BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of West Linn-Wilsonville School District 3J	))))	FINDINGS OF FACT, CONCLUSIONS, AND FINAL ORDER Case No. 25-054-061

I. BACKGROUND

On September 13, 2025, the Oregon Department of Education (Department) received a written request for a special education complaint investigation from the parent (Parent) of a student (Student) residing in the West Linn-Wilsonville School District 3J (District). The Parent requested that the Department conduct a special education investigation under OAR 581-015-2030. The Department confirmed receipt of this Complaint and forwarded the request to the District.

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

On September 30, 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 October 14, 2025.

The District submitted a *Response* on October 14, 2025, denying the allegations, providing an explanation, and submitting documents supporting the District's position. The District submitted the following relevant items:

1. District *Response*, 10/14/25
2. Parent/Guardian Consent for Individual Evaluation, 02/19/25
3. Emails between parties, 11/05/24-09/25/25
4. Prior Written Notices, 01/23/25-07/29/25
5. Notices of Team Meeting, 02/19/25-09/11/25
6. Meeting Attendance/Summary, 02/19/25
7. Eligibility Summary Statement, 05/22/25
8. Statement of Eligibility for Special Education - Autism Spectrum Disorder (82), 05/22/25
9. Statement of Eligibility for Special Education - Other Health Impairment (80), 05/22/25
10. Special Education Placement Determination, 06/11/25
11. Individualized Education Program DRAFT, 06/11/25

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

12. Eligibility Meeting Notes, 05/22/25-06/15/25
13. Medical Note, 02/17/25
14. Psychological Evaluation, 12/10/24
15. Occupational Therapy Daily Note, 09/18/24
16. Confidential Psychoeducational Report, 05/20/25
17. District Policy; Special Education - Individualized Education Program, re-adopted 10/07/24
18. District Policy; Special Education - Evaluation Procedures, re-adopted 07/12/19

The Parent submitted a *Reply* on October 31, 2025, providing an explanation and rebuttal and documents in support of the Parents' position, as well as additional documents submitted on November 5, 2025. The Parent submitted the following relevant items:

1. Parent *Reply*, no date
2. Medical Note, 06/04/25
3. Emails between parties, 05/07/25-10/02/25

The Complaint Investigator interviewed District Personnel on October 24, 2025 and interviewed the Parent on November 3, 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 Parent's allegations and the Department's conclusions are set out in the chart below. The conclusions are based on the Findings of Fact in Section III and the Discussion in Section IV. This Complaint covers the one-year period from September 14, 2024, to the filing of this Complaint on September 13, 2025.

Allegations	Conclusions
Parent Participation The Complaint alleged the District violated the IDEA by not scheduling an Individualized Education Program (IEP) meeting at a mutually agreeable date and time and by not providing a draft of the IEP for the Parent to review until June 9, 2025. (OAR 581-015-2190 (1-5), OAR 581-015-2195, OAR 581-015-2300; 34 CFR §§ 300.322, 300.501, 300.613)	**Not Substantiated** The District scheduled an IEP meeting at a mutually agreeable date and time and provided a draft of the IEP for the Parent to review.
Eligibility	**Not Substantiated**

Allegations	Conclusions
The Complaint alleged the District violated the IDEA by not qualifying the Student for special education services under the category of Autism Spectrum Disorder (ASD). (OAR 581-015-2120, OAR 581-015-2130; 34 CFR § 300.8)	The District did not violate the IDEA by not qualifying the Student for special education services under the category of ASD.
When IEPs Must Be In Effect The Complaint alleged the District violated the IDEA by not meeting to develop an initial IEP within 30 [calendar] days of determining the Student was eligible for special education services. (OAR 581-015-2220; 34 CFR § 300.323)	**Not Substantiated** The District met to develop an initial IEP within 30 calendar days of determining the Student was eligible for special education services.
Free Appropriate Public Education (FAPE) The Complaint alleged the District violated the IDEA by not developing and implementing the Student's IEP in a timely manner following the determination of eligibility for special education services. (OAR 581-015-2040; 34 CFR §§ 300.17, 300.101)	**Not Substantiated** The District did not violate the IDEA in regards to developing and implementing the Student's IEP in a timely manner.

REQUESTED CORRECTIVE ACTION
● "District[-]wide legal training around parent participation rights provided by an organization outside of the [D]istrict or their legal team." ● "Ensure that all meetings moving forward with the special education team are scheduled with the opportunity for [the Parent] to provide mutually agreeable dates and times for the meeting." ● "Due to [the Student's] team choosing to ignore IDEA procedure, reviewing historical evidence to determine eligibility for ASD, I would like to have a new eligibility meeting to determine ASD eligibility, with a different IEP team from the [D]istrict where we consider the historical context of [the Student's] ASD characteristics." ● "Training for all special education staff around ASD eligibility provided by an outside organization." ● "Provide training to all [D]istrict special education staff and administrators on the procedural steps to be completed and timeline when developing an initial IEP to ensure that delays do not occur for students." ● "Provide compensatory education for [the Student] for the unnecessary delays to the evaluation process, initial IEP development and missed educational opportunities as a result of this."

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 September 14, 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 eight years old and attends an elementary school in the District. The Student loves to draw. They also enjoy performing, especially dancing and singing. The Student enjoys listening to music and telling jokes. The Student is very independent and persistent.

2. The Parent was an employee of the District during the 2024-25 school year at the School where the Student attended.

3. Relevant information from an outside psychological evaluation of the Student, dated December 10, 2024, indicated:
   a. Results from testing depicted global patterns of delay consistent with mild intellectual disability, ASD, attention-deficit/hyperactivity disorder (ADHD), and post-traumatic stress disorder (PTSD).
   b. A recommendation for an IEP.

4. On December 20, 2024, the School Psychologist sent the Parent a meeting notice for an evaluation planning meeting to be held on January 13, 2025 at 7:30 a.m.

5. A Meeting/Attendance Summary regarding an evaluation planning/file review meeting, dated January 13, 2025, indicated:
   a. Based on assessment results, the team did not suspect the Student would meet the criteria of ASD. It noted the Student's social communication skills were in the typical range and the team would revisit the evaluation at the end of the Student's first grade year. The Parent signed the evaluation decision in agreement that no evaluation would be conducted at that time.

6. On February 11, 2025, the School Psychologist emailed the Parent and asked about the Student's diagnosis from another psychologist. The Parent replied three days later and stated the providers agreed with "... the diagnosis of primary being ASD, second being adhd and ptsd [*sic*]." The same day, the Parent asked the School Psychologist if they needed medical documents for the diagnoses, and they replied, "I would need a medical diagnosis for ADHD, but not for ASD. But, there is such a significant difference between medically diagnosed ASD and school ASD eligibility that many with a medical diagnosis do not meet the school eligibility requirements." The Parent shared they wanted to look into the ASD diagnosis. The School Psychologist wrote they would want to evaluate all areas of potential eligibility.

7. The Parent sent the Student's medical records on February 16, 2025 and the School Psychologist acknowledged receipt the next day.

8. A letter from the Student's Pediatrician, dated February 17, 2025, indicated the medical office agreed with the Student's diagnoses of ASD, PTSD, mild intellectual disability, and ADHD.

9. The School Psychologist emailed the Parent on February 18, 2025 and asked them to sign consent to start the evaluation. The same day, they emailed the Parent copies of the forms for evaluation planning and consent and wrote the evaluation was due to be completed on or before May 23, 2025. They stated they would plan a meeting to review the results and determine eligibility when assessments were complete.

10. A Parent/Guardian Consent for Individual Evaluation, dated February 19, 2025, detailed an evaluation was being proposed because the Student might meet the eligibility criteria as a student with ASD or Other Health Impairment (OHI). It indicated the evaluation would include: educational evaluation of learning and achievement, observation of learning environment, psychoeducational assessment, social/emotional assessment, speech/language evaluation, fine motor assessment, informational occupational therapy observation, and file review. The box stating "I give my consent for the evaluation or re-evaluation" was checked. It was signed by the Parent on February 19, 2025.

11. A Meeting Attendance/Summary, dated February 19, 2025, indicated the Parent had shared the Student's medical diagnoses of ADHD and ASD with the team, who determined to move forward with an evaluation to see if the Student would meet the school eligibility requirements for ASD or OHI. A PWN of the same date confirmed the meeting details.

12. On April 2, 2025, the Parent sent the School Psychologist a court order regarding the Non-Custodial Parent's role and emailed five days later asking if it had been determined if the Non-Custodial Parent had to be invited to the meeting.

13. In an email exchange occurring between April 29, 2025 through May 13, 2025:
    a. The Parent emailed the Director of Student Services and stated they had full legal custody of the Student and the Non-Custodial Parent only had access to information and did not have decision-making authority. They requested a second meeting be scheduled for the Non-Custodial Parent to review the eligibility information and stated they did not approve of the Non-Custodial Parent attending the meeting.
    b. The Director of Student Services replied, "... noncustodial parents do have the right to consult with school staff, which includes participating in IEP and eligibility meetings, unless there is a specific court order stating otherwise. … noncustodial parents typically do not have educational decision-making rights unless it is explicitly granted by a legal document. If you have any legal documentation … that restricts [the Non-Custodial Parent] from accessing educational records, consulting with staff, or attending meetings … share that with us."

c. The Parent sent a document labeled "Order_re_Immediate_Danger" the same day. (**D91**) The Parent sent another email with the court's final order and again requested two meetings because the Student would be in attendance.
d. The Parent emailed again the same day and asserted the Non-Custodial Parent's attendance would impact their ability to participate. They reiterated their proposal to hold a separate meeting for the Non-Custodial Parent.
e. On May 5, 2025, the Director of Student Services explained the District and the District's Legal Counsel were reviewing the documents so they could align their practices with the court documents, and would follow up with next steps.
f. The Director of Student Services emailed the Parent on May 7, 2025 and explained the District's Legal Counsel affirmed they did not see information in the court documents which restricted the rights of the Non-Custodial Parent and it was the District's responsibility to afford them those rights. They suggested the team could transition from an in-person meeting to a virtual one, to "accommodate participation without being in the same space/room."
g. The Parent replied, "... based on the immediate danger the only contact [the Non-Custodial Parent] can have is supervised parenting time and that is [their] only contact."
h. The Director of Student Services replied on May 11, 2025, stating they shared the Parent's letter with the District's Legal Counsel and would follow up with potential next steps.
i. The Attorney for the Parent emailed the Director of Student Services on May 13, 2025 and asked if it was possible to hold two meetings. The Director of Student Services explained they do not hold separate meetings but work with families to offer accommodations. In another email, the Director of Student Services explained that, at that time, the Non-Custodial Parent maintained their non-custodial educational rights and the District must provide those rights. They stated nothing in the immediate danger order appeared to restrict those rights. They repeated their earlier offer to transition from an in-person to a virtual meeting.

14. The School Psychologist emailed the Director of Student Services on May 4, 2025 and indicated the eligibility meeting had been changed to May 22, 2025, but they had not sent the meeting notice because they were waiting on the decision regarding whether to invite the Non-Custodial Parent.

15. On May 13, 2025, the Director of Student Services emailed the Parent and stated the team needed to reschedule the meeting to accommodate team members' schedules and asked if the Parent was available from 1:00 to 2:30 p.m. on May 22, 2025. They said, "We recognize that you had previously discussed an after-school time and unfortunately, we are not available at that time. However, [a staff member] has offered to step into your role during that time so that you could participate in a virtual meeting."
    a. The Parent replied and asked for two separate meetings before proceeding. They emailed again and asked that the meeting be held after school.
    b. The Director of Student Services replied and stated the team must meet by May 22, 2025 to meet the legal deadline for the eligibility meeting. They also acknowledged the meeting must be at a mutually agreeable time and the Parent had initially requested an

after-school time. The Director of Student Services explained that the Parent would be able to attend the meeting at 1:00 p.m. because coverage was being provided by the Principal to ensure the Parent's availability. They indicated a meeting invitation would be sent. The Director of Student Services acknowledged the Parent's concern but stated they would not hold two meetings because both custodial and non-custodial parents have rights to be invited to and attend meetings. They explained the meeting would be held virtually so they could be in separate spaces.

c. The Parent indicated the meeting at 1:00 p.m. would not work and had to be after school. They stated they did not have personal or sick time left and had to use unpaid leave, and the meeting time did not accommodate the Student. The Parent sent another email an hour later and reiterated the meeting at 1:00 p.m. on May 22, 2025 would not work. They explained they were "not ok" with a virtual meeting or with the Non-Custodial Parent attending, and requested two different meetings. They said, "Until we can come to an agreement on matters we will are [*sic*] at a standstill/postponement." The Parent sent another email and stated the School Psychologist had told them offering two meetings would have been "no problem."
d. The Parent replied the same day and requested two meetings. They stated it was because the Non-Custodial Parent could not legally attend since the Student would also attend.

16. On May 13, 2025, the School Psychologist sent the meeting notice for the Student's evaluation results and eligibility determination meeting to the Parent, the Director of Student Services, the Non-Custodial Parent, and other members of the team.
    a. The Parent replied and stated the time did not work for them, they had requested two meetings and "been ignored", they did not give their permission to hold the meeting during the school day, and they had asked for an in-person meeting. They requested a facilitator from the Oregon Department of Education (ODE).
    b. A Notice of Team Meeting from the same day indicated a virtual meeting for an eligibility determination was scheduled for May 22, 2025 at 1:00 p.m.

17. The Parent emailed the School Psychologist, the Director of Student Services, and the Parent's Advocate 1 on May 13, 2025 and stated the email was their written notice to stop current proceedings. They asked to cancel the meeting on May 22, 2025. They stated they did not give their permission to hold the meeting without them.
    a. The Director of Student Services replied to the Parent on May 14, 2025 and asked if the aforementioned email was a formal revocation of consent for the evaluation. They explained the inclusion of an ODE facilitator did not change the eligibility timeline and would continue to hold the meeting on May 22, 2025 at 1:00 p.m. They indicated the Principal had made arrangements so the Parent could attend the meeting on that day and time. They reiterated there had not been a court order to remove the Non-Custodial Parent's rights; therefore, it was their right to be invited, attend, and provide input as a non-custodial parent.
    b. The Parent replied and stated the meeting had been scheduled without their consent and did not allow them to practice their parental rights. They believed the meeting was not scheduled for a mutually agreed upon time and place and the District must

reschedule. The Parent sent another email restating the team did not attempt to propose a meeting at a mutually agreeable day and time.

18. A Prior Written Notice (PWN) dated May 14, 2025, regarding an initial eligibility meeting, indicated the District refused three Parent requests made during May 2025 which were to: exclude a non-custodial parent from the eligibility meeting, hold two separate eligibility meetings for custodial and non-custodial parents, and schedule the meeting outside of the regular school day. The District proposed to: include the custodial and non-custodial parents in one meeting, hold one meeting for both parents to provide input, and schedule the meeting during the school day on May 22, 2025 at 1:00 p.m. with virtual access at a time the Parent and all team members were available, and meet the 60-day timeline.

    The PWN stated the District took the aforementioned action because the District was required to honor the rights of the custodial and non-custodial parents unless a court order limited those rights. The PWN indicated no such court order had been shared. The PWN stated holding two separate meetings would have compromised the integrity and efficiency of the process and potentially delay the timeline. The PWN indicated it was not feasible to meet outside of the school day due to staff availability and contractual obligations. It stated, "The District has proposed a mutually accessible time during the day and has confirmed with [the Parent's] employer that coverage is available at no cost to [the Parent]."

19. The Principal emailed the Parent and the Director of Student Services on May 15, 2025 and explained they would cover the Parent's work responsibilities during the meeting so they would not have to take leave.
    a. The Parent replied that day and stated the Principal should not have made such a decision and it went against their parental rights.
    b. The Director of Student Services replied to the Parent and explained all required team members were available at 1:00 p.m. on May 22, 2025 and the Principal had offered to cover their job duties. They affirmed the meeting would take place on Zoom.

20. On May 16, 2025, the Parent emailed the Director of Student Services, the Principal, Advocate 1, and others on the eligibility team, and affirmed they did not agree to the meeting place and time, and requested the District find another time. The Parent stated no other meeting dates and times had been proposed, and previous meetings had been held after school hours.

21. On May 18, 2025, the Director of Student Services emailed the Parent, the Principal, Advocate 1, and the ODE Facilitator, and explained not all of the team members were available to meet after school on May 22, 2025. They then offered to meet on that day at either 10:00 a.m. to 11:30 a.m. or 1:00 p.m. to 2:30 p.m. They confirmed the meeting would be held on Zoom so both parents could attend, per their rights, but not be in the same physical space. They asked the Parent to share their preference for one of the meeting times on May 22, 2025.
    a. The Parent replied the following day and stated they were not available to meet on May 22, 2025 and asked what other days could be proposed.

b. The Director of Student Services replied and offered three meeting dates and times: May 21, 2025 from 8:45 a.m. to 9:45 a.m., and May 22, 2025 from 9 a.m. to 10:30 a.m. or 1:00 p.m. to 2:30 p.m. They explained if the Parent could not attend one of those meetings, the team would have to meet to determine eligibility. The Director of Student Services sent a follow-up email and revised the offer of the second meeting time to 10:00 a.m. to 11:30 a.m.
c. The Parent replied on May 20, 2025 and said, "Since the [D]istrict is unwilling to agree on meeting past the 60-day timeline and is unwilling to hold two separate meetings to accommodate our family and the order in place, I would like to meet at 9 am on Thursday [May 22, 2025]."

22. On May 20, 2025, the Director of Student Services sent the Parent and the eligibility team the meeting notice for the virtual meeting for eligibility determination to be held at 9:00 a.m. on May 22, 2025.

23. Relevant information from a Speech Language Pathology Evaluation Report for the Student, dated May 20, 2025, indicated:
    a. The Student "easily transitioned" from the classroom to the testing environment, engaged in reciprocal conversation with the clinician, and appropriately maintained the topic during exchanges.
    b. The Student's speech was intelligible, and the only articulation error noted was on the use of "th." It stated, "[The Student's] social communication strengths included appropriate greeting, using statements to inform the listener, expressed statements of [their] emotions/preferences, demonstrated theory of mind, and [their] non-verbal communication included eye contact."
    c. When interacting with an adult, the Student demonstrated age-appropriate social-emotional reciprocity.
    d. During a classroom observation, the Student appeared to be engaged during approximately 70% of the literacy lesson. When taking a spelling test, it took the Student longer than all of their peers to choose a pencil, and the Student shouted three times during the test without raising their hand.
    e. During a lunch observation, the Social-Communication ASD Observation Sheet was used. The Student was seated by two peers and all three students engaged in conversation together. During the observation, the Student "presented with many strengths and typical social understanding and behavior." The Student transitioned well from lunch to the carpet. They exhibited some "unexpected behaviors."
    f. A summary section stated, "[The Student] is a social and interactive 1st grade student that presents with communication skills within normal limits. [The Student] was observed to be easily distracted and benefitted from frequent individualized redirections in the classroom setting; atypical attention and focus appeared to be the primary drivers of this difference."

24. Relevant information from a psychoeducational report of the Student, dated May 20, 2025, indicated:

a. The School team and the Parent wanted to know if the Student met the eligibility requirements for ASD or OHI.
b. Evaluation Procedures included:
    i. File Review;
    ii. Kaufman Assessment Battery for Children;
    iii. Connors 4th Ed.;
    iv. Behavior Assessment System for Children;
    v. Comprehensive Executive Functioning Inventory;
    vi. Childhood Autism Rating Scale;
    vii. Student Observations;
    viii. ASD Parent Interview;
    ix. Medical Statement; and
    x. Vision and hearing screenings.
c. Parent concerns included the Student was struggling with transitions and emotional regulation.
d. The Student had medical diagnoses of ASD, PTSD, mild intellectual disability, and ADHD.
e. Under the Speech and Language section, the Parent reported the Student had no difficulties responding to facial expressions or nonverbal communication used by others, but shared the Student had a mild problem using gestures to communicate. Speech notes from March 13, 2024 indicated the Student demonstrated skills in labeling and acting out emotions, and recognizing emotions. Testing revealed some difficulties with negation, subordinate clauses, indirect requests, and compound sentences.
f. In the Deficits in Social-Emotional Reciprocity section, the Parent reported the Student had limited eye contact during conversation, had difficulties maintaining friendships with same-aged peers, and sometimes had trouble knowing what another person might be feeling. They stated the Student had a broad range of emotions and facial expressions. A speech evaluation from February 2024 stated the Student had strengths in initiating greetings and following conversational rituals, but had trouble with reading and reacting to body language.
g. In the Stereotyped or Repetitive Speech and Motor Stereotypes section, the Parent shared the Student had unusual ways of moving their body. Notes from December 2024 indicated no repetitive movements were observed.
h. In the Excessive Adherence to Routine or Insistence on Sameness section, the Parent reported the Student had problems with new routines and changes in their environment. Notes from December 2024 reported the Student struggled with changes in routine. Notes from February 2024 showed the Student could be redirected when they sometimes became fixated on a task or object. The Student was observed to be "excited and interactive" during a speech evaluation.
i. Notes about a direct interaction with the Student on May 9, 2025 described the Student and the examiner played with cat figurines. The Student was reluctant to let the examiner do anything. During a lunch observation on the same day, the Student was attentive to the environment but did not talk with peers. The Student later found another student and they played on the swings together.
j. Notes about a direct interaction with the Student on May 15, 2025 indicated the Student willingly came to the examiner's office and participated in assessments. The

Student was described as "impulsive" during the interactions and wanting to do "everything at the same time."

k. An Observation Summary stated, "[The Student] has a difficult time regulating [their] attention and is easily distracted. [The Student] also demonstrates limited mental stamina for challenging work, and frequency [*sic*] needs rules restated. [The Student] could maintain focus with support for 10 - 15 minutes at a time in the one on one setting. These behaviors are less apparent when [their] environment is less novel and more predictable, such as in [their] classroom. [The Student] also experiences an unusual amount of dysphoria when [they] '[make] a mistake', and tries to avoid situations where this might occur by refusing to engage in work when [the Student] doesn't know the answer. [The Student] picks up on nonverbal cues from adults in a one on one situation. [The Student] demonstrated socially appropriate facial expressions and affect in all settings observed."
l. "On the [Childhood Autism Rating Scale - High Functioning], [the Student's] raw score (23) and corresponding T-Score (33) indicate that [the Student] demonstrates [m]inimal to [n]o behavioral characteristics related to [a]utism."
m. "[The Student] was previously assessed on 12/10/24 by [the doctor] using a parent form of the Autism Spectrum Rating Scale. … On the ASRS, [the Parent] endorsed behavioral characteristics associated with [a]utism." The results were:
    i. Sensory sensitivity - elevated;
    ii. Adult socialization - slightly elevated; and
    iii. ASRS total score, DSM-V scale, social communication, unusual behavior, and self-regulation - average.
n. "For a student to be found eligible for special education services as a student with an Autism Spectrum Disorder under current Oregon Administrative Rules (2019), the student must demonstrate persistent deficits across multiple contexts in each of the following three areas of Social Communication and Social Interaction, either currently or by history":
    i. Deficits in social-emotional reciprocity;
    ii. Deficits in nonverbal communicative behaviors used for social interaction; and
    iii. Deficits in developing, maintaining, and understanding relationships.
o. In addition, the student must demonstrate persistent deficits across multiple contexts in two of the four areas of Restricted, Repetitive Patterns of Behavior, Interests, or Activities, either currently or by history.
p. For a student to be eligible for special education services as a student with an OHI, the student must demonstrate limited vitality, strength or alertness in the educational environment, due to a chronic health condition that is expected to last more than 60 days.

25. Meeting Notes, titled "[The Student] Eligibility Meeting 5-22-25," contained the following relevant information:
    a. The purpose of the meeting was to review evaluation results and determine if the Student was eligible for special education services.
    b. There was an overview of the reports and data for considering eligibility under OHI and ASD.

c. The team agreed the Student met the eligibility criteria for special education services under OHI.
d. Advocate 1 shared the Student had diagnoses of ADHD, ASD, and PTSD.
e. Advocate 1 asked if the District had an autism specialist. The Director of Student Services explained there were several team members with backgrounds in autism, and the Instructional Coordinator collaborated with a local program which assists local school districts in educating students with highly specialized needs.
f. The meeting continued on June 5, 2025. The following notes are from that meeting:
    i. The School Psychologist explained for the Student to be eligible under ASD, the team must have documented evidence under three social communication domains: deficits in social emotional reciprocity; deficits in nonverbal communicative behaviors; and deficits in developing, maintaining, and understanding relationships;
    ii. The Speech Language Pathologist (SLP) observed the Student in the classroom and during lunch with their peers. The SLP noted the Student engaged in appropriate back and forth conversation with peers, shared an interest in movies, had age-appropriate conversations, and had nice non-verbal communication skills and interactions with peers;
    iii. When reviewing the three social communication skills questions, the SLP did not feel there were deficits in those areas, and in their professional opinion, would not mark that there were deficits;
    iv. The School Psychologist stated the Student had some initial nervousness about coming with them but then warmed up and started asking questions. They described the Student was able to accurately interpret situations, and understand that people had different points of view. They stated the Student was sensitive to the needs of others in the classroom and shared perspective with peers. The School Psychologist noted the Student had some difficulty attending to the conversation, but had nice back and forth skills and used non-verbal communication. They explained they saw some atypical behaviors but felt the Student did not appear to have autism;
    v. Advocate 1 stated there was evidence the Student had deficits in social-emotional reciprocity;
    vi. The SLP explained when they reviewed the same assessment from an outside SLP in 2024, the Student's score was at the 16th percentile and was currently at the 37th percentile. They indicated the Student had made growth. They stated the outside provider's report also noted average scores in social communication and the Student had another social communication score that was normal. They stated these were important to consider by history;
    vii. There was agreement the Student demonstrated hyper- or hypo-reactivity to sensory or unusual interest across multiple contexts;
    viii. For stereotyped or repetitive motor movements and use of objects or speech, the Parent and Advocate 1 believed the Student demonstrated this. The Director of Student Services asked what was being observed in the School setting. The School Psychologist, the SLP, and another team member did not observe this behavior. These behaviors had been present by history, but there was not indication of it across multiple contexts. The notes from the Director of Student Services explained that the team looked at information by history and across multiple contexts,

including structured and unstructured activities, because it is expected to see behavior across settings. If they saw it everywhere, that would help the team identify it as a characteristic of ASD; and

ix. The Parent indicated they wanted to write the IEP next year and were "okay with postponing the process until the next school year." The Director of Student Services indicated the team had to meet within 30 school days of determining eligibility.

g. The meeting continued on June 11, 2025. The following notes are from that meeting:
   i. Regarding "insistence on sameness, inflexible adherence to routines, or ritualized patterns of verbal or nonverbal behavior," two team members described the Student was more flexible with familiar adults and did not show rigidity or sameness in everything they did. The Director of Student Services explained the Student transitioned smoothly during observations, had flexibility in play, and adapted to change and accepted redirections. The Parent stated the Student demonstrated this behavior in the past, but had grown significantly. The SLP did not see the Student had persistent deficits across contexts. The majority of the team did not agree the Student met the criteria for this category;
   ii. Regarding the Student having "highly restricted, fixated interests that are abnormal in intensity or focus," the SLP and OT did not report observing anything abnormal. The Parent stated this had been a "component" for the Student historically and currently, and the Student was fixated on cats. The Parent described an incident when the Student had a "meltdown" on their way to OT because they could not find their "super kitty" to bring with them. Other team members indicated the Student was able to talk about topics other than cats with their peers and was observed participating in tasks focused on less preferred topics. There was disagreement whether the Student met the criteria. The Director of Student Services stated they were seeing the patterns but not the abnormal intensity or focus;
   iii. The Parent wanted to focus on the Student's history of behaviors and the Director of Student Services emphasized the team had to review information historically and currently across multiple contexts. They stated the team was not discounting what was happening at home, but had to consider historical evidence in addition to what was happening presently in the educational environment;
   iv. The team agreed to not finish the ASD eligibility document because they found the Student only met one of the four criteria, and the Student had to meet two of the four criteria to be eligible under ASD;
   v. The Student qualified for OHI but not for ASD; and
   vi. The team transitioned to reviewing the draft IEP.

26. An Eligibility Summary Statement, dated May 22, 2025, indicated:
   a. Documentation used for eligibility determination included a psychoeducational evaluation, speech language evaluation, and occupational therapy assessment.
   b. The team reviewed existing data and information from the Parent, the Student's cumulative records, and any previous IEP or IFSP.
   c. For OHI, the "yes" boxes were checked for "met disability criteria," "has adverse impact," and "needs special education." The box for eligibility for OHI was checked. The same boxes were checked "no" for ASD.

d. Under “Eligibility Team Member Determination,” all team members, including the Parent, checked the “agree” box.

27. A Disability Statement for ASD, dated May 22, 2025, indicated:
    a. A psychoeducational evaluation was completed on May 20, 2025 and a speech-language evaluation was done on April 8, 2025.
    b. Checkmarks indicated the following data was included:
        i. Review of existing information;
        ii. A developmental history;
        iii. Information from parents and other knowledgeable individuals regarding the Student’s historical and current characteristics associated with ASD;
        iv. Three observations of the Student’s behavior;
        v. A social communication assessment;
        vi. Standardized Autism Identification Tool;
        vii. Documentation of a medical examination;
        viii. A vision and hearing screening;
        ix. Any additional assessments; and
        x. Any additional evaluations or assessments necessary to identify the Student’s developmental or educational needs.
    c. Under “Eligibility Determination” for a suspected ASD eligibility, the following evaluations, tests, or assessments were done:
        i. April 18, 2025 - Kaufman Assessment Battery for Children, 2nd Ed.;
        ii. May 14, 2025 - Childhood Autism Rating Scale, 2nd Edition;
        iii. February 26, 2025 - Conners, Fourth Edition;
        iv. February 26, 2025 - Comprehensive Executive Functioning Inventory;
        v. February 28, 2025 - Behavioral Assessment for Children, 3rd Ed.;
        vi. April 8, 2025 - Classroom Observation;
        vii. May 15, 2025 - Direct and Playground Observation;
        viii. May 19, 2025 - File Review;
        ix. March 18, 2025 - Clinical Evaluation of Language Fundamentals, 5th Ed.;
        x. April 1, 2025 - Language Sample;
        xi. April 15, 2025 - The Sensory Processing Measure;
        xii. May 12, 2025 - Clinical Observation;
        xiii. February 17, 2025 - Medical Statement; and
        xiv. December 10, 2024 - Wide Range Achievement Test.
    d. It was only marked “yes” that the Student had “hyper- or hypo-reactivity to sensory input or unusual interest in sensory aspects of the environment … .”

28. A Disability Statement for OHI, dated May 22, 2025, indicated:
    a. A psychoeducational evaluation was completed on May 20, 2025 and a speech language evaluation was done on April 8, 2025.
    b. Checkmarks indicated the following data was included:
        i. Review of existing information;
        ii. Documentation of a medical examination;
        iii. Any additional assessments; and

iv. Any additional evaluations or assessments necessary to identify the Student's developmental or educational needs.

c. Under "Eligibility Determination" for a suspected OHI eligibility, the following evaluations, tests, or assessments were done:
   i. April 18, 2025 - Kaufman Assessment Battery for Children, 2nd Ed.;
   ii. February 26, 2025 - Conners, Fourth Edition;
   iii. February 26, 2025 - Comprehensive Executive Functioning Inventory;
   iv. February 28, 2025 - Behavioral Assessment for Children, 3rd Ed.;
   v. May 19, 2025 - File Review;
   vi. April 8, 2025 - Classroom Observation
   vii. April 15, 2025 - The Sensory Processing Measure;
   viii. May 12, 2025 - Clinical Observation;
   ix. May 15, 2025 - Direct and Playground Observation;
   x. February 17, 2025 - Medical Statement; and
   xi. December 10, 2024 - Wide Range Achievement Test.
d. All three boxes were checked to show the Student met the criteria to be eligible for OHI.
e. The box was checked which stated, "The student meets the eligibility criteria for special education services with an eligibility of 80 - Other Health Impairment."

29. A Notice of Team Meeting, dated May 22, 2025, indicated a virtual meeting for eligibility determination was scheduled for June 2, 2025.

30. On May 29, 2025, the Director of Student Services emailed the Parent and the eligibility team and stated the eligibility determination meeting would continue on June 2, 2025. They included a link for the meeting. The Parent confirmed they would attend. A Notice of Team Meeting, dated May 30, 2025, indicated a virtual meeting for eligibility determination was scheduled for June 2, 2025 at 9:00 a.m.

31. On May 31, 2025, the Director of Student Services emailed the Parent and the eligibility team and stated they had to reschedule the eligibility meeting due the death of a student. They indicated the School team and ODE Facilitator were available June 5, 2025 from 1:30 p.m. to 2:30 p.m. and asked for everyone's input. They said, "Should the team identify that [the Student] is a student who qualifies for special education, we will need to hold an IEP meeting within 30 calendar days. This means that it would need to be held prior to staff heading out for summer. If we do need this meeting, a team and [the ODE Facilitator] could be available on June 11th from 8-9:30. Please let us know if this time work for you."
    a. The Parent replied the next day and stated they were available on June 5 and 11, 2025 for the meetings. They perceived the Student had already been found eligible under OHI and requested a draft copy of the IEP as soon as possible because they required at least six days to review it prior to the meeting.

32. A PWN dated June 3, 2025 explained the eligibility team initially met on May 22, 2025 but did not complete eligibility determination. It indicated the team agreed to meet on June 2, 2025, but the meeting was cancelled due to emergency circumstances. The District rescheduled the meeting to June 5, 2025 at 1:30 p.m., "... a time that works for the family

and all required team members, to ensure timely continuation of the eligibility process." The PWN stated the District proposed a potential IEP date of June 11, 2025, should the team determine the Student qualified for educational eligibility.

33. On June 3, 2025 the Director of Student Services emailed the Parent and the School team and said, "While the team discussed the Other Health Impairment Eligibility, we have not yet determined that [the Student] is a student who qualifies and will be served under IDEA. We will continue this important conversation on Thursday. … the team determined on May 22nd, 2025, that [the Student] is a student who meets the eligibility criteria for Other Health Impairment. Next, we will determine if [the Student] is a student who meets the educational eligibility criteria for Autism Spectrum Disorder. Subsequently, we will discuss if [the Student] is eligible for Special Education Services. For any educational eligibility where a student may meet the criteria, the team must make a determination of whether the disability has an adverse impact on the student's educational performance, and as a result of the disability, the student needs special education services. The team has not yet considered this for Other Health Impairment. This will be part of our collective work on Thursday." They explained if the Student was found eligible for special education on June 5, 2025, the team would start working on a draft IEP, which they noted could take several days but the team would share when it was ready.

34. A Notice of Team Meeting, dated June 3, 2025, indicated a virtual meeting for eligibility determination was scheduled for June 5, 2025 at 1:30 p.m.

35. The Principal emailed the Parent on June 4, 2025 and explained the Student had been dropped from enrollment that day due to the 10-day drop rule as it was their tenth day being absent. A letter from the Student's Doctor, dated June 4, 2025, requested to excuse the Student from that day through June 10, 2025. The Parent indicated they were made aware the Student was at the 10-day drop, so they contacted the Student's Doctor, who provided the aforementioned note.

36. The Director of Student Services emailed the Parent, the Non-Custodial Parent, and the eligibility team on June 6, 2025 and stated they would complete the eligibility the following week, and then complete the Student's IEP if they were found eligible. They provided meeting information for an "Eligibility Determination & potentially IEP" meeting to be held on June 11, 2025 at 8:00 a.m. A Notice of Team Meeting from the same day confirmed this and stated the purpose of the meeting was to develop or review an IEP and placement for the Student, and determine eligibility.

37. On June 6, 2025, the Parent emailed the Director of Student Services a letter confirming homeschooling for the Student.

38. A PWN dated June 6, 2025 stated, "[The District] proposes to continue the initial special education evaluation process for [the Student], despite a withdrawal from [the District] as of Thursday, June 5th, 2025." The PWN indicated the Student had been absent from school for ten consecutive days and had been unenrolled, per state law. The PWN stated if the

Student was found eligible for special education services, the District would stand ready to implement the services should the Student re-enroll in the School.

39. On June 9, 2025, the Director of Student Services emailed the Parent, the Non-Custodial Parent, and the eligibility team and indicated the eligibility discussion would continue at the upcoming meeting. They explained if the Student was found eligible, they would transition to a draft IEP. They attached a draft IEP and placement to the email.

40. The ODE Facilitator emailed the eligibility team, including the Parent, on June 11, 2025 and stated they would be in contact in mid-August about finalizing the Student's IEP.

41. On June 11, 2025 the Director of Student Services emailed meeting notes, a PWN of eligibility, and a draft IEP and placement from the same day to the Parent, the Non-Custodial Parent, and the eligibility team.

42. The Student's Special Education Placement Determination, dated June 11, 2025, described two placement options; neither was marked as accepted or rejected. It contained the following relevant information:
    a. Possible placement option #1:
        i. General education with push-in services; and
        ii. 80% or more of the day in regular class.
    b. Possible placement option #2:
        i. General education with push-in and pull-out services for 20% of the day or less; and
        ii. 80% or more of the day in regular class.

43. A draft of the Student's IEP, dated June 11, 2025, indicated the Student was eligible for services under OHI. The draft stated at a meeting on June 5, 2025, the team agreed to review a draft IEP on June 11, 2025, if eligibility was determined. Under the impact of the student's disability section, it was written, "[The Student] is eligible to receive special education services … … [the Student] has medical diagnoses of Autism Spectrum Disorder, Post Traumatic Stress Disorder, Mild Intellectual Disability, and ADHD."

44. The Parent emailed the School Psychologist on June 14, 2025 and expressed disagreement with the determination of what the Student qualified for.

45. On June 18, 2025 the Parent emailed the Director of Student Services, the ODE Facilitator, and Advocate 1, and said, "Please update the pwn [*sic*] to reflect how the team ignored historical data when addressing each factor for the ASD qualifications. Additionally ignoring the expert advice of school psychologist, the advocate and the parent who knows the child best. How the [*sic*] was not a team decision [*sic*] it was an overall vote, with many panelist not even knowing the client or team mates who legally should not of [*sic*] had a vote."

46. A PWN dated June 18, 2025 contained the following relevant information:
    a. Under description of actions proposed or refused by the District:

i. "Over the course of three dates, the team … considered if [the Student] is a student eligibility [*sic*] for special education services under the eligibility of Other Health Impairment and Autism Spectrum Disorder. One [*sic*] June 11th, the team signed in agreement that [the Student] is a student who is eligible for special education services in the area of OHI."
ii. "The team had dissenting opinions in the criteria for ASD. For a student to be eligible in the category of ASD, they must meet all three characteristics in the area of social communication and two of the four in the restrictive, repetitive patterns of behavior, interests, or activities. … The team determined that [the Student] meets 1 of the 4 criteria in the area of restrictive, repetitive patterns of behavior, interests, or activities. Given this, the team determined that [the Student] does not meet the eligibility criteria for ASD. The [t]eam agreed to not continue with further discussion of social communication and social interactions, as [the Student] would not qualify without 2 of the 4 restrictive, repetitive patterns of behavior, interests, or activities characteristic. The team was in agreement that [the Student] is a student who experiences 'Hyper- or hypo-reactivity to sensory input or unusual interest in sensory aspects of the environment.' There was team disagreement for the remaining three … criteria. The ODE Facilitator supported the team in evaluating consensus and noted that there was not agreement in the remaining criteria with the majority and District personnel not seeing characteristics of 'Insistence on sameness, inflexible adherence to routines, or ritualized patterns of verbal or nonverbal behavior,' 'Highly restricted, fixated interests that are abnormal in intensity or focus,' and 'Stereotyped or repetitive motor movements, use of objects, or speech.'"

b. The team started reviewing a draft IEP on June 11, 2025 and reached consensus on present levels, assessments, and goals. The team agreed to complete the IEP at the end of August or early September 2025, with a service start date to be adjusted upon completion of the IEP.
c. The Student was withdrawn from the District on June 5, 2025 due to being absent for ten days. The District stood ready to implement services should the Student re-enroll in school for the 2025-26 school year, when it would begin providing special education services.

47. An email dated June 24, 2025 showed all parties had signed the Student's Eligibility Summary.

48. The Parent emailed the Director of Student Services and Advocate 1 on July 16, 2025 and stated they needed the IEP finalized as soon as possible and asked to schedule a meeting within the next week. The Director of Student Services replied the next day and explained that the staff who were part of the IEP meetings were not working during the summer and they could work with the ODE Facilitator to schedule an IEP meeting at the start of the school year.
    a. The Parent replied, "I am concerned with the IEP not being complete and finalized prior to school starting given it is well over the 30 calendar day timeline. Could you please

send over a prior written notice for the districts [*sic*] refusal of my request to meet prior to the start of the school year?"

b. The Director of Student Services replied on July 20, 2025 and explained the IEP team met on June 11, 2025–which was 30 days within determining eligibility–and during the meeting, reviewed the draft IEP and reached a consensus on present levels, assessments, and goals. They indicated that due to the timing of the school year ending, they were unable to complete the full IEP before summer break. They explained the team, including the Parent, agreed to meet once staff returned at the end of August or beginning of September to finalize the IEP. They stated this plan was also discussed at the meeting on June 5, 2025.
c. The Parent replied the next day and stated some issues had come up since the last meeting and they wanted the IEP finalized as soon as possible, rather than adhering to the original plan. They stated the team was already past the 30-calendar day timeline in which the IEP should have been done.
d. The ODE Facilitator responded on July 24, 2025 and stated they understood everyone agreed to meet at the end of summer and finalize the IEP. They offered to start looking for dates at the end of August. The Parent replied and reiterated they were making a new request to finalize the IEP over summer break with available staff. They asked the Director of Student Services for dates or to send a PWN denying their request.
e. The Director of Student Services replied on July 28, 2025 and attached a PWN outlining the Parent's request. They indicated once staff returned from summer break they would schedule an IEP meeting at the start of the school year.

49. A PWN dated July 29, 2025 stated, "[The District] is refusing [the Parent's] request to hold an IEP team meeting during the summer months. [The District] proposes to continue the IEP meeting at the end of August or early September 2025, when school staff return from summer break, as agreed upon on June 11th, 2025 by the Parent and District." The PWN indicated the District could not schedule an IEP meeting during the summer months because staff were not available, and explained the IEP team, including the Parent, met on June 11, 2025 (within 30 days of determining eligibility), to develop the IEP. The team did not complete all sections of the IEP and agreed to meet in August or September to complete the process. The decision was based on:
    a. The initial evaluation that was conducted.
    b. Eligibility determination made on June 11, 2025 which identified the Student as eligible under the category of OHI.
    c. The draft IEP shared with the Parent on June 9, 2025.
    d. The IEP meeting was held on June 11, 2025, which occurred within the 30-day timeline and during which several components were finished.

50. The Director of Student Services emailed the Parent and the ODE Facilitator on August 21, 2025 and asked if they were available for a virtual IEP continuation meeting on August 27, 2025 at 2:30 p.m.
    a. The Parent responded that day and time did not work for them. They requested two separate meetings, reiterated the Non-Custodial Parent did not have educational decision-making authority, and believed this was violated at the last meeting. They

stated the Student would attend the meeting, and per the court order, the Non-Custodial Parent could not be there because it would be a FAPE violation. The Parent stated their next available time to meet was September 20, 2025. The Director of Student Services replied on September 3, 2025 and asked if the Parent could meet on September 24, 2025 at 1:30 p.m. They asked the Parent to share any additional paperwork with changes to the custody agreement.

b. The Parent replied that day and time did not work for them, and they were available after 3 p.m. for meetings. They indicated they had full custody of the Student and the Non-Custodial Parent's presence at the meeting would violate the custody agreement, the protective order, and a FAPE. The Parent stated they did not give their permission to hold the meeting without them present.
c. On September 8 and 9, 2025, the Parent sent two emails to the Director of Student Services and the ODE Facilitator. They stated they and Advocate 1 were available on October 1, 2, and 3, 2025 after 2:45 p.m. The Parent stated a separate meeting would have to be held with the Non-Custodial Parent because the Student would attend the meeting.
d. The Director of Student Services responded on September 10, 2025 and confirmed a meeting time of October 2, 2025 at 2:45 p.m. and stated they would send a formal meeting notice. They acknowledged the Parent's concerns but stated that, based on the current documentation, the Non-Custodial Parent retained their non-custodial educational rights, which included participation in IEP meetings. They asked for updated documentation if the Parent had it, so they could remain compliant.
e. On September 10, 2025, the Parent responded that per the "no emergency" order, the Non-Custodial Parent could not attend the meeting, and the School would violate the Student's FAPE by not "protecting" the Student. The Parent stated they would attend the meeting but it would have to end if the Non-Custodial Parent attended. The Parent indicated they did not permit the meeting to proceed until the School scheduled a second meeting with the Non-Custodial Parent.
f. On September 11, 2025 the Director of Student Services emailed the Parent the meeting notice for October 2, 2025 at 2:45 p.m. They explained they re-reviewed the Parent's court order, consulted with legal counsel, and had not found anything which precluded the Non-Custodial Parent's attendance or modified their non-custodial rights. They noted the meeting would be held virtually.

51. According to District policy IGBAF, a meeting to develop an IEP shall be held within 30 calendar days of determining if a student needs special education and related services. District policy IGBAH indicated that, consistent with child find obligations, the District would respond promptly to requests initiated by a parent or public agency for an initial evaluation to determine if a child is a child with a disability.

52. Relevant parts of the Parent's *Reply* indicated:
    a. The Parent perceived the District forced them to attend the meeting on May 22, 2025, even though they were unavailable at that time. They said, "The date and time were unilaterally chosen by the school team without my mutual agreement."

b. The Parent stated the District allowed the Non-Custodial Parent to attend the eligibility meeting and participate in the decision-making process for OHI and ASD eligibility. They perceived the Non-Custodial Parent did not have the right to do that.
c. The Parent stated the ODE Facilitator called the Director of Student Services on May 20, 2025 to "... propose two separate meetings and to propose meeting my request to find a different day/time after school. [The Director of Student Services] was not agreeable to either of the proposals according to [the ODE Facilitator]." The Parent indicated the Director of Student Services then offered three additional meetings.
d. The Parent shared they were under "undue stress" during the meeting on May 22, 2025, which made it harder for them to participate. They explained they attended the meeting because they were not given another choice and their supervisor "forced" them to attend.
e. The Parent stated the District failed to acknowledge "or by history" during the Student's eligibility meeting. The Parent shared the District's "inaccurate view on 'across multiple contexts' and 'or by history' impacted the entire ASD eligibility determination."
f. The Parent believed that during an eligibility determination, a student did not have to show persistent deficits or only show them in a school setting. They perceived the District "ignored" the historical evidence of the Student's struggles. The Parent shared the eligibility determination was not made collaboratively, because the team was advised to "vote" by raising their hands.
g. The Parent stated the Student was being denied a FAPE, even though they were being homeschooled, because finishing the IEP over the summer would have determined what type of support the District could provide the Student.

53. On September 13, 2025, the Parent filed this Complaint.

54. In an interview with the Complaint Investigator, the Parent shared the Non-Custodial Parent had not attended any previous parent-teacher conferences and had a "non-existent" role with the Student's education.

55. The Parent explained they wanted the Student to attend the eligibility meeting on May 22, 2025 because it was their right, but there was an emergency order in place where the Non-Custodial Parent could not have contact with the Student unless it was through supervised parenting time. The Parent stated they had requested two separate meetings and perceived they were forced to have the Student not attend the meeting. They explained the meeting was held virtually and the Non-Custodial Parent did not have any information to share during it. The Parent felt they could not be fully present at the meeting due to concerns the Non-Custodial Parent would use things against them in court which came up during the meeting. They said, "... there was a lot of pushback on finding a mutually agreeable time and location for this meeting. … [the District] essentially forced my hand to have this meeting held at this time, reached out to my boss … [the Principal] … and said, 'well, [the Parent] can be available.'"

56. The Parent indicated they wanted to have the meeting after school hours so the Student could attend. They described the situation as "messy" and stated the District would not agree.

57. Regarding the Student's ASD eligibility, the Parent said, "... the entire historical component of [the Student] was completely ignored." The Parent indicated the School Psychologist said the Student qualified for ASD, and the other team members involved in the evaluation who said "no" had spent minimal time with the Student or had not met the Student. The Parent described the eligibility determination as a vote rather than a collaborative effort.

58. The Parent explained there were multiple meetings to review the Student's ASD eligibility, and they perceived the District pushed back against the Student qualifying for ASD services. They stated Advocate 1 provided the team with current data from a speech and language pathologist and occupational therapist that the Student had a struggle with speech which related to the social component of ASD eligibility. The Parent stated the District indicated they were not seeing behaviors currently and not seeing it "in this context."

59. The Parent stated they pulled the Student out of school due to health and anxiety issues, and homeschooled the Student. They indicated the District did not send any notices about the Student being unenrolled if they missed more than ten days of school. The Parent indicated the Student being unenrolled was different from them pulling the Student out of school. They explained they emailed the Principal on the tenth day with a pediatrician's note, and the Principal replied since it was their tenth day absent, the Student was no longer enrolled.

60. The Parent explained that during the meeting on May 22, 2025, the team reviewed all of the evaluation reports, and in the next meeting, reviewed whether the Student would qualify for ASD or OHI. Advocate 1 clarified May 22, 2025 was the first eligibility meeting, June 5, 2025 was the continuation of the eligibility meeting, and June 11, 2025 was the eligibility/IEP meeting.

61. Advocate 1 explained the Student had been found eligible under OHI and then the team moved to discussing ASD at the meeting on June 5, 2025. The Parent stated during that meeting, the team discussed ASD qualifications and whether the Student would qualify under the speech and communication components. They stated for every component that was discussed, the District "continually ignored the historical data" about the Student. Advocate 1 indicated the District was "getting hung up on … across multiple contexts, that verbiage. … And they were saying because they don't see any of it in school, they can't mark yes for a certain characteristic. Although we had a bunch of documentation showing that although they're not seeing it in school, because I'm sure it happens in school, it was happening whether it was historically or currently in speech, that's what [the Student's] working on because it's an identified struggle." Advocate 1 stated the team would not recognize the historical data. They said, "But we did have historical evidence, current evidence, and across multiple contexts, but they were hung up on, it's not in an educational context … ."

62. The Parent stated they observed the Student showing characteristics of ASD in school, and indicated the School Psychologist said it was happening in school. The Parent perceived the eligibility team did not contain any autism consultants.

63. Advocate 1 explained there was no consensus about ASD eligibility at the June 11, 2025 meeting, and that it was a vote. They stated the team did not "all together say yes or no," and it was a "majority rule" decision. Advocate 1 indicated the School Psychologist, who had completed most of the evaluations, had voted "yes" for ASD eligibility. The Parent stated the team did not find the Student qualified for ASD.

64. The Parent explained the team barely started the IEP at the June 11, 2025 meeting and did not have enough time to review it, so they decided to meet again. The Parent stated the District would not hold a meeting over the summer to finish the IEP because none of the staff were at school. The Parent stated they wanted the IEP finished over the summer because the Student would be attending a new program, and the program had been asking for the Student's evaluation reports and IEP. The Parent explained they contacted the District multiple times over the summer, but the District refused to hold a meeting because school was not in session. The Parent indicated the Student's IEP had not been finalized as of the date of the interview. They stated the Student was not currently attending school in the District and was going to another program.

65. In an interview with the Complaint Investigator, the Director of Student Services stated they became involved in the Student's IEP team "when there [were] questions around [the Student's] noncustodial parent attending [the Student's] meetings." They confirmed they had documents from the family that did not "preclude [the Non-Custodial Parent] from [their] noncustodial rights to participate in meetings, to talk to school staff, to provide input." They communicated they wanted "to create the conditions that [were] going to support everyone to be able to meaningfully participate." The Director of Student Services described offering to meet remotely as a way to be supportive, "without excluding [the Non-Custodial Parent] or removing [them]."

    The Director of Student Services recounted they "declined holding two meetings" because they felt it was important "for all team members to be able to share input." They stated they "shared multiple times that [they] would hold one meeting," and added they "could do it in the way that felt best to the parent." The Parent had requested the Non-Custodial Parent be remote while the rest were in person, or that they be online with their camera off. The Director of Student Services stated they would not exclude the Non-Custodial Parent and added they could hold the meeting remotely so all parties could determine how they wanted to participate in the meeting.

66. The Director of Student Services stated the Parent did not express concerns about communication, but reiterated they did not "want the non-custodial parent to attend meetings." They described court documents which stated the Parent had "temporary custody." Another document stated if the Non-Custodial Parent wanted to visit the Student,

it had to be "supervised by a supervisor of the [Parent's] choice." The Director of Student Services explained nothing was stated which indicated the Non-Custodial Parent had their education rights removed.

67. The Director of Student Services stated the Parent requested the eligibility meeting be held outside of the contract day and "beyond the 60-day timeline." They stated the Parent repeatedly confirmed they could attend scheduled dates, but later cancelled, stating they "would not be available unless it was outside of the school day." Because the Parent was an "employee of the school district and in that particular building," the building leader offered to "support the work [they] were doing" so the Parent was able to "meaningfully participate."

68. The Director of Student Services stated the eligibility meeting took place on May 22, 2025 despite the Parent stating they would not attend if the Non-Custodial Parent attended, which they did. The Non-Custodial Parent and the Parent both participated. The Parent "offered a lot of input, a lot of feedback, and discourse."

    The Director of Student Services stated they were able to get through "all reports," which included OT, speech and language, and the psychoeducational reports. They confirmed they "did come to an agreement [for] the other health impairment." They recalled after reviewing the OHI, they "agreed and coordinated schedules at the meeting to come back on June 2nd [2025]."

    The Director of Student Services stated the District cancelled the June 2, 2025 meeting because of the death of a student and the School grieving. They rescheduled for June 5, [2025] where they reviewed "the autism spectrum disorder eligibility disability statement," adding they did not complete it but "spoke through many components" of it. They came back on June 11, [2025] to complete the ASD eligibility.

69. The Director of Student Services indicated there was a lot of discourse during the discussion about ASD eligibility." They confirmed they acknowledged the Parent's input about "these pieces that were happening previously in the home." They noted "it wasn't the only factor" and asked if they were "seeing that today in this context at school, on the playground with peers, in classroom instruction." They stated the ODE Facilitator asked staff to raise their hands to look for "consensus within the group," and the eligibility team made their determination from there.

    The Director of Student Services stated the Student did not qualify for ASD eligibility because the Student only "met one of the four areas under restricted and repetitive behaviors," while needing to meet two out of the four to qualify. They explained they had "significant input from [the Student's] classroom teacher, from speech language pathologist, occupational therapists, … from [the Parent]," and added "[the Non-Custodial Parent] provided some input … about what [they have] seen over time."

The Director of Student Services stated although the Parent "did sign that [they] agreed to the eligibility," they later indicated they disagreed. The District "offered for [the Parent] to write a letter of disagreement," but did not receive one.

70. The Director of Student Services stated they do not typically draft the IEP before determining eligibility, but clarified the Parent requested a draft. They believed a PWN was sent, indicating they had agreed to the OHI eligibility but had "not yet determined if adverse impact in special education."

71. The Director of Student Services confirmed the IEP was reviewed at the June 11, 2025 meeting and stated they "came to an agreement on many components." They described reviewing "district and statewide assessment, special factors, and all goals," and added they made it to the service summary when they ran out of time for the meeting. The Director of Student Services stated the team agreed to "come back together in August" when staff returned to work.

    The Director of Student Services mentioned the Student unenrolled on June 6, 2025 and the School received a notice the Student would be homeschooled. The Director of Student Services stated, "it was expected that [the Student] would be returning to school" in the fall, so the IEP was not drafted with homeschooling considered as a placement option. The Student did not come to school in the fall. The Director of Student Services stated they were unaware of where the Student is receiving education.

72. The Director of Student Services confirmed they had made "pretty extensive attempts" to schedule the IEP meeting once school started. They stated they had attempted to schedule the meeting "five times and it's been declined each five times." The Director of Student Services stated the Parent gave reasons for declining "on some" occasions, but did not provide a reason for the others.

IV. DISCUSSION

Parent Participation

The Complaint alleged the District violated the IDEA by not scheduling an IEP meeting at a mutually agreeable date and time and by not providing a draft of the IEP for the Parent to review until June 9, 2025.

School districts must provide one or both parents with an opportunity to participate in meetings with respect to the identification, evaluation, IEP and educational placement of the child, and the provision of a FAPE to the child. School districts must provide parents with a written notice of the meeting sufficiently in advance to ensure that one or both parents will have an opportunity to attend. The written notice must state the purpose, time and place of the meeting and who will attend; inform the parent that they may invite other individuals whom they believe have knowledge or special expertise regarding the child; inform the parent

that the team may proceed with the meeting even if the parent is not in attendance; and inform the parent of whom to contact before the meeting to provide information if they are unable to attend.[3] A meeting may be conducted without a parent in attendance if the school district has given the parent written notice.[4]

School districts must take steps to ensure that one or both of the parents of a child with a disability are present at each IEP or placement meeting or are afforded the opportunity to participate, including notifying parents of the meeting early enough to ensure that they will have an opportunity to attend and scheduling the meeting at a mutually agreed on time and place. If neither parent can attend, the school district must use other methods to ensure parent participation, including, but not limited to, individual or conference phone calls or home visits.[5]

An IEP or placement meeting may be conducted without a parent in attendance if the school district is unable to convince the parents to attend. If the school district proceeds with an IEP meeting without a parent, the district must have a record of its attempts to arrange a mutually agreed on time and place such as detailed records of telephone calls made or attempted and the results of those calls; copies of correspondence sent to the parents and any responses received; and detailed records of visits made to the parent's home or place of employment and the results of those visits. The Department considers school district attempts to convince parents to attend sufficient if the school district communicates directly with the parent and arranges a mutually agreeable time and place, and sends written notice to confirm this arrangement; or sends written notice proposing a time and place for the meeting and states in the notice that the parent may request a different time and place, and confirms that the parent received the notice. "Sufficient attempts" may all occur before the scheduled IEP or placement meeting, and do not require the scheduling of multiple agreed-upon meetings unless the team believes this would be in the best interest of the child.[6]

The school district must give the parent a copy of the IEP at no cost to the parent. If the parent does not attend the IEP meeting, the school district must ensure that a copy is provided to the parent. When conducting IEP team meetings and placement meetings, the parent of a child with a disability and a school district may agree to use alternative means of meeting participation, such as video conferences and conference calls.[7]

Documentation and interviews showed the Parent was consistent in their belief their participation was negatively impacted because the District would not hold the eligibility meeting after school or have two meetings (to mitigate contact with the Non-Custodial Parent). Parent participation is one of the pillars of the IDEA, which was affirmed in *Doug C. v. Hawaii Department of Education (2013)*[8], when a district held an IEP meeting without the parent in

[3] OAR 581-015-2190 (1-2); 34 CFR §§ 300.322, 300.501
[4] OAR 581-015-2190 (3-5); 34 CFR §§ 300.322, 300.501
[5] OAR 581-015-2195 (1-2)
[6] OAR 581-015-2195 (3)
[7] OAR 581-015-2195 (5-6); 34 CFR §§ 300.322, 300.501
[8] *Doug C. v. Hawaii Department of Education*, 61 IDELR 91, (9th Cir. 2013)

order to meet a deadline, and changed the student's placement. The court indicated prioritizing deadline compliance over parental participation was not reasonable.

The evidence showed the District offered reasonable accommodations so both parents could participate while maintaining a safe environment. The District also eventually offered the Parent different meeting dates on May 21 and 22, 2025. Moreover, the Parent participated in all three eligibility meetings and no decisions regarding eligibility or the initial IEP were made without input from the Parent. While the Parent stated they felt undue stress during the meeting and felt they could not fully participate due to the presence of the Non-Custodial Parent, there was no direct evidence to show their participation was hindered, or not meaningful.

The District also had to balance the rights of both parents. The District's Legal Counsel reviewed the Parent's court documents on multiple occasions and did not find evidence the documents limited the Non-Custodial Parent's education rights. Therefore, the District had to afford the Non-Custodial Parent their rights while also acknowledging and honoring the Parent's concerns. The evidence demonstrated that the District did this by holding the meeting virtually so the parents would not have to be in the same room. Additionally, the District acknowledged the Parent held all educational decision-making rights.

Documentation indicated one of the other reasons the Parent disagreed with holding the eligibility meeting on May 22, 2025 was because it would force them to use their leave or time off. Email conversations showed the District made accommodations to have the Principal (the Parent's supervisor) cover their duties so the Parent could attend the meeting without using any additional leave. On May 18, 2025, the Director of Student Services emailed the Parent and offered additional meeting times on May 21 and 22, 2025. The Parent agreed to meet on May 22, 2025, although their email response indicated they were displeased with the decision. Overall, the evidence demonstrated the District made multiple, documented attempts to accommodate the Parent, including securing job coverage and offering some alternative meeting dates and times, and that the Parent attended and participated in each meeting.

While the District's handbook includes guidance on providing parents with a draft IEP, neither the IDEA nor Oregon's Administrative Rules mandates a school district must do this. Rather, it is encouraged as a best practice to ensure meaningful parental participation. The Parent requested a draft copy of the IEP on June 1, 2025 because they perceived the Student had been found eligible under OHI. On June 3, 2025, the Director of Student Services clarified the team had discussed OHI eligibility, but had not yet determined whether the disability had an adverse impact on the Student's educational performance, and as a result, if the Student required special education services. They stated this would be discussed on June 5, 2025. While the Student was not deemed eligible under OHI until June 11, 2025, the District provided a draft IEP and placement to the Parent on June 9, 2025, per their request.

The Department does not substantiate the allegation.

Eligibility

The Complaint alleged the District violated the IDEA by not qualifying the Student for special education services under the category of Autism Spectrum Disorder (ASD).

Upon completing the administration of assessments and other evaluation materials, a team must determine whether the child is a child with a disability and the educational needs of the child. The team must include the parent, and two or more qualified professionals, at least one of whom is knowledgeable and experienced in the evaluation and education of the child with the suspected disability. This team may be the child's IEP team.[9]

Under Oregon Administrative Rules, the team must determine a child to be eligible if the child has a disability and needs special education and related services, even though the child is advancing from grade to grade. For a child who may have disabilities in more than one category, the team needs only to qualify the child under one disability category. However, the child must be evaluated in all areas related to the suspected disability or disabilities, and the child's IEP must address all of the child's special education needs.[10]

The team may not find a child eligible for special education services if the determining factor for that eligibility decision is a lack of appropriate instruction in reading, including the essential components of reading instruction, or lack of appropriate instruction in math; or limited English proficiency. The school district must provide a copy of the evaluation report and the documentation of the determination of eligibility to the parent at no cost.[11]

To be eligible as a child with ASD for school-age special education services, the child must meet all of the following minimum criteria. The team must have documented evidence that the child demonstrates a pattern of characteristics defined as all three social communication deficits, and at least two of the four restricted, repetitive patterns of behavior, interests, or activities contained in this section.[12] Also, the characteristics of ASD must not be better described by another established or suspected eligibility for special education services. The eligibility team must also determine that the child has ASD as defined in this rule; and by reason thereof, the child requires school-age special education.[13]

The team completed an extensive and thorough evaluation of the Student to determine their eligibility under OHI and ASD. As noted in the Oregon Department of Education's Autism Spectrum Disorder Technical Assistance Paper (2019), in education, the team must demonstrate not only that a child exhibits characteristics of ASD but also that the disability results in an adverse impact and the child requires specially designed instruction.

The Parent stated the District failed to acknowledge "or by history" during the Student's eligibility meetings, and the District's view on "across multiple contexts" and "or by history"

[9] OAR 581-015-2120(1); 34 CFR § 300.8
[10] OAR 581-015-2120(3-4); 34 CFR § 300.8
[11] OAR 581-015-2120(5-6); 34 CFR § 300.8
[12] OAR 581-015-2130(3)(a); 34 CFR § 300.8
[13] OAR 581-015-2130(3)(b-c),(4); 34 CFR § 300.8

impacted the eligibility determination. According to the Technical Assistance Paper, a student must have persistent deficits across multiple contexts. The document also stated, "Observed deficits must be persistent which, by definition, indicates that the team has documented characteristics that continued to occur or endure over a prolonged period. A behavior that was documented once or twice, or only very fleetingly, may not be described as persistent. Deficits must also be demonstrated across multiple contexts. 'Multiple' indicates two or more. 'Contexts' encompasses different settings within the same or different environments. For example, there are 'multiple contexts' at school including the classroom, assemblies, cafeteria, and playground."

The Technical Assistance Paper addresses the issue of "or by history." The document described the use of historical data in regard to evaluating adolescents or young adults, because some deficits or behaviors could be present in early childhood, and then appear not to be present as the child ages, because the child might have learned coping mechanisms. The Technical Assistance Paper stated, "'Importantly, to receive a diagnosis of ASD, the individual must still show impairment in current functioning (even if the specific criteria are met by history)' … . In the context of educational eligibility, teams are encouraged to draw specific attention to a child's or student's current profile of observed characteristics associated with ASD. If the team determines that a youth or young adult meets criteria in one or more of the seven domains based upon the historic presentation of characteristics, ASD eligibility requires that the team also establish that (a) there is currently an adverse impact upon educational performance … and that (b) the student needs special education."

The team concluded the Student met one of the four Restricted, Repetitive Patterns of Behavior, Interests, or Activities criteria, which is not sufficient for ASD eligibility. Meeting notes from June 5, 2025 demonstrated there was a discussion of behaviors shown "currently" or "by history." In interviews, the Parent and Advocate 1 perceived the District was "hung up" on determining if the Student exhibited behaviors in an educational context. However, determining if a Student's disability adversely impacts their education is one of the purposes of an evaluation. Documentation indicated the District did not discount behaviors the Parent described which happened at home or in the past. The Director of Student Services noted "it wasn't the only factor" and asked if they were "seeing that today in this context at school, on the playground with peers, in classroom instruction."

The Parent perceived the ASD eligibility determination was made as a vote and not a collaborative effort. There is evidence to show it was done in the style of a vote, because the ODE Facilitator asked staff to raise their hands to look for consensus, and the eligibility team made their determination from there. However, the materials demonstrated discussion between the team members, indicating an interactive and collaborative environment. The Parent emailed the School Psychologist on June 14, 2025 and expressed disagreement with the determination. The District issued an updated PWN on June 18, 2025 which noted team dissent about ASD eligibility. Overall, the evidence showed in-depth discussions about the Student's ASD eligibility which spanned two meetings. While there was some dissent among the team, the team ultimately determined that the Student did not qualify under ASD. Additionally, the

evidence did not indicate the District ignored historical evidence, but rather the data was viewed through the type of critical lens described in the Technical Assistance Paper.

The Department does not substantiate the allegation.

When IEPs Must Be In Effect

The Complaint alleged the District violated the IDEA by not meeting to develop an initial IEP within 30 [calendar] days of determining the Student was eligible for special education services.

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 the IEP. A school district must conduct a meeting to develop an initial IEP within 30 calendar days of a determination that the child needs special education. As soon as possible following development of the IEP, special education and related services must be made available to the child in accordance with the child's IEP.[14]

The team agreed the Student was eligible for services under OHI on June 11, 2025 and held an IEP meeting to develop the IEP the same day. Documentation and interviews indicated during that meeting, the team reached a consensus on present levels, assessments, and goals, and agreed to complete the IEP at the end of August or early September 2025. While the meeting to develop the initial IEP was held within the 30-day timeline, the IEP was not completed within that timeframe. OAR 581-015-2220 indicates an IEP must be developed within 30 days of an eligibility determination, and this timeline is not paused during summer break. However, not every procedural violation results in a denial of FAPE. According to *Van Duyn v. Baker School District 5J (2007)*[15], only a material failure to implement the IEP would violate the IDEA. The evidence showed the District's action did not rise to the level of a material failure. Even if the IEP had been completed within 30 days, the Student would not have been in school to receive services due to summer break. Additionally, the Student had been unenrolled from the District as of June 5, 2025 and was no longer under their jurisdiction.

Ultimately, the District began the process for development of the initial IEP within the 30-day timeline, and while it was not finished, there was a plan in place for the District and the Parent to reconvene in the fall of 2025 to complete the IEP. Evidence also demonstrated the District made attempts to meet with the Parent at the start of the 2025-26 school year. Also, according to the Parent, at the time of the interview for this investigation, the Student is still not attending the School.

The Department does not substantiate the allegation.

Free Appropriate Public Education (FAPE)

[14] OAR 581-015-2220; 34 CFR §300.323
[15] *Van Duyn v. Baker School District 5J*, 47 IDELR 182 (9th Cir. 2007)

The Complaint alleged the District violated the IDEA by not developing and implementing the Student's IEP in a timely manner following the determination of eligibility for special education services.

School districts must provide a FAPE to all school-age children with disabilities for whom the district is responsible. "School-age children" are children who have reached five years of age but have not yet reached 21 years of age on or before September 1 of the current school year. The requirements of this rule also apply to children with disabilities who have been suspended or expelled from school.[16]

The team met on June 11, 2025 and reached consensus on several components of the draft IEP. Due to the school year ending, the team, including the Parent, agreed to reconvene at the end of August or early September 2025 to finalize the IEP. Furthermore, the Student was unenrolled from the District on June 5, 2025 following 10 days of absence, and the Parent notified the School they were homeschooling the Student. The District stated in a PWN from June 6, 2025 if the Student was found eligible for services and re-enrolled, they would implement services. A school district is generally not required to provide services or a FAPE to a student who is officially unenrolled. Since the Student was not attending the District–and is still not currently attending school in the District, according to the Parent–and the team had made documented attempts to meet with the Parent and finalize the document, the delay in completing the IEP did not constitute a denial of FAPE by the District under these circumstances.

The Department does not substantiate the allegation.

V. CORRECTIVE ACTION

In the Matter of West Linn-Wilsonville School District
Case No. 025-054-061

The Department does not order corrective action in this matter.

Dated: this 12 Day of November 2025

Ramonda Olaloye

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Ramonda Olaloye
Assistant Superintendent
Office of Enhancing Student Opportunities

E-mailing Date: November 12, 2025

[16] OAR 581-015-2040; 34 CFR §§ 300.17, 300.101

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).)