Student's third grade teacher, who wanted the IEP to reflect the accommodations and strategies that had been successful for the Student during third grade.

15. The District reported the following about the implementation of the March 2024 IEP:

"[The Case Manager] provided specially designed instruction in a one to one setting with the student from 8:30 to 8:55 on Wednesday mornings… In addition, [the Case Manager] or the paraprofessional provided specially designed instruction one on one with the student at the beginning and at the end of every school day as part of the check in/check[-]out process. The purpose of check in/check[-]out is to provide predictable opportunities for educators to teach behavior expectations, provide positive reinforcement, and provide behavior specific praise and feedback."

16. On September 3, 2024, the Student started the 2024-25 school year as a fourth grader in a fourth and fifth grade split class.

17. The Parents reported there were no issues with the delivery of the Student's SDI during the 2024-25 school year. However, the Parents alleged that the Student's fourth grade general education teacher (the Teacher) failed to implement the Student's IEP accommodations, including the Student's BSP strategies.

18. The Parents and the Case Manager reported there were elements of the Teacher's classroom focused on group competition, behavior expectations, and earning privileges, which were triggering for the Student and caused a lot of anxiety. Some examples included:

a. The class was divided into table group teams, which competed to earn group points. Based on points earned, the groups could earn different privileges in the classroom. An individual's failure to follow classroom expectations, including behavior expectations, resulted in the entire team losing points. If the Student became dysregulated in the classroom, they could lose points for their team and their teammates would be upset with the Student.

b. Students were assigned classroom jobs, which was seen as a privilege. Specific classroom jobs were more popular than others. Each week, the "star" student helped assign jobs to the class which inevitably involved assignments influenced by peer relationships. Additionally, if a student lost the privilege of having a classroom job based on their

behavior, they were expected to earn the privilege back. The removal of a privilege and requirement to earn it back based on behavior were contrary to the Student's BSP behavior strategies.

c. There were designated times during class where students were allowed to have free time, special privileges, or participate in fun activities. However, students who had not met class expectations were not allowed to participate. The failure to meet behavior expectations during the week could result in the privilege being taken away for the following week. The Student was often excluded from these privileges, which created a lot of anxiety as the Student would worry about it over the weekend and have a harder time returning to school the following week.

19. The Case Manager reported wanting the Teacher to implement consequences that were directly tied to the Student's behavior. For example, if the Student failed to follow directions related to a classroom job, then the consequence should be with the specific classroom job, rather than carrying a consequence over to other parts of the classroom and withholding unrelated privileges.

20. The Parents reported that the Teacher implemented punishments for the Student that did not align with the behavior strategies outlined in the Student's IEP and BSP.

21. A September 19 to 23, 2024 email exchange between the Case Manager and the Parents included the following, in relevant part:

    a. The Case Manager wrote, "[The Student] also has a tracker, but we haven't started using it yet because [the Teacher] wanted to get to know [the Student] more before beginning." The Case Manager indicated that the check in/check out system was not currently being implemented but suggested it as one option to support the Student's behavior.

    b. The Parents responded, sharing the Student had a rough day and felt like "everyone was waiting for [them] to make a mistake." The Student "hasn't been able to use the break space" and felt that they were not "allowed to ask and [they are] VERY afraid of [the Teacher] getting mad at [them]. [They have] also been struggling with being able to get clarification on instructions and that has resulted in bigger reactions, prompting even harsher punishments. [The Student is] reporting not being able to raise [their] hand without attention being called to [them]… or privately ask for assistance without being sent back to [their] desk and points being lost for [their] group. Public redirection, with everyone watching, in the past, has led to even further dysregulation… [the Student] hasn't been set up for success with the rigid expectations around [their] behavior and the classroom environment. [The Student] doesn't feel safe to ask questions, take breaks or express [their] needs[.]"

    c. The Case Manager stated they would meet with the Teacher and "go over [the Student's] IEP and accommodations more fully and we can go from there."

22. According to the Case Manager, during the 2023-24 school year, the Student's "check in/check out with familiar adult" was completed by the Student's general education teacher, which the Case Manager hoped would continue. Eventually, the Case Manager started completing the check in/check out system with the Student themselves, which was also implemented by a paraeducator later in the school year.

23. The Case Manager reported the following about the implementation of the Student's other IEP accommodations and BSP during the 2024-25 school year:

    a. They met with the Teacher at the start of the school year to discuss the Student's IEP and the Teacher's role in implementing accommodations.

    b. There were issues with getting the Teacher to implement the Student's accommodations and the Case Manager had multiple discussions with the Teacher about it. The Teacher did not want to fill out the Student's daily tracker, which was used for the Student's check in/check out process. The Teacher did not want to have a break space inside the classroom, and did not want fidgets or wobble chairs in the classroom.

    c. The main implementation issues were with the Student's access to break space and private redirection.

    d. The intention of the Student's accommodation for access to break space was for it to be in the classroom, as stated in the Student's 2023 BSP. At the beginning of the year, there was not a break space in the Teacher's classroom. The class break space was in the hallway. A break space in the classroom was not created until December 2024.

    e. The Case Manager had concerns about the Teacher implementing access to private redirection. The Case Manager indicated that another staff member had been in the classroom working with other students, and observed concerning conduct involving the Teacher criticizing the Student's behavior in front of the class and reported this concern to the Case Manager.

24. Both the Case Manager and the Parents reported that the Teacher was rigid about what was allowed in the classroom and behavior expectations. The Teacher would take things away from the Student, which caused a lot of anxiety. The Student felt like they were singled out and unfairly punished.

25. The Teacher reported the following about the implementation of the Student's IEP during the 2024-25 school year:

    a. They met with the Case Manager before the start of school to discuss the Student's IEP services and supports, and again after a meeting in December.

    b. The Teacher denied any failure to implement the Student's IEP accommodations.

c. The Student had access to sensory tools starting on November 21, 2025. A break space was added inside the classroom in December 2024.

d. They never denied the Student's access to breaks, as that would only result in escalating the Student. The Student was allowed to read as a calming strategy. At times the Teacher would try to encourage the Student to participate in class rather than reading a book, but would not take the Student's book away. The Teacher only took items away when the Student was throwing things, because it was a safety issue. This was not a punitive action and the items were always returned.

e. There were periods of time when students got to have free time in the classroom, but if a student had an incident involving some kind of serious disruption ("enough that everyone noticed") they were not allowed this privilege.

f. During the 2024-25 school year, there were four students in the class who engaged in behavior that warranted temporary removal from jobs, therefore requiring that they earn back the privilege of having a classroom job.

26. The Teacher reported that, at the beginning of the year, they attempted community building activities in the classroom to help the Student's behavior, since most of the Student's escalations were related to peer conflict. They wanted the Student to see the benefits of working together with peers and how fun it can be, and that the natural consequences of engaging in behavior that peers do not like is that "they don't want to be around you or be your friend."

27. The Principal reported the following about the implementation of the Student's IEP during the 2024-25 school year:

a. They had a lot of experience with the Student and were often called to help when the Student was dysregulated. The Student also frequently elected to take breaks in the Principal's office.

b. When they observed the Teacher interact with the Student, the Teacher appeared to be responding appropriately. On at least two occasions, the Teacher did exactly what they should have and the Student became escalated anyway. This included private redirection and encouraging the Student to take a break.

c. The Principal reported the Student had a strained relationship with peers which might have resulted in the Student not being chosen for a classroom job. The Student's behavior and escalations created a lot of social struggles for them.

d. Even though the Principal had a good relationship with the Student, it was not unusual for the Student to get upset and blame the Principal when things were not going well for the Student.

28. In an October 1, 2024 email to the Teacher, the Case Manger reported that they spoke with the Student about recent challenges and suggested the Teacher implement the following in the classroom:

    a. An individual written schedule for the Student.

    b. A specific way for the Student to ask for breaks, as "[the Student] shared that [they are] feeling worried to raise [their] hand to ask because [they don't] want to lose points for [their] group."

    c. Access to fidgets.

    d. "I think we should begin [the Student's] check in, check out system with [their] tracker. We can make adjustments to it so it is manageable for you, but I think with the uptick in behavior it is needed."

29. Emails and messages between the Parents and school staff indicated the Student had several behavior incidents throughout the year, which were reported to the Parents.

30. On November 18, 2024, the Parents emailed the Case Manager, copying the Teacher and the Principal, to express concerns about things the Student was reporting at home about the classroom. "While we all understand that [the Student] struggles with big emotions and reactions, the continual public humiliation as punishment and lack of communication being sent home as to why [the Student] is receiving this type of treatment is concerning… communication to [the Parents] has been cut off and we are left to rely on self reporting from [the Student]… The continual rigid expectations and harsh punishments are setting [the Student] up for failure and creating a toxic environment, ruining [their] love of school. I hope I can get a little insight in what is going on in [their] classroom." The Parents requested a meeting with the Teacher, the Case Manager, and the Principal."

31. The Case Manager replied on November 19, 2024 about scheduling the meeting and noted, "When I have been called to support [the Student] has been willing to come to my room to take a break… when [they are] ready [the Student] shares what happened. I have been encouraging [the Student] to write to [the] teacher so [they] can share [their] perspective of what happened and advocate for what [the Student] needs. I know that [their] perception of the situation does not always match [their] teacher[']s, but if [the Student] writes it down to collect [their] thoughts, I think [they are] able to have a calmer conversation about what happened."

    The Parent responded, indicating that the Student could not return to the classroom until the requested meeting occurred, stating, "[The Student] doesn't feel comfortable, safe or welcome in [their] classroom… The lack of communication has eroded our trust that [the Student's] needs are being met and that [they are] being treated fairly."

Following this email, the Case Manager and the Parents discussed their concerns in a telephone call.

32. It is unclear when the School started completing the Student's daily tracker but a November 20, 2024 email from the Parent to the Case Manager indicated that some completed daily tracker forms were being sent home.

33. On December 6, 2024, the District convened a meeting including the Parents, the Case Manager, the Teacher, and the Principal, to discuss the Parents' concerns about the implementation of accommodations in the classroom.

34. Witnesses reported the following about this meeting:

    a. They discussed the Student's accommodations and agreed that the Student should be given a classroom job. The Principal agreed that a break space should be created in the classroom.

    b. The Parents and the Case Manager both reported that the Teacher stated that the Student "was not responsible enough" to have a classroom job.

    c. The Case Manager reported that the meeting was intended to push the Teacher to implement the Student's accommodations and change their perspective on the Student's behavior and disability.

35. The Case Manager reported that at times, in order to get items into the classroom the Teacher did not want, they would bring them on days when the class had a substitute. For example, the Case Manager brought a wobble stool into the classroom when the Teacher was out and the substitute teacher left a note for the Teacher commenting on how well the wobble stool worked for the Student.

36. A December 13, 2024 email exchange between the Teacher and the Parents included the following:

    a. The Parents reported, "Adding the classroom break space has been a highlight for [the Student], [they] said [they have] used it a few times and felt good about not having to come back to class having missed the instructions/directions. [The Student] also reported the wobble stool has been very helpful[.]" However, the Student had a rough day because of something that occurred in the classroom related to expectations of participating in a special privilege that was denied.

    b. The Teacher reported that the Student was triggered by a misunderstanding about a special thing the class does each Friday which "is decided by the team that wins the previous week." "As part of motivating the small groups to continue to be on track with expectations and behaviors, the team that finishes last isn't able to have" the special thing until the end of the day.

37. On December 16, 2025, the Parents forwarded the Teacher's email response to the Case Manager, and reported Fridays had been the Student's most difficult day. The competition was causing the Student "extreme anxiety weekly" and was harmful to the Student's relationship with the Teacher and their classmates.

38. On December 18, 2024, the Case Manager emailed the Teacher and the rest of the IEP team with information following a telephone conversation with the Parents, which included:

    a. The implementation of several items discussed at the December 6, 2024 meeting had been working well, including having a break space in the classroom which helped the Student feel like they were missing less instruction; having the Teacher use a "secret code" (drawing a star on the board to communicate that the Student needs to take a break); and having access to a wobble stool. However, "[the Student] is still experiencing heightened anxiety and stress around coming to school and that is impacting [them] socially and academically."

    b. The Case Manager included a list of recommendations to try after the return from winter break, including using five point scale system to help the Student identify and communicate their anxiety level to adults, allowing staff to adjust their responses to the Student; provide written communication to the Student on Thursday about what to expect on Friday; have a shared document in which the Student can share their side of the story and receive feedback from the Teacher when the Student is regulated; and allow access to a classroom job, among others. The Case Manager stated they did not think that the requirement set by the Teacher for the Student to earn the job was reasonable (remain safe and have no yelling for five days). "[H]aving natural consequences attached to jobs would make most sense to [the Student]… This allows for the consequence to be directly tied to the behavior."

39. The School Psychologist responded to the email, agreeing with the recommendations and offered to conduct some informal observations of the Student in the classroom.

40. District records included notes from classroom observations of the Student conducted on November 21, 2024 and January 15, 2025. This consisted of a checklist of the Student's accommodations, which indicated some of the Student's accommodations were in place or observed at the time of the observations (access to a break space and some calming tools). Many accommodations were not checked off, and for some accommodations it was specifically noted that they were not provided (schedule for classroom activities and access to private redirection). The notes included the following:

    a. Schedule for Classroom Activities: "teacher has timer going and directions listed on board for current activity, plays music for transitions, no permanent/daily schedule posted in classroom."

    b. Preferential Seating: No; "Back of room, facing board, away from teacher's desk."

c. Access to Private Redirections: "no- when [the Student] was called on by a peer to answer a math problem in front of class, [the Student] was dancing as [they] stood up there. Teacher told [the Student] in a firm voice that if [the Student] wasn't going to take this seriously [the Student] would sit back down."

41. On January 28, 2025, the District convened an IEP meeting.

42. The Parents reported that the meeting held on January 28, 2025 was "to discuss what the accommodations look like in the classroom because [the Student] was reporting that private redirection was not happening. This was after [the Teacher] started removing [the Student's] items from [their] desk as a consequence of [their] behavior."

43. The January 28, 2025 Amended IEP (January 2025 Amended IEP) included the following changes, in relevant part:

    j. Present Levels: "The team met due to parent request. We review [*sic*] accommodations and through discussion added clarification to some accommodations or added additional accommodations."

    k. Accommodations: added access to written instruction.

    Additionally, some existing accommodations were amended, as noted in *italics*, including "access to break space *in and out of classroom"*; "warning timers *and drawing attention to ending times (ex '5 min left')"*; and "checking in for clarification *within 5 minutes of presentation of task."*

44. The District's January 28, 2025 Team Meeting Notes included the following, among other things:

    a. The Parents wanted to make sure that the Student was able to access their accommodations. The team had a discussion about each accommodation.

    b. Access to sensory tools: "[The Teacher] shared that as long as [the Student] is using sensory items as tools, that is fine… [The Case Manager] wanted to make sure that [the Student] gets some reminders on how to appropriately use a tool before the teacher takes it away."

    c. Collaborative problem-solving opportunities: The Case Manager reported they created the shared document to give the Student an opportunity to write about how they feel and advocate for their needs. "[O]ften [the Student] just needs validation" and is then able to refocus. The Teacher shared that they were "reading [the Student's] entries and verbally responding."

d. Allow for trips to the office for ice and band[-]aids: "[The Student] might not actually be hurt, but it's more about the break of walking to the office… and having validation for [their] feelings.

e. Schedule: "[The Student] has a lot of anxiety surrounding what is coming next and what is ending… At the beginning of the year, [the Student] seemed able to orient to the general class schedule, but the past couple of weeks has been wanting an individual schedule that [they] can carry around with [them]." The Teacher shared that the class reviews the schedule for the day every morning.

f. Access to private redirection: "[T]eam talked about what that could look like and described difference between private and public redirection."

g. The Teacher shared they were completing the tracker every day.

45. The District issued a January 28, 2025 PWN, stating the team amended the Student's IEP to make the Student's IEP goals and accommodations as clear as possible.

46. On February 19, 2025, the Teacher completed a teacher input form for the Student's upcoming annual IEP meeting. Some of the comments were included in the IEP present levels, many of which were positive and included the strengths of the Student. Some of the comments on the Student's difficulties were not included in the IEP present levels, including the following:

    Under the category, "Ideas for increasing student success or changes you'd like to see," the Teacher wrote, "There needs to be some sort of accountability for actions. Work can be taken to break rooms and spaces. In these final formative years of emotional development, the lessons of natural consequences that result from anti-social behavior must be internalized. Without boundaries and expectations, this extremely bright student isn't spending enough time in class. This opinion does not seem to be shared by all involved in the process, which will make it through this year, but at what point is this acknowledged as an application of our responsibility for the education and growth of this student?"

47. When asked about the statement, "[t]his opinion does not seem to be shared by all," the Teacher reported it was likely related to the Teacher's position that the Student needed to earn back the privilege of having a classroom job. The Teacher indicated the Student was required to go five days without throwing anything in the classroom. The Teacher stated the team needed to "believe that the capacity to change is within [the Student]."

48. On February 26, 2025, the District convened the Student's annual IEP meeting.

49. The Parent provided a copy of the Student's draft February 26, 2025 IEP. The Parents reported expressing concern at the February 26, 2025 IEP meeting about the language of the Teacher's input in the IEP present levels. They were concerned that "[the Student] reads [their] IEP and

the words [the Teacher] wrote would be damaging to [the Student's] already low self-esteem, and further hinder [the Student's] and [the Teacher's] relationship."

The Parents reported "the team did not agree with the language that [the Teacher] used to describe [the Student's] differences in class" and agreed the Teacher would revise their language in a way that was not hurtful to the Student.

50. The finalized February 26, 2025 IEP (February 2025 IEP) included the following changes, in relevant part:

    a. Parent Concerns: "[C]oncerned about the environment that has developed in the classroom. [The Student] is very expressive and sometimes does not have appropriate control of [their] emotions, especially when [their] anxiety is heightened. With the last few months of increased anxiety... concerned that [the Student] has developed a negative association with [their] classroom and this is confirmed for [the Student] when [their] accommodations are not met or [the Student] believes [they] cannot advocate for [themselves] without penalty."

    b. Present Levels: For behavior, the Teacher noted, "[The Student] is extremely sweet when regulated… struggles to fit into a group dynamic situation or dealing with situations in which [the Student] either does not have an affinity for the work or is not allowed to be in charge of peers. Remaining in class and completing assignments when assigned through the struggles of behavioral challenges have been a challenge. [The Student] has different expectations for behavior, cleanliness, working with peers, and leaving class. Has a very positive attitude during preferred activities. Prefers to take a lead role in group activity… biggest concerns were around general emotional regulation, resilience, perseverance in difficult situations, understanding that not all peers are going to want to take on a role of 'follower'… at times [the Student] is reading a book instead of participating with the class and that most behavior has to do with peer interactions and getting along with others… peers are not always willing to go along with what [the Student] tells them to do."

    c. Annual Goals: Added a goal in the area of social skills ("when presented with group work… will agree/disagree appropriately, consider peers perspective and share partners thinking when asked")

    d. SDI: Behavior (increased from 60 to 100 minutes per week); and added social skills (50 minutes per week).

    e. Accommodations: Added "opportunity to demonstrate mastery of a concept and ability to move to a break or reading"; access to paper/pencil instead of whiteboard; access to independent workspace in the classroom; and parent/teacher communication on tracker as needed.

f. Non-Participation Justification: The Student will be removed from class for 150 minutes of SDI per week in behavior and social skills, "which could include classroom, outside the classroom, and learning center setting."

51. The District's February 26, 2025 Team Meeting Notes included the following, in relevant part:

a. The Teacher did not think that the Student was trying to avoid work, rather, avoiding situations where they had to interact with peers. "Most behavior has to do with peer interactions and getting along with others… There's a lot of [the Student] not wanting to be a part of group activities or opting out of recess, assemblies, etc." The only academic concern was that the Student missed a lot of instruction when they took breaks out of class.

b. The Principal suggested having a paraeducator help facilitate group work for the Student.

c. The Parents reported the Student's "perception of 'in trouble' might just be [the Student] getting normal redirection."

d. The team reviewed and revised the Student's BSP.

52. According to the District, the addition of a social skills goal and increase in the amount of SDI reflected the Student's increased level of need, as they were demonstrating more challenges with peer relationships and behavior.

53. The Parents reported the team discussed trying to keep the Student in the classroom and how the accommodation for private redirection should be implemented, because it was being provided inconsistently.

54. The District's Team Meeting Notes did not indicate a specific discussion or agreement that the Teacher would revise their language regarding the Student's behavior.

55. The February 26, 2025 Function-Based Behavior Support Plan included the following, among other things:

a. Setting Events: when the Student is not in control; non-preferred activity; group work where the Student is not the leader; and "[a]ny situation where [the Student] doesn't know what's going on or [the Student] doesn't know what time it is."

b. Unwanted Behavior: yelling; banging on desk, computer, or wall; schoolwork refusal, defiance when being redirected.

c. Behavior Strategies:

Desired Behavior: safe body (hands and feet to self); following adult directions; using emotional regulation strategies to self[-]sooth; and participation with peers on group work.

Alternate Behavior: use pre-taught emotional regulation strategies when upset and take a break as needed; teach/allow the Student a more socially acceptable way to avoid group work or situations that they perceive as stressful; and allow the Student to move to a break space (in or out of classroom) or work on their own without penalty.

d. Antecedent Strategies: in addition to strategies listed as accommodations in the Student's IEP, these included "Secret code (star on board) for teacher to request [the Student] take a break"; access to wobble stool; access to a book as a calming item; break assignments into smaller chunks; embed choice in academic tasks; preview non-preferred tasks in the morning; give indirect demands when possible; and use caution when using humor, among others.

e. Reinforcement Strategies: provide non-contingent reinforcement such as access to preferred items or activities without earning them; allow access to classroom job; shared Google Docs/notebook between the Student and the Teacher and allow the Student to share and receive feedback; and rewards/prizes, among others.

56. The District reported the following about the implementation of the February 2025 IEP:

"[The Case Manager] provided specially designed instruction in a one to one setting with the student from 8:30 to 8:55 on Wednesday mornings. In addition, [the Case Manager] or the paraprofessional provided specially designed instruction one on one with the student three times a day as part of the check in/check[-]out process (at the beginning, in the middle, and at the end of every school day). In addition, [the Case Manager] increased support at the point of performance (in class, throughout the building, and at recess) because the Student was needing more breaks/having more times where [they were] needing to process big feelings in the moment. The additional support from [the Case Manager] was provided after the Student had deescalated to further target the IEP behavior goal regarding demonstrating safe, respectful, and responsible behavior."

57. A March 3 to 5, 2025 email exchange between the Case Manger, the Teacher, and the Principal indicated a disagreement between the Case Manager and the Teacher about individualized support to be provided to the Student in the classroom by a paraeducator.

a. The Case Manager emailed the Teacher and the Principal, suggesting that the paraeducator supporting the class (the Paraeducator) "check in/out with [the Student] and add a mid[-]day check in too." Additionally, the Student needed consistent support during group work as part of their social skills goal, which could be 15 minutes twice a week. Alternatively, the Teacher could provide this support instead of the Paraeducator.

b. The Teacher responded, stating the Paraeducator would not change the support that they had been providing to the entire class. "Given the size of the class… [the Paraeducator] functioning in [their] current role and without requisites is the way our class benefits the most[.]" "[T]here's just not going to be requisite attached to [the Paraeducator's] time here in our class or 'box checking' in terms of [their] duties." Some days the Paraeducator would end up working with the Student, other days not.

c. The Principal wrote, "I think it is important to remember that we have to at least be able to say that we are meeting the required time with [the Student's] IEP for social skills support in the moment, whether that be [the Teacher] or [the Paraeducator]… The goal being that we are keeping [the Student] in class[.]"

d. The Case Manager then sent the Student's tracking sheet "so that [the Paraeducator] can document the time that [the Paraeducator] specifically supports [the Student] on [their] social skills goal."

58. The Paraeducator reported the following about their time in the Teacher's classroom:

a. They started working in the Teacher's classroom in winter 2025, and they were in the classroom once a day on most days. Their time was split with another classroom.

b. When asked how familiar they were with the Student's IEP, including accommodations and BSP, they stated they were not familiar with it. Their understanding was that the Student needed support with emotional and social skills more than academic but they were not aware of what the Student's specific accommodations were. When working with the Student they offered breaks when the Student was upset, helped facilitate social interactions with group projects, and did a lot of check-ins.

c. They did not observe the Teacher targeting the Student in the classroom, although the Student often perceived it that way. The Student would claim that the Teacher was purposefully trying to ruin things for them. The Student would break down in tears about not being called on by the Teacher and felt the Teacher was being unfair. The Paraeducator stated the Teacher worked hard to "find a good balance" for the Student and spent a lot of time thinking of ways the help the Student. The Paraeducator did not think the Student was being manipulative or lying when they claimed the Teacher was targeting them. Rather, they thought the Student actually felt that way.

d. When asked about specific accommodations, the Paraeducator reported they did most of the private redirection with the Student when they were in the classroom. All students in the class had a copy of a schedule for the day or the week. The Student had a timer on their desk and the Teacher would give the class pre-warnings, but they did not know if the Teacher provided any pre-warnings specifically for the Student. They did not see the Teacher correcting or providing redirection to the Student, but believed the Teacher might have been afraid to do so at that point. In the interactions they witnessed between the Teacher and the Student, the Teacher was more positive than negative.

59. Another paraeducator who provided reading instruction (the Reading Instructor) in the classroom reported the following:

    a. They had worked with the Student in previous school years and knew the Student from providing supervision at lunch and recess. They had no knowledge that the Student had an IEP or behavior plan. No one ever informed them about this.

    b. They knew from experience that the Student had a temper. With peers, the Student wanted things to be done their way or they would get upset.

    c. At times the Student did not appear to be paying attention to instruction provided by the Teacher in the classroom. The Student was often reading a book or doodling and not listening. They observed one incident in which the Student became very upset, very quickly because the Student did not understand the instructions for a group activity. But the Student had not been listening when the directions were provided.

    d. They did not observe the Teacher repeat directions or check for understanding specifically for the Student. However, the Teacher was available for any student who needed clarification when they asked.

60. According to the Parents, on March 19, 2025, the Principal called them "to suggest [the Student] move general education classes due to [the Student's] continued poor relationship with [the Teacher]. [The Student] was then moved to another 4th grade teacher's classroom after spring break." The Parent reported, following this change, there were no more issues with the implementation of the Student's IEP and BSP.

    Witnesses provided conflicting information about whether things improved for the Student in the new class.

61. The Principal reported the situation got to a point in March where the Principal felt like no matter what the Teacher did, it would upset the Student. They did not think anything could be done to change the Student's perception of the Teacher.

62. The District did not send the Parents a copy of the February 2025 IEP until March 21, 2025.

    On March 21, 2025, the Case Manager emailed the Parents, stating, "I was just going through paperwork and realised [*sic*] I didn't send you the finalized documents from [the Student's] IEP meeting. I'm sorry for the delay... please let me know if further adjustments are needed and I can edit."

63. In a March 28, 2025 email to the Case Manager, the Parents (through their family advocate [the Advocate]) responded, stating, "[The Teacher] did not update [their] section as the team agreed to," among other things. They requested that the IEP be updated with the requested changes.

64. In a March 31, 2025 email to the Teacher, the Case Manager stated the Parents "requested that you provide an update to the teacher input that you provided. If you would like to change your teacher input at all please share it with me by Wednesday."

65. In an April 1, 2025 email to the Student's new teacher, the Case Manager sent a copy of the Student's IEP and daily tracker, noting the Paraeducator has been checking in and out with the Student. "[The Student] benefits from a periodic review of [their] tracker to check in with an adult throughout the day about how [they are] doing behaviorally and have an opportunity to reflect and make changes."

66. On April 1, 2025, the Case Manager notified the Parents that they were waiting for a response from the Teacher about revising the present level language and would then send an updated version of the February 2025 IEP.

67. An April 11, 2025, IEP progress report for the Student stated, "Since changing classrooms [the Student] has met [their] behavior goal in more than 80% of days… [The Student] has been observed during group work agreeing/disagreeing appropriately and considering peers perspective and sharing partners thinking and 60% of observations."

68. In an April 16, 2025 email to the Parents, the Case Manager reported, "I did not get a response from [the Teacher] so I took out part of [their] statement."

    The Parents responded, "[T]hank you for your efforts to get the IEP updated. Everything looks good to me." The Parents stated they would "let [the Advocate] weigh in" if they noticed anything else that need to be changed.

69. The Parents reported that the Teacher statement in the draft February 26, 2025 IEP included, "[The Student] effectively has no consequences for not completing assignments and not following instructions in class. [The Student] has different expectations for behavior, cleanliness, working with peers, and leaving class." The Parents found this section of the statement hurtful, and an indication that the Teacher did not understand the Student's disabilities. "This is after multiple meetings with the IEP team explaining EBD and [the Student's] differences and why [they need] accommodations such as breaks out of the classroom[.]"

70. The Parents reported the Case Manager revised the Teacher's language in the April 16, 2025 version of the IEP by removing the sentence about having no consequences but the following sentence about having different expectations remained in the IEP. The Parents considered it to be offensive and believed it should have been removed according to the agreement made by the IEP team at the February 26, 2025 IEP meeting.

71. When asked, District team members reported the following about the IEP team discussion on this issue:

a. The Case Manager could not recall that there was an agreement at the February 26, 2025 meeting about what the Teacher would specifically change, rather that the language would be revised in a way that would not be hurtful if read by the Student. The Case Manager did not know what parts of the statement the Parents specifically objected to.

b. The Principal recalled there was a sentence that the Parents objected to, about the Student having no consequences, but they thought that sentence was removed. The Principal stated they did not understand the Parents' objection to the Teacher's statement. Most of the language was positive.

c. The Teacher was upset that their language was changed without their permission. They believed that their statement did not contain any value judgment, just facts. The Teacher had contacted a union representative and the Principal, asking if they were required to change the language. They stated they did not hear back from the Principal so they did not make any changes.

72. Messages between the Principal and the Parents indicated that on April 21, May 14, and June 9, 2025 incidents occurred in which the Student became dysregulated, threw items across the room, threw rocks at peers, and physically hit a peer. These resulted in the Student being removed from class, losing recess privileges, and, in the last incident, being sent home from school.

73. On June 30, 2025, the Parent filed this Complaint.

74. In the June 30, 2025 Complaint, the Parents alleged, "Due to [the Student's] relationship with [the Teacher] and lack of accommodations being provided in the classroom, [the Student] was taking extended breaks outside of the classroom which led to missing instruction, educational opportunities and increasing [their] anxiety." "[The Student] was not consistently receiving FAPE until [they] moved general education classrooms at the end of March 2025."

75. The District's July 17, 2025 *Response* stated, "The District developed an appropriate IEP, provided the specially designed instruction, and implemented the accommodations which resulted in the Student making progress on the IEP goals."

    Additionally, the District responded to the Parents' requested corrective action, which stated: (1) The District is working on providing training to all school staff focusing on "understanding autism and neurodiversity, behaviors, and how to increase access in the classroom through environmental arrangements, sensory supports, visual supports, routines, and adaptive work tasks"; (2) "The District is working on a special education manual which… will outline all legal requirements for IEPs… will be shared with school staff to ensure understanding of special education requirements and procedures"; and (3) specifically for the Student, "In order to ensure that the IEP is fully implemented for the upcoming school year, the District will review the IEP and behavior support plan with the general education teacher prior to the start of the school year."

## IV. DISCUSSION

### IEP Content

The Parents alleged that the District violated the IDEA when it failed to include specific special education and related services and supplementary aids and services in the Student's IEP necessary to fully address the Student's needs that result from the Student's disabilities.

A school district "must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances."[3] "An IEP is not a form document. It is constructed only after careful consideration of the child's present levels of achievement, disability, and potential for growth."[4] "The instruction offered must be '*specially* designed' to meet a child's '*unique* needs' through an '[*i*]*ndividualized* education program.'"[5]

An IEP must contain (1) a statement of the student's present levels of academic achievement and functional performance, including how the student's disability affects the student's involvement and progress in the general education curriculum; (2) measurable annual goals and a description of how the student's progress toward meeting the annual goals will be measured and reported; (3) a statement of the specific special education and related services and supplementary aids and services to be provided to the student; (4) the projected dates for initiation of services and the anticipated frequency, amount, location, and duration of the services; and (5) an explanation of the extent to which the student will not participate with children without disabilities in the regular class and activities.[6]

"The adequacy of a given IEP turns on the unique circumstances of the child for whom it was created."[7] School districts are expected to, "be able to offer a cogent and responsive explanation for their decisions that shows the IEP is reasonably calculated to enable a child to make progress appropriate in light of his circumstances."[8]

In this case, the Parents' only disagreement with the Student's February 2025 IEP was that the Teacher's input on the Student's behavior in the present levels was not revised to reflect what they believed the IEP team agreed upon at the February 26, 2025 IEP meeting. Evidence indicated that the IEP team members did not have a clear understanding of any specific agreement or guidelines for how the Teacher's language would be amended. Rather, there was a general agreement that the language would be revised in a way that would be less hurtful to the Student and the Parents. The Principal's understanding was that the Parents explicitly objected to the sentence stating the Student had no consequences, which was removed. The Case Manager did not know of specific sentences that the Parents wanted removed, but took out the sentence they believed would be the most hurtful to the Student.

[3] *Endrew F. v, Douglas Cty. Sch. Dist.*, 137 S.Ct. 988, 999 (2017).
[4] *Id.*
[5] *Id.*
[6] OAR 581-015-2200(1); 34 CFR § 300.320(a).
[7] *Endrew F.*, 137 S.Ct. at 1001.
[8] *Id.* at 1002.

When the Parents first received a copy the February 2025 IEP on March 21, 2025, they requested that the Teacher's language be revised as agreed upon by the IEP team. They did not identify any specific language they wanted to be removed or added. There is no indication that the Parents ever communicated to the Case Manager that they wanted an additional, specific sentence to be removed.

The lack of common understanding amongst IEP team members on how the Teacher's input would be revised did not impact the special education supports and services included in the IEP. There is nothing to suggest that the Student's IEPs were not reasonably calculated to enable the Student to make progress appropriate in light of their individual circumstances.

The Department does not substantiate this allegation.

**When IEPs Must Be in Effect**

The Parents alleged that the District violated the IDEA by not providing special education and related services in accordance with the Student's IEP.

School districts must provide special education and related services to a student with a disability in accordance with the student's IEP.[9] As soon as possible after the development of the IEP, the services included therein must be made available to the student.[10] The district must ensure that each staff member, including service providers, has access to a student's IEP and is informed of their specific responsibilities for implementing the IEP and the specific accommodations, modifications, and supports in accordance with the IEP.[11] "IEP Teams and other school personnel should be able to demonstrate that, consistent with the provisions in the child's IEP, they are providing special education and related services and supplementary aids and services."[12]

There is no expectation that IEPs be implemented with perfection under the IDEA. "[A] district does not violate the IDEA unless it is shown to have materially failed to implement the child's IEP. A material failure occurs when there is more than a minor discrepancy between the services provided… and those required by the IEP."[13] "[T]he materiality standard does not require that the child suffer demonstrable education harm…However, the child's educational progress, or lack of it, may be probative of whether there has been more than a minor shortfall in the services provided." If a child is not provided with instruction as required, a shortfall in achievement would indicate a material failure to implement the child's IEP. "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."[14]

[9] OAR 581-015-2220(1)(a); 34 CFR § 300.323(c).
[10] OAR 581-015-2220(2)(b); 34 CFR § 300.323(c)(2).
[11] OAR 581-015-2220; 34 CFR § 300.323.
[12] Questions and Answers on *U.S. Supreme Court Case Decision Endrew F. v. Douglas County Sch. Dist.,* Re-1, 71 IDELR 68 (EDU 2017).
[13] *Van Duyn v. Baker Sch. Dist. 5J*, 502 F3d 811, 815 (9th Cir. 2007).
[14] *Id*. at 822.

There were three IEPs implemented during the complaint period, the March 2024 IEP, the January 2025 Amended IEP, and the February 2025 IEP. Additionally, the Student's June 2023 and February 2025 BSPs were both in effect during this time.

It is unclear to what extent the Student's accommodations, including behavior strategies from the BSPs, were not implemented by the Teacher in the classroom. The Case Manager reported that the Teacher was resistant to implementing some of the Student's accommodations and there were times when accommodations were not provided to the Student in the classroom. The November 2024 and January 2025 observation notes submitted by the District indicated that the Teacher was implementing some accommodations, but noted that others were specifically not provided, including access to private redirection. The Principal and the Paraeducator reported they observed the Teacher responding appropriately to the Student, including providing access to breaks, calming tools, and other supports to the Student. However, the Paraeducator was never informed of the specific services and supports included in the Student's IEP. The Reading Instructor was not aware that the Student had an IEP or behavior plan.

At the very least, (1) the Student's accommodation for a break space in the classroom was not provided until after the December 6, 2024 meeting between the Parents, the Case Manager, and the Teacher; and (2) the check-in/check-out system, including the Student's tracker, was not in place at the start of the school year. There is evidence indicating that other accommodations may not have been implemented consistently throughout the 2024-25 school year. However, the Student's SDI was delivered in accordance with the Student's IEPs, the Student had access to many of their accommodations, and the Student made progress on their IEP goals and in the general education curriculum. Although inappropriate, the District's failure to provide all accommodations with fidelity did not constitute a material failure to implement the Student's IEPs.

The Department does not substantiate this allegation.

**Free Appropriate Public Education (FAPE)**

The Parents alleged that the District violated the IDEA by not providing special education and related services in accordance with the Student's IEP.

Each school district is responsible for providing a free appropriate public education to school age children with disabilities for whom the school district is responsible.[15] In order to determine whether a student has been denied a FAPE, the courts review a district's compliance with the procedural and substantive components of the student's education. Reviewing courts must inquire whether the school district complied with the procedural requirements of the IDEA, and whether the school district met the substantive requirement to develop an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances.[16]

[15] OAR 581-015-2040(1); 34 CFR §300.101(a).
[16] *Endrew F.*, 137 S.Ct. at 999.

Not every procedural error is sufficient to rise to a denial of FAPE.[17] The procedural test consists of three pivotal procedural errors: (1) whether the student suffers a loss of educational opportunity;[18] (2) whether the parent's right to participate in the IEP process was infringed;[19] or (3) whether the procedural error caused a "deprivation of educational benefit."[20] Procedural errors rise to the level of a denial of FAPE where, absent the errors, there is a "strong likelihood" that alternative educational possibilities for the student "would have been better considered."[21]

The District made procedural errors related to describing the extent of the Student's removal. However, the Student's IEPs were reasonably calculated to enable the Student to make progress appropriate in light of their circumstances. The District's failure to implement some of the Student's accommodations with fidelity throughout the school year did not result in a material failure to implement the Student's IEPs. The Student continued to make progress on their IEP goals and in the general education curriculum. While the Student's accommodations should have been implemented at all times, there is no evidence that the Student suffered a loss of educational opportunity.

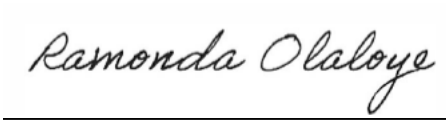
The Department does not substantiate this allegation.

## V. CORRECTIVE ACTION

*In the Matter of North Clackamas School District 12*
*Case No. 25-054-047*

The Department does not order corrective action in this matter.

Dated: this 29 Day of August 2025



Ramonda Olaloye
Assistant Superintendent
Office of Enhancing Student Opportunities

E-mailing Date: August 29, 2025

[17] *Amanda J. v. Clark Co. Sch. Dist.*, 267 F.3d 877, 892 (9th Cir. 2001) (citing *Roland M. v. Concord 13684 Sch. Comm.*, 910 F.2d 983, 994 (1st Cir. 1990)).
[18] *Target Range*, 960 F.2d at 1484.
[19] *Id.*
[20] *Amanda J.*, 267 F.3d at 892 (citing *Roland M.,* F.2d at 994).
[21] *M.L. v. Federal Way Sch. Dist*., 394 F.3d 634, 657 (9th Cir. 2005).

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).)