BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of Hermiston School District 8	)	FINDINGS OF FACT,
	)	CONCLUSIONS,
	)	AND AMENDED FINAL ORDER[1]
	)	Case No. 25-054-097

I. BACKGROUND

On December 22, 2025, the Oregon Department of Education (Department) received a written request for a special education complaint investigation from the parent (Parent) of a student (Student) residing in the Hermiston School District 8 (District). The Parent 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.

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.[2] This timeline may be extended if the Parent and the District agree to the extension in order to engage in mediation or local resolution or for exceptional circumstances related to the complaint.[3]

On December 29, 2025, the Department's Complaint Investigator sent a *Request for Response (RFR)* to the District identifying the specific allegations in the Complaint to be investigated and establishing a *Response* due date of January 16, 2026.

The District submitted a *Response* on January 16, 2026, denying the allegations, providing an explanation, and submitting documents supporting the District's position. The District submitted the following relevant items:

1. Emails, 11/21/25 – 12/22/25
2. Special Education Student Contact Log, 01/05/26
3. Prior Written Notices (PWN), 09/23/25 – 12/12/25
4. Individualized Education Program (IEP): Student IEP and Annual IEP Notes, 09/23/25
5. Eligibility Summary Statements, 12/05/23 – 12/09/25
6. Evaluation Notes, 12/09/25
7. Confidential Report, 12/01/23
8. Parent Guardian Consent for Individual Evaluation, 09/23/25 – 12/12/25

[1] On February 20, 2026, the Department issues a final order in this matter. On February 23, 2026, the District requested clarification of the corrective actions and additional time to submit a compensatory education plan to the Department. The Department issues this amended final order.
[2] OAR 581-015-2030(12) and 34 CFR § 300.152(a)
[3] OAR 581-015-2030(12) and 34 CFR § 300.152(b)

9. Re-Evaluation Planning Meeting notes, 12/12/25

The District submitted additional documents on January 27, 2026:

1. 24-25 Sp[ecial]Ed[ucation] Teacher Input, 09/16/25
2. Email, re: Document Shared with You: "[The Student] IEP 09/23/2025.docx," 09/18/25

The Parent submitted a *Reply* on January 21, 2026, providing an explanation and supporting documents for the Parent's position, as well as additional documents submitted on January 26, 2026. The Parent submitted the following relevant items:

1. Emails, 11/13/25 – 01/30/26
2. Screenshots of text conversation, 09/22/25
3. Screenshots of phone logs, various dates
4. PWN, 09/23/25 – 12/12/25
5. Eligibility Summary Statement and Statement of Eligibility for Special Education (SLI), 12/09/25
6. SLI Evaluation Report, 12/03/25
7. Parent Guardian Consent for Individual Evaluation, 12/12/25
8. Re-Evaluation Planning Meeting Notes, 12/12/25
9. Parental Response: Non-Consent to Exit IEP, 12/09/25
10. Notice of Team Meeting, 09/30/25
11. Envelope addressed to the Parent, postmarked 12/18/25
12. Academic and Student Records, various dates
13. Progress 1 Report Card and Fall 2025 Family Report, 2025-26 School Year
14. Student Profile, 10/14/25
15. Student Record Sheet, 2021-22 School Year
16. Picture of Student's school work, 2025-26 School Year
17. OHI and SLD Evaluation Report, 01/15/26

The Complaint Investigator interviewed the Parent on January 26, 2026. From January 26 to January 27, 2026, the Complaint Investigator interviewed District 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 Parent's allegations and the Department's conclusions are set out in the chart below. The conclusions are based on the Findings of Fact in Section III and the Discussion in Section IV. This Complaint covers the one-year period from December 23, 2024, to the filing of this Complaint on December 22, 2025.

Allegations	Conclusions
Prior Written Notice (PWN) The Parent alleged the District violated the IDEA by not providing the Parent PWNs within a reasonable period of time before the District proposed to change the identification, evaluation, or educational placement of the Student on December 11, 2025, and December 12, 2025. (OAR 581-015-2310, 34 CFR § 300.503(a))	**Not Substantiated** The District sent the PWNs and at least one of the Parents received the notice.
Determination of Eligibility The Parent alleged the District violated the IDEA by failing to consider information from a variety of sources, including aptitude and achievement tests, independent educational evaluations (IEE), parent input, and teacher recommendations, as well as information about the Student's social or cultural background, adaptive behavior, and failing to document their consideration of these data points when they exited the Student from special education services. (OAR 581-015-2105, 34 CFR § 300.306(a)(c))	**Substantiated** The District failed to consider information from a variety of sources, including aptitude and achievement tests, IEE, parent input, and teacher recommendations, when the District exited the Student from special education services.
Free Appropriate Public Education (FAPE) The Parent alleged the District violated the IDEA by exiting the Student from special education services despite documented academic concerns and an active IEE, thereby preventing the Student from receiving a FAPE. (OAR 581-015-2040, 34 CFR §§ 300.17, 300.101)	**Substantiated** The District's failure to identify the Student's academic needs prevented the Student from access to services and supports needed to fully access their learning and resulted in failing grades and behavioral struggles.

REQUESTED CORRECTIVE ACTION
● Order the immediate reinstatement of the Student's IEP and all services until the approved IEE is completed, reviewed by the team, and a new eligibility determination is made. ● Order the District to immediately cease all internal evaluations of the Student until the parent-requested IEE is completed and the results have been reviewed by the IEP team. Prohibit the District from using any testing data gathered between December 12, 2025, and the date of this order to determine eligibility or placement, as such data was gathered without providing the required PWN to the Parent and in violation of the

Parent's documented non-consent.

- Require the District to provide 90 minutes per day of 1:1 or small-group (3:1) Structured Literacy specially designed instruction (SDI) (Orton-Gillingham or equivalent) to address the 1st-percentile reading deficits.
- Order the adoption of specific and appropriate goals for decoding, and a fluency target of 75+ correct words per minute with 98% accuracy.
- Order "minute-for-minute" compensatory services for all Speech and Academic instruction denied to the Student since December 19, 2025.
- Order a State-monitored corrective action plan requiring mandatory training for the Superintendent, the Director, and District administrative staff, and all District IEP team members on PWN timelines, "Stay Put" laws, and the requirement to consider parent-provided academic data.
- Require an independent, state-approved monitor to oversee all eligibility and IEP meetings for the Student for a period of 12 months.

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 23, 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 a fifth-grader who attends an elementary school in the District. The Student was eligible for special education services under the category of speech language impairment (SLI). The Student is a funny kid with a lot of energy who enjoys playing soccer and works well independently.

2. On December 1, 2023, a Confidential Report indicated the Student was being evaluated for Other Health Impairment (OHI) and Specific Learning Disability (SLD) eligibility and listed the qualifying criteria as:
   a. OHI requirements to qualify (does the Student meet all three of the following?):
      i. "Does [the Student] exhibit limited strength, vitality or alertness (including a heightened alertness to environmental stimuli that results in limited alertness with respect to the educational environment)"?
      ii. "Is [the Student's] limited strength, vitality or alertness is [*sic*] due to a chronic or acute health problem"?
      iii. "Is this chronic or acute health problem expected to last 60 or more calendar days"?
   b. SLD requirements to qualify (does the Student meet all three of the following?):
      i. "Is [the Student's] level of achievement significantly below age and grade level norms?"

ii. "Does [the Student] exhibit a pattern of strengths and weaknesses (More strengths than weaknesses) in cognitive development that is determined to be relevant to the identification of a specific learning disability?"
iii. "Consideration of exclusionary factors."

c. There were no medical records at the time of the evaluation.
d. The Student's scores in reading skills as measured by the Wechsler Individualized Achievement Test, Fourth Edition (WIAT-IV) and the Kaufmann Test of Educational Achievement-Third Edition (KTEA-3) included:
   i. Decoding composite: Standard Score (SS) of 69 and percentile rank of 2.
   ii. Letter and word recognition: SS of 61 and percentile rank of 0.5.
   iii. Nonsense word decoding: SS of 78 and percentile rank of 7.
   iv. Orthographic Choice: SS of 69 and percentile rank of 2.
   v. Spelling: SS of 69 and percentile rank of 2.
   vi. Reading composite: SS of 67 and percentile rank of 1.
   vii. Silent reading fluency: SS of 65 and percentile rank of 1.
   viii. Word reading fluency: SS of 65 and percentile rank of 1.
   ix. Decoding Fluency: SS of 81 and percentile rank of 10.
   x. Listening comprehension: SS of 87 and percentile rank of 19.
   xi. Reading comprehension: SS of 75 and percentile rank of 5.
   xii. Reading vocabulary: SS of 61 and percentile rank of 0.5.
e. The Student's scores on the math section of the KeyMath-3 Diagnostic Assessment (KeyMath-3DA) included:
   i. Operations: SS of 90 and percentile rank of 25 (considered average).
   ii. Applications: SS of 82 and percentile rank of 12 (below average).
f. According to a chart which included scores from iReady, WIAT-IV, KTEA-3, and KeyMath-3, the Student demonstrated weaknesses in basic reading skills, reading fluency, and reading comprehension; strengths in math calculation, and math problem solving; and a borderline weakness in written expression.
g. According to the Wechsler Intelligence Scale for Children-Fifth Edition (WISC-V), the Student's scores were in the overall average range.
h. The Student demonstrated strengths in visual processing, auditory processing, short-term memory (with a weakness in memory span), associative memory, crystallized knowledge, rapid automatized naming (RAN) ability, fluid reasoning (with an outlier in inductive reasoning), and processing speed.
i. The Student demonstrated their attention and information processing varied, which indicated the Student may have problems with inattentiveness.
j. The Parent and the Student's teacher both rated the Student in the clinical range for hyperactivity, externalizing problems, and functional communication. The Parent additionally rated the Student in the clinical range for aggression and conduct problems, while the Student's teacher additionally rated the Student in the clinical range for attention problems, learning problems, school problems, study skills, and adaptive skills.
k. The report noted the Student did not demonstrate a pattern of strengths and weaknesses and showed all cognitive strengths. The Student showed academic concerns in basic reading skills, reading fluency and comprehension, math problem-solving, and written expression.

l. Accommodations and instructional strategies were recommended to support the Student's academic needs.

3. On December 5, 2023, an Eligibility Summary Statement indicated the Student met the disability criteria for SLI and did not meet the criteria for an OHI or SLD. All team members, including the Other Parent, signed in agreement with the decision.

4. On September 16, 2025, the Special Education Teacher provided input at the Student's IEP meeting, stating the Student did not have academic goals and the Student was in the special education room for reading skills. They indicated the Student had not yet passed vowel teams on the phonics survey.

5. On September 18, 2025, the Speech-Language Pathologist (SLP) emailed the Special Education Facilitator a document containing the Student's present levels and proposed goals. They also proposed reducing the SDI from 800 to 400 minutes per year. The Special Education Facilitator emailed the SLP to ask if they wanted to evaluate the Student by the end of the year to "possibly exit [them] from services." The Special Education Facilitator shared the Student had been disqualified from SLD but retained most of their SLD accommodations because they had "significant reading deficits."

6. A text message conversation between the Secretary and the Parent on September 22, 2025, detailed:
   a. The Secretary: "I got your message about the IEP meeting. Someone from the District office will be calling you to reschedule or you can join the meeting via phone or [online]."
   b. The Parent: "I am disappointed that the notice wasn't sent to me. I am out of state and not available to join tomorrow. The district office talked to me and explained that [the Other Parent] provided consent, and procedurally the meeting can occur. I stated that they can choose to proceed with the meeting over my objection."

7. An IEP dated September 23, 2025, indicated:
   a. The Student and the Other Parent stated they had no concerns.
   b. Teachers were concerned the Student was academically behind their peers by several grade levels. They indicated, although the Student was making sustained growth in targeted academic interventions, there was a "large skill gap".
   c. The present levels section indicated the Student showed academic concerns in basic reading skills, reading fluency, reading comprehension, math problem-solving, and written expression.
   d. The Student read 16 words per minute, which was below the benchmark of 125 words per minute. The Student scored a 53% accuracy. The Student's comprehension was at a first-grade level. The Student needed the text read aloud. The Student was in the special education classroom for reading skills, and notes stated, "[The Student's] biggest barrier to reading appears to be [their] inability to read fluently and accurately."
   e. The Student needed "a lot of teacher assistance" for writing assignments, specifically with spelling and formulating complete sentences.

f. The Student was "at the bottom of [their] class" in math facts and scored at the first-grade level on a standardized test.
g. The functional performance section indicated the Student did not qualify for OHI due to the lack of a medical statement, but indicated the following needs:
    i. Inattention in school environments.
    ii. Impaired ability to access the home environment.
    iii. Elevated scores in the area of attention problems.
    iv. Clinically significant scores in the area of hyperactivity.
h. The Student's communication goal was updated and adopted by the IEP team.
i. Accommodations were determined to be "still appropriate."
j. SDI was reduced from 800 minutes to 400 minutes per year for communication.
k. The Student's "suspected disability" of OHI was stated to impact their ability to focus and retain information, and accommodations were added to the Student's IEP.
l. Relevant accommodations included:
    i. Chunking of assignments and assessments daily.
    ii. Preferential/strategic seating near the teacher and away from distractions, daily.
    iii. Allow technology use for all written work, a paragraph or longer.
    iv. Visual supports, for example, a number line, 100's chart, multiplication chart, sentence frames, daily.

8. IEP Meeting notes dated September 23, 2025, documented the Student needed reading support through interventions, had writing needs and would begin typing, and was struggling in math but was able to keep up with teacher support and peer mentoring.

9. A PWN dated September 23, 2025, indicated:
    a. The IEP team was required to meet annually to review and update the Student's progress and current program, which would include a file review of previous records, progress notes, current assessment data, and parent and teacher input.
    b. A description of the factors relevant to the actions proposed or refused:
        i. A new IEP was developed to reflect current information, develop appropriate goals, determine accommodations and modifications, determine SDI minutes, determine placement, and collaborate on all known needs of the Student.
        ii. The IEP team reviewed accommodations and determined they were still appropriate.
        iii. The IEP team decided to reduce SDI instruction from 800 minutes to 400 minutes a year.
        iv. The Student was making adequate progress and did not require extended school year (ESY) services.

10. On September 23, 2025, the Other Parent signed consent for an SLI evaluation.

11. A PWN dated September 23, 2025, indicated:
    a. A triennial reevaluation was required to determine if the Student's needs had changed or if they continued to qualify for special education services.

b. A comprehensive evaluation would be used to determine special education eligibility based on previous eligibility information, parent reports, a file review, formal and informal student information, and teacher/student records.
c. A speech and language assessment would serve as the basis for the proposed action.
d. The team considered not evaluating the Student but rejected that option because it was in the Student's best interest to have evaluations completed and data presented.

12. According to the Student's contact log, on September 25, 2025, a PWN was mailed home to both Parents separately.

13. A Notice of Team Meeting, dated September 30, 2025, was regarding a meeting scheduled for December 9, 2025. Handwritten notes said, "Mailed to [the Parent] 9.30.25." The purpose of the meeting was to review existing information about the Student and decide if additional testing was needed; develop or review an IEP and placement for the Student; review existing information about the Student and decide whether the Student was eligible for or continued to be eligible for special education; and review existing information about the Student and decide if they should be evaluated for special education eligibility.

14. Relevant information from an email chain from November 13 through November 21, 2025, between the Parent, the Special Education Facilitator, and the Principal, included:
    a. November 13, 2025: The Parent believed the intent of the Student's IEP meeting on December 9, 2025, was to exit the Student from services. The Parent expressed concern that the Student was performing below grade level in math and reading.
    b. November 17, 2025: The Special Education Facilitator explained the team had to consider three parts when exiting the Student from services under the category of SLI: whether the Student meets disability criteria under SLI, if there is an academic impact as a result of their SLI, and the need for SDI to support the Student's SLI. A couple of hours later, the Special Education Facilitator emailed the Parent again and offered to re-evaluate the Student under OHI. The Parent replied, stating they did not believe the Student had ADHD and added they did "suspect asking a child with the academic capability of a first grader to perform 5th grade level work would be very frustrating," and requested an IEE.
    c. November 18, 2025: The Special Education Director emailed the Parent to inform them the Student had previously been evaluated for an SLD, including Dyslexia, and asked whether they would like an evaluator to set up a meeting to review the report with them.
    d. November 20, 2025: The Parent emailed the Special Education Director to request an assessment of whether the Student may have a reading disability, such as dyslexia. The Parent emailed the Principal, the Special Education Director, and the Special Education Facilitator again, requesting an IEE because they disagreed with the District's conclusion that the Student did not qualify for an SLD in the areas of basic reading skills, reading fluency, and reading comprehension. The Principal emailed the Parent to provide results from the Student's most recent DIBELS, Start Testing, and MAP data. The Principal shared the Student's reading scores prompted the 2023 evaluation, and indicated the

evaluation found the Student had "all cognitive strengths," which was why they did not qualify for an SLD.

e. November 21, 2025: The Special Education Director emailed the Parent and stated they would be happy to reevaluate the Student for an SLD and reconvene the eligibility team.

15. On November 25, 2025, a PWN indicated the District received a request for an IEE by the Parent on November 15, November 20, and November 21, 2025, and agreed. The notice indicated the IEE was available only in areas where the District had completed an assessment and that it must include comparable cognitive and academic testing. The PWN indicated the District offered a reevaluation under the OHI and SLD categories, but the Parent rejected it. The PWN noted that the Parent disagreed with the interpretation of the test results, but not with their accuracy. The District indicated they were standing ready to offer a reevaluation for OHI and SLD, agreed to the IEE at the District's expense, and would meet upon completion to discuss results and determine whether the Student required SDI.

16. According to the Student's contact log, on November 25, 2025, a PWN accepting the request for an IEE was mailed home to the Parent.

17. The Special Education Director emailed the Parent on December 1, 2025, stating the District agreed to their request for an IEE and the results would be considered in making educational decisions for the Student.

18. According to the Student's contact log, on December 1, 2025, a PWN was mailed to both Parents separately.

19. An SLI Evaluation Report, dated December 3, 2025, contained the following relevant information:
    a. The Student had been receiving speech-language therapy for 400 minutes per year (approximately 30 minutes every 2 weeks). The evaluation was completed as part of an annual review to assess communication skills, specifically articulation development.
    b. The Student was previously evaluated on November 21, 2023, using the Goldman-Fristoe Test of Articulation-3 (GFTA-3), which resulted in a standard score of 54 with a percentile rank of 0.1. The Student's speech was "characterized by the following errors: substitution of /w/ for /r/; /f/ for /th/. This score resulted in [the Student] continuing to qualify for speech and language services."
    c. GFTA-3 scores included:
        i. Sounds-in-Words and Sounds-in-Sentences scores were both within the normal range.
    d. Voice was considered to be within normal limits for pitch, intensity, quality, and resonance.
    e. Fluency of speech was within normal limits throughout the assessment. A formalized assessment was not warranted.
    f. Goals: By October 2026, the Student would consistently produce conversation-level speech with at least 85% intelligibility and identify repair errors as indicated for successful communication across three consecutive sessions.

20. On December 8, 2025, the Parent emailed the Principal, the Special Education Facilitator, and the Special Education Director to state they wanted to ensure the Student would receive the SDI they needed either through their current eligibility or through a new eligibility category. The Parent specifically sought instruction in reading and provided test scores indicating reading needs.

21. An Eligibility Summary statement dated December 9, 2025, indicated the Parent and the Other Parent were present at the meeting. It also detailed:
    a. An SLI Evaluation was used as the basis for the current eligibility determination, and the parents received a copy of the evaluation.
    b. The Student's eligibility status prior to the meeting was an SLI, with a previous eligibility date of December 5, 2023.
    c. The team reviewed information from the Parents, the Student's cumulative records, and any previous IEP or Individualized Family Service Plan (IFSP). The date of review and eligibility determination was December 9, 2025.
    d. For SLI, all boxes were checked "no" for meeting disability criteria, having an adverse impact, and needing special education.
    e. Every team member checked the "agree" box, except the Parent.

22. A statement of Eligibility for Special Education for an SLI, dated December 9, 2025, indicated the Student had an SLI evaluation completed on December 3, 2025. The document showed the assessment included a review of existing information, including information from parents, previous testing, medical data, the Student's cumulative records, and previous IEPs or IFSPs, as well as a speech-language assessment. For the eligibility determination, the GFTA-3 and a speech-language sample were conducted on December 3, 2025. The team determined the Student did not meet the eligibility criteria for special education services under the SLI eligibility category.

23. Evaluation Notes dated December 9, 2025, indicated the Parent had concerns about the Student's ability to read and understand text. The team offered to reevaluate for SLD and OHI. Notes indicated the Student was in the "typical" range for communication. The Parent asked about an IEE, noting they believed the Student's scores qualified the Student for special education services.

24. A document titled "Non-Consent to Exit IEP - December 9, 2025," was written, signed, and dated by the Parent. It stated the Parent did not consent to exiting the Student from their current SLI IEP, ending or reducing special education eligibility or services, and transitioning the Student to a 504 plan. The Parent wrote that because they were withholding consent, the Student's IEP remained "in full force and effect under stay-put."

25. According to the Student's contact log, on December 10, 2025, the Special Education Facilitator left a message with the Other Parent regarding their interest in an OHI and SLD evaluation. The Other Parent called back on December 11, 2025 and indicated they were interested in the evaluation and discussed taking the Student to their pediatrician for an

ADHD diagnosis. The Other Parent also asked about placing the Student on a 504 while waiting for the evaluation.

26. A PWN, dated December 11, 2025, indicated it was mailed on December 15, 2025, and contained the following relevant information:
    a. The IEP team met on December 9, 2025, and determined the Student no longer qualified for special education instruction and services under SLI and the District would move forward with exiting the Student from special education eligibility on December 19, 2025. The District stood ready to hold a meeting to discuss evaluating the Student for eligibility in another category, such as SLD or OHI.
    b. The IEP team determined the Student did not experience an academic impact as a direct result of an SLI and did not require SDI related to an SLI. The Parent disagreed with the determination, but the Other Parent agreed. The Other Parent signed consent to evaluate the Student for SLI on September 23, 2025, and the District moved forward with a re-evaluation. The IEP team considered historical information, input from team members, and discussion during the eligibility meeting.
    c. The IEP team offered to evaluate the Student for SLD and OHI because they believed there might be additional issues beyond SLI affecting the Student's ability to access instruction.
    d. The Parent expressed concern with the Student's reading ability and requested an IEE to have the team reinterpret the results of a 2023 evaluation. In 2023, the Student did not meet the eligibility requirements for OHI and SLD, but the District indicated it was ready to re-evaluate eligibility based on current information.
    e. The District acknowledged the Parent's note stating they did not consent to the Student's exit from services, but the District would proceed with the Student's exit on December 19, 2025.

27. A document titled "Re-Evaluation Planning Meeting," dated December 12, 2025, included the following relevant information:
    a. The meeting was between the Other Parent and the School Psychologist and was about the Other Parent's request for a re-evaluation of the Student.
    b. The School Psychologist discussed the evaluations they wanted to complete to determine SLD and OHI eligibility.
    c. The Other Parent provided consent to conduct the evaluation.

28. A PWN dated December 12, 2025, contained the following relevant information:
    a. The IEP team decided to evaluate the Student for special education services in the categories of SLD and OHI. The Other Parent signed the consent for the evaluation the same day.
    b. "The District and parents agree that [the Student] is not making adequate progress in spite of highly targeted intervention provided over an extended period of time. The team would like additional evaluation data to consider special education disabilities within the categories of [SLD] and [OHI] … ."

c. A comprehensive evaluation would be used to determine special education eligibility based on prior eligibility information, parent reports, a file review, forms, informal student information, and teacher reports.
d. Not evaluating the Student was rejected due to the IEP team's academic concerns and the Other Parent's consent to evaluate.
e. The Parent was obtaining an IEE regarding the previous testing from 2023. The IEP team considered pausing any new evaluations during the IEE, but decided to move forward because the testing the District would conduct under SLD and OHI was not identical to that conducted in 2023.
f. The IEP team would continue to monitor the Student's progress and provide appropriate supports.
g. The Other Parent expressed interest in a 504 plan for the Student, to be implemented during the evaluation period. The Parent did not agree the Student should be evaluated for OHI eligibility and did not want the District to move forward with an SLD evaluation; instead, the Parent wanted the District to focus on the IEE.

29. A Parent Guardian Consent for Individual Evaluation, dated December 12, 2025, stated an evaluation was being proposed because the Student had "a lack of progress despite highly targeted interventions over time." The evaluation would include an educational evaluation of learning and achievement, an observation of the learning environment, a psychoeducational assessment, and a social/emotional/behavioral assessment. Consent to perform the evaluation was signed by the Other Parent on December 12, 2025.

30. According to the Student's contact log, on December 15, 2025, a PWN was mailed separately to both Parents, and the finalized evaluation paperwork was mailed to both Parents.

31. On December 17, 2025, the Parent emailed the Special Education Director to request the full document containing the Student's DIBELS records from kindergarten to the present. Additionally, the Parent requested the Student's "historic risk levels, interventions, and intervention responses."

32. A scan of an envelope from the District to "the parent/guardian of [the Student]" was postmarked December 18, 2025.

33. On December 19, 2025, the Parent emailed the Special Education Director to note the Other Parent had shared the list of assessments provided to the IEE provider and asked which ones had already been completed and which were planned, citing concern about duplicating testing. The Parent also requested a copy of the consent form and the testing plan. The Special Education Director replied the assessments were the ones the School Psychologist had already completed with the Student. They added they would provide the requested documents the following week. The Special Education Director emailed the Parent on December 22, 2026, to confirm the documents had been uploaded to the "secure file transfer folder" and stated if the Parent had difficulty opening it, to contact them.

34. In an email to the Special Education Director on December 22, 2025, the Parent stated they had not received the PWN and that the District was not using their correct mailing address. The Special Education Director replied that day and said they would check with the team after returning from winter break to find out why one of the PWNs was not mailed to the Parent.

35. In an email to the Oregon Department of Education, dated December 22, 2025, the Parent indicated they and the Other Parent shared full parental legal rights of the Student. In another email sent the same day, the Parent described the Other Parent was using a homeschool curriculum with the Student and the Student was doing first-grade phonics at home, but was currently in the fifth grade. The Parent also stated they believed the Student's December 2023 evaluation report was sufficient to establish an SLD eligibility. The Parent perceived that the District refused to discuss the scores even though it indicated the Student had a "need for a more specially designed level of instruction."

36. The Student's Fourth Grade Record sheet for the 2024-25 school year included their i-Ready scores in reading and math, indicating they were performing below grade level in both areas. The Student's Fifth Grade Record Sheet for the 2025-26 school year indicated they had an Oral Reading Fluency (ORF) score of 16/125, and an accuracy of ORF of 53%.

37. The Student's 2025-26 report card indicated:
    a. The Student had a score of 1 (does not meet standard) in five sections of English Language Arts and in one section of mathematics.
    b. The Student "met grade level expectations" in health, science, and social science.
    c. In physical education, the Student had scores of "nearly meets standard," "meets standard," and "exceeds standard."
    d. The Student had scores of "nearly meets standard" in music.

38. The Student's Progress Report for "Fall 2025-2026" indicated the Student's Rasch UnIT (RIT) scores in math and reading were below the District's grade-level mean RIT. The Student's math score of 177 showed their achievement level was below the mean, in the 4th percentile, and Numeric Reasoning was a focus area. The Student's reading score of 194 detailed their achievement level was below the mean, in the 30th percentile, and Informational Text was a suggested area of focus.

39. An undated assignment rubric for the Student detailed that, when given a grade-level text, they would identify two or more main ideas or provide 2-3 details to support each main idea. The Student's assignment, dated October 20, 2025, had handwritten notes that said "good" alongside the first paragraph and "pretty much the same main idea" beside the second paragraph.

40. An undated assignment rubric for the Student detailed that they would be able to do two or less of the following: add, subtract, multiply, or divide decimals to the hundredths place; relate the strategy to a written method, and explain (written or verbal) the reasoning used

for each operation. The Student's undated assignment had a score of 1/5 written on the top.

41. Information on a reading practice quiz showed the Student took quizzes on September 12 and September 16, 2025. The scores were 40% and 30%, respectively. Handwritten notes said, "No Q1 AR goal tests passed."

42. An undated assignment rubric for the Student stated that, when given a text, a student could determine 1-2 themes of a given text or support the theme with 2-3 key details. Only the latter item was checked off. The Student's undated assignment had handwritten notes. At the top, it was written, "not really a theme." Beside a middle paragraph, handwritten notes said, "good details." Another undated rubric contained the same information, and "no" was written beside "ability to determine themes." On the Student's assignment, handwritten notes indicated the Student had not correctly identified any themes.

43. An undated rubric for fluency stated when given a 5th-grade-level DIBELS passage, a student would read 123 words or less per minute on the DIBELS Oral Reasoning Fluency passage. Handwritten notes said "12wpm" and "33% acc [*sic*]."

44. According to the Parent's call history from their cell phone, they received calls from the School on September 3, 2025, November 17, 2025, November 19, 2025, December 8, 2025 and December 16, 2025.

45. On December 22, 2025, the Parent filed this Complaint.

46. According to a private evaluation report, resulting from the IEE request and dated January 15, 2026, although speech and language skills were no longer found to require specially designed instruction, assessment data continued to indicate concerns regarding academic progress, attention, learning efficiency, and behavioral regulation. Additionally, the report indicated assessment data collected across multiple years and tools demonstrated persistent and significant academic underachievement, particularly in reading. The weaknesses were evident across accuracy, efficiency, and application of skills. Mathematics performance also fell below grade-level expectations, with weaknesses in both computation and applied problem-solving. The report summary indicated the assessment data supported eligibility for SLD based on a persistent academic underachievement, a specific cognitive processing weakness in associative memory, and academic difficulties that were unexpected relative to overall cognitive strengths.

47. According to the Parent's email dated January 26, 2026, the District found the Student eligible for SLD for reading and math on January 28, 2026.

48. In an interview with the Complaint Investigator, the Parent shared they were the Student's Parent and the Complainant.

49. The Parent explained something happened at the start of the school year that removed them from the contact list. They stated they used to receive all messages at the same time as the Other Parent.

50. The Parent indicated the District contacted the Other Parent to schedule a meeting for September 23, 2025. They indicated the notice was sent to the Other Parent. The Parent noted they learned about the meeting the day before, when the Other Parent informed them. The Parent stated they called the School to reschedule the meeting, but were told the School had the Other Parent's consent and would not reschedule. The Parent confirmed they were unable to attend the meeting.

51. The Parent shared the PWN dated December 12, 2025, was for a planning meeting the District held with the Other Parent. They stated the District records indicate the PWN was mailed to the Parent, but the Parent had no record of it ever arriving. They added the documents were not mailed to their mailbox, and no documents appeared in their United States Postal Service (USPS) Informed Delivery records. The Parent confirmed they emailed the District to request the documents.

52. The Parent stated on December 20, 2025, they received the PWN stating the Student would be exited from services on December 19, 2025. They noted the envelope was postmarked December 18, 2025. The Parent confirmed they were at the IEP meeting on December 9, 2025, when the District indicated it would be exiting the Student, and the Parent stated they provided a written non-consent and did not believe the District could proceed.

53. The Parent reported the District did not consider a variety of information about the Student before exiting the Student. The Parent recalled the Student's DIBELS scores were at the first- or second-grade level, even though the Student was in fifth grade. The Parent shared they and the Other Parent had concerns about the Student's academic performance. The Parent stated they were able to add reading accommodations to the Student's IEP the previous year. They shared they had repeatedly emailed and asked the School about the Student's performance since November 2025, including a request for an IEE.

    The Parent recalled the eligibility meeting focused solely on the SLI category and felt the District was "unwilling" to discuss SLD and had no data to support the claim SLI was not impacting the Student's educational achievement. The Parent confirmed the PWN from December 11, 2025 stated the Student had no academic concerns. They added the next day that the PWN for evaluation planning stated the Student has "severe, persistent academic concerns despite interventions."

    The Parent explained that "a month ago", the District stated the Student didn't have needs and exited the Student from an IEP, and then they said the Student was eligible and had needs. The Parent shared they did not believe the needs arose in a month; they expressed their belief the needs had "always been there."

54. The Parent stated the documents shared contained information that differed from what was summarized in the Student's performance narrative. They indicated they had asked for the screening records and the file review. The Parent stated they also emailed the "district record custodian" requesting a list of the records, and their request was forwarded to the Special Education Director.

55. In an interview with the Complaint Investigator, the School Psychologist was joined by the Special Education Director and the Attorney for the District.

56. The School Psychologist described meeting with the Other Parent on December 12, 2025. They stated the Other Parent had discussed "moving ahead" with "reevaluation" of the Student for OHI and SLD. The School Psychologist indicated they discussed what the evaluation would entail. They also asked the Other Parent whether they were aware the Parent did not want this and whether they wanted to proceed anyway. They described the Other Parent as saying, "Yes." The Other Parent provided written permission for the evaluation.

57. The School Psychologist indicated they would consider information from an IEE, but it didn't prevent them from proceeding with their own evaluation.

58. The Attorney for the District stated the IEP team met to determine whether the Student was still eligible for SLI, and at that time, concerns were raised about OHI and SLD, which prompted another process. The Special Education Director added that, during the IEP, it was determined the Student had met their speech goals, and the reevaluation would be completed one year sooner than the required three years. The team offered an OHI evaluation at that time. The Special Education Director shared that they explained to the Parents they would need a doctor's note to complete the evaluation portion of the previous evaluation. The Other Parent declined.

59. The Special Education Director stated that the Student had "all strengths" and didn't qualify for SLD when they were evaluated two years prior. They shared they "tried to acknowledge" the Student's academic needs to get the Parents to agree to the OHI evaluation in September 2025. They stated that the Parent later requested an IEE, which they approved. The Special Education Director shared that they discussed the Student's academics at the SLI eligibility meeting and stated the District wanted to conduct OHI and SLD evaluations, but the Parent declined, while the Other Parent agreed. The School Psychologist indicated they understood both Parents had educational authority to consent.

60. In an interview with the Complaint Investigator, the Special Education Facilitator was joined by the Special Education Director and the Other Attorney for the District.

61. The Special Education Facilitator indicated that they considered all academic data, including standardized testing, formal and summative assessments, teacher and parent input, all teacher notes and observations, previous evaluation information, historical information, and past parent information. The Special Education Facilitator stated they held the eligibility

planning meeting right after the annual IEP meeting in September 2025. They recalled discussing SLD and OHI as possibilities with the entire team.

62. The Special Education Facilitator reported they gathered teacher input through forms sent out three weeks prior to the meetings. They added that they had spoken with teachers via email and asked the team if they had any additional concerns to raise during the evaluation planning. The Special Education Facilitator stated that teachers shared the Student was performing low in academic areas such as reading, writing, and math.

63. The Special Education Facilitator shared they gathered information from the Other Parent at the September 23, 2025, meeting and stated they "had no concerns." They stated they met with the Parent several days later because the Parent was unable to attend the September 23, 2025, IEP meeting. The Special Education Facilitator noted the Parent expressed concerns with academics, specifically with dyslexia and asked what the District was doing. The Special Education Facilitator explained the intervention process with the Parent and stated they discussed a District evaluation. The Special Education Facilitator acknowledged the Parent's concerns were not added to the IEP after that meeting.

64. The Special Education Director recalled the Parent emailing concerns they wanted the team to be aware of and the Special Education Director then forwarded the Parent's concerns to the team. The Special Education Facilitator indicated the concerns specifically addressed reading.

65. The Special Education Facilitator reported both Parents were at the December 2025 meeting and both shared their concerns verbally. They stated the Parent shared they were not interested in exploring OHI. The Special Education Facilitator stated both Parents shared concerns about the Student's academics, specifically reading. They stated the Parents disagreed on whether they should look into SLD. The Parent was "exploring the IEE process," and the Other Parent showed interest in additional evaluations. The Special Education Facilitator shared they followed up with the Other Parent and were able to obtain additional consent to explore "other options."

66. The Special Education Facilitator shared the Parent did not raise any concerns with the IEP until after the complaint was made. They stated the Parent's concerns were regarding how the IEP was worded for "parent reflection."

67. In an interview with the Complaint Investigator, the Special Education Director was joined by the Other Attorney for the District.

68. The Special Education Director indicated that, after exiting SLI services, the Student continued to receive interventions in the School's "walk to read" program and continued to receive accommodations. They shared the team discussed a 504, but the Other Parent indicated they wanted to wait until the evaluation was completed to make that decision.

69. The Special Education Director stated that the Student was in the lowest skills level for their grade level and the reading group that they were in was taught by the special education teacher and their assistants. They confirmed the Student had been in that intervention group for the entirety of the current school year.

IV. DISCUSSION

Prior Written Notice

The Parent alleged the District violated the IDEA by not providing the Parent PWNs within a reasonable period of time before the District proposed to change the identification, evaluation, or educational placement of the Student on December 11, 2025 and December 12, 2025.

Prior written notice must be given to the parent of a child, and to the adult student after rights have transferred, 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 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, a description of each evaluation procedure, assessment, test, record, or report the school district used as a basis for the proposed or refused action, a statement that the parents of a child with a disability have protection under the procedural safeguards and, if this notice is not an initial referral for evaluation, the means by which a copy of the Notice of Procedural Safeguards may be obtained, sources for parents to contact to obtain assistance in understanding their procedural safeguards, a description of other options that the IEP Team considered and the reasons why those options were rejected, and description of other factors that are relevant to the agency's proposal or refusal.

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. If the native language or other mode of communication of the parent is not a written language, the school district must take steps to ensure that the notice is translated orally or by other means to the parent in the parent's native language or other mode of communication, the parent understands the content of the notice, and there is written evidence that these requirements have been met.[4]

The District issued a special education dismissal notice on December 11, 2025, and internal logs show it was not mailed until December 15, 2025. The Parent reported the notice was postmarked December 18, 2025 and arrived on December 20, 2025 one day after the District terminated services. The Parent confirmed they attended the meeting where the decision to exit the Student was made and were informed of the District's decision at that time.

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

The Parent alleged a PWN for a December 12, 2025 planning meeting was never received and did not appear in USPS Informed Delivery, suggesting it was mailed to an incorrect address. The Special Education Director acknowledged the discrepancy on December 22, 2025 and promised to investigate why the Parent was missed.

While mailing delays occurred, the Parent's actual participation in the eligibility meeting and the District's proactive commitment to investigate the mailing discrepancy demonstrate the Parent was sufficiently informed of the District's actions, thereby satisfying the core intent of procedural notice requirements. Beyond that, the Other Parent timely received these notices.

The Department does not substantiate this allegation.

Determination of Eligibility

The Parent alleged the District violated the IDEA by failing to consider information from a variety of sources, including aptitude and achievement tests, independent educational evaluations, parent input, and teacher recommendations, as well as information about the Student's social or cultural background, adaptive behavior, and failing to document their consideration of these data points when they exited the Student from special education services.

A public agency must conduct an evaluation or reevaluation process before determining that a child is a child with a disability, that a child continues to have a disability, changing the child's eligibility, or terminating the child's eligibility as a child with a disability, unless the termination is due to graduation from high school with a regular diploma or exceeding the age of eligibility for a FAPE.[5]

A parent or public agency may initiate a request for an initial evaluation to determine if a child is a child with a disability. An initial evaluation must be conducted to determine if a child is eligible for special education services when a public agency suspects or has reason to suspect that the child has a disability that has an adverse impact on the child's educational performance, and the child may need special education services as a result of the disability. The public agency must designate a team to determine whether an initial evaluation will be conducted. The team must include the parent and at least two professionals, at least one of whom is a specialist knowledgeable and experienced in the evaluation and education of children with disabilities. The team may make this decision without a meeting. If a meeting is held, parents must be invited to participate.[6]

The public agency must ensure that a reevaluation of each child with a disability is conducted if the public agency determines that the educational or related services needs, including improved academic achievement and functional performance, of the child warrant a reevaluation, or if the child's parents or teacher requests a reevaluation. A reevaluation for

[5] OAR 581-015-2105; 34 CFR § 300.306(a)(c)
[6] 34 CFR § 300.301(b)(c)

each child with a disability may occur not more than once a year, unless the parent and public agency agree otherwise, and must occur at least every three years, unless the parent and public agency agree that a reevaluation is unnecessary.[7]

Upon completion of the administration of assessments and other evaluation measures, a group of qualified professionals and the parent of the child determines whether the child is a child with a disability, and the public agency provides a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parent.[8]

In interpreting evaluation data for the purpose of determining if a child is a child with a disability, and the educational needs of the child, each public agency must draw upon information from a variety of sources, including aptitude and achievement tests, parent input, and teacher recommendations, as well as information about the child's physical condition, social or cultural background, and adaptive behavior; and ensure that information obtained from all of these sources is documented and carefully considered. If a determination is made that a child has a disability and needs special education and related services, an IEP must be developed for the child.[9]

Despite the Parent's repeated emails in November and December 2025 as well as their direct conversation with the Special Education Facilitator expressing concerns about dyslexia and academic failure, the Special Education Facilitator admitted these concerns were never included in the Student's IEP. While the Parent provided significant input about the Student's inability to read, test scores supporting that assertion, and a written "Non-Consent to Exit," the District moved forward with termination based on the Other Parent's agreement, and despite information known to the district that indicated clear academic needs.

Internal emails from September 18, 2025, reveal the Special Education Facilitator was aware the Student had "significant reading deficits" and was failing to pass basic phonics surveys, yet suggested evaluating the Student to "possibly exit" them from services. The District's December 11, 2025 notice claimed no academic impact from disability, yet the December 12, 2025 notice, issued 24 hours later, admitted the Student had "severe, persistent academic concerns" and was not making progress despite targeted interventions. These contradictory statements indicated the District ignored its own teachers' input and current academic data when deciding to terminate the IEP.

By ignoring documented academic failure and contradicting their own internal data, the District disregarded the Student's needs to justify an exit from services that lacked a consistent evidentiary basis.

The Department substantiates this allegation.

Free Appropriate Public Education (FAPE)

[7] 34 CFR § 300.303
[8] 34 CFR § 300.306(a)
[9] 34 CFR § 300.306(c)

The Parent alleged the District violated the IDEA by exiting the Student from special education services despite documented academic concerns and an active IEE, thereby preventing the Student from receiving a FAPE.

School districts must provide a FAPE to all school-age children with disabilities for whom the district is responsible. "School-age children" are children who have reached five years of age but have not yet reached 21 years of age on or before September 1 of the current school year[10].

A FAPE means special education and related services that are provided at public expense, under public supervision and direction, and without charge; meet the standards of the SEA, including the requirements of this part; include an appropriate preschool, elementary school, or secondary school education in the State involved; and are provided in conformity with an IEP[11].

By exiting the Student from special education while they were reading at a first-grade level and failing to pass vowel-team surveys, the District denied the Student a FAPE. Well before determining the Student no longer qualified under SLI, the district had reason to suspect the Student was or may have been a child with a disability under additional eligibility categories. Yet, the District did not move to comprehensively evaluate the Student, evaluating instead for SLI only. Even after the exit from special education, the Special Education Director confirmed ongoing needs, as demonstrated by the Student continuing to be in a reading group taught by special education staff for the entire school year. The District's premature dismissal from special education created a gap where the Student had special educational needs but no IEP.

The Department substantiates this allegation.

Additional Finding

Parent Participation

During the course of the investigation, it was found the District failed to accurately reflect the Parent's input regarding the Student's academic needs within the written content of the IEP. Although the Special Education Facilitator met with the Parent shortly after the September 23, 2025, meeting to discuss their concerns, the Facilitator later acknowledged in an interview the Parent's specific input regarding dyslexia and reading deficits was not included in the IEP. This omission resulted in an IEP that did not fully document the Parent's concerns or the Student's "present levels" of academic performance as perceived by both legal guardians.

The District's failure to record this information meant the Student's official educational record for the 2025-26 school year was incomplete and did not reflect the Parent's ongoing requests for specialized reading instruction. Because the Parent's concerns were excluded from the document, the IEP team proceeded with a program the Parent believed was insufficient to address the Student's academic needs. The Parent alleged the lack of documentation further

[10] OAR 581-015-2040; 34 CFR §§ 300.101
[11] 34 CFR §§ 300.17

contributed to the District's subsequent decision to exit the Student from services by creating a record that appeared to show a lack of parental concern about the Student's academic impact. In reality, the Parent shared their concerns multiple times.

V. CORRECTIVE ACTION[12]

In the Matter of Hermiston School District 8
Case No. 025-054-097

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

Action Required	**Submissions**	**As Soon As Possible But No Later Than Due Date**
The District must provide the Student with Compensatory Education to account for the specialized instruction the Student missed from the exit date of December 19, 2025, through the date services began after re-establishing eligibility. The Compensatory Education to be offered to the Student shall include at least: ● SDI for Reading, 720 min. ● SDI for Math, 384 min. ● Executive Functioning, 96 minutes The District must hold a meeting with the Parent to develop a plan to deliver this SDI.	The District shall submit the following: Completed plan for delivery of Compensatory Education developed in a meeting with Parent. Evidence showing compensatory education was provided.	**March 13, 2026** **September 1, 2026**
The District must amend the December 9, 2025, Eligibility Summary and the December 11, 2025, PWN exiting the Student from services to include a document that acknowledges the Student's comprehensive academic needs as identified in the December 12, 2025, re-evaluation notice.	The District shall submit the following: Corrected Eligibility Summary and PWN from December 9, 2025 and December 11, 2025.	**March 9, 2026**

[12] 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)).

The District must provide training to all District personnel who serve as the LEA Representative in IEP meetings and all staff responsible for special education evaluations, eligibility determinations, or IEP development related to the following areas: • Evaluation and reevaluation procedures • Special education eligibility procedures, to include exiting special education services IDEA's Parent participation requirements, to include the district's procedures for ensuring appropriate parent input into the IEP process.	The District shall submit the following: Training materials and agenda Sign-in sheet, with names and roles of participants	 **May 1, 2026** **June 19, 2026**

Dated: this 6 Day of March 2026



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Ramonda Olaloye
Assistant Superintendent
Office of Enhancing Student Opportunities

E-mailing Date: March 6, 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).)