BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of	)	FINDINGS OF FACT,
Gresham Barlow School District 10J	)	CONCLUSIONS,
	)	AND FINAL ORDER
	)	Case No. 26-054-001

I. BACKGROUND

On January 5, 2026, the Oregon Department of Education (the Department) received a written request for a special education complaint investigation from the parent (Parent) of a student (Student) residing in the Gresham Barlow School District 10J (District). The Parent requested that 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.[1] This timeline may be extended if the Parent and the District agree to the extension in order to engage in mediation or local resolution or for exceptional circumstances related to the complaint.[2]

On January 13, 2026, 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 28, 2026.

The District submitted a *Response* on January 28, 2026, denying the allegations, providing an explanation, and submitting documents in support of the District's position. The District submitted the following relevant items:

1. District's Written *Response* to Complaint, 1/28/26
2. Notice of Team Meeting on 5/8/25, 2/27/25
3. Placement Determination, 5/8/25
4. Prior Written Notice (PWN), 5/8/25
5. Individualized Education Program (IEP), 5/8/25
6. Notice of Team Meeting on 8/27/25, 8/21/25
7. Notice of Team Meeting on 9/22/25, 9/16/25
8. IEP Amendment, 9/22/25
9. Consent for Individual Evaluation, 9/22/25
10. PWN, 9/22/25

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

11. Meeting Minutes, 5/8/25
12. Prior Notice and Consent for Initial Provision of Special Education Services, 11/10/22
13. PWN, 11/8/22
14. Autism Spectrum Disorder Evaluation Report, 11/8/22
15. Consent for Evaluation, 10/5/22
16. Meeting Minutes: Initial ECSE ASD Evaluation Planning Meeting, 10/5/22
17. Individualized Family Service Plan (IFSP), 9/20/24
18. PWN, 11/8/22
19. PWN, 10/8/25
20. Notice of Team Meeting on 10/24/25, 10/9/25
21. Consent for Individual Evaluation, 10/9/25
22. IEP, 10/24/25
23. Disability Statement (ASD), 10/24/25
24. Eligibility Summary, 10/24/25
25. Placement Determination, 10/24/25
26. IEP at a Glance, 10/24/25
27. Notice of Eligibility, 10/24/25
28. PWN, 10/24/25
29. Functional Behavioral Assessment (FBA), 11/14/25
30. Notice of Team Meeting on 11/24/25, 11/21/25
31. IEP Progress Report, 11/24/25
32. Notice of Team Meeting on 12/4/25, 11/29/25
33. Notice of Team Meeting on 12/18/25, 12/15/25
34. PWN, 12/18/25
35. Draft Complex Behavior Intervention Plan, 12/5/25
36. Meeting Agenda, 10/24/25
37. Observation of Student, 9/5/25
38. Meeting Agenda, 12/18/25
39. IEP Agenda and Meeting Notes, 9/22/25
40. Meeting Minutes, 10/24/25
41. Meeting Minutes, 12/24/25
42. Meeting Minutes, 12/4/25
43. Meeting Notes, 12/4/25
44. Meeting Notes, 10/3/25
45. Meeting Notes, 12/4/25
46. Meeting Transcript, 12/4/25
47. Planning Meeting Notes, 8/27/25
48. Email exchanges amongst District Staff and with Parent, 5/8/25 – 1/7/25
49. Parent Letter with Concerns, 9/25/25
50. District Response to Parent's 9/25/25 Letter, 10/6/25
51. Report Card, Fall 2025
52. School Schedule, undated
53. "Crisis/Safety Plan," 11/21/25
54. Free and Appropriate Public Education Notice, 12/15/25
55. Suspension Incident Summary, 11/19/25

56. Parent Letter with Concerns, 9/25/25
57. Messages between District Staff and Parent, 9/30/25 – 11/20/25

The Parent submitted a *Reply* on February 5, 2026, providing an explanation and rebuttal.

The Complaint Investigator interviewed the Parent on February 4, 2026. On February 12 to 17, 2026, the Complaint Investigator interviewed District personnel. Virtual interviews were conducted instead of on-site interviews. 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 Complainant's allegations and the Department's conclusions are set out in the chart below. The conclusions are based on the Findings of Fact in Section III and the Discussion in Section IV. This Complaint covers the one-year period from January 6, 2025, to the filing of this Complaint on January 5, 2026.

Allegations	Conclusions
IEP Content The Complaint alleged that the District violated the IDEA when it failed to include specific special education and related services and supplementary aids and services in the Student's IEP necessary to fully address the Student's behavior related needs that result from the Student's disabilities. (OAR 581-015-2200; 34 CFR §300.320)	**Substantiated** The Student's IEPs were not reasonably calculated to enable the Student to make progress appropriate in light of their circumstances. The IEPs (1) did not contain the level of supports and services the Student needed; and (2) did not reflect the level of supports and services the District implemented.
Placement of the Child The Complaint alleged that the District violated IDEA requirements when determining the educational placement of the Student.	**Substantiated** The District unilaterally changed the Student's placement when it implemented the trial placement without convening an IEP meeting. The trial placement was initiated by school staff for an unspecified

(OAR 581-015-2250; 34 CFR §300.116)	period of time. The Parent was not provided with information on the extent of the Student's removal from general education during the trial period, although the Parent requested this information.
Prior Written Notice The Complaint alleged that the District violated the IDEA by not providing the Parent with prior written notice within a reasonable period of time before the District proposed to initiate or change the identification, evaluation, educational placement, or provision of a free appropriate public education to the Student. (OAR 581-015-2310; 34 CFR §300.503)	**Substantiated** The District did not provide the Parent with PWN when it proposed the implementation of the trial placement, although this action changed the Student's educational placement and provision of FAPE.
Free Appropriate Public Education (FAPE) The Complaint alleged that that the District failed to provide the Student with a free appropriate public education. (OAR 581-015-2040; 34 CFR §300.101)	**Substantiated** The District (1) failed to develop IEPs for the Student that appropriately addressed the Student's needs, and (2) the implementation of a change in the Student's placement without an IEP meeting and PWN infringed on the Parent's ability to meaningful participate, resulting in a denial of FAPE.

REQUESTED CORRECTIVE ACTION
• Reinstate the Student to their general education classroom with a one-to-one aide as supplementary support. • Develop and implement a BIP based on the completed FBA before any crisis procedures are used. • Issue a corrected Prior Written Notice addressing the placement change, disciplinary removal, parent disagreement, and behavioral support decisions. • Correct all discipline documentation to comply with 34 CFR 300.530, including proper tracking of days of removal. • Provide training to district staff, including the District's Executive Director of Student Support Services, regarding IDEA requirements for placement decisions, family participation, informal removals, Prior Written Notice, and behavioral intervention procedures. • Provide compensatory education for any instructional time lost due to improper removal or delayed behavioral interventions.

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 January 6, 2025. Any facts listed below relating to circumstances or incidents earlier than that date are included solely to provide context necessary to understand the Student's disability and special education history.

1. The Student is six years old and in kindergarten.

2. The Student is currently eligible for special education services under the disability category of autism spectrum disorder (ASD).

3. The Student received Early Intervention (EI) services under the category of Developmental Delay (DD) due to delays in communication, gross motor, fine motor, and cognitive skills.

4. The Student was reevaluated and found eligible for Early Childhood Special Education (ECSE) services on November 8, 2022, under the category of ASD.

5. The Student's September 20, 2024 Individualized Family Service Plan (IFSP) stated, "[The Student's] eligibility of ASD, will carry over into school age services.

6. On May 8, 2025, the District convened a meeting to develop the Student's initial IEP. District staff from the Student's neighborhood school (the School) attended, including the School's principal (the Principal); a special education teacher/case manager (the Case Manager); the teacher of the special education "learning essentials" classroom (the LE Teacher); a general education kindergarten teacher (the Teacher); and a behavior specialist (the Behavior Specialist) who provided services at the School. In addition, the principal (the Charter Principal) of a District sponsored charter school (the Charter School); and a District special education teacher (the Special Education Teacher) who provided services at the Charter School also attended the meeting, among other participants

7. The Student's May 8, 2025 IEP (the May 2025 IEP), includes the following information, in relevant part:

    a. Parent Concerns: The Student struggles with expressive language skills; needs support with vocabulary development, communication with peers, and social skills; is not fully aware of dangerous activities; and might run away if not given directions from adult.

    The Parent reported the Student would attend kindergarten at the Charter School

in the fall. The District noted, "[The Charter School] [does not] have assistants in the school, but [the Special Education Teacher] and the speech pathologist are at the school one day a week… to support students. [The Student] can attend a social skills group with [the Special Education Teacher] once a week. There is also an SEL specialist at [the Charter School] that supports students throughout the week."

b. Present Levels: "It was determined that [the Student] is eligible to receive school age special education services for an Autism Spectrum Disorder."

Academic Achievement: "According to the most recent IFSP, team decided not to address goals in this area."

Developmental and Functional: In preschool, a private ABA therapist worked with the Student to build skills including listening to a timer and following teacher prompts. They focused on distancing the Student's one-on-one aide and "having [the Student] look to [their] teacher for instruction." The Student does well following routines, but can struggle in unfamiliar environments. They need reminders and cueing. The Student needs to learn sharing; accessing multiple adults in the classroom for support to meet their needs; and lining up with the class and staying with the group, among other things. The Student needs reminders to use the bathroom and help learning bathroom routines.

In communication, the Student is currently using two to three word phrases, and makes requests using gestures and short word combinations. The Student needs to learn to use longer phrases to protest with peers and use gestures to communicate instead of grabbing, among other things.

c. How disability affects involvement and progress in the general education curriculum: "[The Student's] disability impacts learning with the general education common core curriculum. As a result, [the Student] has not yet acquired foundational communication and self-regulation skills needed to independently access grade-level lessons. [The Student] needs special designed instruction and accommodations to address [their] needs. [The Student's] communication delay makes it difficult to express [their] wants and needs, and to participate in the school curriculum."

d. Special Factors: The Student exhibits behavior that impedes their learning or the learning of others; has communication needs; and needs assistive technology devices or services.

"[The Student's] behavioral needs are addressed with behavior intervention specialist consultation, classroom supports, and accommodations."

e. Annual Goals: Includes one Executive Functioning Skills/Self-Management goal (request help by raising hand and waiting for an adult to respond); one

Social/Emotional/Social Skills goal (participate in turn-taking games/activities with peers by maintaining personal space, following game rules, and focusing attention); and one Communication goal (self-advocate to peers and adults using three to five word phrases).

f. Specially Designed Instruction (SDI): Executive Functioning/Self-Management Skills (60 minutes per week; location general education setting); SEL Skills (30 minutes per week; location special education setting); and Communication (90 minutes per month; location special education setting).

g. Related Services: "[T]he student is not in need of related services."

h. Accommodations: Access to flexible seating options; pair with peer helper; access to timers; access to visuals for communication; pre-transition warnings; access to sensory tools and strategies; first/then language; and access to movement breaks.

i. Supports for School Personnel: Special Education consultation (30 minutes per year); Assistive Technology Specialist consultation (90 minutes per year); Behavior Intervention Specialist consultation (60 minutes per year); and Speech-Language Pathologist (SLP) consultation (60 minutes per year).

j. Non-Participation Justification: "[The Student] will be removed from participating with non-disabled students in general education settings to receive special designed instruction for 3% of the time (for a total of 55 minutes per week)… at below grade level instructional levels in a small group special education location, to receive adequate individualization needed for appropriate learning gains (per a need supported with current educational data)."

8. In the May 8, 2025 Special Education Placement Determination, the IEP team selected "Inside General Education class 80% or more of the day," from the three options listed.

9. In a June 11, 2025 email to a District SLP (the Charter SLP), the Special Education Teacher shared information about the Charter School, stating, "Because the school is located in a church, they have limited space. The 'resource room' is a room that belongs to the church and is only available on Wednesdays after 11:30… Our special education meetings are 2:25-2:45 the first Wednesday of the month, and we schedule IEPs on Wednesdays at 3:00.

10. On August 27, 2025, the District convened a "Kindergarten Planning Meeting" to share information about the Student and discuss the Student's transition to the Charter School.

11. The District's August 27, 2025 "Planning Meeting" notes included the following, in relevant part:

a. "[The Charter School] will create a bathroom schedule every few hours…

individual transition warnings just at the beginning. Sensory tools: squishy ball. Fine with loud environments."

b. When asked if the Student needed repeated prompts, the Parent reported, "[the Student is] very easy-going and will follow directions, and can ask for space, but not yet giving others space."

c. The team discussed an email sent by the Student's private ABA Therapist, containing information about the Student and helpful strategies. "[The Student] needs instructions broken down into small chunks and additional processing time. Tell [the Student] 'inside voice' if [they are] loud. [The Student's] teacher will have [the Student] at the front of the line, and when they're outside, will hold [the Student's] hand. [The Student] will have a support person assigned when the teacher is not there to walk [the Student] (e.g. going from lunch to recess)."

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12. On September 2, 2025, the Student started attending kindergarten at the Charter School.

13. According to the District's Response, the Student entered Kindergarten and "presented aggressive behaviors towards staff and other students that the IEP team did not anticipate based on information previously shared about the Student."

14. In a September 3, 2025 email to staff, the Charter Principal wrote, "After two days, it's clear we are going to need some more support for our kinder friend. We are not quite seeing the picture that we were presented within our meeting. And, clearly, it's a time of transition and [the Student is] entering a long day with a lot more students and no individual support aid, so we anticipate a transitional period. When using [the Student's] name and giving a redirect, we have almost zero percent success of redirection which is pretty drastically different than anticipated. Today, we had multiple instances of elopement (inside building) along with kicking another student pretty hard in the side. We're going to need a BIP and much more significant Safety Plan… going to start working on these and we'll share as soon as we have them."

15. The District provided a copy of a Safety Plan for the Student at the Charter School, with the "Start Date" listed as September 4, 2025 and "Notification Date" listed as September 5, 2025.

    a. Reason for Safety Plan: "[The Student] darts away when transitioning within the school. Concerned this will also occur when outdoors. Has kicked another student."

    b. Plan Details: includes, "[The Student] will hold a staff member's hand when transitioning within/outside the building. [The Student] will be accompanied to the bathroom by a staff member… [The Student] should be placed an appropriate distance away from other students whenever possible."

16. The District submitted notes from a September 5, 2025 observation of the Student by a District behavior specialist who served the Charter School, which include the following

    a. Behaviors observed included the Student falling off a chair, standing on a chair, jumping off a desk, crawling around on the ground, getting in peers' space, not following directions, sitting during movement breaks, and out of their seat when supposed to be sitting. "As the teacher is talking, [the Student] is making noises and repeatedly going to the ground… doesn't appear to be tracking what [the teacher] is saying or engaging [the teacher]."

    b. "The teacher provided a high level of verbal instruction, redirection, and prompting. Sometimes paired with visual cues on [the Student's] desk. It's going to take time and consistency for [the Student] to learn what all of the visuals mean."

    c. "Overall I saw some great strategies being used to support [the Student] today" including teacher holding the Student's hand and providing sensory tools. "The teacher was patient, kind, and maintained congruent body language and verbal affect/tone… got down on [the Student's] level and got [their] attention… The teacher is moving around the room and giving [the Student] space to process and just be… use of visuals and pairing to verbal prompts… Repeating phrases and prompts."

17. The Parent later claimed the District conducted an "unauthorized observation" of the Student. The Charter School Principal responded, "While written consent was not required, written notice was sent on September 4th… The behavior specialist was there to give staff recommendations in our strategies, not to assess the student."

18. The Charter School did not develop a behavior plan for the Student while they attended the Charter School.

19. In a September 10, 2025 email to the District's Executive Director of Student Support Services (the Director), the Charter Principal wrote, "We need help! We have a student needing significantly more support than the transition IEP meeting led us to believe… We cannot sustain the level of support that we have been giving, thinking it would just be a transition. Between the SEL Specialist and I, we are spending nearly 4 or more hours a day supporting this student. We can't wait weeks upon weeks of intervention and data collection to support this kindergartner… coming to us with previously having a one-on-one ABA in preschool, which is clearly what [the Student] needs… I don't believe that even our 'supporting' [the Student] in this way is successful. The success we are having is that [the Student] is safely in the classroom and not roaming around. [The Student] is not engaging or participating. And [the Student] continues to make teaching/learning very difficult for the rest of the class due to [the Student's] loud vocalizations. This does not seem to be an appropriate placement. [The Student] is not accessing our program… I know we can't provide the kind of support [the Student] needs and I don't think that [the

District] has allocated that FTE for [the Charter School]… we need to call an IEP meeting as soon as possible because we can't keep this up."

The Director responded, suggesting the Charter School schedule a meeting with the Parent on September 16, 2025, when the Director was available to attend.

20. In a September 11, 2025 email to the District SLP serving the Charter School, the Special Education Teacher reported, "[The Student] is struggling significantly and is essentially needing a 1:1 throughout the day… the current support level is completely unsustainable, so we're going to hold an IEP meeting (not scheduled yet)."

21. The District convened a "Planning Meeting" on September 16, 2025. The meeting notes include the following, in relevant part:

    a. "[The Principal] talked about [the Student's] struggles with transitioning to [the Charter School]." "[The Principal] and [the SEL Specialist] take an average about four hours per day one on one with [the Student] in the class with constant support and redirection… [The Principal] said [they] can't continue to spend 4 hours per day supporting [the Student]."
    b. "[The Student's] preschool classroom was very hands-on and [the Charter School] model is mostly talking and pencil and paper, not hands-on at all… would probably do great with support in a regular kindergarten classroom. [The Principal] thinks that currently, in [the Charter School] program, the best they can do for [the Student] is keeping [them] in the classroom, not actually engaging with the instruction."
    c. The Director stated, "[I]n a district kindergarten classroom, the instruction is different than [the Charter School], very hands-on and engaging… [The Charter School] curriculum is very strict and they aren't able to be flexible, but in kindergarten classrooms (regular, not special education) there are a variety of different activities, and it's easier to differentiate/change to match what style works for each student."
    d. The Parent reported they think "[the Student] will be able to engage in the classroom but [the Student] needs more time and support to learn the expectations and rules… if [the Student] gets more support in the classroom, [they] will be able to learn and engage." "[The Student] needs another person in the classroom besides the teacher, and if the teacher is only giving instruction to the whole class [the Student] won't be successful."
    e. The Director expressed concern about "when a student has a one on one assistant, they can get dependent on them." The Director reported the Student was "getting nearly full support throughout the day" and receiving "frequent sensory breaks, as needed, about twice per hour." The Behavior Specialist stated the Student "needs lots of visuals and someone to go over each task with [them]."
    f. "[The Principal] explained [the Charter School] model is to place students according to their academic level. If [the Student] doesn't engage with the curriculum and doesn't learn [their] sounds, [they] won't be able to move on to

the first grade. [The Parent] said [the Student] knows all [their] sounds and can even read words. [The Principal] said they haven't gotten anything out of [the Student]; on [their] letter sounds test [the Student] only got 4."

g. The Parent requested "an IEP meeting to discuss removing [the Student] from class more often" and wanted "to see what supports the IEP team can offer at [the Charter School] before changing schools."

22. On September 16, 2025, the District issued a meeting notice for a meeting scheduled on September 22, 2025, with the purpose of the meeting listed as "Amend IEP to reflect current and updated supports."

A Google Meet invitation for the meeting stated, "[The Parent] requested this IEP meeting to update [the Student's] support due to [their] lack of success in [their] current setting. We will go over current supports, including changes the team is making this week, and any changes that need to be made to [the Student's] plan."

23. In a September 16, 2025 email to the Director and the Special Education Teacher, the Charter Principal shared messages sent between the SEL Specialist and the Parent, which report the following:

The SEL Specialist notified the Parent that an incident occurred in which the Student slapped staff members, hit the classroom teacher, and had to be removed from class. The Parent responded, "This is totally new to me when you are saying [the Student] kicked [*sic*] someone, throw things and someone's [*sic*] head and now slapping you on the face? We've never seen this kind of behavior [from the Student]." The Parent indicated they would be asking for a functional behavior assessment (FBA) at the upcoming IEP meeting, and offered to keep the Student home until the IEP meeting.

The SEL Specialist replied, "No, we don't want you to keep [the Student] home. We want to work through it. We always want to make sure you know what's going on… This is a HUGE change for [the Student]. Not only is [the Student] one of 30 kiddos being instructed in a completely different model… also being led by people [the Student] has only started to build relationships with."

24. On September 17, 2025, the Director emailed the Case Manager at the School, indicating the Parent wanted to visit the School to see the kindergarten classroom and asked the Case Manager to meet with the Parent. The Case Manager replied, stating, "This gives me some anxiety I have to be honest. There are so many needs in this kinder group as I'm sure you've heard. I feel like I am struggling to meet the needs already. I wonder how [the Student] would do there."

The Director responded, "I hear your anxiety. We're not looking at a change quickly. Parent is interested in giving [the Student] more time at [the Charter School]. Seeing a typical kinder class and understanding sped services is just a step and making sure parent has information to make decisions with the team."

25. In a message exchange between the Charter Principal and the Parent on or about September 17, 2025, the Parent wrote, "I know you guys are doing everything to help [the Student]. I am also confused with some of the behaviors you are reporting as we don't experience that anywhere. Hopefully the assessment will help us know what triggers the behavior and how to prevent it from happening."

The Charter Principal responded, "Today was much like yesterday. Loud yelling/screaming, along with hitting/kicking and even hair pulling. [The Student] would kick and hit at me when I blocked [their] path... It was definitely a purposeful response to frustration of not being able to go where [they] wanted. Now, it is intentional. The same thing happened when [the Student] was working with me one-on-one… [the Student] grabbed my hair and pulled on it… We are definitely seeing aggression as [the Student's] way to show [their] frustration now." The Charter Principal indicated staff offered breaks to the Student. "Unfortunately, [the Student has] also learned that by screaming in class, [they] can leave class. We tried multiple times to keep [them] in class by giving various other activities… and using visual and oral reminders of 'inside voice,' but to no avail. And, unfortunately, [the Student] gets what [they want] because we can't keep [them] in there screaming."

26. In a September 18, 2025 email to the Director and the Special Education Teacher, the Charter Principal reported, "Had to suspend [the Student] today… [The Student] hit another student and [the Student's] body was so unsafe… I sent [the Student] home with an official suspension, as we need a better plan. It's one thing if [the Student] is aggressive to us, but another if it's now towards other kids… [the Parent] picked [the Student] up and I guess [the Parent] was very upset, saying we're trying to get rid of [the Student]. Said [the Student] won't be coming back and that [the Parent] wants an investigation."

The Special Education Teacher responded, "We'll make sure to discuss all of this at our meeting on Monday. [The Parent] had previously requested an FBA, and it's clear at this point that [the Student] definitely needs one, so I will make sure to have an FBA consent for [the Parent] to sign."

27. A September 18, 2025 Student Suspension Form notes, "hit another student, continues to be unable to control body; push desk into and fell on top of another student."

28. On September 22, 2025, the District convened an IEP meeting for the Student. The District reported the purpose of the meeting was "to address the new behaviors." The IEP team discussed the supports available at other District elementary schools and explained why [the Charter School's] direct instruction program may not be the best fit for the Student at other District elementary schools… [the School] may have better programming for the Student."

29. The Student's September 22, 2025 Amended IEP (the September 2025 Amended IEP), added the following:

a. Present Levels: "IEP was amended to address increased unsafe and escalated behaviors in the school environment. Social/emotional skills support was increased from 30 min/week to 60 min/week and a variety of accommodations were updated. Consent for a functional behavior assessment was obtained."

b. Accommodations: Added access to visuals for classroom expectations and routines; access to visual timers; "Bathroom: adult support and visuals for following routine and appropriate behavior"; individual directions after whole-group directions; "Functional Behavior Assessment/Behavior Support Plan"; option for alternate hands-on activities; frequent, scheduled sensory breaks; and immediate reinforcement for desired behavior, when possible.

30. The September 2025 Amended IEP made no changes to the extent of removal and continued to state the Student's removal time from the general education setting would be "3% of the time (for a total of 55 minutes per week)." The anticipated location for the Student's Executive Functioning/Self-Management SDI is listed as general education setting. The anticipated location for the majority of the Student's accommodations is listed as general education setting (except for bathroom support and FBA/BSP).

31. On September 22, 2025, the Parent signed consent for the District to conduct an FBA. The Consent for Individual Evaluation notes, "This evaluation is being proposed because: [The Student] was referred by [the Parent]… Due to: Concerns with behavior and safety in the school environment… This evaluation will be conducted to determine needs for program planning purposes only and is not to determine eligibility for special education."

32. The District's September 22, 2025 "IEP Agenda and Meeting Notes" include the following information:

a. "[The Special Education Teacher] asked about increasing SEL services from 30-60 minutes. [The Director] said that it makes sense to talk about where [the Student] will go to school - whether [the Charter School], neighborhood school, or special classroom."

b. "[The Parent] shared [the Student] has been really struggling with the transition from preschool to grade school… [The Parent] is worried and wondering about why [the Student] is starting new behaviors. [The Parent] was unhappy that [the Student] was suspended from school… behavior is [the Student's] way of communicating and suspension will never help [the Student]."

c. "[The Charter Principal] said the suspension was not for [the Student], but for the school team to sit down and make a plan. [The Student] has learned how to get out of things [they don't] want to do by screaming, etc."

d. The District reported the Student's behavior had gotten worse and noted, "adding more people didn't help, there's no more supports that can be added at [the Charter School]. [The Director] said that it comes down to the type of programming. [The Parent] asked for a PWN that [the District is] not providing more support at [the Charter School], and said [they] would accept a change of school, but not the special education classroom."

e. "[The Charter Principal] said that giving [the Student] an FBA [at the Charter School] might be counterproductive because a different setting might show different behaviors."

33. The District issued Prior Written Notice (PWN) dated September 22, 2025, proposing to implement the September 2025 Amended IEP, which was sent to the Parent on September 23, 2025.

34. The District issued PWN on four occasions during the first half of the 2025-26 school year (September 22, October 8, October 24, and December 18, 2025), proposing to implement changes made to the Student's IEP at IEP meetings and proposing to conduct the Student's three-year reevaluation.

35. When asked if the Student's September 2025 Amended IEP reflected the level of adult support the Charter School was providing to the Student, the Director stated they could not recall but the Student was requiring constant adult support at the Charter School. The Director noted that the team was focused on the FBA and getting consent signed.

36. The Student returned to the Charter School on September 23, 2025.

37. September 23, 2025 messages between Charter School staff and the Parent include the following:

The SEL Specialist shared that they were called to the classroom several times because the Student was spitting on classmates. The SEL Specialist tried strategies suggested by the Parent, including prompting the Student several times to use an indoor voice and having a time out with a timer, which were unsuccessful. The SEL Specialist asked the Parent if there were "any other ideas we can try?"

The Parent responded, first stating they would pick the Student up, then stating they wanted the Student to stay so they could work with the Special Education Teacher. "Can you help [the Student] calm down until then instead of forcing [the Student] to do the things that you like [them] to do?"

The Principal replied, stating they were concerned that removing any classroom expectation was "setting [the Student] up to not return to class anymore" and asked for clarification on whether this is what the Parent wanted staff to do. "If so, then we aren't actually working to provide our program anymore… going to continue to do our best to

get through the day as safely as possible. Please let me know your thoughts and we'll do our best!"

The Parent responded that they would pick up the Student.

38. In a September 23, 2025 email exchange with the Special Education Teacher, the Parent reported, "[T]hey can't even able to [*sic*] manage to keep [the Student] for an hour… they texted me and asked me what to do to maintain safe body. I wonder if they ever have or had Autistic children at the school. They suppose [*sic*] to know what and how to work with [the Student]. My input is just as a parent from my experience I am not a professional in this case. It is really disappointing that this kid got all this behaviors in just the short period of time because of lack of professionalism… they asked me how and where to keep [the Student] which they should be know how to do… [the Student] also has a right to learn in inclusive environment to maximum extent with appropriate support. I don't believe they tried enough with appropriate help specifically on [the Student's] case… what I saw is just pushing [the Student] out because [the Student] is demanding more of their time and support and they are not willing to do that." The Parent repeated their request that this "be documented in prior written notice."

The Special Education Teacher responded, "The purpose of a prior written notice is to document that the district is providing or refusing certain services. The school so far has implemented every strategy that we have discussed in our meetings, including those recommended by our behavior specialist, which is documented on the PWN I sent you… You have the right to continue sending [the Student] to [the Charter School]. The school team didn't ask [the Student] to leave yesterday, and in fact asked if [the Student] could stay in order to work with me, so I'm not able to document that they're pushing [the Student] out. Can you be more specific about what services we are refusing to provide?"

The Parent wrote they were contacted by staff an hour after drop-off "stating they tried everything as suggested and they are not successful with it and asked me what to do. What do you think that means? In other words it is we are not able to manage it, so come and pick up your child…. I am taking this as a refusal of service. I am also concerned about [the Student's] safety if they don't know how to keep [the Student] safe there. So I had to pick [the Student] up and not sending [them] back without having Functional behavior support from a professional."

The Special Education Teacher responded, "Your belief that the school team implied something that was not said does not constitute a refusal of service. Please direct further communication to [the Director]."

39. On September 24, 2025, the SEL Specialist emailed the Charter Principal and the Special Education Teacher copies of the Student's Safety Plan, a "Brief Behavior Analysis," and visual schedule for the Student's desk. They noted, "We never updated the written safety plan as I was essentially with [the Student] nearly all day. For safety reasons, I was scheduled to assist [them] everyday in specials."

40. In a September 25, 2025 email to the Director and the Special Education Teacher, the Charter Principal reported the Student did not show up for school on September 24 or 25, 2025.

The office coordinator called the Parent, stated the Student had "been marked absent the last two days" and asked "how [the Student] is doing." The Parent responded, "[The Student] is doing great. I didn't think they wanted [the Student] there, so I'm not bringing [them] and they know that," and then hung up.

41. The Parent sent the District a "Parent Report Regarding Concerns with IEP Implementation and School Actions," dated September 25, 2025. These concerns were identified as "Lack of Support and Counseling Out Concerns"; "Misleading Meeting and IEP Concerns"; "Unauthorized Observation and Lack of Follow-Up"; Lack of Academic Support and Documentation; "Inappropriate Disciplinary Action; "Delayed FBA"; and "Request for PWN." The Parent Report included the following, among other things:

    a. The Student was not receiving the support outlined in their IEP and "the school is instead moving towards counseling [them] out of the program or pushing for a change in placement without following appropriate legal procedures…. we are seeing increasing removal from class, behavior escalation, and redirection that is either ineffective or absent… setting [the Student] up for failure rather than providing meaningful support."

    b. During the September 22, 2025 IEP meeting, "the school suggested that doing the FBA may not be useful, since they expect [the Student] to move to another school." This shows a lack of commitment to supporting the Student in the current setting and that the Charter Schools is attempting to push the Student out "rather than provide legally required support."

    c. The Parent requested PWN for every decision the Charter School made denying services or supports, refusal or delay of evaluations (including the FBA), removal or recommended placement changes, and use of suspension in place of interventions.

42. The Charter Principal sent a response to the Parent Report on or about October 6, 2025:

    a. "The school not only implemented [the Student's] IEP (tried flexible seating options, access to different types of timers, created visuals for schedules and communication, gave transition warnings, provided sensory tools, used first/then language, and provided breaks, AAC device), but also parent suggestions (time outs, bathroom schedule, repeated directions, hand holding for transitions, specific visuals, and various other supports (one-on-one, 30 minute pull-outs, etc.) in an effort to help [the Student] succeed in the classroom. The school reached out to the district when these efforts did not seem to be resulting in success with

the program." "[The Charter School] worked incredibly hard to support [the Student] in every way that we could think of, going far beyond what was required in [their] IEP… despite our best efforts, we were unable to engage [the Student] in a meaningful way within our program."

b. "The school's response during the meeting about the usefulness of an FBA in the current setting was a question in the best interest of the student, with the idea that the student's behavior may be due to a poor fit of model, nothing more."

c. "Prior Written Notice is the responsibility of the case manager… The school has made no decisions to deny services or supports, refuse or delay evaluations or assessments… remove or recommend placement changes, or use suspension in place of interventions."

43. The Parent claimed that the Charter School did not support the Student. The Charter School did not have a support system, and the Charter School said they could not add any support. The Parent did not believe that the behaviors reported by the Charter School were really occurring. If they were occurring, it was because of the lack of support.

44. The District reported, "The Parent toured [the School] on September 25, 2025, and decided to enroll the Student."

45. The Director reported they and the Case Manager met the Parent at the School for the visit. They visited the Teacher's kindergarten class and the resource room, but the Parent declined the offer to visit the LE Classroom. The Director stated they only talked about the Student attending the general education classroom and did not discuss whether specific supports would be provided, such as additional adult support. The Parent decided to have the Student attend the School starting the following Monday.

46. The Parent reported they did not visit the special education classroom on the school visit because the Student would be in the regular education classroom, as the Student's placement stated they would be in general education except for minimal removal to work with service providers. The Parent was told at the September 22, 2025 IEP meeting that the School would be able to provide the additional support in the general education classroom that was not available at the Charter School.

47. On September 25, 2025, the Principal emailed the Director and the Case Manager, stating, "I don't have any information on [the Student] to place [them]. What are [their] needs? I believe I read [the Student] is physically aggressive even with a one-on-one. The two EAs I have to support kinder have their hands full… I hope we are leave [*sic*] placement open while we get to know [the Student] better in our setting so we can best serve [them]."

The Case Manager responded, "[I]t does seem clear that [the Student] needs one-to-one support, at least initially. I can help for sure but I am so stretched that I just don't know how I will make this kiddo successful… I need some back up here… please! I need someone

to help me… I am working way beyond my hours and on weekends and I know my teammates are the same. We want to do right by these families and kids. But to do it we need some more hands to help us."

The Director responded on September 26, 2025, suggesting a meeting with the Principal and the Case Manager.

48. On September 29, 2025, the Student started attending the School in the Teacher's general education kindergarten class.

49. The Behavior Specialist spent the first two days with the Student, to help them with the transition and to take data. District staff reported it was clear on the first day that the Student needed more support, in part for safety reasons. The Student was trying to elope from the classroom, throwing things, struggling to keep a safe body, and they were not participating. The Principal, the Case Manager, the Teacher, and the LE teacher had conversations about how to provide more support for the Student and to build classroom skills.

50. In a September 30, 2025 internal email between District staff, the Case Manager suggested having a meeting to discuss the Student's first week at the School and wrote, "Eventually this IEP will need to be updated! Based on the amount of one-to-one support this kiddo needs but also I was under the impression that we were meeting to discuss placement and in what setting we could best meet [the Student's] needs… a lot of aggression including kicking, hitting, slapping in face and today biting has started… I talked very openly with [the Parent] yesterday about how [the Student's] day went… I think we all can agree the Iep is not an accurate reflection of what this kiddo needs… I am simply trying to get a meeting on our calendar so we can come up with a plan. The iep will probably have to wait till we know [the Student] better."

The Director wrote, "I'm fine with talking about it. [The Parent] should have a heads up of what will be discussed (more support and routines practice, where and how that would occur)."

51. In a September 30, 2025 message to the Parent, the Principal wrote, "I wanted to follow up after [the Case Manager's] conversation with you yesterday about how [the Student] has been doing at school. [The Student] needs frequent redirection to stay on task, remain in the classroom, and avoid hitting, biting, or kicking others. Yesterday, [the Student] smacked [the Case Manager], and today [the Student] smacked another adult, kicked [them], and attempted to bite [them]. While these actions are concerning, we don't see them as intentional or meant to hurt others, but more as ways [the Student] is trying to communicate or times when [they are] not fully aware of [their] body in relation to others. To better support [the Student], we'd like to try having [them] spend part of [their] day in our Learning Essentials classroom starting tomorrow. This setting has a smaller environment with strong structures and routines, as well as more adults available to support and redirect [the Student]. While [the Student] is there, we will continue to

collect the same kinds of data that we gather in the General Education classroom, so we can examine how [the Student] responds in both environments. [The Case Manager] sent you an invitation to a meeting on [October 3, 2025]. At that time, we will share how [the Student] is doing in both classrooms and, as a team, decide on the daily structure that will best support [the Student] moving forward… Thank you for working with us as we find the best way to support [the Student]."

The Parent responded, "Thank you for sharing the information. It's really surprising for me that [the Student] is kiking [*sic*] and hitting... As I mentioned we are not seeing that anywhere else. But if that is happening at school I think [the Student] will benefit from FBA to best support [the Student] preventing this behaviors [*sic*]. When you say that [the Student] is going to spend half of [their] day in a different setting, is that mean [*sic*] special ED class or other setting?

The Principal replied on October 1, 2025, "Yes, this is the Sped Class that you visited."

The Parent requested clarification on "how long [the Student] will spend in the Sped class and the regular class."

The Principal replied, "I think we will need to be flexible to meet [the Student's] needs, but we can keep track for you as we do so over the next two days, assuming you can meet on Friday. For the last two days, [the Student] has had a person to support [them] one-on-one, but that was to get [the Student] settled into a new school, not something that is sustainable. Today, we will start in [their] Gen Ed classroom with just the teacher to redirect [them]. This will give us a better picture of what [the Student] can currently do and what additional skills and support [they] will need."

52. District staff reported the Student started being removed from general education to attend the LE classroom on October 1, 2025.

53. The District reported it "trialed a diagnostic placement in the Learning Essentials program when getting to know the Student upon transfer to [the School] due to the high level of Student's behavioral needs."

"The Learning Essentials classroom is a self-contained classroom that focuses on teaching students to be independent and offers a highly-structured specialized room with significant adult support. In the Learning Essentials classroom, the Student could work on discrete trial activities to then translate them back into the general education setting."

54. In an October 2 to 3, 2025 email exchange with the Case Manager, the LE Teacher sent some suggested IEP goals for the Student in preparation for the October 3, 2025 meeting. In response, the Case Manager wrote, "I think we need to wait to adjust [the Student's] iep. Because we will need to add so much! [The Student] is going to go from 3% removal to like 70 I would guess. I think we wait a few weeks?"

55. On October 3, 2025, a meeting was convened at the School, which included the Case Manager, the Principal, the Teacher, the Behavior Specialist, the Director, the SLP, the LE Teacher, and the Parent. This was not an IEP meeting.

56. The District reported the Principal met with the Parent on October 3, 2025 "to discuss how the Student was doing in both the general education classroom and the Learning Essentials Classroom and how to better support [the Student] moving forward… The team agreed to trial placement in the Learning Essentials classroom to determine the appropriateness of the setting before officially changing placement."

57. The District provided notes and a transcript from the October 3, 2025 meeting, which included the following:

    a. The District reported the Student needed an adult close by to intervene when the Student engaged in unsafe behavior. With one-on-one support the Student was responsive to directions and could engage in tasks, "but we don't always have someone one-on-one."

    b. "[The Student's] IEP definitely needs to be updated. Goals don't necessarily fit where [the Student] is at in addition to the service time. But I think all of us want to get to know [them] a little better before we jump right in and start doing that. But I think in terms of minutes, it's hard to say because when [the Student] is in Gen Ed, [they do] that one-to-one support. So we have to figure out who will be giving that one-to-one support, how we build it in."

    c. The Special Education Teacher stated, "[O]ur goal would be to reinforce those routines in a smaller space in [the LE Teacher's] room, and over time, help [them] transition those independent skills into a larger group in [the Teacher's] class. So like throughout [the Student's] day, [they] would be in both spaces meeting [their] needs … then they can slowly move from supporting one-on-one to gradually backing away and keeping that routine."

    d. The Parent asked how long the Student would be in each classroom, stating they wanted the Student to stay in the general education classroom for 90% of the time, as stated in their IEP. "I understand that [they] might struggle… to stay in the classroom. But you also clearly said that when [the Student] gets support, one-to-one support, that [they are] better following routines… everything is new for [the Student]." Once the Student learns the expectations and routines in general education, they will be fine. "[They] might need one-to-one support from adult until [they get] to that time… But if we keep pulling [them] out, [they] will never learn to follow that routine, to follow instructions." The Parent did not want the Student to miss general education during core curriculum instruction and was concerned that once the Student learned they could leave for "the other classroom and that's less restrictive or less work… [they] are going to prefer that."

e. The Special Education Teacher stated, "[The Student] is doing well with explicit instruction that is repeated over and over again. And in order to get that support," the Student needed to be in the LE classroom. "We also don't want [the Student] to feel unsuccessful in a gen ed classroom…. So I think we have to find a balance in wanting you to know that our goal is also to have them in as much as possible."

f. The Director asked the Special Education Teacher to be clear with the Parent about the amount of time the Student would be in each setting. The Special Education Teacher said they were still working on the Student's schedule but had not gotten very far. They estimated, "it's probably 30% in [the Teacher's class] that [the Student is] successful… [the Student] does seem more comfortable in the smaller environment. And we're seeing less of the hitting and kicking behaviors." Once the schedule was complete, the Special Education Teacher would provide it to the Parent. The Director indicated the Student did not have "to perform just like all the other kids when [they are] in [the Teacher's] class, but [they need] to be safe."

g. At the end of the meeting, the Director stated to the Special Education Teacher, "[I]t sounds like we don't have a clear schedule. We're kind of shifting. Sounds like you want to have an IEP meeting in a week or to really solidify…. Is that what you're saying?" The Special Education suggested scheduling a meeting for October 17, 2025. "We'll update the IEP so it better fits [the Student's] needs [at the School]."

h. When the Parent asked if the FBA would be done by then, the District stated it would take longer than that.

58. The District reported, "In October 2025, the Student's placement determination contemplated by the IEP did not reflect the Student's needs at the time… the District had little information on how to appropriately serve the Student. The District, with the Parent's input, determined that trialing different settings for a brief period of only three weeks would allow both school staff and the parent to see how [the Student] responded to different programming and better place the Student."

"[T]he District, in consultation with the Parent, trialed different placement settings for a few weeks prior to convening as an IEP team to determine placement."

The Parent reported they felt like the School decided to implement the trial placement and they did not have a say in the decision. They were told by the Principal the day before that the change would be starting the following day. The Parent reported they disagreed with the District's statements that they were consulted or given the opportunity to provide input throughout the trial placement. The Parent specifically asked how long the Student would be removed from general education but were not given an answer. They were told the amount of removal time would be tracked and they would be given updates, but no updates were provided.

59. District staff reported the following about the "trial placement":

a. The Director stated they were not involved in the details of the trial placement, but they were aware the School was having conversations with the Parent about what they planned to do. They knew the School had created some arrangement for the Student to practice skills in the special education class that the Student would need in order to maintain safety in the general education setting.

b. The Principal stated they had conversations with staff during the first couple days about the Student needing more support and how they could build classroom skills. There was no specific period of time set for the trial placement; they needed some flexibility to determine what the Student's needs were.

c. The Behavior Specialist stated it was clear the Student needed more support but the Behavior Specialist only worked at the School two days a week and they were not aware of the details of the plan.

d. The Teacher stated they thought the Student was accessing different placements to help the team to determine what best fit the Student's needs, to be established at a future IEP meeting.

e. When asked whether the School asked the Parent's permission or obtained written consent to implement the trial placement, District staff stated they did not know.

f. When asked, District staff reported they did not know why an IEP meeting was not convened at this time, they could not recall, or they were not aware that an IEP meeting did not occur before the trial placement was implemented.

60. The District provided an undated schedule for the Student. District staff reported this was essentially the daily schedule in place starting October 6, 2025, and continuing through November 2025. The schedule included the following information, in relevant part:

8:20-8:35	"Soft start in Resource classroom"
8:35-9:05	"Gen ed morning routine"
9:05-11:20	LE1 Class (class meeting, binders, ELA, read aloud with snack, workstation, sensory break, weather, life skills)
11:20-11:40	LE1 Recess
11:40-12:00	LE1 Lunch
12:00-12:10	"Quiet Time"
12:10-12:40	"LE1 PE & Music"
12:40-12:50	Sensory Break
12:50-1:05	"Gen. Ed. Specials"
1:10-3:00	LE1 Class (calendar, binders, math and tracing, choice time, clean up)

3:00-3:05 Dismissal

61. The LE Teacher reported their LE class had nine students and two education assistants (EAs). The LE class had recess with general education kindergarten and first grade students. The LE students left recess five minutes early to avoid crowds in the cafeteria. The class sat together at a designated table in the cafeteria. One student in the LE class had the option to sit with general education peers.

62. On an undated copy of the Student's schedule, the LE Teacher noted that an EA had been taking the Student to specials for 15 minutes of the 40 minutes class, but "[i]f we want [the Student] in specials the entire time, I will need someone else to support him."

When asked, the LE Teacher confirmed an EA took the Student to specials with the general education class for 15 to 20 minutes of the 40 minutes class during this time.

63. In an October 3 to 6, 2025 email exchange with the Case Manager, the Special Education Teacher indicated they forgot to send the Student's Safety Plan developed by the Charter School. When the Case Manager asked if the Charter School updated the Student's goals and services, the Special Education Teacher said they amended the IEP to update the Student's services and accommodations but they did not update the IEP goals because they "felt the FBA/BIP and accommodations were a higher priority."

64. In internal District emails from October 7, 2025 about scheduling an IEP meeting for the Student, the Case Manager stated, "Because [the Student's] IEP is not an accurate reflection of this kiddo we told [the Parent] we needed to meet asap to review."

The Case Manager also wrote, "Either way the team is going to need to create an IEP that better meets [the Student's] needs. This means more support and special Ed. We have been trying to get 30% in Gen Ed but are struggling to make that happen with current support we have. Then often when [the Student] is in Gen Ed [they are] requesting to leave. [The Student] does require full full [*sic*] support from an adult to keep [themselves] and others safe. [The Student] has started kicking and hitting peers and we need someone that is ready and positioned to stop this. So currently we have [the Student] in gen ed for 30 minutes in the morning, 25 at specials and then 40 for recess and lunch. I am guessing that this change in placement will be hard for [the Parent] to hear based on the IEP that [the Student] came with from [the Charter School].

65. The District issued PWN dated October 8, 2025, proposing to conduct the Student's three-year reevaluation. "After reviewing [the Student's] educational record and consulting with the school team, no new standardized assessments are warranted for the purpose of re-establishing disability criteria at this time."

66. In an October 17, 2025 email to the Case Manager, a District school psychologist reported, "I talked with [the Parent] on 10/9 about using a file review to continue [the Student's] eligibility at this time. [The Parent] agreed with this plan, and I explained the purpose of

the standardized assessments relative to the eligibility decision. [The Parent] agreed that the current disability category best describes [the Student]."

67. The Parent reported they received a brief phone call from the District about the reevaluation. It was their understanding that the reevaluation was only about eligibility, and not related to determining IEP content.

68. On October 24, 2025, the District convened an IEP meeting to determine the Student's eligibility and to review and revise the Student's IEP and placement. At the meeting, the IEP team determined the Student continued to be eligible for special education services under the disability category of ASD.

69. The Student's October 24, 2025 IEP (the October 2025 IEP) included the following changes, in relevant part:

    a. Student Strengths: "IEP was done 10/24/25 after the staff at [the School] had time to get to know [the Student]. A change in [the Student's] day where [the Student] was more supported to learn routines was addressed. The team would like [the Student] in the special education Learning essentials from for [*sic*] 70% of [their] day to learn routines and learn about a safe body. The team will work towards increasing [their] time in the general education setting as the data shows that [the Student] is gaining those skills. With a support person guiding [them] 1:1, [the Student] is able to complete tasks as instructed. Without a 1:1, [the Student] is showing [they are] unable to complete tasks."

    b. Parent Concerns: Were carried over from the previous IEP.

    c. Present Levels: Primarily carried over present level information from the previous IEP.

       Academic: The Teacher's update included that the Student "is very smart and enjoys being in class" and "has a hard staying on the carpet with the class without becoming physical/aggressive… will walk through peers and kick them in their lower backs." The LE Teacher's input stated the Student "has been adjusting well to [their] new routine" and "has shown many incidents of aggression by hitting and kicking peers and staff… seems to like the attention that arises as [the Student] laughs a majority of the time."

       Functional: Fine Motor/OT information was updated, which states the IEP team determined OT would be added as a related service and consult, based on "recent file review and team discussion, particularly noting [their] ongoing developmental needs and fine motor skills, executive functioning, and sensory regulation."

d. Special Factors: Added, "[The Student] has a brief behavioral support plan. A functional behavior assessment will be completed," under the explanation for behavior.

e. Annual Goals: Added a Behavior goal (demonstrate tolerance for delayed or denied access); added two Executive Functioning/Self-Management Skills goals (transfer from preferred to non-preferred activity with minimal emotional distress, using pre-taught coping strategies; join circle time and engage in tasks) and continued the existing goal with reduced criteria; and continued the existing Social/Emotional/Social Skills and Communication goals.

f. Specially Designed Instruction (SDI): Executive Functioning/Self-Management Skills (increased from 60 to 150 minutes per week), SEL Skills (increased from 30 to 300 minutes per week); Communication (stayed at 90 minutes per month); and added Behavioral (300 minutes per week).

g. Related Services: Added Occupational Therapy (400 minutes per year).

h. Accommodations: Added "Learning Essentials support fade plan" and "when testing, have access to quiet testing space, with familiar adult and scribe for writing portions."

i. Supports for School Personnel: Added Occupational Therapist consultation (60 minutes per year); adjusted Special Education consultation (increased from 30 to 90 minutes per year); and adjusted Behavior Intervention Specialist consultation (increased from 60 to 120 minutes per year).

j. Non-Participation Justification: Remained the same except increased the time the Student would "be removed from participating with non-disabled students in general education settings to receive special designed instruction" from 3% to 70% of the time.

70. The only mention of adult support on the October 2025 IEP Service Summary is adult support for following routine and appropriate behavior in the bathroom, although (1) the IEP states the Student was only able to complete tasks with one-on-one support, and (2) District staff reported the Student generally had one-on-one adult support when out of the LE1 classroom.

71. The District's October 24, 2025 Meeting Minutes include the following information, among other things:

a. "[The Student's] aggressive behaviors (kicking, hitting) is preventing from accessing [their] general education more throughout the day as [the Student] requires 1:1 support… currently not showing success with access in 30% of [their]

day in the General Education setting. When [the Student] becomes aggressive staff tries to support as much as possible."

b. The Parent shared they wanted the Student in the general education classroom for 80% of the school day and did "not agree with the 70% removal placement."

c. "[The Behavior Specialist] agreed to create a fade plan and communicate with [the Parent] bi-weekly… The team will add a Fade Plan to [the Student's] accommodations. The team also discussed what criteria will be used to determine how [the Student] is making progress in accessing additional GenEd time…. safety is the biggest concern. This includes decreased aggressive behaviors toward peers and staff, not eloping from the classroom/expected area, showing increased independence without constant 1:1 prompting and responding appropriately to redirections."

72. In the October 24, 2025 Special Education Placement Determination, the IEP team selected "Inside General Education less than 40% or more of the day," from the three options listed. The rationale for the selection states, "With parental input, it was determined that this placement will provide adequate individualization for [the Student] to make appropriate learning gains in the least restrictive environment at neighborhood school, based on present levels of performance."

73. The District issued PWN dated October 24, 2025, proposing to implement the updated IEP. It states, "Changes in [the Student's] placement were made based on how we can best meet [the Student's] needs… We will continue to try and increase [the Student's] time in the least restrictive environment as [the Student] shows us and data shows that [they are] ready… The team has been taking Data since [the Student] started at [the School] and determined that [the Student] is best serviced in a smaller group to learn the skills needed to be a student within the general education classroom."

74. The Parent later claimed that the District should have provided PWN at the time the trial placement was implemented, rather than waiting until October 24, 2025. The Parent also claimed "the district's documentation" from October 24, 2025 IEP was inaccurate because it stated placement changes were made "with the parental input," although the Parent disagreed with the placement change, as documented in the District's meeting notes.

75. The Parent reported they did not receive the October 24, 2025 PWN until December 12, 2025.

76. When asked why the October 2025 IEP did not reflect the Student's need for one-on-one adult support in the general education setting, the LE Teacher indicated their understanding was because the overall goal was for the Student to not need one-on-one support and to increase their time in general education.

77. In response to an October 31, 2025 email from the Parent requesting that an IEP goal be added for increasing the Student's time in the general education classroom to 80%, the Case Manager stated this should instead be addressed by the accommodation for a fade plan. "Within this fade plan we could be more specific how we are going to fade adult support, while also increasing [the Student's] time in general education. So the fade plan would have the goal of increasing [their] time and [the Behavior Specialist] will be checking in with you bi-weekly on how [the Student] is doing… We want you to know our goal is always to increase general education time… as much as possible. With [the Student] we feel that [they need] a strong foundation and… needs to learn how to be a student with the support of an adult. Then we will fade support while tracking the data[.]"

78. District staff reported the fade plan was discussed at the October 24, 2025 IEP meeting as a general team objective of increasing the Student's general education time as much as possible. It was unclear amongst staff whether specific criteria existed for when the Student's general education time would be increased.

    The Behavior Specialist reported there was no written fade plan. It was a concept that was shared and discussed at the meeting. The Behavior Specialist was working with staff on the plan to fade out prompts for the Student and increase independence.

79. The District submitted a copy of a November 14, 2025 FBA Report completed by the Behavior Specialist, which includes the following:

    a. FBA Needed Because: "Behaviors that adversely impact the student's access to the learning and social environments."

    b. Referring Behaviors: Elopement, Aggression, Loud Vocalizations, and Throwing (throwing objects or kicking).

    c. Concerning behaviors most likely to occur when there are transitions from one environment to another, during less structured times when in close physical proximity to peers, upon a non-preferred task demand, when an item is removed or withheld, and throwing when tangible items are freely accessible.

    d. Hypothesis Function: to gain access to item or activity; escape/avoidance; obtain attention; and sensory.

80. On November 17, 2025 the Parent sent an email to the Case Manager because they had not yet received a copy of the finalized October 2025 IEP. They also stated they were expecting to have regular meetings with the Behavior Specialist every other week about the Student's progress, but this had not occurred.

81. The District finalized the IEP on November 17, 2025, and the LE Teacher emailed the Parent a copy of the IEP on November 18, 2025.

82. On November 19, 2025, the Student was involved in an incident in which they engaged in significant physical aggression, including hitting peers and staff, and targeting a specific peer throughout the day by grabbing the peer's face and poking them in the eyes. This happened on four separate occasions, resulting in the school nurse coming to the class to assess the peer. The unsafe behaviors impacted the other students in the LE class, including that EAs could not take students to their general education time because it was not safe to leave one adult alone in the class without support. The decision was made to send the Student home early.

83. The District reported a District staff member called the Parent to notify them that the Student was suspended. During this call, the staff member mistakenly told the Parent that the Student needed a safety plan before the Student could return to the School. Later that same evening, the District realized the mistake and the Principal called the Parent, stating the School "had staff in place for the Student to come back to school the next day[.]

84. The Parent and the Principal exchanged messages on November 19 and 20, 2025, indicating (1) the Parent requested a suspension letter, and (2) the Principal spoke with the Parent on November 19, 2025 and "clarified that this is not a suspension for behaviors, that was a misunderstanding" made by the staff member who called the Parent. The Principal told the Parent that the Student could return November 20, 2025.

    The Parent told the School that they would not send the Student to school until the team had a meeting about the safety plan.

85. At the time, the School did not provide documentation related to the suspension in response to the Parent's request. The Principal reported they made a mistake and did not understand until later that a removal from school for safety constituted a suspension and required following the same process that applied to all suspensions.

86. In a November 20, 2025 email exchange with the Parent, the Case Manager wrote, "I want to reiterate it is our intention to teach [the Student] the skills and get [them] in general education, unsupported as much as we possibly can, as quickly as we can. The fade plan will help outline criteria for that so [the Student] is successful."

87. The Behavior Specialist reported, at some point the Parent found out what the Student's schedule was and was upset. The Parent was not satisfied that much of the Student's general education time was out of the classroom, as they preferred the Student to get academic time in general education. The Behavior Specialist could not recall whether it happened during the Parent interview for the FBA on October 17, 2025 or after the Student's November 19, 2025 suspension.

88. The Student's November 2025 Report Card included a comment from the LE Teacher for the "1st Reporting Term, " which states the Student begins their day in the general education classroom and "requires consistent support to follow the classroom routine

safely." When prompted by adults, they are able to follow the classroom routine "to some capacity." "[The Student] struggles to keep [their] hands and feet to [themselves] and remain safe with and without adult intervention… currently able to spend the following times in… the general education setting: 8:35-9:00 (soft start with 1:1 support), 11:20-12:05 (recess and lunch in the cafeteria with 3:1 support), 12:50-1:10 (GenEd special[s] with 1:1 support). We hope to be able to decrease the level of support and increase [the Student's] time in general education with the help of [their] LE1 fade plan. This will be dependent on [the Student's] ability to remain safe while in the LE1 and in general education settings while adults collect data."

89. A meeting was scheduled for November 24, 2025 to discuss a safety plan for the Student. On November 21, 2025, the District was notified that a family advocate (the Advocate) would be attending all meetings moving forward and they requested that the November 24, 2025 be rescheduled. The meeting was rescheduled for December 4, 2025.

90. On December 4, 2025, the District convened an IEP meeting to "Discuss and develop safety plan."

91. The District's December 4, 2025 meeting notes include the following:

    a. The District stated the Safety plan was based on observations, while the behavior intervention plan would be driven by data from the FBA. The FBA was not completed at the time the Safety Plan was created. Another meeting would be needed to review the FBA and develop the behavior plan.

    b. "[The Parent] and [the Advocate] did not give input. They wanted to review [the Safety Plan] on their own and will email the team to set up meetings to discuss an amendment." The team will wait for the Advocate to review the crisis plan and provide any suggested additions.

    c. The Advocate insisted that the Student should not have been removed from general education and put in a more restrictive setting before an FBA and behavior plan was completed. They were also concerned about lack of documentation when the Student was suspended and/or removed.

    d. The Director stated involuntary removal is technically a suspension under the law, and the District would put together and provide the documentation related to the November 19, 2025 suspension, as well as provide the necessary documentation for any future incidents.

    e. When asked what specific behavior interventions were implemented before removing the Student from the general education classroom, the Principal stated staff was implementing the accommodations from the existing IEP. This included visuals, schedules, and attempts to scaffold support with adults as behaviors

increased. They also tried different settings in the School, such as the resource room and sensory room.

92. The District reported it explained at the December 4, 2025 meeting "that the safety plan was created to keep the Student safe at school prior to finishing the FBA and creating the subsequent BIP."

93. The Behavior Specialist reported the safety plan was an urgent response plan for staff. It did not involve teaching for the Student, rather, included strategies for how staff should respond when they see specific behaviors. It was not a replacement for a behavior plan; it has a different function and is relevant regardless of whether a behavior plan is in place.

94. In a December 4, 2025 email to the IEP team, the Advocate requested an immediate meeting to amend the IEP, review the FBA, and develop a behavior plan, stating (1) the behavior plan has to come before a safety plan, and (2) the Student cannot safely return to school until the behavior plan is completed and implemented. They also requested that the Student return to the general education classroom with a one-to-one aide and appropriate behavioral support.

95. On December 5, 2025, the Behavior Specialist sent the Advocate and the Parent a copy of the "crisis/safety plan that was started," dated November 21, 2025, which included a description of behaviors at each phase of a crisis and included interventions to be used at each phase.

96. On December 11, 2025, the Principal emailed the Parent a suspension letter dated November 19, 2025. The reason for the suspension was listed as disruption and physical aggression. "[The Student] demonstrated significant physical aggression towards peers and adults that exceeded [their] typical behavioral baseline. Incidents included hitting staff and targeting peers with high-risk behaviors, specifically attempting to poke students in the eyes and kicking at a student's head while they were on the ground. Staff attempted multiple interventions, but [the Student] was unresponsive to these strategies and persistent in [their] aggression towards others. Due to intensity of aggression and significant safety risk posed to the classroom environment, [the Student] is being removed for the remainder of the day. This removal is necessary to ensure the immediate physical safety of all students and staff to allow the team to update the safety plan. The parent was contacted and informed of the suspension. These behaviors violate [the District] Code of Conduct and School Board Policy."

97. The District scheduled a meeting for December 18, 2025 to review the completed FBA and develop a behavior intervention plan (BIP).

98. On December 12, 2025, the District sent the Parent and the Advocate a copy of the draft BIP to review before the December 18, 2025 meeting.

99. On December 15, 2025, the District sent the Parent a Free and Appropriate Public Education (FAPE) Notice, stating, "Oregon policy states that [the District] must drop a student after 10 unexcused absences. You will need to re-enroll your student. A student's absence from school is an indirect refusal to allow the provision of special education services. [The District] stands ready and willing to provide special education services[.]"

100. The "Draft Complex Behavior Intervention Plan," dated December 5, 2025, included the following, among other things:

a. Replacement Behaviors: teach alternative ways to request breaks, attention, or help attention; identifying and sharing emotions; self-regulation strategies including provide access to sensory friendly alternatives; self-management techniques; and tolerance skills.

b. Antecedent Intervention: prompting and modeling functional communication, token reward system, visual schedules, breaks, timers, preference assessments, first/then visuals and language, access to sensory tools, break work into chunks, positive reinforcement, model tolerance for "no," structured waiting supports, environmental arrangement, and behavior specific praise.

c. Consequences of Concerning Behaviors: block or redirect, continue to maintain calm affect, differential reinforcement, and behavior specific praise.

d. Because safety is a concern, a "Crisis/Safety Plan" has been created "to support the student."

e. Progress Monitoring Schedule: daily behavior frequency recording, by time interval.

101. On December 17, 2025 the Advocate emailed the team, expressing disagreement with the Notice. The Parent did not withdraw the Student from school and the Student's absences were a result of the School communicating that the Student could not return until a safety plan was created. The FAPE Notice should not have been issued before the behavior plan was developed.

102. On December 18, 2025, the District convened an IEP meeting for "FBA review and Behavior Plan development."

103. The District's December 18, 2025 Meeting Minutes included the following information:

a. "FBA was reviewed. There was confusion regarding when the FBA was started vs when data collection began. Data collection began 9/30[.]" "BIP draft was reviewed… The team asked [the Parent] for input[.]"

b. The Parent and the Advocate will review the FBA and BIP and "let [the Behavior Specialist] know their input by the end of the day on 12/19/2025 as winter break will begin."

c. The Advocate maintained that the Student was removed from general education before proper interventions were put in place. The Advocate expressed concern that the District changed the Student's placement from 10% removal to 70% removal without convening an IEP meeting.

d. The District stated, "The team was getting to know [the Student] during this time." The Student had the opportunity to be in general education with their typical supports, in general education with additional support, in the resource room setting, and in the LE classroom. "The team considered the least restrictive environment and [the Student] requires a different level of support than what is currently being done in the general education setting… The team felt that LE1 is a better fit[.]"

104. On December 18, 2025, the District issued a PWN, proposing to (1) implement the BIP discussed at the meeting, and (2) continue with the current placement. The team discussed the current placement and decided to implement the behavior plan with no changes to placement. "The parent does not agree with [the Student's] current placement. Also discussed in the meeting was a recent suspension… The school documented that they were ready for [the Student] to return the next day. The parent disagrees with the timeline related to communication... [The Student] did not return to school, by parent choice, following the suspension as a result [the Student] was out more than 10 days. The district provided a FAPE letter as a procedural requirement."

The PWN was emailed to the Parent on December 18, 2025.

105. The District reported that after the December 18, 2025 meeting, "the Parent still requested additional time… to provide feedback." The Advocate did not provide feedback to the District until December 30, 2025, while staff were out on break.

106. On January 1, 2026, the Director replied to the Advocate's December 30, 2025 email containing feedback and concerns. The Director stated the Behavior Specialist would incorporate the Parent's input when staff return the following week.

The Parent responded on January 5, 2026 to the Director, stating, "[W]e are waiting for the BIP to be finalized… We need the final BIP to be completed, so [the Student] could be back as soon as possible."

The Director replied, "While I honor and respect your decisions, I think there may be some confusion about how FBAs and BIPs work. It is very uncommon to keep a student out of school while finalizing a BIP. BIPs are a living document that can be amended regularly and can take multiple meetings to complete. The staff at [the School] are ready to have

[the Student] back."

The Advocate emailed back, copying the IEP team, writing that the Parent did not feel comfortable sending the Student back to the School at this time. The Student has not been kept out of school because the Parent is choosing to delay attendance. The District created confusion with the miscommunication surrounding the November 19, 2025 suspension and the December 15, 2025 FAPE Notice. "These mixed messages contributed significantly to the current situation… Once the behavior plan has been completed, reviewed, and implemented based on the FBA, the parents will feel comfortable sending [the Student] back to school.

107. On January 5, 2026, the Parent filed this Complaint.

IV. DISCUSSION

IEP Content

The Complaint alleged that the District violated the IDEA when it failed to include specific special education and related services and supplementary aids and services in the Student's IEP necessary to fully address the Student's behavior related needs that result from the Student's disabilities.

An IEP must contain (1) a statement of the student's present levels of achievement and functional performance, including how the student's disability affects the student's involvement and progress in the general education curriculum; (2) measurable annual goals and a description of how the student's progress toward meeting the annual goals will be measured and reported; (3) a statement of the specific special education and related services and supplementary aids and services to be provided to the student; (4) the projected dates for initiation of services and the anticipated frequency, amount, location, and duration of the services; and (5) an explanation of the extent to which the student will not participate with children without disabilities in the regular class and activities.[3]

A school district "must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances."[4] The specific special education and related services and supports to be provided must enable the student to (1) advance appropriately toward attaining annual goals, (2) be involved and progress in the general education curriculum, and (3) be educated and participate with other children with and without disabilities.[5]

"The adequacy of a given IEP turns on the unique circumstances of the child for whom it was created."[6] School districts are expected to "be able to offer a cogent and responsive

[3] OAR 581-015-2200(1); 34 CFR §300.320(a).
[4] *Endrew F. v, Douglas Cty. Sch. Dist.*, 137 S.Ct. 988, 999 (2017).
[5] OAR 581-015-2200(1)(d); 34 CFR §300.320(a)(4)
[6] *Endrew F.*, 137 S.Ct. at 1001

explanation for their decisions that shows the IEP is reasonably calculated to enable a child to make progress appropriate in light of his circumstances."[7]

Districts must serve resident children with disabilities attending public charter schools located in the district in the same manner as the district serves children with disabilities in other district schools.[8] This includes "providing supplementary and related services on site at the public charter school to the same extent to which the school district has a policy or practice of providing such services on site to its other public schools."[9] A district acting as the local education agency (the LEA) for a charter school must ensure the charter school meets its obligations under the IDEA.[10] The LEA is responsible for conducting the IEP meeting and for developing, reviewing, and revising the child's IEP.[11]

There were three IEPs implemented during the complaint period, the May 2025 IEP, the September 2025 Amended IEP, and the October 2025 IEP. At both the Charter School and the Student's neighborhood school, staff reported the Student required a higher level of support than contemplated by the Student's IEP, including one-on-one support in the general education setting. Although the District convened IEP meetings on September 22 and October 24, 2025, the resulting IEPs (1) did not reflect the level of support the Student needed and, (2) did not reflect the level of support the District was implementing.

Shortly after the Student started kindergarten at the Charter School, staff indicated the Student needed much more support than anticipated. The Charter School started implementing additional supports and services, including additional adult support for most of the school day. Even with one-on-one support, staff struggled to keep the Student and others safe. Staff reported the Student unable to access the general education curriculum, even with one-on-one support. Although the team held an IEP meeting on September 22, 2025, the resulting IEP amendment included minimal changes and did not reflect the Student's needs at the time. Because of this, the Student entered the new school with an IEP that was not designed to enable the student to make progress appropriate in light of their circumstances.

When the Student arrived at the new school, the September 2025 Amended IEP continued to state that the Student would only be removed from general education for three percent of the time, and the anticipated location of the Student's executive functioning/self-management SDI and accommodations was listed as the general education setting. Even though the extent of removal implemented under the trial placement increased to over 70% of the time, and the Student was receiving all SDI in the LE classroom in October, the IEP was not revised until the October 24, 2025 meeting.

At the October 24, 2025 meeting, the IEP team determined the Student needed a more restrictive placement. However, the team failed to develop an IEP that included the level of

[7] *Id.* at 1002.
[8] OAR 581-015-2075(2)(c); 34 CFR §300.209(b)(1)(i).
[9] OAR 581-015-2075(2)(c); 34 CFR §300.209(b)(1)(i).
[10] 34 CFR §300.209; *Frequently Asked Questions About the Rights of Students with Disabilities in Public Charter Schools Under the IDEA*, 69 IDELR 78 (OSERS 2016).
[11] *Id.*

supports and services that team members knew the Student required to participate in the general education setting with non-disabled peers.

The Student's IEPs failed to include specific special education supports and services necessary to fully address the Student's needs at the time the IEPs were implemented. The Student's September 2025 Amended IEP and October 2025 IEP did not accurately reflect the Student's needs and, therefore, were not reasonably calculated to enable the Student to make progress appropriate in light of their circumstances.

The Department substantiates this allegation.

Placement of the Child

The Complaint alleged that the District violated IDEA requirements when determining the educational placement of the Student.

School districts must ensure that the educational placement of a child with a disability is determined by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options.[12] Placement decisions should not be based solely on factors such as category of disability, severity of disability, configuration of delivery system, availability of educational or related services, availability of appropriate staff, or administrative convenience.[13] "Each student's placement must be individually-determined based on the individual student's abilities and needs... it is the program of specialized instruction and related services contained in the student's IEP that forms that basis of the placement decision."[14] The IDEA "requires that the placement be based on the IEP, and not vice versa."[15]

In addition, the educational placement of a child must be made in conformity with the least restrictive environment (LRE) provisions. School districts must ensure, to the maximum extent appropriate, that children with disabilities are educated with children who do not have a disability.[16] The IEP team must consider the possibility of delivering services and supports in the regular classroom before removing a student to a separate classroom.[17] Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment should occur only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.[18] A district acting as the LEA for a charter school "must first consider whether the special education and related services can be provided... in conformity with the child's IEP in

[12] OAR 581-015-2250(1); 34 CFR §300.116(a)(1).
[13] OSEP Memorandum 95-9 (OSEP 11/23/1994); Letter to Veazey (OSEP 11/26/2001).
[14] OSEP Memorandum 95-9.
[15] *K.D. ex rel. C.L. v. Dep't of Educ., Hawaii*, 665 F.3d 1110, 1123 (9th Cir. 2011).
[16] OAR 581-015-2240(1); 34 CFR §300.116(a)(2)(i).
[17] Letter to Beckwith, (OSEP 4/18/2017).
[18] OAR 581-015-2240(2); 34 CFR §300.116(a)(2)(il).

the charter school[.]"[19] "If FAPE cannot be provided to the child in the charter school, the LEA… must place the child in another public school program."[20]

The LRE mandate does not require that school districts first place students with disabilities in the regular classroom and see if they fail before a more restrictive placement can be considered.[21] "Following this individual inquiry, if a determination is made... that the IEP for a particular disabled student could not be implemented satisfactorily in the regular education environment, even with the provision of supplementary aids and services, regular class placement would not be the LRE placement for that student."[22]

While IEP teams should work towards consensus, the district is ultimately responsible for the provision of FAPE to a student. "If the team cannot reach agreement, the public agency must determine the appropriate services and provide the parents with prior written notice of the agencies determinations regarding the child's educational program and of the parents' right to seek resolution of any disagreement by initiating an impartial due process hearing or filing a state complaint."[23]

The Student started attending the School on September 29, 2025. On the first day, staff noticed the Student required a high level of adult support to prevent the Student from eloping, keep the Student and others safe, and help the Student complete tasks and follow routines. The Principal, Teacher, Case Manager, LE Teacher, and Behavior Specialist started discussing the Student's need for more support and learning classroom skills. By the second day of school, staff was taking data and concluded the Student should try attending a special class that provided more support and structure, the LE classroom.

The Parent was notified by the Principal on September 30, 2025 that the School wanted to implement a trial placement starting October 1, 2025, including increased removal from general education to explore what setting would best meet the Student's needs. District staff reported a new schedule for the Student was developed by October 6, 2025. The schedule indicated the Student was in the general education setting for approximately 85 minutes per day (30 minutes in their general education classroom, 40 minutes combined for lunch and recess with general education peers, and 15 minutes in specials with their general education class), resulting in a removal of over 70% (approximately 300 minutes per day). However, as discussed above, the Student's September 2025 Amended IEP stated the Student would be removed for a total of three percent of the time (55 minutes per week).

The Director reported they were not involved in the details or implementation of the trial placement, although they were aware the School was discussing a plan with the Parent. The decision to implement a trial placement was done at the school level.

[19] 34 CFR §300.209; *Frequently Asked Questions About the Rights of Students with Disabilities in Public Charter Schools Under the IDEA*, 69 IDELR 78 (OSERS 2016).
[20] 34 CFR §300.209; *Frequently Asked Questions About the Rights of Students with Disabilities in Public Charter Schools Under the IDEA*, 69 IDELR 78 (OSERS 2016).
[21] Letter to Cohen, (OSEP 1996).
[22] *Id*.
[23] Letter to Richards (OSEP 2010).

The District reported the Principal invited the Parent to a meeting on October 3, 2025 to discuss the trial placement, along with other District staff. The District's *Response to the Complaint* stated that "the team agreed to trial placement in the Learning Essentials classroom to determine appropriateness of the setting before officially changing the placement." At the meeting, the Parent expressed concerns about the District increasing the Student's removal time. The District told the Parent it was not clear yet what the Student's new schedule would be, but it would provide this information to the Parent once it was finalized. The District stated it would schedule an IEP meeting for October 17, 2025 to review data and update the IEP. It is unclear whether the information promised was ever provided to the Parent. It is unclear why the October 17, 2025 IEP meeting did not take place. Notwithstanding, the October 3, 2025 meeting was not an IEP meeting and not the appropriate venue to change the Student's educational placement and provision of FAPE.

The Parent reported they were notified of the plan to implement a trial placement in a message from the Principal on September 30, 2025. The District did not ask for permission, and there was no attempt to gain consent or written agreement. The Parent disagreed with the District's statement that the trial placement plan was carried out in consultation with the Parent, or with input from the Parent. The Parent requested additional information about the plan, but was unsuccessful. The Parent asked how long the trial placement would last, but the District did not provide an answer. Rather, the Principal stated the team needed to be flexible. When the Parent asked how much the Student would be removed from general education, the Principal stated the team would track this for the Parent and provide bi-weekly updates. The Parent reported they did not receive clarification or updates during the trial placement period.

The District's Response to the Complaint states the Student's placement determination contemplated by the IEP did not reflect the Student's needs at the time. The District was aware that the Student's needs were not as anticipated as soon as the Student started the school year. Both the Charter School staff and District staff raised concerns about the Student's need for a higher level of supports and services. The IEP team should have been convened earlier: first: first, to review and revise the Student's IEP to accurately reflect the Student's needs; and second, to determine the Student's placement based on the IEP. Instead, the District unilaterally changed the Student's placement, resulting in removal time at a drastically higher level than prescribed by the Student's IEP and placement determination. The District did not provide the Parent with sufficient information to know what was being implemented, such as how long or how much the Student was being removed from general education. The placement implemented by the District during the trial period was not determined by a group of persons, including the Parent, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options.

The Department substantiates this allegation.

Prior Written Notice

The Complaint alleged that the District violated the IDEA by not providing the Parent with prior written notice within a reasonable period of time before the District proposed to initiate or

change the identification, evaluation, educational placement, of provision of a free appropriate public education to the Student.

School districts must provide PWN to parents within a reasonable period of time before the district proposes or refuses to initiate or change the identification, evaluation, educational placement, or provision of FAPE to a child.[24] PWN must include a description of the action proposed or refused; an explanation why the action was proposed or refused; a description of each evaluation procedure , assessment, record, or report used as the basis of the proposal or refusal; a description of other options the IEP team considered and the reason why they were rejected; a description of other relevant factors; and notice of procedural safeguards.[25]

The purpose of PWN is to inform parents of a district's final action on a proposal or refusal to initiate or change elements of a student's special education program.[26] The formal requirement of written notice "has an important purpose that is not merely technical… [it] creates a clear record" to eliminate future factual disputes, and assists parents in presenting complaints related to an action proposed or refused by the district.[27] It can also alert parents "to the need to consider seriously" whether a proposed placement is appropriate, and decide whether to oppose the offer. A district must provide the written notice to parents early enough that parents have time to fully consider a proposed change and respond to the action before the district implements the action.[28]

PWN must be provided "whether or not the proposal or refusal is made during the course of an IEP meeting."[29] PWN must also be provided when a district agrees or disagrees with a change proposed by a parent.[30]

The District issued four PWNs between the start of the 2025-26 school year and the end of the complaint period. Three PWNs were related to changes proposed to the Student's provision of FAPE, the proposal to implement an IEP or behavior plan discussed at IEP meetings on September 22, October 24, and December 18, 2025. The fourth PWN was a proposal to conduct the Student's required three-year reevaluation. No PWN was issued related to any other proposed changes to the Student's educational placement or provision of FAPE. No PWN was issued related to requests made by the Parent that were either accepted or rejected by the District.

At the very least, the District should have provided PWN regarding the District's proposal to implement a trial placement. The Student's increased removal from the general education classroom was initiated by the District on October 1, 2025. PWN for a change in the Student's placement was not issued until after the change was formally made at the October 24, 2025 IEP meeting. The implementation of the trial placement substantially impacted the composition of

[24] OAR 581-015-2310(2); 34 CFR §300.503.
[25] OAR 581-015-2310(3); 34 CFR §300.503.
[26] Letter to Lieberman (OSEP 2008).
[27] *Union Sch. Dist. v. Smith*, 20 IDELR 987 (9th Cir. 1994).
[28] Letter to Chandler (OSEP 2012)
[29] Letter to Chandler (OSEP 2012).
[30] Letter to Lieberman (OSEP 2008).

the Student's educational program and, therefore, constituted a proposed change to the Student's educational placement and provision of FAPE that triggered the PWN requirement.

The Department substantiates this allegation.

Free Appropriate Public Education (FAPE)

The Complaint alleged that the District violated the IDEA by not providing special education and related services in accordance with the Student's IEP.

Each school district is responsible for providing a free appropriate public education to school age children with disabilities for whom the school district is responsible.[31] In order to determine whether a student has been denied a FAPE, the courts review a district's compliance with the procedural and substantive components of the student's education. Reviewing courts must inquire whether the school district complied with the procedural requirements of the IDEA, and whether the school district met the substantive requirement to develop an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances.[32]

Not every procedural error is sufficient to rise to a denial of FAPE.[33] The procedural test consists of three pivotal questions: (1) whether the student suffers a loss of educational opportunity;[34] (2) whether the parent's right to participate in the IEP process was infringed;[35] or (3) whether the procedural error caused a "deprivation of educational benefit."[36] Procedural errors rise to the level of a denial of FAPE where, absent the errors, there is a "strong likelihood" that alternative educational possibilities for the student "would have been better considered."[37]

Substantively, the Student's September 2025 Amended IEP and October 2025 IEP did not accurately reflect the Student's needs and, therefore, were not reasonably calculated to enable the Student to make appropriate progress in light of their circumstances. The analysis then turns to whether the District's procedural violations resulted in a denial of FAPE. The District's failure to convene an IEP meeting before changing the Student's placement, and failure to provide the Parent with PWN regarding this action, seriously infringed on the Parent's right to participate in the IEP process, which constitutes a denial of FAPE. It is less clear to what extent, the change of placement outside of an IEP meeting resulted in a loss of educational opportunity for the Student. The evidence supports that the Student required a more restrictive setting than was reflected in the May 2025 and the September 2025 Amended IEP, such that the change in placement did not result in a loss of educational opportunity.

The Department substantiates this allegation.

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[31] OAR 581-015-2040(1); 34 CFR §300.101(a).
[32] *Endrew F.*, 137 S.Ct. at 999.
[33] *Amanda J. v. Clark Co. Sch. Dist.*, 267 F.3d 877, 892 (9th Cir. 2001) (citing *Roland M. v. Concord 13684 Sch. Comm.*, 910 F.2d 983, 994 (1st Cir. 1990)).
[34] *Target* Range, 960 F.2d at 1484.
[35] *Id.*
[36] *Amanda J.*, 267 F.3d at 892 (citing *Roland M.,* F.2d at 994).
[37] *M.L. v. Federal Way Sch. Dist.*, 394 F.3d 634, 657 (9th Cir. 2005).

V. CORRECTIVE ACTION

In the Matter of Gresham-Barlow School District 10J
Case No. 26-054-001

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

Action Required	Submissions	Due Date
1. The District must ensure that all District staff involved in the Student's special education and placement receive training in each of the following areas: • District responsibilities regarding students enrolled in public charter schools who are eligible for special education; • IEP content and implementation; • Placement procedures and parent participation; • Prior Written Notice.	Training agenda/materials to ODE for review/approval. Sign-in sheet for training.	**May 1, 2026** **October 1, 2026**
2. The District must convene an IEP meeting with the Parent to review the Student's IEP, including revising the IEP to ensure the IEP includes all services and supports necessary to address the Student's disability related needs.	Documentation of offer to hold IEP meeting made to the Parent. Documentation of PWN issued related to the amended IEP.	**April 1, 2026** **June 1, 2026**

Dated: this 6 Day of March 2026



Crystal Brumfield
IDEA Programs Director
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).)