BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of Portland Public School District 1J	))))	FINDINGS OF FACT, CONCLUSIONS, AND FINAL ORDER Case No. 25-054-078

I. BACKGROUND

On October 31, 2025, the Oregon Department of Education (the Department) received a written request for a special education complaint (Complaint) from the parent (Parent) of a student (Student) residing in the Portland Public School District (District). The Parent alleged that the District had violated one or more provisions of the Individuals with Disabilities Education Act (IDEA). The Department conducted a special education complaint investigation pursuant to Oregon Administrative Rule (OAR) 581-015-2030.

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

On November 7, 2025, the Department's Complaint Investigator sent a *Request for Response (RFR)* to the District identifying specific allegations in the Complaint to be investigated and establishing a *Response* due date of November 21, 2025.

On November 21, 2025, the District submitted a *Response*, disputing the allegations described in the Complaint. The District submitted the following relevant items:

1. District *Response*
2. Student Individualized Education Program (IEP), 6/11/2024
3. Student Comprehensive Function Based Behavior Support Plan (BSP), 5/23/24
4. Meeting Minutes, 2/20/25
5. Notice of Team Meeting, 6/9/25
6. IEP Team Meeting Minutes, 6/13/25
7. Prior Written Notice, 6/13/25
8. Student Comprehensive Function Based Behavior Support Plan (BSP), 8/26/25
9. IEP Team Meeting Minutes, 9/18/25
10. Prior Written Notice, 9/19/25

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

11. Parent Concerns & Parent Report of Present Levels of Academic and Functional Performance, September 2025
12. Notice of Team Meeting, 9/18/25
13. Student IEP Goals, (document not dated, the Goals state “By June 2026…”)
14. IEP Team Meeting Minutes, 10/8/25
15. Prior Written Notice (1), 10/13/25
16. Prior Written Notice (2), 10/13/25
17. Prior Written Notice, 10/17/25
18. Notice of Team Meeting, 10/13/25
19. Prior Written Notice 10/27/25
20. IEP Team Meeting Minutes, 10/22/25
21. Notice of Team Meeting, 10/23/25
22. Prior Written Notice, 11/14/25
23. IEP Team Meeting Minutes, 11/7/25
24. Prior Notice and Consent for Initial Provision of Special Education Services, 11/7/25
25. Comprehensive Function Based Behavior Support Plan, 11/7/25
26. Notice of Team Meeting, 3/5/25
27. Prior Written Notice, 3/11/25
28. IEP Team Meeting Minutes, 3/11/25
29. Parent/Guardian Consent for Individual Evaluation, 3/11/25
30. Authorization to Use and/or Disclose Educational and Protected Health Information (6), 3/11/25
31. Prior Written Notice, 4/10/25
32. Prior Written Notice, 4/15/25
33. Prior Written Notice, 5/1/25
34. Multidisciplinary Evaluation Report, 6/12/25
35. Confidential Psychological Assessment, 5/20/20
36. Licensed Clinical Social Worker (LCSW) Report, 3/30/22
37. Psychologist Report, 3/14/25
38. Confidential Psychological Assessment, 5/29/24
39. Letter from Child and Adolescent Psychiatrist, 6/12/25
40. Medical Statement or Health Assessment Statement, 6/12/25
41. Eligibility Meeting Notes, 6/12/25
42. Prior Written Notice (1), 6/12/25
43. Prior Written Notice (2), 6/12/25
44. Written Agreement Between the Parent and the District, 6/12/25
45. Disability Statement, Emotional Behavior Disability (60), 6/12/25
46. Disability Statement, Other Health Impairment (80), 6/12/25
47. Disability Statement, Autism Spectrum Disorder (82), 6/12/25
48. Eligibility Summary Statement, 6/12/25
49. Letter from District to Parent: Re: Independent Education Evaluation for [the Student], 6/27/25
50. PPS Summer Scholars Detailed Progress Report, 2024-25 Summer
51. Email Correspondence, 10/31/24—10/31/25

52. Prior Written Notice, 9/6/24
53. Prior Written Notice, 10/9/24
54. Prior Written Notice, 10/17/24
55. Prior Written Notice, 11/6/24
56. Prior Written Notice, 11/20/24
57. Prior Written Notice, 11/22/24
58. Permission to Release or Exchange Information, 8/28/25
59. Authorization to Use and/or Disclose Educational and Protected Health Information, 10/20/25uthorization to Use and/or Disclose Educational and Protected Health Information, no date
60. District Extended School Year procedures, no date
61. List of Staff, no date

On November 30, 2025, the Department's Complaint investigator interviewed the Parent. The Parent submitted additional information in support of this Complaint.

On December 18, 2025, the Complaint Investigator interviewed the Student's Principal, School Psychologist, and District Legal Counsel. The Complaint Investigator reviewed and considered all these documents, interviews, and exhibits in reaching the findings of fact and conclusions of law contained in this order. This order is timely.

II. ALLEGATIONS AND CONCLUSIONS

The Department has jurisdiction to resolve this Complaint under 34 CFR §§ 300.151-153 and OAR 581-015-2030. The Parents' 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 November 1, 2024, through to the filing of this Complaint on October 31, 2025.

Allegations	Conclusions
Extended School Year Services It is alleged that the District violated the IDEA, when in considering Extended School Year Services (ESY), it limited its consideration of the Student's potential need for ESY, to regression, and did not consider recoupment, predictions based on the IEP team's professional judgement, or the criteria developed by the District. (OAR 581-015-2065; 34 CFR § 300.106)	**Not Substantiated** The Student's IEP team had not yet formulated the Student's initial IEP and therefore could not yet determine the Student's regression or recoupment to determine whether ESY was needed.

Allegations	Conclusions
Evaluation and Reevaluation Requirements It is alleged that the District violated the IDEA when, following the Parents' request on January 21, 2025, to evaluate the Student for special education eligibility, the District did not begin to evaluate the Student. The Parent alleges that the District did not begin to evaluate the Student until the Parent made a similar request on March 3, 2025. (OAR 581-015-2105; 34 CFR §§ 300.301 & 300.303)	**Not Substantiated** On January 21, 2025, the Student was not yet enrolled in the District. The record reflects that the Parent and the District had differing subjective impressions of a February 20, 2025, conversation. When the Parent communicated interest in the District evaluating the Student on March 3, 2025, the District promptly scheduled an evaluation planning meeting.
General Evaluation and Reevaluation Procedures It is alleged that the District violated the IDEA when, following receipt of the Parent's request for an initial evaluation of the Student, the District exceeded the appropriate evaluation timeline. (OAR 581-015-2110; 34 CFR §§ 300.304 & 300.305)	**Not Substantiated** The District evaluated the Student within the statutory timeline.
Parent Participation—General It is alleged that the District violated the IDEA when: a. it did not invite the Parent to a meeting where the District developed a behavior support plan for the Student. It is alleged that the District created a behavior support plan on or about August 26, 2025, that relevant members of the Student's IEP team were present and participated, but that the Parent was not invited and was therefore unable to participate in this aspect of the development of the Student's IEP; and, b. it did not provide notice of a meeting that occurred on February 20, 2025. The Parent reports understanding that the meeting was an opportunity for the Parent and the Student to tour the school but later learned that the	**Substantiated in Part** The District did develop a draft behavior support plan for the Student without the Parent's input. The record reflects that there was no meeting held on February 20, 2025, and the District did not make any decisions on that date regarding the Student's education.

Allegations	Conclusions
District characterized the meeting a planning meeting where the District offered, and the Parent was alleged to have declined, educational services for the Student. (OAR 581-015-2190; 34 CFR §§ 300.500, 300.327 & 300.501(b))	
When IEPs Must Be In Effect It is alleged that the District violated the IDEA when the District did not have an IEP in place for the Student when the Student started school on February 21, 2025. (OAR 581-015-2220; 34 CFR §§ 300.323 & 300.324)	**Not Substantiated** The District did not have an IEP in place for the Student on February 21, 2025, because the Parent previously revoked consent for the provision of special education services.
Prior Written Notice (PWN) It is alleged that the District violated the IDEA when, a. the Prior Written Notice(s), issued by the District on November 20, 2024, and November 22, 2024, failed to provide appropriate notice of the District's proposed or refused action, because the notice(s) did not include accurate information; b. following a February 20, 2025, planning meeting, the District refused to identify the Student as a child with a disability, and did not document that decision with a Prior Written Notice; and, c. it did not send PWN documenting its refusal to identify the Student as a child with a disability, and enroll the Student in the District, in response to the Parent's January 21, 2025, request. (OAR 581-015-2310, OAR 581-015-2110(2)(b); 34 CFR § 300.503 and 34 CFR §§ 300.304 & 300.305)	**Not Substantiated** The PWNs issued on November 20, 2024, and November 22, 2024, contained all required information. The record reflects that the Parent and District held differing subjective understandings of a conversation that occurred on February 20, 2025, that led to the District not beginning to evaluate the Student on that date. The District did not refuse to evaluate or identify the Student, rather the District understood the Parent's verbal communication on February 20, 2025, as a revocation of their request for the District to evaluate the Student.

Allegations	Conclusions
Free Appropriate Public Education (Denial of FAPE) It is alleged that the District violated the IDEA when; a. it did not identify and evaluate the Student for special education following the Parent's January 21, 2025, request; b. it did not complete the Student's evaluation within the appropriate evaluation timeline; c. it did not include the Parent in the development of the Student's Behavior Support Plan; d. it did not have an IEP in place for the Student when they began school; e. it did not provide the Student with Extended School Year services; and, f. it did not provide the Parent with Prior Written Notice of District decisions as described above. It is alleged that these actions denied the Student a FAPE. (OAR 581-015-2040; 34 CFR § 300.101)	**Not Substantiated** On January 21, 2025, the Student was not enrolled in the District. The District complied with the appropriate evaluation timeline. The District did not include the Parent in the development of a draft BSP, however the record does not reflect that the Student suffered an educational detriment thereby. The District did not have an IEP in place for the Student when they began school because the Parent previously revoked consent for the provision of special education. The District had yet to formulate an initial IEP, when the Parent requested the District to consider ESY. The District provided PWN at the appropriate times.

REQUESTED CORRECTIVE ACTION
The Parents request that the District: 1. Find the District in violation of the IDEA; 2. Be ordered to convene a corrective IEP meeting to reconsider ESY, using the multifactor standards and predictive data permitted by OAR 581-015-2065(5); 3. Issue revised, accurate PWN's for those that were not memorialized accurately; 4. Provide compensatory education equal to the time in which ESY services were denied; 5. Train staff on ESY eligibility standards, PWN documentation; and, Compliance be monitored by the Department.

III. FINDINGS OF FACT

1) The Student in this matter is 16 years old and attends high school in the District.

2) The Student is eligible for special education under the categories of Emotional Behavior Disability (EBD) and Other Health Impairment (OHI).

3) The Student displays strong reading and vocabulary skills. They are very social and can be engaging with both peers and adults. The Student is very observant of their surroundings and other people. They enjoy music, fashion, cooking, video games and spending time with friends.

4) The Student's November 7, 2025, IEP includes specially designed instruction (SDI) in math, perspective taking & social-problem-solving, reading comprehension, writing, and transition. The Student's IEP also includes a Behavior Support Plan (BSP).

5) On November 6, 2024, the District sent the Parent Prior Written Notice (PWN), documenting the District's intent to implement the Student's IEP, developed June 2024, with a separate school day placement, scheduling an intake meeting for the sperate school day placement, and proposing to convene an IEP meeting once the Student began attending the new school placement.

6) On November 20, 2024, the Parent sent an email to the District revoking consent for the provision of special education to the Student.

7) On November 20, 2024, the District sent the Parent a PWN, documenting the District's refusal to convene an IEP team meeting at that time, and refusal to enroll the Student in the District high school the Parent expressed interest in. The PWN documented that the Student was no longer enrolled in the District due to the state requirement to drop the Student for non-attendance, and that the Student's IEP indicated a separate day school placement, which was not the high school the Parent expressed a preference for the Student to attend.

8) On November 22, 2024, the District sent the Parent a PWN documenting the Parent's November 20, 2024 email declining services, "which is considered a revocation of consent for special education services."

9) On January 21, 2025, the Parent sent an email to the District requesting an evaluation planning meeting for the Student. The Parent cited the November 22, 2024 PWN, which invited the Student to return to the District in the future.

10) On February 7, 2025, the Student enrolled in the District.

11) On February 10, 2025, the Parent sent an email to the District requesting to connect with

the school team and special education administration to initiate an evaluation for the Student to determine the Student's eligibility for special education services.

12) On February 20, 2025, the Parent met with administrators at the Student's high school to tour the school and discuss the Student's schedule.

13) On February 20, 2025, the District sent the Parent an email thanking them for meeting that day in part to discuss the Student's proposed schedule.

14) On February 21, 2025, the Student began attending school in the District.

15) On March 3, 2025, the Parent sent an email to the District thanking staff who met with them on February 20, 2025. The Parent reviewed with the District the Student's past placements during the Student's school career, their past special education eligibility, and expressed hope for the future. The Parent reviewed that the Student had not attended school since April 2024. In this email, the Parent also wrote that they "were open to a new evaluation."

16) On March 3, 2025, in response to the Parent's March 3, 2025 email, the District sent the Parent a Notice of Team Meeting scheduled for March 11, 2025.

17) On March 11, 2025, the District held an evaluation planning meeting with the Parent in attendance. As a result of the meeting, the team agreed to evaluate the Student and the Parent signed consent for the evaluation. The evaluation consisted of, a Release of Records, File Review, Observations, Updated Developmental/Developmental History, Vision Screening (if none on record), Hearing Screening (if none on record), Functional Communication Assessment to include as appropriate, Amazing Autistic Brain Card Sort, Student Interview, and Teacher Interview/Checklists, with multiple Releases of Information (ROIs) signed.

18) On March 11, 2025, the District sent the Parent a PWN documenting the District's intent to evaluate the Student for special education services.

19) On April 10, 2025, the District sent the Parent a PWN documenting the addition of Kaufman Test of Educational Achievement (KTEA) testing to the evaluation plan, specifically reading comprehension and mathematical calculation subtests.

20) On April 15, 2025, the District sent the Parent a PWN documenting the decision not to complete a comprehensive vision assessment, including a functional vision and visual processing assessment. The District determined this was not necessary based on the file review conducted.

21) On May 1, 2025, the District sent the Parent a PWN in response to the Parent's request for information about an Independent Educational Evaluation (IEE), stemming from the

District's decision to not conduct a comprehensive vision assessment, including a functional vision and visual processing assessment. The PWN indicated that the IEE was not timely because the District had not completed its assessment.

22) On June 9, 2025, the District sent the Parent a Notice of Team Meeting for a meeting to develop or review the Student's IEP and placement. This meeting was scheduled for June 13, 2025.

23) On June 10, 2025, the District sent the Parent a draft of the Student's evaluation report.

24) On June 10, 2025, the Parent, responding to the District's email of the same date, expressed disagreement with aspects of the report, especially those that suggested that the Student likely did not meet criteria for eligibility under the category of Autism Spectrum Disorder (ASD). The Parent cited outside reports that suggested that the Student did have deficits in the areas where the District report suggested the Student did not.

25) On June 12, 2025, the District produced a Multidisciplinary Evaluation Report for the Student. The assessment determined, in part, that the Student "did not demonstrate any skills or challenges suggestive of Autism Spectrum Disorder." The evaluator noted that specific observed behaviors from the Student were not atypical for the Student's age group.

26) On June 12, 2025, the Student's evaluation planning team met to determine the Student's eligibility for special education. The team agreed that the Student was eligible under the categories of EBD and OHI based on the Student's medical diagnoses of ADHD, Tourette Syndrome, Post-Traumatic Stress Disorder (PTSD), and other attendant mental health challenges. The team discussed the criteria for ASD and why the team found that the Student did not qualify under that category. During this meeting the Parent expressed disagreement with the District's eligibility category findings with respect to ASD.

27) On June 13, 2025, the team met to formulate the Student's initial IEP. The team agreed that the Student's basic reading skills, reading vocabulary, written expression, and math problem solving were at grade level. The team discussed a math goal for the Student. The Parent requested that their concerns, expressed in a past email, be added to the parent concerns section of the Student's IEP. The team determined that a second meeting was needed to complete the IEP.

28) On June 30, 2025, the District granted the Parent's request for an IEE.

29) On August 14, 2025, the Parent, in an email to the District, suggested postponing the IEP team meeting originally scheduled for August 22, 2025, to a later date, to allow for the completion of the IEE, and for the team to then consider that information at the IEP team meeting.

30) On August 14, 2025, the District, responding to the Parent's concerns about considering the

outcome of the IEE, agreed to postpone the IEP team meeting originally scheduled for August 22, 2025.

31) On August 28, 2025, the Parent signed a release of information for the District to share information with the Student's Psychologist.

32) On September 12, 2025, the Parent sent an email to the District with a list of questions that included asking why the District implemented a Behavior Support Plan (BSP) for the Student, before the Student's IEP was completed.

33) On September 15, 2025, the District sent an email to the Parent confirming that the District did create a BSP for the Student, writing that the District "wanted to make sure [the Student] was starting off the year with some support in place. [The Student] did provide input on what works for [them] prior to the BSP being discussed with [their] teachers. The plan was to update the draft BSP with you and [the Student's] team at the meeting on the 18th."

34) On September 17, 2025, the Parent sent the District an email reporting that they had not received a PWN for the implementation of the Student's BSP. The Parent noted that they were not part of the meeting where that BSP was created, and that the BSP was created before the completion of the Student's IEP.

35) On September 17, 2025, the District responded that it did not agree that PWNs needed to be issued for numerous issues raised by the Parents, including the implementation of a BSP ahead of finalizing the Student's IEP.

36) On September 18, 2025, the Student's IEP team met. During the meeting, the team reviewed the Parent's written parent concerns document, the Student's progress in the home environment, and the Student's outside evaluations, agreed on present levels, parent concerns, special factors, and state/district testing. The Parent asked to revise the annual goals presented by the school team; the group agreed to consider the Parent's goal ideas, specifically transition goals and a self-advocacy goal, and to provide the Parent with an updated draft within one week of the next meeting.

37) On September 18, 2025, the District sent the Parent a Notice of Team Meeting for an IEP team meeting scheduled for October 8, 2025.

38) On September 19, 2025, the District sent the Parent a PWN documenting, in relevant part, the "Implementation of a Behavior Support Plan (BSP) without parent participation – Action taken after eligibility was determined, before finalizing the IEP." The District included in the PWN that "[t]he school team wanted to make sure [the Student] was starting off the 2025-2026 year with some support in place. [The Student] did provide input on what works for [them] prior to the BSP being discussed with [their] teachers. The plan was to update this draft BSP with parent and [the Student] team at the meeting on the 18th."

39) On September 25, 2025, the District provided the Parent with an updated draft IEP.

40) On September 19, 2025, the District sent the Parent a PWN documenting that the September 18, 2025 IEP team meeting, the second, lasted for four hours, but did not result in a completed IEP for the Student.

41) On October 8, 2025, the Student's IEP team met to continue formulating the Student's IEP. During the meeting the team discussed the Student's service summary, but no agreement was reached.

42) On October 13, 2025, the District sent the Parent a Notice of Team Meeting for a meeting scheduled for October 22, 2025. The Notice indicated that the meeting would address the development of the Student's IEP.

43) On October 13, 2025, the District sent the Parent a PWN documenting the District's communication and collaboration with the Student's outside Speech Language Pathologist (SLP), that the IEP team meeting that day was not completed, and that additional components of the Student's IEP would be completed at a later meeting including updating the draft BSP.

44) On October 13, 2025, the Parent sent an email to the District asking that any BSP in place that was created without the Parent's input be rescinded.

45) On October 17, 2025, the District sent the Parent a PWN documenting that the Parent signed an ROI for the Student's outside SLP on March 11, 2025. The District documented that staff were unaware that the Parent wanted the District to contact the outside SLP during the evaluation process. The PWN documented that the District "evaluation team felt they had adequate information to make an eligibility determination."

46) On October 21, 2025, the District sent the Parent an updated draft IEP.

47) On October 22, 2025, the Student's IEP team met to continue formulating the Student's IEP. During the meeting the Parent voiced interest in the Student qualifying for Extended School Year (ESY) services.

48) On October 23, 2025, the District sent the Parent a Notice of Team Meeting for November 7, 2025, IEP team meeting.

49) On October 27, 2025, the District sent the Parent a PWN documenting the outcome of the October 22, 2025, IEP team meeting, the fourth in the development of the Student's IEP. The District agreed to update the Student's Classroom/School Skill goal to match the Parent's suggestions. The team agreed to document the location of the delivery of SDI as follows, "Social & Emotional Skills- Special Education Provider/General Education Teacher,

in GenEd; Writing- General Education Teacher, in GenEd; Mathematics- Special Education Teacher/Provider, in GenEd; Communication- Speech Language Pathologist, in School Community; Reading- General Education Teacher, in GenEd; Classroom/School Skills- Special Education Provider/General Education Teacher, in GenEd; and, Related Services: Transportation- Transportation Driver, in Vehicle; Speech Language Therapy- Speech Language Pathologist, in School Community; Psychological Service- QMHP, in School/Community." The PWN also addressed ESY, writing, "School Team does not have regression and recoupment data on current goals because the IEP is not completed. The school team will revisit the ESY [*sic*] once the IEP has been completed and there is a period to collect data. Parent does not agree with this." The PWN addressed other areas of discussion and noted that the IEP was not yet complete and that the team would reconvene on November 7, 2025, to continue formulating the IEP.

50) On October 31, 2025, the Parent filed this Complaint.

51) On November 7, 2025, the Student's IEP team met to finalize the Student's IEP. Following this meeting the Parent gave consent for the initial provision of special education services.

52) On November 7, 2025, the District sent the Parent a PWN documenting the completion of the Student's IEP, and the Parent's consent to deliver SDI in conformity with the IEP. The Team found the Student eligible for special education in the categories of EBD and OHI. The PWN documented that the Student was diagnosed with ASD outside of the school setting, during non-educational psychological assessments.

53) On November 21, 2025, the District submitted its *Response* in this matter. As part of its *Response,* the District included its policy regarding ESY. The District's policy reads in relevant part: "Students found eligible for ESY must demonstrate a significant need for continued instruction on IEP goals due to significant regression and recoupment over breaks. That data is collected by the case manager throughout the year. Instruction provided at ESY is based on current IEP goals…" The policy noted that, "OAR 581-015-2065 defines regression as a "significant loss of skills or behaviors in any area specified on the IEP as a result of an interruption or break in education services." The policy noted that "[c]onsideration is given to documented evidence of regression and recoupment of previously learned skills which resulted from an interruption in the instructional program as identified in the IEP." The policy further includes what data is considered by the team and the timeframe polled by the team. "The team reviews data obtained immediately preceding summer break and twenty to thirty instructional days following the resumption of school. If the student has not relearned the skills that he or she possessed at the end of the previous school year by the time thirty instructional days have passed at the beginning of the following school year, he or she should be considered for extended school year services. Likewise, if a student has not relearned the skills that he or she possessed just prior to any break of at least one week in duration, within the acceptable recoupment period, the IEP team should consider the possible need for extended school year services."

54) On November 21, 2025, the Parent provided a written *Reply* to the District's *Response*. The Parent cited several sources to rebut the District's decision regarding ESY. Specifically, the Parent argued that the District must determine the need for ESY based on historical information and not a new IEP. The Parent argued that the Student's gap in enrollment and subsequent need for a new IEP was caused by the District.

55) On November 30, 2025, the Department's Complaint Investigator interviewed the Parent. The Parent reported that the Student did not attend school in the District between November 2024, and February 2025.

The Parent provided an overview of the Student's enrollment in the District prior to the Student's reenrollment on February 7, 2025. As part of the interview, the Parent agreed that they requested that the District unenroll the Student in November 2024. The Parent explained that they agreed with the District's December 10, 2024, email confirming the Student's unenrollment from the District. As a result, the Student did not attend school between November 2024 and February 2025. The Parent also reported that, following their contact with the District in January 2025, the District requested information from the Parent to ascertain their residency in the District. The Parent reported that they were then in the process of obtaining a new residence, and that the District requested information to confirm that the residence was within the District's boundaries.

The Parent noted that they raised the issue of ESY with the District through a document listing their concerns for the Student's education. The Parent understood that ESY was not limited to services provided at the end of the year but rather could be provided throughout the school year. With that understanding, the Parent requested that the District consider and provide ESY for the Student as part of the development of the Student's 2025 initial IEP. The Parent further noted that five IEP team meetings were held beginning June 13, 2025. The Parent reported that the Student displayed significant regression and loss of skills, in part due to their absence from school during the year prior and historically. The Parent advocated for ESY as part of the development of the Student's current IEP, with ESY potentially offering parallel services in the Student's IEP during the 2025-26 school year.

The Parent explained that their concerns around the Behavior Support Plan implemented by the District were historically related to their safety concerns for the Student based on prior BSPs implemented by the District, which were known to the District. The Parent further reported that there was no prior safety plan from this school year for the District to pull from to implement the interim safety plan. The Parent reported that there was no prior safety plan to draw from, nor had any interim safety plan been discussed. The Parent asserted that, as a result, the District formulated an interim safety plan for the Student without a meeting, and without the Parent's input.

The Parent explained their disagreement with the content of the November 2024 PWNs issued by the District because they felt that it was not safe to send the Student to school. The Parent agreed that they had requested the District to cease providing special education

services to the Student, and likewise explained that this was due to conditions at school and the way the District provided education to the Student.

The Parent reported that on February 20, 2025, during their tour of the building the Student intended to attend, the School Psychologist approached the Parent about obtaining consent and conducting a possible file review for the Student. The Parent understood that this was in response to their request that the District evaluate the Student for special education eligibility. The Parent expressed concern that they were present that day to tour the school and were not provided notice of any meeting to discuss eligibility, nor were they afforded an opportunity to invite others to such a meeting or discussion. The Parent reported that they told the District that they did not want to have the discussion at that time.

56) On December 18, 2025, the Department's Complaint Investigator interviewed the School Principal, School Psychologist, and District's Legal Counsel regarding these matters. The District reported that the Parent came to the school on February 20, 2025, to tour the school. The School Psychologist took that opportunity to ask the Parent about their request that the District evaluate the Student for special education. The School Psychologist reported that, had the Parent responded, they would have taken whatever information was gathered about their concerns and scheduled an evaluation planning meeting where the appropriate staff would be present. The School Psychologist reported that, when asked about their request, the Parent responded, "not at this time." The District understood this response to mean that the Parent was not requesting that the District evaluate the Student for special education. The District also understood the Parent's request in the context of prior statements rejecting special education support.

The District reported that on March 3, 2025, the Parent sent an email expressing interest in the District evaluating the Student for special education. In response, the District scheduled an evaluation planning meeting for March 11, 2025.

The District explained that the Student previously received behavior support. During the formulation of the Student's IEP, during the 2025-26 school year, the team met on several occasions. Seeing that the Student required support, the District created an interim BSP based on the Student's prior plans, discussions with teachers, discussions with the Student, and general data from the 2024-25 school year. The District noted that this interim plan was labeled as a draft.

IV. DISCUSSION

Extended School Year Services

It is alleged that the District violated the IDEA when, in considering Extended School Year Services (ESY), it limited its consideration of the Student's potential need for ESY, to regression, and did not consider recoupment, predictions based on the IEP team's professional judgement, or the criteria developed by the District.

School districts must ensure that extended school year services (ESY) are available as necessary to provide a free appropriate public education to a child with a disability. ESY services must be provided only if the child's IEP team determines, on an individual basis, that the services are necessary for the provision of a free appropriate public education to the child. ESY services are for the maintenance of the child's learning skills or behavior, not teaching new skills or behaviors. School districts must develop criteria for determining the need for extended school year services. These criteria must include regression and recoupment time based on documented evidence or, in the absence of documented evidence, on predictions according to the professional judgment of the team. Regression means the recovery of skills or behaviors on the IEP to a level demonstrated before the interruptions of education services.[3] Extended school year services mean special education and related services that are provide to a child with a disability "in accordance with the child's IEP."[4]

Addressing the Student's academic and related services needs apparent prior to the development of the Student's IEP should be part of the IEP development process. The IEP itself must include "a statement of the child's present levels of academic achievement and functional performance."[5] The IEP should then include goals that "meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum."[6] By contrast, a determination regarding the need for ESY relates to a student's progress toward their IEP goal. Here, the Student did not yet have an IEP in place, as the team was working to formulate the Student's IEP. Therefore, whatever needs the Student displayed should be addressed in the formulation of the IEP. Determining the need for ESY should focus therefore on the "maintenance of the child's learning" and not the "teaching of new skills or behaviors."[7] Regression and recoupment are determined by reference areas "specified on the IEP".[8]

As part of the Parent's *Reply* in this matter, they cited *Letter to Kleczka*,[9] in support of their position that the District had not appropriately considered data regarding the Student in making the ESY determination. *Letter to Kleczka* notes that "…once a child has been determined eligible for special education and related services, that an IEP team be convened to develop the child's IEP."[10] While, "[t]here is no Federal requirement which stipulates that if the child does not meet the goals of the IEP, that the child must participate in extended school year (ESY) services. The IEP team, during the IEP meeting is responsible for discussing and making a determination whether or not a child requires ESY services."[11] *Letter to Kleczka*, clarifies that

[3] OAR 581-015-2065(1)—(6)
[4] 34 C.F.R. § 300.106
[5] OAR 581-015-2200(1)(a)
[6] OAR 581-015-2200(1)(b)(A)
[7] OAR 581-015-2065(4)
[8] OAR 581-015-2065(6)(a)
[9] *Letter to Kleczka*, 30 IDELR 270 (OSEP 1998)
[10] *Id*.
[11] *Id*.

the ESY determination is made by reference to the Student's progress within the current IEP, not overall skills.

In this case, the discussion of ESY occurred before the formulation of the Student's IEP. Here, the Student did not yet have an IEP in place for the IEP team by which the team could measure regression or recoupment. The IEP Team was also unable to use professional judgment to predict the future need for ESY based on an initial IEP not yet developed or implemented. A decision regarding ESY must come after the implementation of an IEP, and the District's ability to obtain data regarding the Student's progress, or regression toward IEP goals.

The Department does not substantiate this allegation.

Evaluation and Reevaluation Requirements

It is alleged that the District violated the IDEA when, following the Parent's request on January 21, 2025 to evaluate the Student's eligibility for special education, the District did not begin to evaluate the Student. The Parent alleges that the District did not begin to evaluate the Student until the Parent made a similar request on March 3, 2025.

School districts must conduct an evaluation or reevaluation before determining that a child is a child with a disability. An initial evaluation must be conducted to determine whether a child is eligible for special education services when a district suspects or has reason to suspect that the child has a disability with an adverse impact on the child's educational performance. Children must be reevaluated if the district determines that the educational or related services needs of the child warrant a reevaluation, or if the parents or teachers request a reevaluation. Reevaluations must not occur more than once per year unless the parent and district agree otherwise. Reevaluations must be conducted at least every three years.[12]

On January 21, 2025, the Parent sent an email to the District requesting that the District evaluate the Student's eligibility for special education. At the time of this request, the Student was not enrolled in the District. As part of the Parent's interview with the Department in this matter, the Parent reported that the District was in the process of confirming their residency within the District's boundaries, and therefore the Student's eligibility to attend school in the District. On February 7, 2025, the Student enrolled in the District. On February 10, 2025, the Parent requested that the District evaluate the Student for special education eligibility. On February 21, 2025, the Student began attending classes in the District. On March 3, 2025, the District sent the Parent an invitation to an evaluation planning meeting scheduled for March 11, 2025. On March 11, 2025, the District held an evaluation planning meeting. On the same date, the District sent the Parent a PWN, documenting its intent to evaluate the Student for special education.

[12] OAR 581-015-2105(1)—(4)

Following the Student's enrollment in the District, the District attempted to discuss eligibility with the Parent on February 20, 2025. The Parent and District agree that the Parent declined to discuss the matter on February 20, 2025. The District understood the Parent declining to discuss their concerns on February 20, 2025 as a revocation of their request previously communicated by email that the District evaluate the Student for special education. The Parent reported that their response was intended to decline the discussion at that moment. On March 3, 2025, the Parent again communicated interest in the District evaluating the Student. The District promptly scheduled an evaluation planning meeting in response.

The Department does not substantiate this allegation.

General Evaluation and Reevaluation Procedures

It is alleged that the District violated the IDEA when, following receipt of the Parent's request for an initial evaluation of the Student, the District exceeded the appropriate evaluation timeline.

Before conducting any evaluation or reevaluation, a district must conduct evaluation planning. Before conducting any evaluations, the district must provide the parent with prior written notice (PWN) describing any proposed evaluation procedures as the result of evaluation planning. Before conducting any evaluation or reevaluation, the district must obtain informed written consent from the parent for the proposed evaluation.[13] An initial evaluation must be completed within 60 school days from written parent consent to the date of the meeting to consider eligibility.[14]

The Parent reported that they sent an email to the District requesting the District evaluate the Student on January 21, 2025. This was prior to the Parent enrolling the Student in the District. The District reported, and the Parent confirmed, that in January 2025 and early February 2025, the District was determining the Parent's residency in the District. The Student enrolled in the District on February 7, 2025. On February 10, 2025, the Parent sent an email to the District requesting that the District evaluate the Student for special education. On February 20, 2025, the Parent and Student toured the school. On February 21, 2025, the Student began attending school in the District. On March 3, 2025, the Parent expressed interest in the District evaluating the Student for special education. Later that day, the District sent the Parent a meeting notice inviting them to an IEP team meeting scheduled for March 11, 2025. The purpose of this meeting was to consider the Student's eligibility for special education. On March 11, 2025, the team met, and the Parent provided consent for the District to evaluate the Student. Thereafter, the District began evaluating the Student.

[13] OAR 581-015-2110(1)—(2)
[14] OAR 581-015-2110(5)

On June 9, 2025, the District sent the Parent a Notice of Team Meeting for a meeting scheduled for June 13, 2025 to develop or review the Student's IEP and placement. June 13, 2025, is exactly 60 school days after the March 11, 2025 date on which the Parent provided consent for the evaluation. The District therefore completed the evaluations within the required timeline.

The Department does not substantiate this allegation.

Parent Participation—General

It is alleged that the District violated the IDEA when it did not invite the Parent to a meeting where the District developed a BSP for the Student. It is alleged that the District created a BSP on or about August 26, 2025, that relevant members of the Student's IEP team were present and participated, but that the Parent was not invited and was therefore unable to participate in this aspect of the development of the Student's IEP. It is also alleged that the District did not provide notice of a meeting that occurred on February 20, 2025. The Parent reports understanding that the meeting was an opportunity for the Parent and the Student to tour the school but later learned that the District characterized the meeting as a planning meeting where the District offered, and the Parent was alleged to have declined, educational services for the Student.

School districts must provide parents with a written notice of an IEP meeting sufficiently in advance to ensure that they have an opportunity to attend. The notice should include the purpose, time, and place for the meeting, and who will attend.[15] School districts must take steps to ensure the parents of a child with a disability are present at each IEP or placement meeting or are afforded the opportunity to participate. This should include notifying the parents of the meeting early enough to ensure that they will have an opportunity to participate.[16]

The Parent alleged that the District created and implemented a BSP for the Student, which the Parent did not have input in creating. The District's *Response* indicated that the BSP was based on a similar behavior support plan developed in May 2025. During their interview with the Department's Complaint Investigator, the Parent denied that the Student had a behavior support plan in May 2025. During interviews with the Department's Complaint Investigator, the District reported the draft BSP implemented was based on prior BSPs, input from teachers, and input from the Student. The District reported that because the development of the Student's IEP took several months over the course of numerous meetings, they wanted the Student to have some support ahead of finalizing the IEP. On September 12, 2025, the Parent sent an email to the District inquiring whether the District had implemented a BSP for the Student without their input. On September 15, 2025, responding to the Parent's September 12 email, the District confirmed that existence of a draft BSP. The District later sent a PWN to the Parent

[15] OAR 581-015-2190(1) & (2)
[16] OAR 581-015-2195(1) & (5)

on September 19, 2025, documenting the implementation of the draft BSP without the Parent's input. On October 13, 2025, the Parent sent an email to the District objecting the use of the draft BSP and asking the District to cease implementing it.

The Student's IEP team required numerous meetings to formulate a final IEP for the Student. Recognizing the Student's history of receiving special education services with a BSP, the District consulted teachers, past records, and the Student to formulate an interim BSP to provide educational benefit during the formulation of the IEP. The creation of an IEP for the Student began on March 11, 2025, with the Parent providing consent for an evaluation, and from June 13, 2025, when the District found the Student eligible for special education, through November 7, 2025, when the Student's initial IEP was completed.

The District's *Response* included that the District agreed that the scheduled February 20, 2025, visit to the school was an opportunity for the Parent and the Student to tour the school. The Parent alleged that the District approached the Parent about the Parent's request that the District evaluate the Student for special education during their tour of the school. The District's *Response*, noted that staff were not precluded "from discussing the Parent's earlier request to begin the special education evaluation process." During interviews with the Parent and the District both reported that, on February 20, 2025, the Parent had declined to discuss their January 21, 2025, email request to the District to evaluate the Student. The Parent reported the subjective understanding that they were asking the District not to have a conversation about their request at that time. The District reported the subjective understanding that the Parent was declining to pursue their earlier request for the District to evaluate the Student. The District reported that relevant members of an evaluation planning team were not present nor ready to convene to discuss the Student's eligibility, nor did the District decide not to evaluate the Student at that time. Rather, the District's understanding of the February 20, 2025, conversation was that it represented a revocation of the Parent's January 21, 2025 request.

The Department substantiates this allegation in part.

When IEPs Must Be In Effect

It is alleged that the District violated the IDEA when the District did not have an IEP in place for the Student when the Student started school on February 21, 2025.

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

therein.[17]

The Parent previously requested that the District cease providing special education services for the Student and unenrolled the Student from the District in November 2024. The District confirmed the Parent's request through PWN on November 20, 2024. The Student reenrolled in the District on February 7, 2025, and began attending school on February 21, 2025. As part of the Student enrolling in the District, the Parent requested that the District evaluate the Student for special education eligibility. When the Student began attending school again in February 2025, they did not then have an IEP in place. In response to the Parent's February 2025 request that the District evaluate the Student for special education, the District convened an evaluation planning meeting on March 11, 2025, obtained the Parent's consent to evaluate the Student, and thereafter began the evaluation process. The Student did not have an IEP in place in February 2025, because the Parent previously revoked consent for the District to provide special education services.

The Department does not substantiate this allegation.

Prior Written Notice

It is alleged that the District violated the IDEA when the Prior Written Notices (PWN), issued by the District on November 20, 2024, and November 22, 2024, failed to provide appropriate notice of the District's proposed or refused action, because the notices did not include accurate information. It is also alleged that following a February 20, 2025 planning meeting, the District refused to identify the Student as a child with a disability and did not document that decision with a PWN. It is further alleged that the District did not send a PWN documenting its refusal to identify the Student as a child with a disability and enroll the Student in the District, in response to the Parent's January 10, 2025 request.

The IDEA requires a school district to give parents PWN within a reasonable period before it proposes or refuses to initiate or change anything related to the identification, evaluation, educational placement, or the provision of FAPE to a child with a disability.[18] A PWN must be both specific and explanatory, including:

a. A description of the action the school proposed or refused;
b. An explanation of why the school proposes or refuses to take the action;
c. A description of each evaluation procedure, assessment, record, or report the school used as a basis for the proposed or refused action;
d. A statement that the parents of a child with a disability have procedural safeguards under IDEA and how parents can obtain a copy of the procedural safeguards notice;
e. Sources for parents to contact to obtain assistance in understanding the IDEA;

[17] OAR 581-015-2220(1)—(3)

f. A description of other options considered and the reasons why those options were rejected; and,
g. A description of other factors that are relevant to the school's proposal or refusal.

The purpose of such detailed PWN requirements is two-fold. First, it assists school personnel to consider options carefully and to make decisions on the basis of articulable criteria or reasoning. Second, it gives parents definitive statements of school district decisions and enables their understanding of exactly what considerations led to those decisions.

The November 20, 2024 PWN contains all required information. The Parent reported that they disagreed with the PWN because it did not include the Parent's stated reason for unenrolling the Student from the District at that time. The PWN sent by the District, however, documents the District's refusal to hold an IEP meeting and enroll the Student in the high school of the Parent's choice, because the Parent previously unenrolled the Student from the District. The PWN also documents the Parent's written request to decline special education services. Similarly, the Parent takes issue with the District not including the Parent's stated reason for revoking consent. A PWN is only required to document actions proposed or refused by a district, and a district's reasoning, not the surrounding circumstances, or the reasoning of other parties.

On February 20, 2025, the Parent and the Student toured the school the Student would attend. The Parent reported that during the tour, District staff approached them to discuss their request that the District evaluate the Student for special education eligibility. The Parent reported that they declined to engage in that conversation at the time. The District later invited the Parent to a March 13, 2025, evaluation planning meeting, where the Parent provided consent for the District to evaluate the Student for special education eligibility. The District reported scheduling the March 13, 2025, meeting, in response to the Parent's March 2, 2025, request to discuss special education eligibility.

The Parent's January 21, 2025 communication with the District occurred prior to the Parent enrolling the Student in the District and prior to the District confirming the Parent's residency in the District. Given that the Student was not enrolled in the District and that the Student's residence in the District had not been confirmed on January 21, 2025, the District did not propose or refuse an action that required a PWN. Similarly, the District made no decision on February 20, 2025 that required documentation in a PWN.

The District took the interaction on February 20, 2025 as the Parent rescinding the request for an evaluation. The Parent did not intend the interaction to be a recission of request for evaluation. When the District became aware of these differing understandings on March 3, 2025, they immediately moved to schedule an evaluation planning meeting that was held on March 11, 2025.

The Department does not substantiate this allegation.

Free Appropriate Public Education (Denial of FAPE)

It is alleged that the District violated the IDEA when;

a. it did not identify and evaluate the Student for special education following the Parent's January 21, 2025, request;
b. it did not complete the Student's evaluation within the appropriate evaluation timeline;
c. it did not include the Parent in the development of the Student's Behavior Support Plan;
d. it did not have an IEP in place for the Student when they began school;
e. it did not provide the Student with Extended School Year services; and
f. it did not provide the Parent with Prior Written Notice of District decisions as described above.

It is alleged that these actions denied the Student a FAPE.

School districts must provide FAPE to all school-age children with disabilities for whom the district is responsible.[19] Procedural violations may only lead to a finding that a child did not receive a FAPE if they: "(I) impeded the child's right to a free appropriate public education; (II) significantly impeded the parents' opportunity to participate in the decision making process regarding the provision of a free appropriate public education to the parents' child, or (III) caused a deprivation of educational benefits."[20] In determining whether a student was denied a FAPE, courts review a district's compliance with both the procedural and substantive components of the Student's education. Reviewing courts must inquire whether the school district complied with the procedural requirements of the IEP, and whether the school district met the substantive requirements to develop an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances.[21]

On January 21, 2025, the Student was not enrolled in the District, nor was the Parent's residency known to the District. The District completed the Student's special education evaluation within the statutory 60 school day timeline. The Student did not have an IEP in place when they began school, because the Parent previously revoked consent for the provision of special education services and unenrolled the Student from the District. The District was not required to consider the provision of ESY prior to developing the Student's initial IEP. The District provided a PWN when required and with the appropriate content.

Procedural violations of the IDEA amount to a denial of FAPE if they: impeded the student's right to a FAPE; significantly impeded the parents' opportunity to participate in the decision-making process regarding the provision of a FAPE; and caused a deprivation of educational benefits.[22] Here, while the District did not afford the Parent an opportunity to have input on the draft BSP, the BSP was in place to assist the Student prior to the formulation of a final BSP.

[19] OAR 581-015-2040
[20] 20 USD § 1415(f)(3)(E)(ii)
[21] *Endrew F.*, 137 S.Ct. at 999.
[22] 34 CFR §300.513

There is also no evidence in the record that the implementation of the draft BSP had a negative effect on the Student's education.

The Parent previously revoked consent for the provision of special education services, which accounted for the Student not having an IEP in place when they began attending school in February 2025. The Student's IEP team was in the process of formulating the Student's initial IEP when the Parent raised the ESY concern.

The PWNs in question contained the appropriate information.

The Department does not substantiate this allegation.

VII. CORRECTIVE ACTION

In the Portland Public School District
Case No. 25-054-078

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

Action Required	Submissions	Due Date
1. The District must ensure that staff responsible for IEP development for this Student are informed of parent participation requirements in the development and implementation of student IEPs.	Training agenda/materials to ODE District Compliance Specialist for review/approval. Sign-in sheet for training.	May 1, 2026 June 1, 2026

Dated: this 30th Day of December 2025



Ramonda Olaloye
Assistant Superintendent
Office of Enhancing Student Opportunities

Emailing Date: December 30, 2025.

Appeal Rights: Partied may seek judicial review of this Order. Judicial review may be obtained by filing a petition for review within sixty days from the service of this Order with the Marion

County Circuit Court or with the Circuit Court for the County in which the party seeking judicial review resides. Judicial review is pursuant to the provision of ORS § 183.484. (OAR 581-015-2030 (14).