BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of McMinnville School District 40 and Willamette Educational Service District	))))	FINDINGS OF FACT, CONCLUSIONS, AND FINAL ORDER Case No. 25-054-092

I. BACKGROUND

On December 5, 2025, the Oregon Department of Education (Department) received a written request for a special education complaint investigation from the parents (Parents) of a student (Student) residing in the McMinnville School District (District) and Willamette Educational Service District (ESD). The Parents requested the Department conduct a special education investigation under OAR 581-015-2030. The Department confirmed receipt of this Complaint and forwarded the request to the District and the ESD.

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

On December 17, 2025, the Department's Complaint Investigator sent a *Request for Response (RFR)* to the District and the ESD identifying the specific allegations in the Complaint to be investigated and establishing a *Response* due date of December 31, 2025.

The District submitted a *Response* on January 7, 2026, denying the allegations, providing an explanation, and submitting documents supporting the District's position. The District submitted the following relevant items:

1. District's Written *Response* to Complaint, dated 01/7/26
2. Meeting Notes, no date
3. Meeting Minutes, 02/28/25
4. Data from Daily Tracker, 03/11[25]-05/28/[25]
5. Meeting Minutes, 06/11/25
6. Meeting Minutes, 09/15/25
7. Prior Written Notice, 09/18/25
8. Occupational Therapy School Performance Checklist, 09/25/25
9. Email, re: IEP Meeting, 10/20/25-10/28/25

[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. Email, re: IEP Meeting, 10/20/25-11/09/25
11. Daily Attendance Report, 11/03/25-11/21/25
12. Email, re: [the Student] 15 Days Suspension, 11/18/25-12/01/25
13. Email, re: [the Student] 11th Day of Suspension Today, 11/18/25-12/01/25
14. Email, re: Notes, 12/04/24
15. Email, re: [the Student] 15 Days Suspension, 11/18/25-12/05/25
16. Email, re: Follow up, 12/04/25-12/05/25
17. Parent Consent for Occupational Therapy Screening, 12/05/25

The ESD submitted the following relevant items:

1. Behavior Tracker, no date
2. Behavior Tracker, no date
3. Daily Attendance Report, 11/01/25-11/21/25
4. Behavior Tracker, no date
5. Agreement Contract Slots for [the School] I/II Behavior Intervention Program Terms and Conditions 25-26, 08/19/25-08/26/25
6. Prior Notice of Special Education Action, 11/14/25, 11/18/25, 11/18/25, 12/04/25
7. Message Log, 11/18/25-10/08/25
8. Daily Attendance Report, 01/23/25-12/19/25
9. Incident Reports, 09/04/25, 09/09/[25] , 09/16/25, 09/16/25, 09/18/25, 10/08/25, 10/09/25, 10/16/25, 10/22/25, 10/27/25, 10/28/25, 10/06/25, 10/07/25, 11/03/25, 11/04/25, 11/10/25, 11/12/25, 11/12/25, 11/18/25
10. Master Schedule, 2025-26 School Year

The Parents submitted a *Reply* on January 5, 2026, providing an explanation and documents in support of the Parents' position, as well as additional documents submitted on January 14, 2026. The Parents submitted the following relevant items:

1. Parents' *Reply* to the District's *Response* to *RFR*, 01/05/26
2. Comprehensive Behavior Intervention Plan, 05/27/25
3. Email, re: [the School] Social Worker, 10/01/25-12/05/25
4. Manifestation Determination, 11/25/25
5. Prior Notice of Special Education Action, 12/04/25
6. Behavior Support Plan, 11/17/25
7. Individualized Education Program (IEP), 09/15/25
8. Prior Written Notice, 12/04/25
9. Prior Written Notice, 12/04/25

The Complaint Investigator interviewed the Parents on January 9, 2026. On January 15, 2026 the Complaint Investigator interviewed District and ESD personnel. The Complaint Investigator reviewed and considered all of these documents, interviews, and exhibits in reaching the findings of fact and conclusions of law contained in this order. This order is timely.

II. ALLEGATIONS AND CONCLUSIONS

The Department has jurisdiction to resolve this Complaint under 34 CFR §§ 300.151-153 and OAR 581-015-2030. The 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, to the filing of this Complaint on December 5, 2025.

Allegations	Conclusions
Prior Written Notice (PWN) The Parents alleged the District failed to provide PWN once the Student surpassed the 10-day disciplinary suspension threshold. Additionally alleged, is the District provided an accurate PWN about the suspensions on December 4, 2025, and whether the District provided a PWN with a refusal to hold a Parent-requested IEP meeting. (OAR 581-015-2310; 34 CFR § 300.503)	**Substantiated in Part** The District failed to issue PWNs refusing to hold an IEP meeting in addition to additional disciplinary removals once the Student exceeded 10 school days. The ESD did not have an obligation to provide PWN.
When IEPs Must Be In Effect The Parents alleged the District failed to adhere to the content of the Student's IEP while the Student was in attendance at [the School] (provided one-on-one adult assistance throughout the day, provided a personalized learning environment (PLE) and counseling services, and accommodations such as movement breaks and motor breaks). Additionally alleged, is the District failed to implement the Student's IEP in its entirety. (OAR 581-015-2200, OAR 581-015-2220 (1)(3); 34 CFR § 300.323)	**Substantiated** The District failed to implement the Student's IEP by providing inconsistent services and failing to document said services. The ESD did not implement the Student's IEP as written but, as the Student was a resident of the District, is not responsible for ensuring FAPE for the Student.
Evaluation Planning The Parents alleged the District failed to complete an Occupational Therapy (OT) assessment to determine if therapeutic recreation was needed, as agreed to at the September 18, 2025 IEP meeting.	**Substantiated** The District's delay of over two months between the initial agreement and the request for consent constitutes a failure to timely evaluate the Student in all areas of suspected disability. While the ESD should have moved forward with the evaluation in a timely manner, it

Allegations	Conclusions
(OAR 581-015-2115 (1)(b)(2)(3)(4)(b); 34 CFR § 300.305)	was ultimately the District's obligation to ensure it occurred.
Manifestation Determination Review The Parents alleged the District declined to provide the Student with corrective actions after the December 4, 2025, Manifestation Determination Review (MDR) Meeting. (OAR 581-015-2420; 34 CFR § 300.600, § 300.530 (e)(f))	**Substantiated** The District failed to provide an immediate remedy after determining its own failure to implement the IEP. The District further failed to ensure the Student was returned to the placement from which they were removed as a result of the disciplinary incident after determining the behavior resulting in the disciplinary change of placement was a manifestation of the Student's disability. While the ESD should have been participants in this meeting, it was ultimately the District's responsibility to ensure it occurred.

REQUESTED CORRECTIVE ACTION
● "Order the District and [the] ESD to provide us with proper PWN for all disciplinary changes of placements over 10 days." ● "Order [the District] and [the] ESD to provide mandatory training for its staff regarding PWN for disciplinary change of placement beyond 10 days." ● "[The District] provides proper PWN for the refusal to hold [the October 28, 2025] IEP team meeting and not responding and/or holding the IEP meeting within 30 days as required by the OAR[s]." ● "The [District] & [the] ESD school district[s] provide training to its staff regarding when a PWN is required (within 30 days of the request)." ● "[The District] fund and provide [the Student] with adult assistance throughout the day as per [their] IEP. [The District] and [the] ESD provide us with the dates and times [the Student] took movement breaks." ● "The ESD and [the District] provide training to its staff on how an IEP and BIP need to be adhered to." ● "[The District] and [the] ESD fund and provide a counselor and mental health professional as per the IEP and provide counseling per the Student[‘s] IEP. [The School]

provide[s] us with documentation of dates and times counseling has been performed or offered to [the Student]."

- "Hold an IEP meeting to determine what requirement in the IEP the school is not implementing and the IEP team take appropriate corrective action."
- "The ESD and [the District] provide training to its staff that when it is determined at a Manifestation Meeting that the school is failing to implement an IEP and/or BIP, they need to identify what part of the IEP is not being implemented and take corrective action immediately."
- "The ESD and/or [the District] conduct an OT Assessment immediately to assess whether therapeutic recreation would be beneficial to [the Student's] mental health."
- "The ESD and [the District] provide training to its staff on following the recommendations of the IEP team."

III. FINDINGS OF FACT

IDEA regulations limit complaint investigation to alleged violations occurring no more than one year before the Department's receipt of the special education complaint. This Complaint Investigation did not consider any IDEA violations alleged to have occurred before December 6, 2024. Any facts listed below relating to circumstances or incidents earlier than that date are included solely to provide the context necessary to understand the Student's disability and special education history.

1. The Student is in the 7th grade and previously attended the School, which was a program provided by the ESD. The Student is eligible under the IDEA as a student with an Emotional Behavior Disability (EBD) and a secondary eligibility under Other Health Impairment (OHI). The Student enjoys taking walks with staff members, mathematics, and has strong leadership qualities.

2. Meeting minutes dated February 28, 2025, detailed a discussion around placement and the request the Parents made for a one-on-one assistant. Notes indicated that the IEP was amended to include, "[One-on-one] Adult assistance for transitions, academic completion and instruction, self[-]regulation, problem solving, unstructured activities, [and] facilitating appropriate peer interactions.

3. A Behavior Support Plan (BSP) was developed on May 27, 2025, and included the following relevant details:
   a. Behaviors of concern were:
      i. Elopement, elopement off campus, physical aggression, property destruction, verbal threats, and non-suicidal self-injury (head banging).
   b. Preventive strategies included:
      i. Using interventions the Student was "responsive" to.
      ii. Abstain from using the word "no". Use problem-solving strategies.
      iii. Use humor and playfulness to reduce stress. Find ways to make requests "less assertive."
      iv. Use of "declarative language" and offer options and flexibility for any demand.

v. Use of a special interest when redirecting.
vi. Have options available to the Student in their environment.
vii. The Student should be given explicit expectations for all activities.
viii. "Reflective Listening."
ix. "Frequent gross motor movement breaks with structured time; ex. 20 minutes of expected activity with [a] 10-minute break or provide end time of energy break[.]"
x. Acknowledgement of the Student's concerns, and show empathy.
xi. Provided choice visually throughout the day.
xii. Give processing time.
xiii. Access to snacks along with a visual.
xiv. Hand-engaging activities.
xv. Encourage the use of "stop and think" skills.

c. "All staff supporting [the Student] [would] focus on building authentic connection."
d. Choice and flexibility included:
   i. Give visual options for meals and snacks for each day.
   ii. Give a choice of activities with a visual in the Student's environment.
e. Written Schedule was:
   i. Provide a daily schedule to the Student and "review" throughout the day.
   ii. "Collaborate" to create the schedule.
   iii. Use the schedule to "guide" and "invite" the Student to "participate."
   iv. Utilize the schedule to "create opportunities to practice replacement [b]ehaviors."
f. A rreinforcement system for self-monitoring detailed setting clear goals for the day in "chunks", and identifying a reinforcement to maintain safety. The BSP further contemplated that the Student should also be included in conversations about how they are doing on their daily tracker.
g. Social-Emotional Learning included:
   i. "[The Student] [had] specific time set aside in [their] schedule for working on social-emotional targets and learning goals. Staff [would] model appropriate communication and interactions through [the Student's] day. [They] can access Social Emotional Learning (SEL) lessons that are interactive online daily. Staff modeling mistakes and recovery, self-monitoring staff self-regulation (i.e. setting boundaries and showing the use of their own coping strategies). Staff modeling mistakes and doing things with [them]. Modeling emotional regulation, breathing and taking a minute to cool off. Present choices of transitions at the end of success/high note."
h. Post-Escalation Procedures included:
   i. "Provide clear explanations regarding what options there are next."
   ii. "Provide high levels of praise and attention for expected behavior."
   iii. "Continue to allow additional processing time post escalation (30 seconds)."
   iv. "Continue to provide choices and remain flexible."
i. Data collection indicated quarterly progress reports, along with monthly behavior reports, collected with Antecedent-Behavior-Consequence (ABC) and frequency data, and a daily tracker, completed by the Case Manager, Classroom Behavior Coach, Behavior Technician, and a Teacher on Special Assignment (TOSA).

The BSP was updated on November 17, 2025, and detailed the following relevant information:

i. Behaviors of concern included the following definitions:
   (1) Verbal threat as being, "Verbally stating [they] will hurt staff and/or students with an item [they] [have] obtained (i.e., rocks, pens, sticks, metal posts, screw, sharp metal items, glass), taunt adult by entering personal space of staff and/or posturing to them."
   (2) Simulated choking out of peers or self as, "placing hands or items around neck to pretend or to tighten and/or use of arm/elbow and squeeze neck of other person."
ii. Preventative strategies included "Some sensory things make [the Student] uncomfortable and [they] can't express it verbally. [Sounds of others eating or eating in front of others] so if [the Student] avoids an area when this [was] happening[,] that may be the root cause."

4. In IEP Minutes dated June 11, 2025, the Former Principal shared the School " … has a social worker to meet with kids… . The staff uses trauma[-]informed and de-escalation strategies… . [The School] works with the Student's family and mental health team to address needs."

5. An annual IEP dated September 15, 2025, indicated the following pertinent information:
   a. The Student exhibited behaviors that impeded their learning and the learning of others.
   b. The parent input section noted the Parents' request to discuss mental health services for the Student, their concern regarding the current placement "not meeting [the Student's] needs," and stated the following, "We have been requesting a one-on-one staff to help [the Student], and [the School] agreed to funding it stating that the packet was turned in to fund the one FTE [Full-Time Equivalent] for [the Student]. We would like to have one FTE to provide one-on-one support to [the Student] added to [their] IEP."
   c. The Present levels of functional performance detailed concerns around the Student's safety, and the safety of those around them (peers and staff). The Student would be debriefed on all "critical" incidents that involved them by, "a counselor, therapist, social workers, or a licensed mental health professional."
   d. The Student would participate in both Statewide and Districtwide assessments.
   e. Goals were listed in the areas of reading, math, writing, behavior-safety, and social emotional learning. Additionally, the following behavior-safety, and social-emotional learning goals were included:
      i. Behavior-safety: "By September 2026, [the Student] will go to a designated safe space that is agreed upon and pre-taught in advance in 3 out of 5 opportunities as measured by behavior tracker and staff observations."
         (1) Objective One: "[The Student] [would] participate in the activity 75% of the time that is waiting at the designated safe space (academic worksheets, coloring, basketball)."
         (2) Objective Two: "By September 2025, [the Student] [would] learn to select and use an appropriate coping strategy to use when [they] experience frustration or anxiety with one-on-one support provided by the School in at least 50% of opportunities, as measured by staff observation and data collection."
         (3) Objective Three: "By September 2025, [the Student] [would] work one-on-one with a staff member provided by the School to collaboratively develop a plan to complete multi-step or complex tasks in at least 4 out of 5 opportunities … ."

ii. Social Emotional Learning: "By September 2025, [the Student] [would], with SDI [Specially Designed Instruction] and adult modeling, identify the feelings of others using social stories (happy, mad, scared) with 50% accuracy."
    (1) Objective One: "With adult modeling [the Student] [would] participate in emotions check-ins prior to and post activities in the classroom."
    (2) Objective Two: "With adult modeling [the Student] [would] participate in emotions check-ins before and after eating food."
    (3) Objective Three: "With adult modeling [the Student] [would] participate in emotions check-ins prior to arrival and departure time."
    (4) Objective Four: "With adult modeling [the Student] [would] participate in emotions check-ins before and after physical activity."
iii. Social Emotional: "By September 2025, [the Student] [would] increase [their] engagement in less-preferred academic tasks by initiating or attempting the task with prompting and one-on-one support provided by the school in at least 50% of opportunities … ."

f. SDI was listed with starting and ending dates from September 16, 2025 through September 14, 2026, provided by the Local Educational Agency (LEA) as well as the ESD, and monitored by the Case Manager for the following areas:
    i. Behavior/Social/Emotional skills for 120 minutes per month provided in the counseling office;
    ii. Behavior for 400 minutes per month at all school sites;
    iii. Reading for 600 minutes per month at all school sites;
    iv. Written language for 480 minutes per month at all school sites; and
    v. Math for 600 minutes per month at all school sites.
g. Related services included transportation to and from school daily from September 16, 2025 through September 14, 2026, provided by the LEA.
h. Supplementary aids/services and accommodations with starting and ending dates from September 16, 2025 through September 14, 2026, provided by the LEA as well as the ESD, across all school sites, and monitored by the Case Manager, listed the following relevant details:
    i. Behavior Plan to be reviewed annually and used daily across all settings;
    ii. Needed break: A 10-minute break every 30 minutes;
    iii. A seat away from all distractions, "seat[ed] close to a preferred adult in the classroom and have [a] [PLE] available to use";
    iv. "Set goals with [the Student] daily as part of the check-in and check-out";
    v. "Immediate feedback, positive feedback [and] given privately";
    vi. "Extended time on academic tasks[,] extra day for everyday given";
    vii. "Given simple instructions, break instructions into smaller tasks, use simple language";
    viii. "Hands[-]on tasks to support learning, manipulatives and hands[-]on learning whenever possible to show mastery and practice skills";
    ix. "Organizational tools provided to [the Student] (color-coded systems/posting of assignments/to-do lists), different color folders for different subjects";
    x. "Alternative assignments to show mastery (oral presentation/visual project/speech to text) for all assignments";

xi. "Movement and brain breaks at least every hour, tasks with a purpose menu of coping strategies";
xii. "Adult assistance throughout the day to ensure safety and allow [the Student] access to PLE";
xiii. "Access to a mental health professional to debrief after a crisis event following an escalation" in the Special education classroom; and
xiv. "Frequent access to a counselor as needed for SEL instruction" in the counseling office.

i. Supplementary Aids/Services and modifications with starting and ending dates from September 16, 2025 through September 14, 2026, provided by the LEA as well as the District, completed in the special education classroom, and monitored by the Case Manager, indicated the following:
    i. Instructional materials to be designed to meet the needs of the Student to "build academic confidence" and reduce assignments to 50% of expectation.
j. Program modifications and supports for school personnel indicated that from September 16, 2025 through September 14, 2026, the ESD and the LEA will share progress notes quarterly at the work site and the Case Manager will monitor.
k. Nonparticipation justification: "The team has determined [the Student] will need to be removed [from] participating with nondisabled students in order to receive SDI, related services, or supplementary aids or services. [The Student] requir[ed] SDI in a structured environment with a smaller population of students [due] to [their] deficits in self[-]regulation, attention, and cognitive flexibility."

6. Meeting minutes dated September 15, 2025 detailed the following relevant information:
    a. Parent concerns regarding providing the Student with one-on-one assistance and mental health support were discussed.
    b. The TOSA went over behavior data and shared the School had collected three days of data. They also stated check-ins were part of classroom routines.
    c. The behavior goal was changed to be separated between the counseling office and in all other school settings. The School Principal explained that the School is a program, and does not fall into the comprehensive school counseling category.
    d. SDI minutes to remain the same.
    e. The Director of Student Services explained that adding Therapeutic Recreation (TR) requires data and assessments to support the decision. Specifically, the need for TR must be based on the Student's occupational therapy, physical therapy, and mobility requirements, demonstrating how the service is necessary for the Student to access their education.

    Part 2 of the meeting minutes dated September 18, 2025 indicated the following:

    f. The team discussed the requested one-on-one assistance, and the District Special Education Coordinator would send a PWN regarding the denial of the request. The team agreed to the following additions to the IEP:
        i. Qualified Mental Health Professional (QMHP) for crisis events as an accommodation.
        ii. Counseling as an accommodation.
        iii. Language from the last IEP to be added regarding adult assistance.

7. A PWN dated September 18, 2025, stated the District refused the Parent's request of a one-on-one assistant for the Student. Reasons detailed as, "Data did not support adding a dedicated [one-on-one]. An accommodation was added to the IEP to address the need for adult assistance throughout the day." Relevant factors included the agreed-upon IEP, which was signed on February 7, 2025.

8. An OT School Performance Checklist for Students with Mild/Moderate Disabilities, dated September 25, 2025 was completed by the TOSA.

9. In a series of email exchanges from October 1, 2025 through December 5, 2025 between the Parents, School Social Worker, School Principal, Director of Student Services, and the TOSA, the following relevant information was discussed:
   a. The School Social Worker introduced themselves and stated their purpose was to provide support to students and families. The Parents inquired about the counseling services on the Student's IEP and about the days/times the School Social Worker would provide services. They replied they do not provide therapy in their position.
   b. The Parents responded with concern and stated, "At our IEP meeting, when we talked about counseling, [the Director of Student Services] inquired of [the School Principal] about the social worker providing counseling services to [the Student], and [they] said that would be able to happen including after a crisis event." The Parents explained the previous school year, the School did not have a counselor on staff, and the School Principal shared it was due to the School being a "program" and not a "school". The Director of Student Services directed the Parents to speak with the Principal regarding the matter.
   c. The Parents then inquired about the discussion at the last IEP meeting around TR being added to the Student's IEP and the District's response that, in order to do so, it must be based on the results of an OT assessment. They again inquired about receiving a questionnaire to complete and asked if the OT assessment had been scheduled.
   d. On October 9, 2025, the TOSA replied, the OT has limited availability and they would follow up with them next time they are here. The TOSA explained the Parents would need to "sign permission for a further assessment if the OT person has seen that there is an educational impact." They stated they would communicate as soon as they had information.
   e. On October 10, 2025, the Parents responded and requested the TOSA "fix" a few items on the form regarding the Student's needs. The TOSA responded the same day they would share the input with the OT.

10. In an October 9, 2025 message log to the Parents, the Classroom Teacher stated, "We try to have a staff member available when [the Student] needs breaks, but it is not always an option as we deal with many kids also needing support." In addition, the Classroom Teacher, in reference to a conversation with the Student regarding walks and breaks, shared, "I tried to explain that I did not have the staff in my room right now to take [them] [on a walk] ... ."

11. In an October 20 through 28, 2025 email exchange with the Parents, the TOSA stated the IEP team would like to meet "As Soon As Possible (ASAP)" to examine the IEP and have a MDR

regarding the last incident. They inquired about the Parents' availability. The Parents responded on October 23, 2025, and shared they would like to schedule an IEP meeting "ASAP". Additionally, on October 28, 2025 the Parents followed up, sharing it had "been over a week" since the original IEP request from the TOSA. They added their agenda items, which included a "one-on-one paraprofessional full[-]time employee for [the Student], counseling, [and] the OT assessment for therapeutic recreation … ."

12. An Attendance report dated November 1, 2025 through November 30, 2025 indicated five unexcused absences for the following dates: November 13, 17, 19, 20, and 21, 2025. Additionally, a Daily Attendance Report dated January 23, 2025 through December 22, 2025 indicated the following:
    a. 32 suspensions on the following dates: September 10, 11, and 19, 2025; November 3, 4, 5, 6, 7, 10, 12, 13, 14, 17, 18, 19, 20, and 21, 2025; and December 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 15, 16, 17, 18, and 19, 2025.

13. In an email dated November 9, 2025, the Parents followed up with the District and school leadership regarding an IEP review meeting. They acknowledged the School's initial request for a meeting on October 20, 2025 and noted their own subsequent requests for the same meeting on October 23 and 28, 2025. They explained a PWN was needed within 30 days if the School "[was] going to refuse to have the IEP team meeting."

14. A Prior Notice of Special Education Action dated November 14, 2025 stated the team discussed recent disciplinary action of suspension in order to determine if the behavior was a manifestation of the Student's disability. The team recognized the gravity of the behavior, which led to a suspension from school for one day, and the team wanted to review the response considering the Student's disability. The actions were based on staff observation and behavioral data, and parent and teacher input. Other factors considered detailed that the behavior was not a direct failure of IEP implementation and was directly linked to the Student's disability. It further stated the team met on September 15, 2025 and discussed changes to programming, and the team reached agreement regarding the plan of action.

15. A Prior Notice of Special Education Action dated November 18, 2025, indicated the "multidisciplinary team" met on November 12, 2025, to review the behavior incident that led to a suspension from the School for one day and "disciplinary response in light of [the Student's] experience of disability." It stated the IEP team would schedule a meeting to review the BSP with the "entire team."

    Additionally, on November 18, 2025, another Prior Notice of Special Education Action was issued and indicated the team met for an MDR meeting held on [November] 14, 2025, and that the team analyzed and updated the BSP on November 17, 2025. The action was proposed due to, "... the team recognized that due to the number of suspensions (10 in total), reviewing and refining the BSP was needed for program supports." The IEP was not changed, but the BSP was updated, and the team was in agreement.

16. An MDR dated November 25, 2025, included the following pertinent information:

a. The date of the incident was November 11, 2025, and the behavior subject to disciplinary action was listed as "[A]ggression toward staff, shoved staff, see incident report for more information."
b. Date of disciplinary removal: November 19, 2025.
c. Consideration of all relevant information included information provided by the Parents, current IEP and placement, and disciplinary information as indicated with check-marked boxes.
    i. The Student's current behavior plan was indicated with a checked-marked box of "yes" with the date November 14, 2025, noted next to it.
    ii. The Student's behavior in question demonstrated a pattern, indicated by a box checked "yes," with the date of October 30, 2025 written next to it.
d. "The conduct in question was the direct result of the District's failure to implement the Student's IEP" indicated a "yes" with a checked box.
e. "The conduct in question was caused by or had a direct and substantial relationship to the Student's disability(ies)," indicated a "yes" with a checked box.
f. Under manifestation determination:
    i. "The conduct/behavior [was] a manifestation of the [S]tudent's disability," indicated a "yes" with a checked box.

17. In a December 1, 2025 email to the Parents, the School Principal stated, " … we did all agree that the [School] cannot implement the IEP as it is written because [the School] staff cannot get [the Student] to attend [their] classroom to deliver [their] SDI." Additionally, they explained the School has mental health staff on site, yet the Student has chosen not to meet with the professional after a crisis event. They shared they hoped to schedule a virtual meeting that Thursday to discuss placement.

18. A December 4, 2025, email from the TOSA to the District Special Education Coordinator and Parents detailed the following relevant notes regarding a meeting:
    a. Team agreement to discuss the one-on-one assistant.
    b. The School Principal stated the Student would not be returning to the School.
    c. The Parent inquired if the Student was suspended "indefinitely" and about compensatory time owed.
    d. "Today is the 18[th] day of suspension."
    e. The District Special Education Coordinator proposed setting up tutoring while placement is determined.
    f. The District Special Education Coordinator shared they would come up with a plan for compensatory time owed.

19. The following four PWNs were issued on December 4, 2025:
    a. A Prior Notice of Special Education Action dated December 4, 2025, indicated "Counseling Services as written in [the Student's] IEP were not provided at the [School]." The explanation stated, " … it is stated that the team agreed to adding a QMHP as an accommodation to support [the Student] following periods of escalation or crisis. However, the IEP uses the word counselor instead of QMHP. The [School] does not have a school counselor on staff, and their associate principal, a school psychologist, acted in the role of the QMHP to ensure this accommodation was in place for [the Student].

Therefore, the accommodation was provided, but not as written in the IEP." The action was based on staff observations, behavior data and tracking, and teacher and parent input. Other factors considered by the team stated, "It was determined that the incident was a direct failure of the IEP implementation and that it was directly related to [the Student's] disability. The team determined to have [the Student] remain home until [the District] could hold the IEP meeting requested by [the Parents]."

b. An additional Prior Notice of Special Education Action stated the "multidisciplinary team" met to discuss disciplinary action of suspension in order to determine if the underlying behavior was a manifestation of the Student's disability. It indicated the team recognized the severity of the behavior and "The team determined that it would be best to hold an IEP meeting prior to any further decisions" as well as, "It was determined that the incident was a direct failure of the IEP implementation and that it was directly related to [the Student's] disability. The team determined to have [the Student] remain home until the [District] could hold the meeting requested by the [Parents]."

a. A PWN detailed the action to propose or refuse counseling services as written in the Student's IEP were not provided by the School. The District stated, "In the meeting minutes from [the Student's] most recent IEP, it is stated the team agreed to adding a QMHP as an accommodation to support [the Student] following periods of escalation or crisis. However, the IEP uses the word counselor instead of QMHP. [The School] does not have a school counselor on staff, and their associate principal, a school psychologist, acted in the role of the QMHP to ensure this accommodation was in place for [the Student]. Therefore, the accommodation was provided, but not as written in the IEP." No other options were considered because "... the accommodation was available, there were no other options considered." A factor relevant to the action stated, "[The School] is considered a program (versus a school) and not required to have a school counselor on staff."

b. An additional PWN indicated the District's refusal to provide the requested one-on-one adult assistance for the Student. The explanation detailed the data from the School did not support the need for the requested one-on-one adult assistance. The team considered adding a dedicated adult assistant for the Student, yet the School's data indicated the Student had "consistent adult assistance throughout [their] school day… ." Factors relevant to the action refused pointed to the level of support provided through accommodations on the Student's IEP.

20. In a December 4, 2025 email to the Parents, the District Special Education Coordinator provided a "breakdown" of the SDI minutes and shared they were unable to put a proposal together. They also indicated they had requested an updated BSP, and the signed consent for the OT screener to "continue that process."

21. In a December 5, 2025 email to the Parents, the Director of Student Services explained on the 11th day of suspension in a school year, SDI and services listed in the IEP are owed. They indicated the District Special Education Coordinator would be in touch to set up services.

22. A Parent Consent for Occupational Therapy Screening dated December 5, 2025, indicated by a checked box of "yes," granted permission by the Parents for the OT screener.

23. Undated meeting notes described the discussion around one-on-one adult assistance. It stated, “The packet was completed and submitted.” The District Special Education Coordinator explained, “This request had not been denied, but the placement change to [the School] shift[ed] the decision.”

24. A behavior tracker dated March 11, 2025 to May 29, 2025, indicated tracked behaviors for:
    a. Stayed in class;
    b. Completed classroom;
    c. Followed staff direction; and
    d. Safe body and calm voice.

    Additionally, other undated behavior trackers with data starting at 8:30 a.m. to 3:15 p.m. in 15-minute increments detailed the following tracked behaviors:
    e. “Leaving class w[ith] o[ut] permission”
    f. “Leaving school grounds”
    g. “Physical aggression against staff”
    h. “Inappropriate language”
    i. “Follow verbal directions in class learning context to initial task”
    j. “Respond appropriately to reasonable adult request in unstructured context within [one] minute”
    k. “Demonstrate knowledge of class and school rules/expectations/policies”
    l. “Attempts tasks that may be challenging”
    m. “Adapt effectively to change (change in schedule)”
    n. “Work cooperatively with peers in small groups”
    o. “Use appropriate language, volume, and tone in conversations with peers/staff”
    p. “Elopement from the classroom”
    q. “Physical aggression towards peers (going after them)”

25. Incident Reports dated September 4, 9, 16, and 18, 2025; October 6, 8, 9, 16, 22, 27, and 28, 2025; and November 3, 4, 10, 12, and 18, 2025, indicated the following de-escalation strategies used by staff:
    a. Additional Staff Support;
    b. Deflected/Evaded Physical Aggression;
    c. Accessing Reset Room;
    d. Offered choices;
    e. Offered food;
    f. Staff switch;
    g. Wait time;
    h. Silence/Not talking;
    i. Redirection;
    j. Processing time;
    k. Negotiating;
    l. Offering preferred activities;
    m. Offered snacks;
    n. Attempted one-on-one conversations;
    o. Redirected towards positive environments;

p. Gave physical space;
q. Body positioning to separate students;
r. Restatement of expectations;
s. Maintained visual on Student eloping;
t. Coach check-in;
u. Room clear; and
v. Timer.

The outcome/plan to re-enter stated the following relevant strategies:

w. Met with an alternative staff member;
x. Met with the School Social Worker;
y. Expectations restated with plan of re-entry;
z. Did not return to class;
aa. Provided and agreed upon options for the Student;
bb. Student remained in an alternative location; and
cc. Met with Admin.

26. The Master Schedule for the 2025-26 school year detailed the daily schedule in the Classroom Teacher's room in 15-minute increments starting at 8:30 a.m. and ending at 3:10 p.m. The following classes were listed:
    a. Arrival, Sensory, and check-in;
    b. Breakfast;
    c. Morning celebration circle;
    d. Block one, Literacy;
    e. Block one, Literacy;
    f. Recess;
    g. District Formative Assessment (DFA);
    h. Block two, Math;
    i. Block two, Math;
    j. Options;
    k. Sensory break and movement;
    l. Lunch;
    m. Lunch;
    n. Sensory break and movement;
    o. DFA time;
    p. Block three, Science or Social Studies;
    q. Block three, Science or Social Studies;
    r. Physical Education (PE);
    s. PE;
    t. Sensory break and movement;
    u. Options;
    v. Block four, Art or Career Technical Education (CTE);
    w. Block four, Art or CTE;
    x. Recess;
    y. DFA time;
    z. Reflection and celebration circle; and
    aa. Clean up and bus.

27. An Agreement Contract Slots for the School I/II Behavior Intervention Program Terms for the 2025-26 school year between the ESD and District for the School outlined the following:
    a. The District and the ESD would notify one another of the following:
        i. Any parent/guardian complaint concerning a student.
        ii. Student conduct, which may lead to a suspension or expulsion.
        iii. Issues related to behavior, health, or lack of IEP progress towards goals, "that may affect the ESD's delivery of special education services."
    b. The District was responsible for "Provid[ing] related services to students within [the ESD] program that are not already built into [the ESD] program cost to include but not limited to one-on-one adult assistants."
    c. The District was to manage PWNs for the parent or guardians when the District "proposes or refuses to initiate the identification, evaluation, or educational placement of students or the provision of a [FAPE], including a change in placement if the Agreement is rescinded."
    d. The ESD was responsible for "Providing special education students with all services in their student IEPs, except as provided elsewhere in this agreement with respect to transportation and related services, and shall confer to students all rights and procedural safeguards under [IDEA]."
    e. The ESD was responsible for initiating IEP meetings and notifying the District of the date, time, and location of any IEP meeting for students.
    f. The ESD was to "Maintain and follow IEP, eligibility, FBA, BSPs, and data records during the time the student attends [the ESD] program in accordance with IDEA timelines and ODE guidelines for compliance."
    g. The contract was signed by District representatives on August 26, 2025, and by ESD representatives on August 19, 2025.

28. On December 5, 2025, the Parents filed this Complaint.

29. In an interview with the Complaint Investigator, the Parents explained the request for a one-on-one assistant originated when the Student was at the Middle School. They followed up on the request once the Student started attending the School, and were told one-on-one assistance is built into the program. The Parents shared they were informed by the School Principal, "No, one-on-one is not built into the program." The Parents indicated they get "different stories" from the ESD and District.

30. The Parents recounted requesting an IEP meeting and clarified the School had originally requested the meeting on October 20, 2025. They shared both that they followed up with requests for a meeting and that, at a subsequent meeting, the request was "verbally refused" by the Director of Student Services.

31. When asked about counseling supports for the Student, the Parents explained they were told by the School's previous principal, "...[They] actually told us in IEP meetings that they have no mental health supports there. … no counselors on staff."

32. The Parents indicated that, as of December 19, 2025, the Student had been suspended for 19 school days, and they had not received PWNs for any of the suspensions after the 10th day of suspension.

33. In an interview with the Complaint Investigator, the Director of Student Services explained that, during the September 15, 2025 IEP meeting, the team discussed counseling services and, to meet the Student's need to debrief after crisis events, the team agreed to add a QMHP.

34. The Director of Student Services was absent from the November 25, 2025 MDR meeting and only learned of the Student's exclusion on December 4, 2025, issuing the PWN that same day. Additionally, the Director of Student Services admitted they failed to issue the PWN denying the Parents' meeting request, which was a "complete oversight" caused by a technical error; the PWN remained unissued [at the time of the interview].

35. The Director of Student Services could not identify specific IEP implementation failures or remedies due to their absence from the November 25, 2025 MDR meeting. However, they noted that, while the team agreed on the need for higher support on September 15, 2025, placement was delayed because the Parents refused to provide consent for an extended period.

36. In an interview with the Complaint Investigator, the District Special Education Coordinator stated that the School is typically responsible for creating PWNs for all instances except eligibility, including meetings and changes in placement. The District Special Education Coordinator clarified they had no communication with the School regarding PWNs once the Student enrolled. Following the Student's exclusion, the District issued PWNs addressing the Parents' concerns, but failed to issue any regarding the Student's suspensions.

37. The District Special Education Coordinator shared the Parents "consistently" requested a one-on-one assistant for the Student, yet the data provided by the School did not support the request. They noted there are three PWNs declining the Parents' request for a one-on-one assistant due to a lack of data to support the need.

38. The District Special Education Coordinator clarified the December 4, 2025, PWN was issued to correct an administrative error. The IEP incorrectly listed "counseling" services when the team had actually agreed to provide a QMHP. While the Parents were present and received meeting minutes reflecting the correct service, the PWN was used to align the written record with the team's original intent.

39. In an interview with the Complaint Investigator, the Classroom Teacher explained they offered breaks when the Student would get "antsy," as well as creating scheduled-in breaks. Scheduled breaks were built into the master schedule throughout the school day.

40. The Classroom Teacher stated they did not recall the implementation of the Student's accommodations or modifications, how the School's team documented the Student's breaks, or how behavior trackers were shared with the Parents.

41. The Classroom Teacher stated, "[The Student's] behavior did cause [them] to be out of class quite a lot, and not being in class, you can't implement the IEP when [the Student] [was] not in class."

42. In an interview with the Complaint Investigator, the ESD Special Education Director clarified that, while the School implements inherited IEPs "as is," the ESD only provides services built into their specific program menu. If an IEP requires an "extraneous service" not offered by the ESD, such as counseling, the responsibility falls on the District, as the agency responsible for FAPE, to supply those services independently.

43. The ESD Special Education Director clarified that, per their agreement, the primary responsibility for issuing PWNs lies with the District, not the ESD. While the ESD can assist using their own templates if a District is "ill-prepared," they maintain the District holds the ultimate obligation to provide these notices because the Student remains a District resident.

44. In an interview with the Complaint Investigator, the Associate Principal stated counseling support for the Student consisted of informal, "in-the-moment" check-ins throughout the day. These interventions included monitoring the Student during dysregulation, offering breaks, and inviting the Student to converse. However, the Associate Principal confirmed none of these attempts or interactions were documented.

45. The Associate Principal stated the 120 minutes of required behavioral and social-emotional services were "embedded" within the School's overall program, rather than delivered as standalone sessions. These SDI minutes were provided by the classroom learning specialist and reinforced throughout the day by behavior technicians, coaches, and other specialists.

46. In an interview with the Complaint Investigator, the School Principal described the supports in place for the Student as " … whatever [the Student] had written into [their] IEP and BSP." They listed adult assistants in the classrooms, a behavior coach, and behavior technicians as supports provided. The School Principal stated, " … any instance that [the Student] was not at [their] desk in the room and [the Student] was walking around the campus, we had at least one person that was with [them] at all times trying to coach behavior skills, trying to redirect [the Student] to get back into the classroom so [they] could get instruction … ."

47. The School Principal clarified that, on the reported days of October 9 and November 12, 2025, if staff shortages happened, the School would make staffing adjustments internally. They prioritize the highest behavior need in the "moment." They added that, without further information, they were unable to confirm staffing attendance.

48. When asked about the attendance discrepancies, they shared they were unsure of why the ESD has suspensions coded for such a long time, as the Student's last day was in November, 2025. They assumed the code "rolled over" in their attendance system.

49. In an interview with the Complaint Investigator, the TOSA explained the first step in an OT assessment was completion of a screener to determine further action. They completed it and provided it to the OT, but the OT did not follow up with consent to test because the Student

" … was no longer a student of ours." They further shared the OT had very limited hours at the School.

50. The TOSA indicated they were instructed by the School Principal and the Associate Principal to create PWNs, and they gathered the information together to send to the family.

51. In regard to the failure to implement the IEP, they stated, "I believe that [the Student's] inability to maintain in an academic space or a regulated space in order to receive instruction in alternative settings such as the hallway, made it very difficult to provide [them] with instruction around academics of any kind or behavioral supports."

52. When asked about the Student remaining at home until an IEP could be held, the TOSA explained, "That was a decision based on the team meeting, knowing that placement had already been determined by the IEP team at the IEP meeting that was held, and that it was no longer us as the placement." They further shared that placement decisions were made by the District.

53. The TOSA stated it was not in their job description to provide the Parents with the daily trackers and it was the responsibility of the teacher, behavior coach, or behavior technician to complete.

IV. DISCUSSION

Prior Written Notice (PWN)

The Parents alleged the District failed to provide PWN once the Student surpassed the 10-day disciplinary suspension threshold. Additionally, they questioned whether the District provided an accurate PWN about the suspensions on December 4, 2025, and whether the District provided a PWN with a refusal to hold a Parent-requested IEP meeting.

A PWN must be given to the parent of a child within a reasonable period of time before a school district proposes to initiate or change, the identification, evaluation, or educational placement of the child, or the provision of a FAPE to the child or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of a FAPE to the child. The content of the PWN must include a description of the action proposed or refused by the school district, an explanation of why the district proposes or refuses to take the action, and a description of each evaluation procedure, assessment, test, record, or report the school district used as a basis for the proposed or refused action. The notice must also include a statement that the parents of a child with a disability have protection under the procedural safeguards and, if the notice is not an initial referral for evaluation, the means by which a copy of the notice of procedural safeguards may be obtained. It must include sources for parents to contact to obtain assistance in understanding their procedural safeguards. PWN must include a description of other options that the IEP team considered and the reasons why those options

were rejected, and a description of other factors that are relevant to the agency's proposal or refusal.[3]

The PWN must be written in language understandable to the general public and provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.[4]

Following a behavioral incident in October 2025, both the School and the Parents expressed a desire to meet "ASAP," with the Parents formally requesting an IEP meeting and specific services on October 28, 2025. Although the Parents later alleged that this request was verbally refused, the District admitted it was a "complete oversight" that no PWN was issued regarding the refusal to hold the meeting.

Regarding the Student's disciplinary status, a PWN dated November 18, 2025, originally cited a single day of suspension. However, by December 4, 2025, school staff noted the Student was on their 18th day of exclusion. On that date, the District issued a PWN stating the Student must "remain home" until an IEP meeting could be held because the current school was no longer considered an appropriate placement. Despite the Student accumulating a total of 32 days of suspension by December 19, the Parents reported they did not receive the required PWNs for the disciplinary actions that occurred after the initial ten days.

The interviews revealed confusion over administrative responsibilities, with the District and the ESD leadership providing conflicting accounts of who was tasked with issuing legal notices. Ultimately, the District acknowledged its role as the resident agency responsible for placement decisions and subsequent notices. Additional PWNs issued in December 2025 formally refused a request for a one-on-one aide and documented that counseling services had not been provided as specified in the IEP due to staffing limitations.

The District failed to meet its procedural obligations in two primary areas: the failure to provide PWN for the refusal of an IEP meeting and the failure to provide PWN for a change in placement resulting from disciplinary exclusions once the Student exceeded 10 days of suspension. While the District admitted that the request for an IEP meeting was verbally refused, it conceded that failing to issue a formal PWN regarding this refusal was a "complete oversight." The District's confusion regarding whether the ESD or the District was responsible for the paperwork does not excuse the failure to provide the notices to the Parents.

The Department substantiates this allegation with respect to the District.

When IEPs Must Be In Effect

The Parents alleged the District failed to adhere to the content of the Student's IEP while the Student was in attendance at the School, specifically whether the District provided one-on-one adult assistance throughout the day, a PLE and counseling services, and accommodations such as movement breaks and motor breaks. Additionally, if the District implemented the Student's IEP in its entirety.

[3]OAR 581-015-2310(2-4); 34 CFR § 300.503(a)(b)
[4]OAR 581-015-2310(2-4); 34 CFR § 300.503(a)(b)

At the beginning of each school year, a school district must have in effect an IEP for each child with a disability within the district's jurisdiction. School districts must provide special education and related services to a child with a disability in accordance with an IEP. School districts must ensure that the IEP is accessible to each regular education teacher, special education teacher, related services provider and other service provider who is responsible for its implementation. School districts must inform each teacher and provider of their specific responsibilities for implementing the child's IEP and the specific accommodations, modifications and supports that must be provided for or on behalf of the child in accordance with the IEP.[5]

While "adult assistance throughout the day" and "frequent gross motor breaks" were required per the Student's IEP, staffing shortages frequently hindered these services. On October 9, 2025, the Classroom Teacher informed the Parents that providing staff for breaks was "not always an option," and, on November 12, 2025 – a day the School was missing eight staff members – the Student was denied a requested break and subsequently suspended following an escalation. In a December 4, 2025, PWN, the District formally refused a dedicated one-on-one aide, contending that existing classroom staff provided sufficient support. Regarding mental health, although the IEP mandated 120 minutes of monthly social-emotional skills and access to a counselor, the District and ESD confirmed these services were not provided as written because the School lacked a counselor on staff. While the ESD maintained that an Associate Principal provided "embedded" support in a mental health capacity, the Associate Principal confirmed there was no documentation of the dates or duration of these services, and the School Social Worker clarified to the Parents that the School does not provide therapy.

These IEP mandated services were inconsistently provided due to staffing shortages, leading to subsequent suspensions. Furthermore, the District conceded that counseling services were not provided as written because the School lacked a counselor on staff. While the ESD utilized an Associate Principal to provide "embedded" support as a QMHP, this informal substitution lacked the required documentation of dates and duration to verify that the mandated 120 minutes of monthly social-emotional service were delivered.

The Department substantiates this allegation with respect to the District.

Evaluation

The Parents alleged the District failed to complete an OT assessment to determine if TR was needed, as agreed to at the September 18, 2025 IEP meeting.

As a part of any reevaluation, as appropriate, the child's IEP team, and other qualified professionals must review existing evaluation data on the child, which includes evaluation and information provided by the parents of the child; current classroom-based, local, or state assessments; classroom-based observations; and observations by teachers. Based on that review, and input from the child's parents, the team must identify what additional data, if any, are needed to determine whether the child is or continues to be a child with a disability, the

[5]OAR 581-015-2220 (1)(3); 34 CFR § 300.323

present levels, or if the child needs or continues to need special education and related services. For a reevaluation, the team must also determine whether additional data is needed to inform whether the child needs any additional modifications to special education and related services.[6]

The team may conduct the review without holding a meeting. However, if the public agency has a meeting, parents must be invited to participate. The public agency must administer tests and other evaluation materials as may be needed to produce the additional data identified.[7] The public agency is not required to conduct an assessment of the child unless requested to do so by the child's parents.[8]

During the September 2025 IEP meetings, the team discussed the Parents' request for TR, and the District established that an assessment was required to determine educational necessity. Although the TOSA completed an initial OT performance checklist on September 25, 2025, the District informed the Parents in October 2025 that a full evaluation would only proceed if a screener first identified an educational impact. However, the TOSA later confirmed that the OT never followed up to formalize the testing because the Student was no longer enrolled at the School. Despite the Parents' active participation and requests for documentation throughout October 2025, the District did not seek formal consent for this screening until December 4, 2025. The Parents provided written consent the following day.

The delay of over two months between the initial agreement and the request for consent, followed by the failure to complete the process due to the Student's withdrawal, constitutes a failure to timely evaluate the Student in all areas of suspected disability.

The Department substantiates this allegation with respect to the District.

Manifestation Determination Review

The Parents alleged the District declined to provide the Student with corrective actions after the December 4, 2025 MDR Meeting.

In determining whether the child's behavior is a manifestation of the child's disability, the school district, the parent, and relevant members of the IEP team must review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine if the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability or if the conduct in question was the direct result of the school district's failure to implement the IEP.[9]

If the school district, the parent, and relevant members of the IEP team determine that either the conduct in question was caused by, or had a direct and substantial relationship to, the

[6] OAR 581-015-2115 (1); 34 CFR § 300.304
[7] OAR 581-015-2115 (2)(3); 34 CFR § 300.304
[8] OAR 581-015-2115(1)(b); 34 CFR § 300.305
[9] OAR 581-015-2420; 34 CFR § 300.530 (e)(f)

child's disability or was the direct result of the school district's failure to implement the IEP, the conduct must be determined to be a manifestation of the child's disability.[10]

If the behavior is determined to be a manifestation of the child's disability, except in cases involving drugs, weapons, or serious bodily injury, the IEP team must return the child to the placement from which the child was removed.[11]

If the basis for the team's determination is that the school district did not implement the child's IEP, the school district must take immediate steps to remedy those deficiencies.[12]

During an MDR meeting on November 25, 2025, the team reviewed an incident from November 11, 2025, involving the Student's aggression toward staff. The team concluded that the conduct was both a manifestation of the Student's disability and a direct result of the District's failure to implement the Student's IEP. Following this finding, rather than returning the Student to their placement, the Student was excluded from the School indefinitely, with attendance records showing a total of 32 days of suspension by December 19, 2025. Although the District Director of Student Services acknowledged that the Student was legally owed SDI and services as of the 11th day of suspension, a PWN issued on December 4, 2025, formally instructed the Parents to keep the Student home until a new placement could be determined. Notably, the Director of Student Services shared they were not present at the MDR meeting and, consequently, could not identify any specific remedies or corrective actions offered to the Parents at that time to address the implementation failures. During this period of exclusion, the District proposed tutoring and compensatory time but did not provide immediate corrective actions to resume the services that had previously failed to be implemented.

The District, after determining that its own failure to implement the IEP caused the Student's disciplinary incident, failed to provide an immediate remedy, failed to return the Student to their placement, and instead continued to exclude the Student from their educational program.

The Department substantiates this allegation with respect to the District.

V. CORRECTIVE ACTION[13]

In the Matter of McMinnville School District and Willamette Educational Service District
Case No. 25-054-092

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

[10] OAR 581-015-2420; 34 CFR § 300.530 (e)(f)
[11] OAR 581-015-2420; 34 CFR § 300.530 (f)
[12] OAR 581-015-2420; 34 CFR § 300.530 (e)(f)
[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))Procedure.

Action Required	Submissions	As Soon As Possible But No Later Than Due Date
1. The District is to provide Parents with a properly constructed PWN for all disciplinary changes of placement over 10 days. Additionally, provide a PWN for the refusal to hold the Parent requested IEP meeting.	The District shall submit to the ODE the following: Copies of issued PWNs.	 February 13, 2026
2. The District is to work with the ESD to create a Standard Operating Procedure (SOP) that defines IEP procedural roles and responsibilities, and train all staff who will implement the SOPs.	The District and the ESD shall submit to the ODE the following: Copy of the newly created SOP. Training agenda/materials to ODE for review/approval. Sign-in sheet for training.	 March 20, 2026 March 20, 2026 June 19, 2026
3. The District and the ESD to provide staff training on: • PWN policies and procedures; • When IEPs Must Be in Effect • Documentation of IEP services, accommodations, and modifications.	The District and ESD shall submit to the ODE the following: Training agenda/materials to ODE for review/approval. Sign-in sheet for training.	 March 20, 2026 June 19 , 2026
4. The District must convene an IEP meeting for the Student to determine appropriate compensatory education services for the loss of educational opportunity caused by the failure to implement the Student's IEP and the inappropriate exclusion from school (i.e., from the 11th day of suspension until December 5, 2025). If the parties are unable to reach an agreement on the compensatory	The District and ESD shall submit to the ODE the following: IEP sign-in sheet; IEP Minutes. Completed plan for delivery of Compensatory Education	 March 15, 2026 March 15, 2026

education to be offered to the Student, either party can request that the determination be made by the Department.	developed in IEP meeting with Parent.; Evidence showing compensatory education was provided.	 August 31, 2026

Dated: this 3 Day of February 2026



_____

Ramonda Olaloye
Assistant Superintendent
Office of Enhancing Student Opportunities

E-mailing Date: February 3, 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).)