BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of Winston-Dillard School District 116	))))	FINDINGS OF FACT, CONCLUSIONS, AND FINAL ORDER Case No. 25-054-089

I. BACKGROUND

On December 5, 2025, the Oregon Department of Education (the Department) received a written request for a special education complaint (Complaint) from the parents (Parents) of a student (Student) residing in the Winston-Dillard School District (District). The Parents 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 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 December 12, 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 December 26, 2025. The District requested, and the Department granted, a short extension of time to respond due to the intervening holidays.

On December 29, 2025, the District submitted a *Response*, disputing the allegations described in the Complaint. The District submitted the following relevant items:

1. District *Response*, 12/29/25
2. List of Knowledgeable Staff, 12/29/25
3. Student IEP, 4/20/25
4. Prior Written Notice, 5/6/25
5. Prior Written Notice, 9/15/25
6. IEP Meeting Notes, 10/28/25
7. FIEP Agenda, 10/28/25
8. Prior Written Notice, 10/30/25
9. Stand ready letter to Parents, 10/30/25

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

10. Prior Written Notice, 10/30/25
11. Facilitated IEP Meeting Notes (missing signatures and dates), 10/28/25
12. Prior Written Notice, 9/9/25
13. Prior Written Notice, 9/9/25
14. Prior Written Notice, 9/9/25
15. Special Education Placement Determination, 5/6/25
16. Transition Plan, 9/14/25
17. Early Intervention Transition Action Plan, not dated
18. Email: Re: IFSP to IEP for [Student], 4/30/25
19. [Student's] Direct Support Professional (DSP)—Role at School, not dated
20. Parent's Request for DSP Inclusion in IEP, 8/26/25
21. Email: New message from [Parent] to [Elementary School], 8/26/25
22. Email: [Student], 8/27/25
23. Email: Re: Meeting Notes, 9/3/25
24. Email: ODE Supports, 9/4/25
25. Email: Volunteer Information, 9/5/25
26. Email: IEP Meeting, 9/5/25
27. Email: [Parent], 9/5/25
28. Email: FW: Volunteer Information, 9/10/25
29. Email: Re: [Elementary school], 9/10/25
30. Stand ready letter from District to Parents, 9/15/25
31. Email: [Student], 9/15/25
32. Email: FW: [Mediation] [District], 9/18/25
33. Email: Follow-Up on Threat of Disenrollment and Lack of Response, 9/24/25
34. Email: Re: Mediation and Facilitated IEPs, 9/26/25
35. Email: Re: Follow-Up on Threat of Disenrollment and Lack of Response, 9/24/25
36. Letter from Student's Physician, 8/27/25
37. Email: [Student] FIEP, 11/3/25
38. Email: Formal Complaint Regarding Unprofessional Conduct During Facilitated IEP Meeting (10/28/2025), 11/6/25
39. Email: RE: [Student] FIEP, 11/12/25
40. Email: Public Complaints, 11/13/25
41. Email: Independent investigation, 11/24/25
42. Email: Complaint, 12/2/25
43. Email: Submission of Special Education Complaint—[Student], 12/4/25
44. Email: FW: Submission of Special Education Complaint—[Student], 12/5/25
45. Email: Re: Complaint, 12/5/25
46. Email: [Student], 5/5/25
47. Email: WDSD IEP Notes Temp (2), 9/3/25
48. Email: IEP Meeting, 9/3/25
49. Email: [District] shared "[Student] Team Communication Log" with you, 9/9/25
50. Email: [Student's] Elementary, 9/10/25
51. Stand ready letter from District to Parents, 9/9/25
52. Email: [Parent], 9/5/25

53. Email: Mediation Paperwork, 9/9/25
54. Email: Request for Response in [Student] & Winston-Dillard Public Schools, #25-054-089, 12/12/25
55. District Volunteer Application, 8/28/25
56. District Volunteer/Chaperon Guidelines, Code of Confidentiality, 8/21/25
57. Email: OT Chat, 1/7/25
58. Email: RE: Physical Therapist Visit, 2/20/25
59. Email: Re: IFSP to IEPs, 4/2/25
60. Occupational Therapy Self-Feeding Guidelines, 4/20/25
61. Email: Occupational Therapy Self-Feeding Guidelines, 4/28/25
62. Student File Checklist 2024-2025
63. Student IEP Draft, 4/30/25
64. Letter from Student Physician, 7/9/25
65. Family Demographic Data, no dated
66. Email: RE: [Student] Vision, 8/18/25
67. Email: [Student], 8/18/25
68. [Student's] Day at School – With DSP Support, not dated
69. Email: [Elementary School] DSP, 8/26/25
70. Email: [Student], 8/26/25
71. Letter from Student's Physician, 8/27/25
72. Email: Re: [Student], 8/27/25
73. Email: [District] shared "[Student's] IEP '25" with you, 8/28/25
74. Letter from Student's Occupational Therapist, 8/29/25
75. Letter from Student's Ophthalmologist, 8/31/25
76. Meeting Notes, 9/2/25
77. IEP Team Meeting Notes, 9/3/25
78. Email: FW: Meeting Notes 09.02.25…, 9/3/25
79. Email: Phone Call – [Parent], 9/3/25
80. Email: [Student] 9/3/25
81. Email: PE Protocols, 9/4/25
82. Email: Medical statement request, 9/5/25
83. Email: [Student], 9/5/25
84. Email: RE: [Parent], 9/8/25
85. Email: Mediation Paperwork, 9/9/25
86. Email: FW: Mediation Form – Signature Needed, 9/9/25
87. Stand ready letter from District to Parents, 9/9/25
88. Email: [Student] Stand ready to serve PWN, 9/9/25
89. Email: Request for Mediation, 9/10/25
90. Request for Mediation, 9/8/25
91. Email: FW: Meeting Notes, 9/10/25
92. Meeting Notes, 9/2/25
93. ODE Facilitated IEP Request Form, not dated
94. Email: Re" [Student's Elementary School], 9/10/25
95. Email: [District] shared "[Student's] ECSE Kindergarten Transition Notes 1.22.25" with

you, 9/10/25
96. Email: [Student] Transition Notes, 9/10/25
97. Email: RE: ODE Facilitated IEP Request, 9/11/25
98. Stands ready letter to Parents, 9/15/25
99. Email: Re: [Student] Paperwork, 9/15/25
100. Email: RE: ODE Facilitated IEP Request, 9/15/25
101. Email: [Student] Transition Plan, 9/22/25
102. Email: 10 Day Drop, 9/24/25
103. Email: [Student] PWN, 9/25/25
104. Email: RE: Follow-Up on Threat of Disenrollment and Lack of Response, 9/26/25
105. Email: [Family] Email, 9/29/25
106. Email: RE: Winston Dillard School District/[Family] Request for Facilitated IEP Meeting, 10/17/25
107. Email: Re: [Student], 10/20/25
108. Email: [Student] IEP, 10/28/25
109. IEP Team Meeting Notes, 10/28/25
110. Letter of Intent, 2025-2026, 10/29/25
111. Stand ready letter, 10/30/25
112. Facilitated IEP Meeting attendance (includes signatures and dates), 10/28/25
113. Email: [Student] FIEP Signature Page, 11/3/25
114. Stand ready letter to Parents, 10/30/25
115. Email: RE: Paperwork, 11/3/25
116. Email: [Student] FIEP, 11/12/25
117. Email: Independent Investigation, 11/17/25
118. Email: FW: [Student] Transition Notes, 12/8/25
119. Email: IEP Mtg Attendee's October 28th for [Student], 12/8/25
120. Email: RE: IFSPs to IEPs, 4/2/25
121. Email: Re; Transition meetings next week, 4/24/25
122. Email: FW: Incoming Kinder, 8/20/25
123. Email: [Student], 8/26/25
124. Email: RE: Incoming Kinder, 8/28/25
125. Email: "Stand ready to Serve [Student] 9/9/25/pdf", 9/9/25
126. Email: FW: ODE Facilitated IEP Request, 9/11/25
127. Email: facilitated IEP, 10/20/25
128. Email: RE: Inten to Enroll in CVA, 11/21/25
129. Formal IDEA Complaint: Denial of Safe and Appropriate Education, 10/9/25
130. Email: FW: Incoming Kinder, 8/20/25
131. Email: FW: WDSD Kinder transition notes, 1/22/25
132. Email: Phone call – [Parent], 9/3/25
133. Email: RE: [Parent], 9/5/25
134. Email: FW: Need contact info please, 10/9/25
135. Email: FW: [Student], 12/9/25
136. Email: "[Student] FIEP Docusign 2025.pdf….", 12/11/25
137. Facilitated IEP Meeting Notes, 10/28/25

138. Email: RE: Physical Therapist Visit, 2/10/25
139. Text messages between District and Parents, 8/29/25
140. Email: Physical Activity Protocol…, 8/29/25
141. Student Daily Attendance documentation, 2025-2026

On January 5, 2026, the Department's Complaint Investigator interviewed the Parents. Following that interview the Parents submitted additional information in support of this Complaint.

On January 13, 2026, the Complaint Investigator interviewed the Superintendent and Principal. The District's Legal Counsel was present for those interviews. 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 December 6, 2024, through to the filing of this Complaint on December 5, 2025.

Allegations	Conclusions
Content of the IEP It is alleged that the District violated the IDEA when it did not formulate an IEP that met the Student's needs arising from their disability to enable them to be involved in, and make progress in, the general education curriculum. Specifically, it is alleged that the Student's IEP does not include appropriate related services, to address the Student's medical needs, such as nursing support, and/or allowance of the Student's caregiver to assist the Student, to allow the Student to participate in the general education curriculum. (OAR 581-015-2200; 34 CFR § 300.320)	**Not Substantiated** The record supports that the District formulated an IEP that addressed the Student's needs including individual support personnel assigned to the Student.
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 that included appropriate related services, such as accommodations for the Student's medical needs, nursing	**Not Substantiated** The record supports that the District provided support personnel to meet the Student's needs as described in their IEP.

support, and/or the allowance of the Student's caregiver, to address the Student's medical needs. (OAR 581-015-2220; 34 CFR § 300.323 & § 300.324)	
Free Appropriate Public Education It is alleged that the District violated the IDEA when it did not formulate an appropriate IEP for the Student, nor provide appropriate related services to the Student to support the Student's specific needs arising from their disability, resulting in the Student not attending school. It is alleged that these actions denied the Student a FAPE. (OAR 581-015-2040; 34 CFR § 300.101)	**Not Substantiated** The record supports that the District formulated an IEP to address the Student medical and other needs, and did provide staffing as described in the IEP.

REQUESTED CORRECTIVE ACTION
The Parents request that the District: 1. Reinstate the Student's enrollment in the District's elementary school; 2. Permit the Student's DSP to accompany them at school to meet the Student's medical needs; 3. Amend the Student's IEP to formally include the DSP caregiver as a required medical accommodation; 4. Provide training to District staff and administrators on supporting medically complex students and ensuring compliance with IDEA and Section 504; 5. Implement measures to prevent retaliation or discrimination against the Student. The Student's caregivers, and family; 6. Ensure future IEP meeting include all necessary team members and accurately document agreed upon supports.

III. FINDINGS OF FACT

1. The Student in this matter is five years old and attended kindergarten in the District.

2. The Student is eligible for special education under the categories Orthopedic Impairment (OI, and Developmental Delay (DD).

3. The Student does well with reading and spelling, uses an AAC device, is eager to learn and enjoys puzzles. The Student's teachers have observed that they are persistent, loves being independent, and likes to finish things they start.

4. The Student has a medical diagnosis of Cortical Visual Impairment (CVI). The Student's IEP describes CVI as, "a neurological form of visual impairment which has unique implications for functional vision. This form of visual impairment requires a very different approach to instructional supports and environmental/materials adaptations as compared with ocular visual impairments. CVI presents a unique need for interventions to support the learner's use of vision across environments. Provided with appropriate intervention, children and youth with CVI can be expected to demonstrate measurable progress in visual functioning over time." The Student's IEP indicated that on as scale of zero to ten, with ten approximating a typical visual response, the Student scored 7+ to 7.25, which equates to functional vision in Phase III of CVI. "The CVI Characteristics continue to impact the learner though they present in a potentially more subtle way. Children in Phase III can demonstrate visual curiosity, which may be more evident in familiar settings. Individuals in Phase III require unique adaptations to support learning and the development/expansion of visual vocabulary, including adaptation to teaching new concepts introduced in visual information, developing a 'visual memory bank'…literacy and communication. Children in Phase III often require instruction in salient features and the use of comparative language….to develop comparative thought and support visual recognition, identification, and discrimination. Responses to instructional or incidental learning that are atypical should be considered an opportunity to use comparative language to indicate the similarities and differences between two or more concepts. [The Student] uses [their] vision consistently across [their] learning environments, and is recognizing introduced two-dimensional images…well. As complexity requirements increase into kindergarten, continuous monitoring for accessibility of word form and visual clutter/sensory complexity will be necessary to ensure continued access…".

5. The Student ambulates well with a wide base of support. The Student's gait displays mild ataxia. The Student's IEP indicates that the Parents had observed increased independence with gross motor skills, and that the Student has engaged in more climbing and jumping. The Student's fine motor skills display mild dysmetria. The Student can follow classroom routines, one step directions with two parts and complex vocabulary as a part of a routine. The Student can communicate with many modalities, including the use of words or word approximations, signs and gestures, using electronic communication devices to answer yes/no questions and one- and two-word phrases.

6. On April 20, 2025, the District created Occupational Therapy Self-Feeding Guidelines for the Student. The document described the Student's medical conditions including, Hypoxic-Ischemic Encephalopathy, Dysphagia, Cerebral Palsy, Ataxia, and CVI. The guidelines took note of the Student's demonstrated difficulty at that time with oral-motor control and utensils. The guidelines noted that the Student was able to consume food of all textures and consistencies, but required accommodations to ensure safety, encourage independence, and support effective nutritional intake. The document indicated that the Student required close supervision during meals and snacks, but that

the Student could monitor their bite size most of the time. The Student required "line of sight supervision, by school staff" and staff "assisting and observing must be CPR certified." The guidelines included other concerns, risks, and contraindications for eating.

7. On July 9, 2025, the Student's Physician's Assistant provided a letter indicating that, because of the Student's Cerebral Palsy, the Student would require the use of their wheelchair and would require one-to-one support.

8. On April 28, 2025, the District sent the Parent a copy of the Student's safe feeding guidelines.

9. On April 30, 2025, the Student's IEP team met to create an initial IEP for the Student, drawing largely from the Student's Individualized Family Service Plan (IFSP). The Student's April 30, 2025, IEP included measurable annual goals in language, speech, adaptive/self-management, motor skills, and vision.

    a. The Student's Speech goal envisioned that when "provided with specially designed instruction in speech, [the Student] will increase [their] speech intelligibility of age-level sounds in CV/VC/CVC/and in multisyllabic words" (a) in isolation, (b) in syllables, (c) in words, and (d) in phrases with 80% or better accuracy over 3 data collection sessions as measured by SLP/SLPA data and/or observation by April of 2026. The Student's IEP included 300 minutes per year of SDI in Speech.
    b. The Student's Adaptive/Self-Management goals envisioned that within "one year, to increase self-feeding independence, [the Student] will feed self with a spoon and fork independently, 4 out of 5 opportunities and/or 80% accuracy as measured by teacher observation." The Student's IEP included 30 minutes per day of SDI in Adaptive/Self-Management.
    c. The Student's Motor Skills goal envisioned that within "one year, given specially designed instruction in gross motor skills, [the Student] will independently navigate the playground and gym, 4 out of 5 opportunities as measured by teacher observation. The Student's IEP included 540 minutes per year of SDI in Motor Skills.
    d. The Student's Language goal envisioned that when "provided with specially designed instruction in Language, [the Student] will follow 1 to 2 element directions with concept and descriptive words….in 4:5 opportunities, over 3 data collection sessions, as measured by SLP/SLPA data collection, by April of 2026." The Student's IEP included 500 minutes per year of SDI in Language.
    e. The Student's Adaptive/Self-Management goal envisioned that in "one year, to increase self-feeding independence, [the Student] will feed self with a spoon and fork independently, 4 out of 5 opportunities and/or 80% accuracy as measured by teacher observation."
    f. The Student's Motor Skills goal envisioned that in "one year, given specially

designed instruction in gross motor skills, [the Student] will independently navigate the playground and gym, 4 out of 5 opportunities as measured by teacher observation."

g. The Student's Vision goal envisioned that by "the end of April 2026, [the Student] will identify at least 2 self-advocacy strategies and request visual breaks or preferred tools to reduce visual fatigue with one or fewer verbal prompts in the classroom setting in 4out of 5 observed opportunities as measured by TVI ECC checklist and observation." The Student's IEP included 540 minutes per year of SDI in Vision Expanded Curriculum.

10. The Student's April 30, 2025, IEP also included supplementary aids and services including: high contrast/bold pens made available for writing; access to low vision assistive technology when needed; visually monitoring to watch for signs of fatigue; access to seating modification and support; preferential seating nearest the point of instruction; built up utensils provided during mealtime; help carrying tray during mealtime; individual orientation to new spaces; high contrast indicators for changes in depth (steps) and poles on campus; breaks as needed for visual fatigue; fidgets as needed; wheelchair readily available when fatigued; examples of work/directions at desk as needed; and, extra processing time before re-prompting (at least 30 seconds). The Student's IEP also included: access to page blocked to eliminate visual clutter when reading; printed materials provided in at least 18pt. font; external viewing monitor made available for materials shown on the board; access to positioning tools such as foot stool/back seat as needed; personal daily schedule on desk including bathroom reminders; one-on-one support to monitor safety; access to AAC device at all times; and, extra time provided to finish meals.

11. The Student's IEP also included 300 minutes per year of consult between the Occupational Therapist and the Student's IEP team; 300 minutes per year of consultation for the Student's Teacher of the Visually Impaired to the IEP team; 300 minutes per year of consult between Special Education and the General Education Teacher; 240 minute per year of consult between the Speech-Language Pathologist and the General Education Teacher; and, 240 minutes per year of consult between Physical Therapist and the IEP team.

12. On May 6, 2025, the District sent the Parent a Prior Written Notice (PWN) documenting the IEP team's adoption of the April 30, 2025, IEP, and the Student's need for special education.

13. On August 18, 2025, the District had assigned the Student's classroom teacher and one-on-one support person for the 2025-26 school year.

14. On August 18, 2025, the District sent an email to the Student's team inviting them to come to the elementary school to meet and discuss how best to support the Student.

15. On August 21, 2025, the Student's Direct Support Professional (DSP) completed a District Volunteer Application.

16. On August 26, 2025, the Parents sent a request to the District to include the Student's DSP in the Student's IEP. The Parents provided a list of benefits to the Student for the District's consideration. These benefits included, "assisting the Student to move safely between classrooms, playground, cafeteria, and other areas; monitor wheelchair, braces, and adaptive equipment; and support safe transfer and positioning as directed by therapist and school staff." The request indicated that the DSP could also support the Student's personal care and health, such as providing toileting, feeding, and other daily living assistance. The Parent's suggested that the DSP could assist with classroom participation including supporting the Student during group activities, reinforcing communication strategies, and the use of consistent cues and supports. The Parents also presented the benefit of the DSP's ability to assist with therapy carryover such as implementing strategies from the Physical Therapist (PT), Occupational Therapist (OT), and speech therapy, ensuring continuity between therapy sessions and classroom activities.

17. The Parents specifically noted that the Student "requires consistent, individualized assistance" with such activities as "mobility, communication, medical safety, personal care, behavior regulation, [and] participation in classroom activities." The Parents noted that the DSP has "the specialized training and established relationship that helps [the Student] remain safe, engage[d], and able to benefit from [their] education." The Parents requested an IEP team meeting to discuss their proposal and provided suggested IEP language for this purpose.

18. On August 26, 2025, the District documented that the Student's IEP team determined that the Student required a 1:1 aide to start the year, but that prior to starting the year the Parents requested their privately paid for DSP attend with the Student in school. The District documented its understanding that the Student would only need support from the District provided 1:1 aide, with support being pulled back over time to create a less restrictive environment than that proposed by the presence of the DSP.

19. On August 27, 2025, a Physician's Assistant from the Student's medical team provided a letter that read; "[The Student] is under my care and due to medical reasons, requires a Direct Support Professional to assist [them]. Please allow [their] DSP to be in the classroom to provide assistance."

20. On August 29, 2025, the Student's Occupational Therapist produced a letter regarding the DSP. The letter stated in relevant part, "We have had many opportunities to observe and engage with [the Student's] DSP and [they] are well connected with [the Student], understands [the Student's] needs, and is an asset to [the Student's] team."

21. On August 31, 2025, the Student's Ophthalmologist produced a letter that read in

relevant part, "Due to [the Student's] cortical visual impairment and other medical issues, [the Student] has an one-on-one direct Support professional as part of [their] IEP. It is recommended that [the Student] continues to work with [their] existing direct support professional since preschool for consistency. Having a consistent support is crucial for the well-being of children with disabilities. It helps to fosters [*sic*] a trusting relationship, which is important for creating a safe and comfortable learning environment."

22. On September 2, 2025, District administrators met with the Parents to discuss their concerns regarding the DSP supporting the Student in school. During the meeting the District and the Parents discussed the DSP's role, purpose in completing volunteer paperwork, and that the DSP was always not with the Student due to the need for rest periods. The Parents requested, and the District agreed to include the DSP in IEP team meetings. At the time of the meeting, there was an upcoming IEP team meeting scheduled.

23. On September 3, 2025, the Student's IEP team was scheduled to meet to discuss concerns raised by the Parents regarding the DSP. The meeting was cancelled ahead of the team meeting.

24. On September 4, 2025, the District sent an email to the Parent informing them of their rights in the case that the Parents did not agree with the decisions made by a school district regarding their child's IEP. The District included a copy of the Procedural Safeguards, and links to additional resources the Parents could consult for guidance.

25. On September 8, 2025, the Parents requested mediation to address their concerns.

26. On September 9, 2025, the District sent the Parents a letter documenting the Parent's communication that the Student would not attend classes at the District's elementary school. The letter discussed the Student's eligibility for special education and included a pamphlet addressing rights and procedures contained with the IDEA.

27. On September 9, 2025, the District sent the Parents PWN to the Parents documenting the District's refusal for the DSP to act as a volunteer and designated support person for the Student. The PWN indicated that it refused the Parent's request to utilize the DSP "because doing so would violate the Student's right to a free appropriate public education…" and that the "district has provided a one-on-one which is written into [the Student's] IEP to meet all educational and access needs."

28. On September 9, 2025, the District sent PWN to the Parents documenting the District's proposal that the Student attend school for the hours indicated on the Student's IEP.

29. On September 10, 2024, the District sent an email to the Parents reiterating a September 9, 2025, conversation in which the District communicated that the DSP could

no longer come to the school. The District email indicated that the District had "tried to accommodate [the Parent's] request through the Volunteer policy for a transition plan into kindergarten." The District further reported that this could "no longer be accomplished because the DSP [was] interfering with the normal operations of the classroom, school, and with [the Student's] educational programming." The District suggested holding an IEP team meeting to address these concerns further, using a mediator for that meeting, and documented their understanding that the Parents would not permit the Student to attend school without the DSP.

30. On September 14, 2025, the District created a Transition Plan by which the DSP would act as a full-time volunteer and support to the Student for one week, followed by a week of the DSP providing care half time, and the District assigned 1:1 aide would provide half-time support, followed by a week of the DSP acting as a volunteer in the classroom, and later being available to consult with the District-provided 1:1 aide and ensure the Student felt safe and comfortable.

31. On September 15, 2025, the District sent the Parents PWN documenting the District's request to the Department for mediation to assist the District and Parent with their discussion of the District's FAPE responsibility and the role of the DSP.

32. On September 15, 2025, the District sent the Parents a letter documenting the Parents' September 9, 2025, communication to the District, that the Parents would not permit the Student to attend school without the DSP. The letter reiterated that the District stood ready to serve the Student. The letter further noted that pursuant to Oregon law, "if the Student is absent for 10 consecutive school days without any academic engagement… schools are required by state law to unenroll the student from active enrollment."

33. On September 25, 2025, the District sent an email to the Parents clarifying state law regarding withdrawal from enrollment due to nonattendance.

34. On September 25, 2025, the Parents sent an email to the District asking what District policy supported the District's decision to refuse the Student's DSP in the school.

35. On September 25, 2025, the District, responding to the Parent's September 25, 2025, email, responded that the District was relying on the Student's April 30, 2025, IEP to exclude the DSP. The District noted that an IEP team meeting was held April 29, 2025, with PWN sent on May 6, 2025, indicating that the District planned to implement that IEP.

36. On September 25, 2025, the Parent, responding to the District's email of the same day, asked additional questions related to changing reasons given by the District regarding the ability of the DSP to be in school with the Student, that the Parents have received contradictory information from sources the District referred the Parents to, that

Parent's understanding of the Student's needs have evolved since the April 30, 2025, IEP was developed, and that the DSP provided essential services to the Student.

37. On September 26, 2025, the District sent an email to the Parents, explaining that the District stood ready to serve the Student in accordance with the Student's existing IEP, and that an IEP team meeting was the proper venue to discuss the Student's IEP and proposed changes.

38. On October 28, 2025, the Student's IEP team met to discuss the Parent's concerns regarding the implementation of the Student's IEP. During the meeting the team discussed the protocols in place to support the Student. The Parents expressed a preference for their DSP over the District staff person assigned to support the Student. The District asked what specific skills the DSP had and what specific needs identified in the letters from the Student's medical providers indicated that District staff could not appropriately support the Student. As part of the meeting, the District discussed supporting the Parent's concerns about fatigue and the District formulated a fatigue/break protocol. Relevant IEP team members offered to assess and create plans for mobility and safety solutions for the Student. The District offered a transition plan to allow the DSP to be present with the Student for a time, and work toward handing off to the District assigned 1:1 aide. The Parents did not agree with this plan and stated that they did not consent to District staff assisting the Student with toileting. The parties were unable to come to agreement. As part of the meeting the Parents proposed a third-party data collector.

39. On October 30, 2025, the District sent the Parents a PWN documenting the District's proposed transition plan in response to the Parent's proposal that the DSP attend daily for the entire school year to support the Student. The District proposed that the DSP attend 15 full days with the Student, followed by an IEP team meeting prior to November 25, 2025, to review data and determine what changes should be made to the Student's IEP to support their IEP goals and FAPE. As part of the October 30, 2025, IEP team meeting, the District Occupational Therapist (OT) reported that the Student was then cleared for all liquids and from all food restrictions, in response to the Student's Dysphagia diagnosis, according to the feeding protocol in place. The OT noted that there was some concern regarding the Student's use of adaptive utensils, and that they would do further observations. The Parents expressed concern that the Student's medical needs required a great deal of assistance, that the Student's physical safety and mobility were of concern, and that the Student often over-exerts themselves, which can lead to the Student falling. Given these concerns the Parents favored the DSP supporting the Student in the school. The Parents asserted that the Student's doctor's notes indicated that the DSP should be present, and the District asked for clarifying details from the physician communications. The Parents reported that the DSP had special skills in reading the Student's visual cues for the Student's fatigue. The meeting included the District asking the DSP what specific training they received and how long it took them to feel comfortable supporting the Student. The IEP team meeting notes indicate that the

Parents expressed a preference that the DSP not answer those questions. The Team discussed the Student's specific needs and how the District could support those needs.

40. On October 30, 2025, the District sent the Parents a letter communicating that the District stood ready to provide the Student with FAPE in accordance with the Student's April 29, 2025, IEP.

41. On December 5, 2025, the Parents filed this complaint.

42. On January 5, 2025, the Department's Complaint Investigator interviewed the Parents. The Parents expressed concerns that the District's narrative about the DSP's presence in the classroom changed over time. The Parents reported that the DSP was initially allowed to volunteer in the classroom, and that over time the District reported that the DSP was disruptive or a problem for the classroom environment.

43. The Parents reported that the District expressed an interest in gathering data regarding the Student's needs but felt that the District had already determined that the District's 1:1 aide was preferred over the DSP. The Parents expressed an interest in a third-party gathering data on the Student's need in the school environment. The Parents recounted a "near miss" in the school environment when the Student nearly contacted food they are allergic to, but was intercepted. The Parents understood that the District explained that the DSP happened to be closer to the Student at that time. The Parents expressed concern about whether staff were appropriately monitoring the Student's safety. The Parents offered this as evidence of the DSP's skill and necessity. The Parent recounted the Student's medical needs and that the DSP had special skill to observe and respond to the Student. The Parents expressed disagreement that the District assigned 1:1 aide could provide sufficient support for the Student and questioned what happens if the Student is injured at school because of a lack of appropriate support. The Parents indicated that they would provide medical records in support of the DSP over District staff.

44. On January 5, 2025, following the interview, the Parent's provided medical records showing that the Student has a Dysphagia diagnosis. That documentation did not indicate any additional considerations for eating or monitoring the Student due to the diagnosis.

45. On January 13, 2026, the Department's Complaint Investigator interviewed the Superintendent and elementary school Principal. The District reported that the Parents expressed concern about the Student beginning Kindergarten without a trusted adult, and the impact that may have on them. From that concern the Parents suggested the Student's DSP accompany the Student at school. The District reported that such concerns were common for students that age, and that the District routinely offered parents, grandparents, and extended family the opportunity to volunteer in the school to ease student transitions into the school environment. The District offered this

opportunity to the DSP who completed the District's volunteer paperwork. Thereafter the DSP began to volunteer in the Student's classroom.

46. The District reported that, shortly after the DSP began this volunteer work, the District had concerns about the degree to which the DSP attended to the Student, and whether it created a more restrictive environment for the Student than was necessary. The District noted that the Student's IEP indicated that the classroom teacher and assigned 1:1 aide would provide all necessary services to the Student. Within a few days of the Student attending school the District noted that the Parents expressed a preference for the DSP to attend to the Student over District staff. The District understood that the Parent's reasoning for this was for the DSP, with their special training and experience, to observe the Student for signs of fatigue, specifically eye tremors that would indicate this fatigue. On September 2, 2025, the District met with the Parents to discuss these concerns and reported discussing with the Parents the Student's progress to date, and that the DSP was obstructing the Student's progress in the general education classroom. The District noted that, contrary to the Parent's verbalized concerns, the Student was not showing signs of fatigue during the school day.

47. The District reported that the Student attended four half days of school and five full days of school before the Parents ceased sending the Student to school. Following the Student not attending school, the Student's IEP team met on October 28, 2025, to learn more about the services of the DSP, and whether the District provided 1:1 aide could provide those same services. During the meeting the District attempted to learn what special training or skills the DSP had that necessitated their services. The District reports that the Parents would not allow the DSP to answer those questions.

48. In Discussion with the Department's Complaint Investigator regarding the Parent's concerns related to the Student's Dysphagia diagnosis, the District observed that, in the process of moving from the IFSP to the IEP, both the District SLP and OT assessed the Student, and that the Student no longer required a feeding protocol, as they could feed themselves. This was outlined in the Student's self-feeding guidelines. The District reported understanding that the Student's 1:1 aide could attend to the Student's needs, but that the Parent preferred the DSP's services.

IV. DISCUSSION

Content of the IEP

It is alleged that the District violated the IDEA when it did not formulate an IEP that met the Student's needs arising from their disability to enable them to be involved in, and make progress in, the general education curriculum. Specifically, it is alleged that the Student's IEP does not include appropriate related services, to address the Student's medical needs, such as

nursing support, and/or allowance of the Student's caregiver to assist the Student, to allow the Student to participate in the general education curriculum.

A student's IEP must include a statement of the student's present levels of academic achievement and functional performance, including how the student's disability affects their involvement and progress in the general education curriculum. The IEP should include a statement of measurable annual goals, including academic and functional goals designed to meet the student's needs that result from their disability, enabling them to be involved in and make progress in the general education curriculum. The IEP should also include a statement of the specific special education, related services, and supplementary aids and services that will be provided to the student to assist them to be involved and progress in the general education curriculum and to participate in extracurricular and other nonacademic activities.[3]

The Parents raised the concern that the Student's IEP did not include reference to the Student's DSP. On April 30, 2025, while the Student was still in preschool, the Student's IEP team created an IEP for the Student. That IEP included provisions for the Student's teacher to assist the Student, and provision for a one-to-one support to monitor their safety stemming from issues related to their disability. On August 18, 2025, the District identified a classroom teacher and one-on-one assistant for the Student for the coming school year. On August 26, 2025, just prior to the Start of the 2025-26 school year, the Parents sent a communication to the District asking that the Student's DSP be added to the Student's IEP, and that the DSP accompany the Student in school.

During their interview with the Department's Complaint Investigator, the Parents raised concerns that the DSP was required to address the Student's Dysphagia, and safety concerns around eating. On April 20, 2025, the District created Occupational Therapy Self-Feeding Guidelines that indicated the Student was cleared to eat all foods, provided they had line of sight observation by staff with CPR training. The District provided the Parents with a copy of this document on April 28, 2025. Medical records provided by the Parents do not describe feeding guidelines different from that in the Student's IEP. The record supports that the District provided support personnel to fulfill this responsibility.

The Department does not substantiate this allegation.

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 that included appropriate related services, such as accommodations for the Student's medical needs, nursing support, and/or the allowance of the Student's caregiver, to address the Student's medical needs.

[3] OAR 581-015-2200(1)(a)—(1)(d);

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. 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 providers responsible for its implementation. Each teacher and service provider responsible for implementing the IEP must be informed of their specific responsibilities therein.[4] Furthermore, districts are required to ensure that related services providers and paraprofessionals who deliver services "are appropriately trained and supervised in accordance with State law, regulation, or written policy," to "assist in the provision of special education and related services…to children with disabilities."[5] School districts must ensure that, to the maximum extent appropriate, children with disabilities, including those in public or private institutions or other care facilities, are educated with children who do not have a disability. Furthermore, special classes, separate schooling, or other removal of children with disabilities from the regular educational environment should only happen if the nature or severity of the disability is such that education in regular classes, even with the use of supplementary aids and services, cannot be achieved satisfactorily.[6]

On April 30, 2025, the Student's IEP team, met to formulate the Student's initial IEP, with reference to the Student's then existing Individualized Family Service Plan (IFSP). The IEP included goals for Adaptive Self-Management, including increased feeding independence. The Student's IEP also included the accommodation that the Student be visually monitored for signs of fatigue, vision supports, access to a wheelchair, and one-to-one support to monitor the Student's safety, among other supports. By August 18, 2025, ahead of the Student starting classes, the District selected the Student's aide and classroom teacher and invited them to a meeting to review the Student's support needs.

During the interview with the Parents, the Parents expressed a preference for the DSP over the Student's teacher or the assigned 1:1 aide providing support to the Student. While the Parents expressed a preference for the DSP over the District aide, the Parents did not provide documentation indicating that District staff were incapable of providing support to the Student. Similarly, the medical information provided by the Parents did not indicate that the Student specially required the support of the DSP, only that the Student required support. Furthermore, while the Parents asserted that the DSP had specialized knowledge or skills with which to assist the Student, the record reflected that neither the DSP nor the Parents provided information to support that assertion. The District offered to work with the DSP to learn from them and transition to support by District staff. This offer was rejected by the Parents. The District noted that the presence of the DSP created a more restrictive environment for the Student, as their IEP goals envisioned the development of greater independence over time.

[4] OAR 581-015-2220(1)—(3)
[5] 34 CFR §300.156(b)(1)—(b)(2)
[6] OAR 581-015-2240

The IEP formulated by the District included adult support for the Student as indicated in the Student's medical records. The record does not support that the DSP had skills that District staff lacked, that District staff were incapable of providing the services in the Student IEP, or that the District did not implement the Student's IEP.

The Department does not substantiate this allegation.

Free Appropriate Public Education (Denial of FAPE)

It is alleged that the District violated the IDEA when it did not formulate an appropriate IEP for the Student, nor provide appropriate related services to the Student to support the Student's specific needs arising from their disability, resulting in the Student not attending school. 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.[7] 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."[8] 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.[9]

The record supports that, on April 30, 2025, the District formulated an IEP for the Student that addressed the Student's needs. The record also supports that the District informed the Student's teacher and 1:1 aide of their responsibilities in the IEP. The record supports that the District provided services and supports to the Student in conformity with their IEP. The DSP suggested by the Parents was not part of the Student's IEP.

The Department does not substantiate this allegation.

VII. CORRECTIVE ACTION

In the Winston-Dillard School District 116
Case No. 25-054-089

[7] OAR 581-015-2040
[8] 20 USD § 1415(f)(3)(E)(ii)
[9] *Endrew F.*, 137 S.Ct. at 999.

The Department does not order corrective action in this matter.

Dated: this 3 Day of February 2026



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Ramonda Olaloye
Assistant Superintendent
Office of Enhancing Student Opportunities

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).