BEFORE THE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of	)	FINDINGS OF FACT,
Brookings-Harbor School District	)	CONCLUSIONS, AND FINAL ORDER
	)	Case No. 25-054-082

I. BACKGROUND

On November 18, 2025, the Oregon Department of Education (the Department) received a special education complaint (Complaint) from a Parent (Parent) regarding the special education of a Student (Student] who resides in the Brookings-Harbor 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 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 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 December 1, 2025, the Department's Complaint Investigator sent a *Request for Response* to the District identifying the Parent's allegations of IDEA violations and requesting a narrative *Response* and specified documents to be submitted to the Investigator by December 15, 2025.

The District submitted a Response to the Complaint on December 12, 2025 denying the allegations, providing an explanation, and submitted the following relevant documents in support of its position:

1. Narrative *Response*, 12/12/25
2. Table of Contents
3. Behavior Referrals, 2/8/24-11/18/25
4. Reading Performance Data, 09/22/25
5. Math Performance Data, 2025-2026
6. Attendance and Enrollment Data, 08/19/23-9/29/24
7. Email and Text Message Correspondence, 09/22/25-11/18/2025
8. Parent/Student Rights in Identification, Evaluation and Placement, 11/17/25
9. Section 504 Notice of Conference, 11/17/25
10. Section 504 Eligibility Determination, 11/17/25
11. Section 504 Student Accommodation Plan, 11/17/25
12. Health Care Center Progress Note, 06/03/25

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

13. Dilated Fundus Exam Report, 04/07/25
14. Medical Center Progress Note, 02/05/25
15. Medical Center History and Physical report, 05/02/25
16. Behavioral Health Report, 03/04/24

On January 12, 2026, the District submitted the following additional documents:

17. Section 504 documents review meeting, 01/07/26
18. B Sample Intervention Worksheet
19. The Student Success Team (MTSS/SST) Handbook
20. Special Education-Individualized Education Program (IEP) IGBAF-AR district policy
21. Students with Disabilities-Child Identification Procedures IGBA-AR district policy
22. Special Education-Free Appropriate Public Education (FAPE) IGBAJ-AR district policy
23. Special Education-Procedural Safeguards IGBAG-AR district policy
24. Special Education-Evaluation Procedures IGBAH district policy
25. Special Education-Evaluation & Eligibility Procedures IGBAHJ-AR district policy

The Parent submitted a *Reply* to the *Response* on December 15, 2025, and submitted the following documents in support of their position:

26. Formal Parent *Reply* to the District *Response*, 12/15/25
27. Letter of Intent to enroll the Student in a virtual school [Academy], 03/08/25
28. Letter of Intent to homeschool, 4/23/25
29. Membership Letter for online homeschool curriculum, 4/23/25
30. Formal Request for Comprehensive Evaluation of Special Needs Services, 9/22/25
31. Medical records
32. Multiple emails and screen shots of text messages between parent and the District
33. Copies of 504 materials
34. Parent email to ODE, 9/22/25

The Complaint Investigator spoke by phone with the Parent on November 24, 2025 to discuss the allegations in the Complaint. The Complaint Investigator spoke with the Superintendent (who also serves as the District's special education director) on January 8, 2026. The Complaint Investigator spoke with the two administrators who were Principals of the Student's School during the complaint period. The Investigator asked both the Parent and the District to submit additional documents during the investigation. The Complaint Investigator reviewed and considered all documents, interviews, and exhibits in reaching the findings of fact and conclusions of law contained in this order.

II. Allegations and Conclusions[3]

The Department has jurisdiction to resolve this Complaint under 34 CFR §§ 300.151-153 and OAR 581-015-2030. The Complainant's allegations and the Department's conclusions are set out in the chart below. The conclusions are based on the Findings of Fact in Section III and the Discussion in Section IV. This Complaint covers the one-year period from November 19, 2024 to the filing of this Complaint on November 18, 2025.

Allegations	Conclusions
Child Find The Parent alleges that the District violated the IDEA by failing to identify the Student as a child with a disability, despite the fact that the District had reason to suspect that the Student might need special education. The Parent had provided the District with documentation of diagnoses of optical nerve hypoplasia and ADHD. The District also had direct evidence of the Student's emotional behavioral concerns since the Parent was repeatedly asked to pick the Student up during school hours. (OAR 581-015-2080; 34 CFR § 300.111)	**Substantiated** The District had reason to suspect that the Student might have a disability and need special education for at least two years marked by the Student's significant behavior concerns, disruptive behavior, and work refusal. The Parent had repeatedly asked for a special education evaluation and had provided medical records confirming the Student's disabling conditions to the District.
Evaluation Requirements/Initial Evaluations The Parent alleges that the District violated the IDEA by repeatedly refusing to conduct a comprehensive special education evaluation. Specifically, the Parent alleges that the Parent repeatedly requested special education evaluation, and the requests were refused. According to the Parent, the Principal stated that it was too late in the 2024-25 school year to conduct a special education evaluation and, early in the 2025-26 school year, the Principal stated that the Student was "too smart" to need special education. (OAR 581-015-2105(2)(3); 34 CFR § 300.301)	**Substantiated** When the District finally agreed to initiate a special education evaluation in September 2025, the process was delayed by unnecessary steps inconsistent with IDEA requirements.

[3] Investigation of special education complaints is limited to alleged violations of the IDEA during the one-year complaint period. The 100-page complaint in this case includes numerous allegations that do not state a violation of the IDEA. The Parent has been directed to other potential avenues of redress for non-IDEA concerns.

Allegations	Conclusions
Prior Written Notice (PWN) The Parent alleges that the District violated the IDEA by failing to provide PWN when refusing the requests for special education evaluation. (OAR 581-015-2310; 34 CFR § 300.503)	**Substantiated** At no point did the District provide the Parent a PWN explaining any decisions related to the Parent's requests for special education evaluation.

REQUESTED CORRECTIVE ACTION
The Parent requests District actions to resolve this complaint as follows: 35. Require the district to conduct a comprehensive special education evaluation for [the Student]. 36. Require the district to provide Prior Written Notice for any refusal decisions. 37. Require corrective action to ensure compliance with IDEA procedural safeguards. 38. Require the district to provide compensatory education services for the years [the Student] was denied access to appropriate supports.

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 investigation does not consider facts before or after the Complaint period. However, facts outside of the Complaint period may be included to provide context necessary to understand the circumstances surrounding this Complaint.

39. The Student is 8-years-old, in second grade, and attends a District elementary school (School) where they have been enrolled since August 31, 2023.

40. The Student experiences several health conditions, including severe optic disc hypoplasia, attention deficit hyperactivity disorder (ADHD), and adjustment disorder with mixed anxiety and depressed mood.

41. The Parent told the Investigator that the Student has had frequent behavior referrals and that the District had called the Parent multiple times to pick the Student up during the school day. The Parent believes the District should better understand the causes of the Student's behavior and should implement effective strategies to manage the Student's behavior.

42. The Parent describes multiple requests for evaluation of the Student for special education. The Parent recalled that a Principal[4] responded to a verbal request for special education evaluation on March 13, 2024 by stating that it was too late in the year to conduct a special education evaluation. Because the Parent was frustrated with the District's inaction and concerned about the multiple interruptions of learning time due to behavior and discipline, the Parent withdrew the Student from the District and enrolled them in a home-school program for the remainder of the 2023-24 school year.

43. The Student re-enrolled in the District on August 31, 2024.

44. On March 8, 2025, the Parent again verbally requested a special education evaluation of the Student. The Parent reported that the Principal repeated the explanation from the previous year; it was too late in the school year.

45. The Parent reported frustration at being rebuffed in efforts to initiate a special education evaluation. The Student's chronic behavioral incidents interfered with the Student's ability to participate in academic activities and to interact appropriately with peers. The Parent believed that that District was unwilling to provide services that the Student needed to address their behavior related to their disabilities. The Parent decided that the only available option was to withdraw the Student from the District and enroll in a homeschool program.

46. On March 8, 2025, the Parent signed a Letter of Intent to enroll the Student in a virtual school [Academy]. In the Letter of Intent, the Parent stated that:

    "[The Student] is having behavioral and focus issues in person at [the District elementary school] and needs more help with work than the school can provide. I requested an IEP and the school said they are not giving those out at the moment. So I decided to pull [the Student] from in-person while we work on [the] issues then re-enroll next year." The Academy forwarded the Letter of Intent to the District. Handwritten date and initials indicate receipt by the District on March 10, 2025.

47. On April 23, 2025, the Parent sent a letter to the District stating their intent to homeschool the Student. The Parent's reason for homeschooling cited recent medical diagnoses and their possible relationship to the Student's "lack of concentration and emotional outbursts". The Parent planned to re-enroll in the District for the following school year "with a better plan and understanding for [the Student's] medical and educational needs".

[4] The Department notes that the Student's School has had three Principals mentioned in the Parent's complaint. The Principal who reportedly told the Parent two years in a row that March was too late in the school year to conduct a special education evaluation is no longer employed in the District, and the Investigator was unable to contact them for an interview. The 2025 interim Principal was unable to confirm whether such a policy existed in the District but said it was likely that the Parent might have been told that a special education evaluation takes a long time and might not be completed by the end of the school year if initiated in March.

48. A letter dated April 23, 2025from an online curriculum service stated that the Parent had signed the student up for Grade 1, and included a link to the curriculum, lessons, activities, assessment scores, and student usage.

    Handwritten date and initials indicate receipt by the District on April 25, 2025.

49. The District's Superintendent sent the Parent a letter dated April 24, 2025, acknowledging receipt of the Parent's letter and advising the Parent to inform the South Coast ESD about the intent to homeschool. The Superintendent's letter included no response to the Parent's concerns about the Student's disabilities and their possible impact on the Student's education.

50. The Student attended the Academy from the date of enrollment to the end of the school year. The Parent re-enrolled the Student in the District on August 24, 2025.

51. District records submitted to the Investigator show a pattern of continuous behavior incidents throughout the complaint period. The records list 8 behavior referrals between January 24 and March 4, 2025. When the Student returned to the District, frequent behavior referrals began again. District records list 25 behavior referrals between August 27 and November 18, 2025. Most behavior referrals involved the Student's in-class behavior with only a few in the other school settings. The District categorized most misconduct as efforts to escape tasks.

52. On September 22, 2025, the Parent sent an email to the Department asking for assistance in persuading the District to conduct a comprehensive special education evaluation of the Student. The Parent included screenshots of the documents the District had received documenting the Student's diagnoses with ADHD/ADD, Adjustment Disorder with Anxiety and Depressive Moods, Trauma Related Disorders, Optical Nerve Hypoplasia with Complete Blindness in Left Eye, and Destructive Behavior Disorder. The Parent asserted that the District had rejected an evaluation report from a licensed mental health provider. The Parent stated that the District's response to the Parent's request for a Functional Behavioral Assessment (FBA) and Behavior Intervention Plan (BIP) was that the District could not do anything until the Student's primary care physician provides medical records.

53. On September 22, 2025, the Parent emailed a Formal Request for Comprehensive Evaluation of Special Needs Services to the interim elementary principal. The email stated, ""I am writing to formally request a comprehensive evaluation for [the Student] to determine eligibility for special education services under the Individuals with Disabilities Education Act (IDEA) and/or accommodations under Section 504 of the Rehabilitation Act of 1973."

    In this email, the Parent included records from the Student's health care providers which described the Student's several medical and therapeutic diagnoses. The Parent

added that the Student's behaviors of concern, "including outbursts, elopement from the classroom, and severe emotional dysregulation are directly related to [the] diagnoses and should be addressed through appropriate supports rather than exclusion from the learning environment". The Parent added: "Despite providing documentation of their diagnoses, [the Student] continues to be sent home from school, and still has not been evaluated comprehensively for a 504 plan or an IEP". In conclusion, the Parent added:

"Please also consider this letter my written consent to begin the evaluation process. I request that the school provide written confirmation of receipt of this request and outline the next steps, including the timeline for evaluation and any required documentation."

54. On September 22, 2025, the interim Principal replied as follows to the Parent's request for written confirmation of receipt of the request for special education:

"Today I received paperwork from [the Parent] about information about 504s and IEPs. [The Parent] will provide us with medical paperwork and then we will move forward with a 504 for [the Student]. At the same time, the teacher will begin collecting work samples and documents in preparation for the SST (student support team) process."

55. On November 17, the District convened a 504 meeting for the Student.[5] The District found the Student eligible for a 504 plan that offered accommodations as follows:
    - Check-ins
    - Dad request of half days
    - Preferential seating
    - Extra time to complete assignments
    - Chunking assignments

56. On November 18, 2025, the Parent filed a formal complaint with the Department requesting a special education complaint investigation. On that same date, the Parent emailed notice of the Complaint to the Interim Principal.

    On December 1, 2025, the Department's Complaint Investigator sent a *Request for Response* for this Complaint, describing the allegations, citing relevant provisions of the IDEA, and asking the District to send relevant documentation to the Investigator.

57. On December 12, 2025, the District submitted a *Response* to this Complaint. The brief District *Response* included a general denial but did not address the specific allegations of IDEA violation as outlined in the *RFR* (i.e., Child Find, Evaluation, and PWN), and did not

[5] The Department does not evaluate the District's 504 evaluation, eligibility, or plan, as § 504 is not part of the IDEA and is governed by a different statute and different regulations.

discuss how the District did or did not comply with the applicable IDEA provisions. The District *Response* states in relevant part:

"We agree that [the Student] demonstrates attention and behavioral challenges, particularly in settings involving peer interaction."

"At no time has any district employee refused to assess [the Student]. We have followed our standard procedures, beginning with data collection."

"School staff had not initiated earlier conversations because [the Student] consistently performs at or above grade level expectations when [they] engage in their work. Data and staff interactions indicate that [the Student is a highly capable student who experiences difficulty with attention and social interactions."

"It is not standard practice in our district to presume that all students who struggle with peer interactions or who have experienced trauma automatically qualify for special education."

"The medical documentation initially provided was in the form of chart notes which were difficult to interpret. Typically, we receive formal diagnostic letters from medical professionals."

"We would begin our Student Support Team (SST) process to collect data and determine whether assessment was indicated. In the meantime, the District initiated a Section 504 Plan to support [the Student's] needs."

"A 504 plan with accommodations was prepared; however, [the Parent] declined to sign it. The district is nonetheless implementing the accommodations."

"The district is able to initiate the assessment process at this time, even without completing our SST steps. However, our preference to follow the full process, allowing the school psychologist to determine whether an evaluation is appropriate and, if so, which assessments would be most beneficial."

58. The District submitted several pages of the Student's behavior records, including data on motivation, time, type of behavior, location, day of the week, and average days per month. In total, the behavior records listed 33 referrals during the complaint period. The overwhelming majority of referrals described in-class behavior categorized as defiance, inappropriate behavior, threats, and aggression. The data pointed to task avoidance as the motivation for most misbehavior.

59. The District also submitted two pages of academic performance data:

60. A beginning-of-year benchmark for reading, which placed the Student above benchmark, with particular strengths in oral reading fluency.

61. A beginning-of-year benchmark score or math, which placed the student "far below level".

62. On January 8, 2026, the Department's Investigator spoke with the District's Superintendent, who also currently fills the role of Special Education Director. They stated that they were unaware of any Parent request for special education evaluation before September 22, 2025. In response to the Investigator's questions about whether the Student's behavior profile might raise suspicion of disability and need for special education, the Superintendent replied as follows:

    "If a student has only a behavior problem, ODE does not look favorably on a child having an IEP."

    "During a period with no behavior referrals, the child was on medication."

    "504 and special education lose their meaning when so many kids have behavior problems."

    "[The Parent] was under big misconceptions … [they] thought that [the Student would be in a small class. …. All our kids are general ed[ucation] kids first. There is no magic special class and hasn't been for 25 years."

63. The Superintendent told the Investigator that the practice of the District Student Success Team (SST), when a Parent seeks special education evaluation, is to gather information about the student, obtain medical records, and give this information to the school psychologist who will determine whether a special education evaluation is warranted and, if so, what tests will be administered.

64. The Investigator asked the Superintendent if the District had written procedures outlining the process to be followed when a parent asks for a special education evaluation. The Superintendent replied in the affirmative and agreed to send a copy of the District procedures to the Investigator. The Investigator also noted that the list of persons knowledgeable about matters related to this Complaint had not included a School Psychologist. The Superintendent replied that the School Psychologist was a contractor rather than District employee. The Investigator asked for contact information for the School Psychologist, and the Superintendent agreed to send that information. The investigator did not receive either the written procedures or contact information for the School Psychologist.

65. On January 7, 2026, the District revised the Student's 504 plan accommodations, which then provided in their entirety:

- Check-ins
- Headphones as needed
- Send Class/Home work home, when completed send picture to the teacher (email) Parent will do this
- Dad requested abbreviated day and pick up [the Student] at 12 (noon)
- Preferential seating
- Extra time to complete assignments
- Chunking assignments
- Break (10 minutes)

66. On January 12, 2026, the District submitted the District's *[Multi-Tiered Systems of Support/]Student Success Team (MTSS/SST) Handbook* (Handbook) in response to the Investigator's request for a written description of the District's SST practice. MTSS is a general education framework, distinct from special education, designed to ensure students receive data-informed interventions of varying frequency, intensity, and duration appropriate to their needs.

    The *Handbook* includes a lengthy flowchart that identifies several steps before referral to the SST, followed by a minimum of two follow-up SST meetings at 4-6 week intervals, and with "no limit to the # of follow-ups allowed". The Handbook states that the "expectation is that teachers and other referring staff have attempted a variety of interventions prior to an MTSS/SST referral" and referral should be considered "only after" supports by the teacher "have been exhausted". Parents are not involved in the MTSS/SST process except to sign a consent to evaluate. A Frequently Asked Questions section of the *Handbook* includes two questions and answers relevant to this Complaint: Question: "Does the parent/guardian have to be invited to the MTSS/SST"? Answer: "No, although parents do need to be contacted and advised that there are concerns that the MTS/SST will meet the problem-solve/identify solutions."
    Question: "What should I do if my student has been through the process multiples years in a row and they are still struggling? Shouldn't a student like this be referred for special education"? Answer: "A student who continues to struggle in some aspect of the curriculum is NOT necessarily a student who is suspected to have a disability or be eligible for special education."

67. On January 12, 2026, the District submitted the District's special education policies and procedures. They conform to the Oregon Administration Rules implementing the IDEA.

68. As of January 13, 2026, the District has not formed a team that includes the Parent to initiate a special education referral. As of January 11, 2026, the District has not given the parent a PWN explaining a District proposal or refusal in response to any of the Parent's requests for a special education evaluation.

IV. DISCUSSION

Child Find

The Parent alleges that the District violated the IDEA by failing to identify the Student as a child with a disability, despite the fact that the District had reason to suspect that the Student might need special education.

The Individuals with Disabilities Education Act (IDEA) requires that "school districts must identify, locate and evaluate all resident children with disabilities, regardless of the severity of the disability, who are in need of early intervention, early childhood special education, or special education services".[6] This requirement applies to students suspected of having a disability even if they are advancing from grade to grade.[7]

The District's assertion that the Student is "highly capable" and "consistently performs at or above grade level expectations" indicates a narrow focus on academic performance. The IDEA's Child Find duty extends beyond academics alone; it requires the identification of all areas of suspected disability, including those that manifest as behavioral, social, or emotional concerns. Educational performance under the IDEA is not limited to academic proficiency or grade advancement; it encompasses a student's functional and developmental progress as well. A student's ability to pass classes does not relieve a school district of its obligation to evaluate when there is reason to suspect that social or behavioral concerns are interfering with the student's education or requiring specialized instruction.

In this case, the District has had reason to suspect that the Student had one or more disabilities for at least two years. The Parent repeatedly expressed concern and asked for a special education evaluation. Twice—once in 2024 and again during the complaint period in 2025—the Parent withdrew the Student from the District to homeschool because of frustration with the District's failure to act on suspicion of disability. The District received notice of the Parent's action and the Parent's reason for deciding that home school was the only option. The District's own records demonstrate that the Student was struggling to meet school behavioral and academic expectations, and yet the District took no action to determine whether the Student needed special education.

Because the District failed to evaluate the Student during the complaint period, the Department cannot determine whether the Student was denied FAPE without engaging in speculation. However, if the Student is found eligible, the District's failure to act has denied the Student access to necessary services for at least one year.

The Department substantiates this allegation.

[6] OAR 581-015-2080(1)
[7] OAR 581-015-2080(2)(d)

Evaluation

The Parent alleges that the District has ignored or dismissed requests for special education evaluation of the Student for the entire complaint period and earlier.

A district must conduct an initial evaluation if it suspects or has reason to suspect that:

(a) The child has a disability that has an adverse impact on the child's educational performance; and

(b) The child may need special education services as a result of the disability.[8]

Either a parent or a school district may initiate a referral for an evaluation to determine if a child has a disability and needs special education.[9] If a parent or a school district initiates a request for a special education evaluation, the district must designate a team to determine whether a special education evaluation is appropriate.[10]

(a) The team must include the parent(s) and at least two professionals, one of whom is a specialist knowledgeable and experienced in the evaluation and education of children with disabilities.

(b) The team may make this decision without a meeting but, If a meeting is held, parents must be invited to participate.

An LEA may not delay or deny an evaluation in order to assess a student's Response to Intervention (RTI) under an MTSS framework when a district suspects, or has reason to suspect, a child is or may be a child with a disability. "The regulations at 34 CFR § 300.301(b) allow a parent to request an initial evaluation at any time to determine if a child is a child with a disability. The use of RTI strategies cannot be used to delay or deny the provision of a full and individual evaluation, pursuant to 34 CFR §§ 300.304-300.311, to a child suspected of having a disability under 34 CFR § 300.8 . . . . If, however, the LEA does not suspect that the child has a disability, and denies the request for an initial evaluation, the LEA must provide written notice to parents explaining why the public agency refuses to conduct an initial evaluation and the information that was used as the basis for this decision."[11]

The Parent repeatedly expressed concern about the District's imposition of discipline rather than considering the student's misconduct as a possible manifestation of disability. Even if the Parent had said nothing, the District should have taken action. The IDEA does not place the

[8] OAR 581-015-2105(3)(a)
[9] OAR 581-015-2105(2)
[10] OAR 581-015-2105(3)(b). The Department notes that the District has written policies that are compliant with the IDEA: Special Education—Evaluation and Eligibility Procedures IGBAH-AR.
[11] OSEP Memo to State Directors of Special Education, OSEP 11-07

burden of investigating whether a child has a disability and may need special education on the parents' shoulders; the IDEA places this responsibility squarely on school districts. The District in this case had more than enough reason to suspect that the Student might have a disability and need special education.

The District argued that the Student was very bright and did well when engaged in the work. However, the Student's non-engagement and work refusal has had an impact on academic performance, especially in math. A child's presumed intelligence and capability of working well when engaged, does not foreclose the possible need for special education. In addition, the Student's inappropriate behaviors have caused substantial disruption of their schooling. A student cannot be expected to make academic progress consistent with their presumed ability if the student is not in class and participating in learning activities.

Even if the Student's academic performance were exemplary across the board, the onus would remain on the District to address the Student's disability-related to behavior and the impact of any mental health or emotional disabilities on the Student's educational achievement. Academic performance alone, even if exemplary, is not the sole measure of educational benefit and achievement. Education encompasses an array of skills, behaviors, and experiences that a child acquires through schooling. Special education explicitly requires that IEP teams consider and address the functional needs that arise from a child's disability. The District *Response* acknowledged that the Student frequently exhibited concerns with attention and behavior. The Student's frequent inappropriate behavior led to numerous referrals, some leading to out-of-school suspension or requests for the Parent to pick the Student up during the school day. Behavior that interferes with instructional time inevitably has an adverse impact both on the Student's academic and non-academic skill and knowledge acquisition.

The District appears to be under the impression that a child cannot have an IEP due to behavior-related reasons. This understanding is fundamentally incorrect and contrary to the definition of "child with a disability".[12] A special education evaluation must include a comprehensive assessment of all areas related to a child's disabilities. In this case, the Student has documented disabilities, including emotional and behavioral disabilities. There remain questions about the educational impact of the Student's disabilities that should have already been addressed through a comprehensive, individualized evaluation. The information obtained through an initial special education evaluation illuminates a child's special education needs – whether academic, social-emotional, or behavioral – which must be addressed in an IEP. The Department does not presume to determine the IEP content for any child with a disability; that is the sole prerogative of the child's IEP team, which includes the child's Parents. Because the District has yet to conduct a special education evaluation, there is no basis for the District to pre-determine what might be included in the Student's IEP.

The Investigation yielded no evidence that the District initiated any IDEA-required processes in response to the Parent's repeated requests for a special education evaluation. In its *Response,*

[12] 34 CFR § 300.8

the District maintained that it followed its standard procedure. As described by the Superintendent and outlined in the District's *MTSS/SST Handbook,* this procedure includes staff collecting data for review by a school psychologist, who unilaterally determines whether an evaluation was warranted. This process is fundamentally inconsistent with the IDEA. It fails to utilize a properly constituted team that includes the parent and impermissibly delegates the decision to suspect a disability to a single staff member who may have no direct knowledge of the child. Furthermore, by explicitly prohibiting special education referrals until interventions are "exhausted" and permitting indefinite SST meetings, the District's procedures place unnecessary and inappropriate barriers to Child Find, effectively ensuring that evaluations are inappropriately delayed.

The Department substantiates this allegation.

Prior Written Notice (PWN)

The complaint alleges that the District failed to provide prior written notice (PWN) of its decisions.

The IDEA requires school districts to give parents a PWN whenever 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.

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;
(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 twofold. 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 to understand exactly what considerations led to those decisions.

Throughout and before the complaint period, the Parent repeatedly requested a special education evaluation, both verbally and in writing. Various District staff members have verbally replied to the requests, but the District has not, at anytime provided, the Parent a PWN. The

IDEA requirement is unambiguous; formal PWN notice is required for every school district proposal or refusal related to the identification, evaluation, educational placement, or the provision of FAPE to a child with a disability.

The Department substantiates this allegation.

V. CORRECTIVE ACTION[13]

In the Matter of Brookings-Harbor School District
Case No. 25-054-092

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

Action Required	**Submissions**	**Due As Soon As Possible But No Later Than:**
1. Conduct an evaluation planning meeting to determine the specifics of a comprehensive, individualized special education evaluation for the Student. Based on the results of that meeting, seek consent from the Parent to conduct the initial evaluation.	The District shall submit to the Department:	
	Notes from the evaluation planning meeting	February 15, 2026
	Consent for evaluation signed and dated by Parent.	February 15, 2026
When consent for the initial evaluation is received, conduct the evaluation.	A copy of the evaluation reports and Eligibility form(s) that resulted from the evaluation.	May 15, 2026
Upon completion of the evaluation, determine whether the Student meets eligibility for special education under any eligibility category.	A copy of the Prior Written Notice (PWN) given to the Parent documenting the evaluation process and outcome	May 15, 2026

[13] The Department's order shall include any necessary corrective action as well as documentation to ensure that the corrective action has been completed (OAR 581-015-2030(13)). The Department expects and requires the timely completion of corrective action and will verify that the corrective action has been completed as specified in any final order (OAR 581-015-2030(15)). The Department may initiate remedies against a party who refuses to voluntarily comply with a plan of correction (OAR 581-015-2030(17) & (18))

Action Required	Submissions	Due As Soon As Possible But No Later Than:
2. If the Student's team, including the Parent, finds the Student eligible for Special Education services, convene an IEP meeting to be facilitated by a neutral facilitator assigned by the Department. The IEP developed by the team must address all of the Student's needs, including academic and functional needs, whether or not commonly associated with the category or categories under which the Student is determined eligible.	If the Student is determined eligible for special education, the District shall submit to the Department: IEP meeting minutes A copy of the completed IEP A copy of the PWN given to the Parent documenting the IEP team process and outcome	 June 15, 2026 June 15, 2026 June 15, 2026
3. If the Team finds the Student eligible for special education, the District must convene the IEP team (including the Parent) to determine the amount and form of compensatory education owed to the Student. The District must effectively "look back" to determine what compensatory education is required to remedy the delay in identification. The team must calculate services for the period from November 19, 2024 through the date of the Student's Eligibility Determination. The team must determine what special education and related services the Student likely would have received had they been identified at the start of the complaint period. The District must provide compensatory education to make up for what would have been provided had the evaluation occurred continuously and timely. If the Parties cannot agree on the type and amount of compensatory education owed to the	If the Student is determined eligible for special education, the District shall submit to the Department: A copy of the PWN documenting the offer of compensatory education (or the specific data-based justification if the team determines no compensatory education is needed despite eligibility) A plan for delivery of these services, including timelines Evidence that compensatory	 June 15, 2026 June 15, 2026 January 15, 2027

Action Required	Submissions	Due As Soon As Possible But No Later Than:
Student, the Department will make this Determination following the District's development of the initial IEP.	education was provided consistent with the plan developed	
4. The District must update its *MTSS/SST Handbook* to clearly describe a compliant Child Find process, including that MTSS/RTI processes cannot be used to delay or deny an evaluation for special education.	The District shall submit the following: Updated MTSS/SST Handbook	March 30, 2026
5. Staff training to all certified District staff (i.e., teachers and administrators) on: a. Child Find as an Affirmative Obligation b. Role of MTSS and RTI c. Evaluation Planning, Timelines, and Team Decision Making	The District shall submit the following: Training agenda and materials, to ODE District Compliance Specialist for review and approval Evidence of completed training (e.g., notes, sign-in, certificate of completion, etc.)	March 30, 2026 September 15, 2026
6. Staff training to all District staff involved in special education decision-making on requirements related to: a. Prior Written Notice b. Informed Consent	The District shall submit: Training agenda and materials, to ODE District Compliance Specialist for review and approval Evidence of completed training (e.g., notes, sign-in, certificate of completion, etc.)	March 30, 2026 September 15, 2026

Dated: this 16 Day of January, 2026



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Ramonda Olaloye
Assistant Superintendent

Office of Enhancing Student Opportunities

E-mailing Date: January 16, 2026

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).)