BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of Redmond School District 2J	)	FINDINGS OF FACT,
	)	CONCLUSIONS,
	)	AND AMENDED FINAL ORDER[1]
	)	Case No. 26-054-006

I. BACKGROUND

On January 12, 2026, the Oregon Department of Education (Department) received a written request for a special education complaint investigation from the parent (Parent) of a student (Student) residing in the Redmond School District 2J (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.[2] This timeline may be extended if the Parent and the District agree to the extension in order to engage in mediation or local resolution, or for exceptional circumstances related to the complaint.[3]

On January 21, 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 February 3, 2026.

The District submitted a *Response* on February 3, 2026, denying the allegations, providing an explanation, and submitting documents supporting the District's position. The District submitted the following relevant items:

1. District's Written *Response* to Complaint, dated 2/3/26
2. Emails between the Parties, 12/15/25 through 01/08/26
3. Individualized Education Program (IEP), 01/08/25
4. 504 Accommodation Plan (First Draft), 12/09/25
5. Meeting Agenda for 504 Plan Review, 01/06/26
6. 3-Year Reevaluation File Review Report, 11/18/25
7. [the District] Withdrawal From Section 504 Form, 01/12/26
8. Notice to Conduct a 504 Evaluation, 12/09/25

[1] On March 13, 2026, the Department issued a Final Order in this matter. On April 28, 2026, the District notified the Department that it had not been able to reach agreement with the Parent regarding the compensatory education ordered in Corrective Action #1. The District requested that the Department make a determination regarding the compensatory education to be provided to the Student. Accordingly, the Department issues this Amended Final Order.

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

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

9. Receipt for 504 Notice of Parents and Student Rights, 12/09/25
10. Meeting Agenda for 504 Eligibility Review, 12/09/25
11. 504 Evaluation Report, 12/09/25
12. Notice to Conduct a 504 Meeting, 12/02/25
13. Notice of Team Meeting, 12/10/25
14. Parent Message History, 10/08/25-01/07/26
15. Counselor Small Groups, 01/16/25-03/06/25
16. Counselor Small Groups, 10/31/25-12/19/25
17. Statement of Eligibility for Special Education - Autism Spectrum Disorder (82), 11/18/25
18. Eligibility Summary Statement, 11/18/25
19. Prior Written Notice (PWN), 11/18/25
20. Email, re: [the Student] Meeting Notes from Oct., 01/05/26
21. Notice of Team Meeting, 09/24/25
22. Report Card, 2025-26 School Year
23. IEP Progress Report, 11/14/25
24. Meeting Summary, 01/06/26
25. Parent Message History, 09/18/25-12/11/25
26. Parent Message History, 01/08/26
27. Meeting Summary, 11/18/25
28. Parent/Guardian Consent for Individual Evaluation, 10/03/25
29. Meeting Summary, 10/03/25
30. Withdrawal/Transfer Form, 11/18/25
31. Parent Message History, 09/18/25-12/11/25
32. Prior Written Notice, 01/06/26
33. Picture of Daily Schedule, no date
34. Picture of White Board, no date
35. Picture of Hanging Daily Schedule, no date
36. Picture of Daily Schedules Posted on White Board, no date

The Parent submitted a *Reply* on February 10, 2026, providing documents in support of the Parent's position. The Parent submitted the following relevant items:

1. Message Exchange, 09/18/25-12/11/25
2. Formal Complaint, 01/11/26
3. Message Exchange, 10/08/25-10/15/25
4. Eligibility/IEP Process Form, 11/18/25
5. Parent/Guardian Consent for Individual Evaluation, 10/03/25

The Complaint Investigator interviewed District Personnel on February 10, 2026 and the Parent on February 11, 2026. The Complaint Investigator reviewed and considered all of these documents, interviews, and exhibits in reaching the findings of fact and conclusions of law contained in this order. This order is timely.

II. ALLEGATIONS AND CONCLUSIONS

The Department has jurisdiction to resolve this Complaint under 34 CFR §§ 300.151-153 and OAR 581-015-2030. The Parent's allegations and the Department's conclusions are set out in the chart below. The conclusions are based on the Findings of Fact in Section III and the Discussion in Section IV. This Complaint covers the one-year period from January 13, 2025, to the filing of this Complaint on January 12, 2026.

Allegations	Conclusions
When IEPs Must Be In Effect The Complaint alleged that, from the beginning of the 2025-26 school year, the District failed to provide the services and accommodations mandated in the Student's IEP, specifically failing to deliver Specially Designed Instruction (SDI) in self-advocacy and neglecting to implement seven of the ten required accommodations. These omitted supports included preferred seating, movement breaks, access to snacks, gum, and water, and a visual schedule that incorporated breaks to work on preferred interests. Furthermore, the Complaint alleged that the School failed to assess the Student's understanding of literal and figurative language, provide quiet, independent work and break locations for regulation, allow the use of sensory materials, or permit the Student to wear their hood. (OAR 581-015-2220(1); 34 CFR § 300.323(a))	**Substantiated** The District failed to provide the SDI and accommodations required by the Student's IEP.
Content of the IEP The Complaint alleged the District failed to appropriately record and report the Student's progress on their self-advocacy goal. (OAR 581-015-2200(1)(b)(c); 34 CFR § 300.320(a)(2)(3))	**Not Contested** The District did not contest this allegation.
Child Find The Complaint alleged the District failed to properly evaluate the Student's eligibility for special education services, despite the provision of multiple outside evaluations, the academic regression after the Student was exited from special education services, and the Parent explicitly stating IEP supports were necessary for the	**Substantiated** The District did not properly evaluate the Student's eligibility for special education services by failing to conduct a comprehensive evaluation in all areas of suspected disability.

Allegations	Conclusions
Student's behavioral, emotional, and advanced academic needs. (OAR 581-015-2080(1)(2)(d); 34 CFR § 300.111(c)(1))	
Free Appropriate Public Education (FAPE) The Complaint alleged the District failed to provide the Student a FAPE by failing to implement the Student's IEP as written. (OAR 581-015-2040(1); 34 CFR § 300.101(a))	**Substantiated** The District's failure to implement the Student's IEP resulted in a denial of FAPE.

REQUESTED CORRECTIVE ACTION
● "Ensure school staff is prepared before start of school year to implement IEP supports. Provide supports missed." ● "Ensure all staff are educated on each student's IEP before the start of school year/special education implementation training for gen[eral] ed[ucation] classrooms." ● "Training to recognize common behaviors manifested by a disability, ensur[ing] all staff are well-informed of IEP." ● "Re-instate [the Student's] IEP." ● "Provide make-up supports[, which were] denied with no cause." ● "Expedited [Talented and Gifted] TAG entry process, supplementary tutoring in [m]ath and/or reading if qualified."

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 13, 2025. Any facts listed below relating to circumstances or incidents earlier than that date are included solely to provide the context necessary to understand the Student's disability and special education history.

1. The Student is 11 years old and attends an elementary school in the District.

2. The Student takes school seriously and works hard to write nicely and neatly. The Student enjoys playing outside with their friends at track and recess. They are an artist and take pride in the work they create. The Student is visually intelligent and enjoys putting things together and taking them apart. At home, they enjoy video games and playing virtual reality with friends.

3. An IEP dated January 8, 2025, and effective until January 7, 2026, indicated the following relevant information:
    a. The Student is eligible for an IEP under Autism Spectrum Disorder (ASD).
    b. The Student received reading, writing, and math instruction in the general education setting and participated in physical education in the general education setting.
    c. Present levels indicated the following:
        i. The Student graduated from direct speech and language services to consultation.
        ii. Fine Motor, Gross Motor, Adaptive Skills, and Emotional Regulation were all "within typical development."
        iii. Social Skills: "Previous goal: Given 36 weeks of opportunities to listen to instruction on how to identify the characteristics of a friend, and how to be a friend, [the Student] will relate these skills to [their] real life by filling out a rubric monthly indicating how [they] fe[lt] about [their] peer relationships at school. If [the Student] sees an area on the rubric [they are] scoring low in, [they] will focus on applying [their] knowledge to grow in that area. [The Student] will grow 2 points in [their] self-selected areas." A rubric for these six areas followed: "I know what makes up a good friendship; I am good at making friends; I feel comfortable talking to others; I am happy with the friendships I have; I know how to solve conflicts with friends; [and] I am a good friend."
        iv. Progress: The Student had been participating in social skills groups weekly. They stepped up as a leader during certain activities. They demonstrated creativity, flexible thinking, and confidence. The Student gave themself the highest ranking in each category on their self-assessment.
        v. Areas in need of further support: Partner work and self-advocacy.
        vi. The Student was exited from occupational therapy (OT) services.
        vii. Evaluation data included state assessment scores in English Language Arts and Mathematics from May 2024, iReady Reading and Math Diagnostics from September 2024, a "Summary of Psychological Report" dated February 6, 2023, a Speech Language Evaluation dated January 3 and 4, 2023, and a "Mindsights Psychological Assessment" dated September through October 2024.
    d. Special Factors indicated the Student had communication needs and needed assistive technology access.
    e. A goal for self-advocacy was listed:
        i. "Given 36 weeks of instruction, [the Student] will appropriately communicate [their] feelings and preferences, such as asking for space or politely requesting to work with a different partner [they] might be paired with by using 'I' statements or seeking teacher support in 80% of staff observational opportunities."
        ii. Present Level was described as "At times, [the Student] has difficulty working with peers in [their] classroom that are not of [their] choosing."
    f. SDI was designated for self-advocacy, school-wide, by the Student's case manager, for 100 minutes every month. A start date was listed as January 9, 2025, and an end date was listed as January 7, 2026.
    g. Supplementary Aids and Services were listed as:
        i. All services were to be provided by the Local Education Agency (LEA) and administered by a case manager, with effective dates of January 9, 2025 through January 7, 2026.

ii. "Option to use speech[-]to[-]text for brainstorming writing ideas," in the general education classroom, for 10 minutes per week.
iii. "Seating in a low distraction, low sensory input area of the classroom. Allow [the Student] to sit apart from a large group. Try to seat away from doors, sounds, movement etc. to avoid distractions and overwhelm," across all school settings, for 15 minutes every month.
iv. "Movement breaks (e.g., sensory walk) and activities that require push/pull, movement opportunities with cross-lateral movement," across all school settings, for 60 minutes every month.
v. "Allow snacks, water, gum in class," across all school settings, for 5 minutes every month.
vi. "Written schedule with times for breaks to work on [their] preferred areas of interest," across all school settings, for 10 minutes every month.
vii. "Check for understanding when using figurative or non-literal language," across all school settings, for 20 minutes every month.
viii. "Flexible and active seating, noise[-]reducing headphones, quiet independent work location, quiet independent break location for regulation, sensory materials (weighted tools, fidget tools), option to wear [a] hood for sensory needs," across all school settings, for 20 minutes every month.
ix. "Access to [a] separate setting for assessments," across all school settings, for 20 minutes per week.
x. "[F]amiliar test administrator," across all school settings, for 20 min per week.
xi. "Access to noise buffers for assessments," across all school settings, for 20 minutes per week.
xii. The Statement of Nonparticipation Justification indicated the Student would be removed from the regular classroom for SDI in self-advocacy for up to 100 minutes per month.

4. The Student attended weekly small group sessions with the School Counselor. "Counselor Small Group" notes indicate the Student was present for all sessions of the Winter 2025 group, beginning January 16, 2025, and concluding March 6, 2025. For the Fall 2025 group, the Student missed the October 31, 2025 meeting, reviewed the missed material during the November 7, 2025 group. The notes reported the Student was present for the remaining sessions, November 7, 2025 through December 19, 2025. As reflected in the notes, topics taught during these sessions included collaborating with teams, perseverance, accountability, and developing relationships.

5. In a chat message on September 18, 2025, the Parent asked the Fifth Grade Teacher if they were aware of the Student's accommodations. The Parent reported the Student indicated they were unable to use a fidget in class and asked if they needed to send a different fidget from home. The Fifth Grade Teacher replied on September 19, 2025 stating the Student had not asked to use a fidget, and they had not told the Student they could not use a fidget. The Fifth Grade Teacher indicated they would speak to the Student.

6. A September 24, 2025 Notice of Team Meeting indicated a reevaluation planning meeting was scheduled for October 3, 2025.

7. An October 3, 2025 Parent/Guardian Consent for Individual Evaluation document indicated an evaluation was being proposed for the Student by the IEP Team because "The IEP Team needs to assess current progress towards all academic, behavior, and functional goals in order to determine the need for continued supports and services." This evaluation would be conducted by a multidisciplinary team "to determine potential eligibility or continued eligibility for Special Education services." The document indicated that, "[B]ased on a review of existing information, no additional evaluation data are needed to determine if your child is, or continues to be, eligible for special education services or to determine your child's educational needs. If you disagree, you may request an assessment." A box was checked for "I give my consent for the evaluation or reevaluation. I understand my consent is voluntary and may be revoked for any evaluation or reevaluation that has not yet been conducted." No signature was included, but it was dated October 3, 2025 (typed print) and had the same date listed as the "date received."

   A second October 3, 2025 Parent/Guardian Consent for Individual Evaluation document indicated an evaluation was being proposed for the Student by the IEP Team because "The IEP Team needs to assess current progress towards all academic, behavior, and functional goals in order to determine the need for continued supports and services." This evaluation would be conducted by a multidisciplinary team "to determine potential eligibility or continued eligibility for Special Education services." A box was checked, with initials beside it, for "I give my consent for the evaluation or reevaluation. I understand my consent is voluntary and may be revoked for any evaluation or reevaluation that has not yet been conducted." A signature of the "Parent/Guardian/Adult Student" was included, the date was handwritten as October 3, 2025, and there was no date listed as the "date received."

8. A Meeting Summary dated October 3, 2025 detailed the "3[-]year evaluation consent" meeting, as prepared by the School Psychologist and the Case Manager. The summary listed the participants as the Parent (by phone), the Fifth Grade Teacher, the Case Manager, the School Psychologist, and the Speech Language Pathologist (SLP).

   During the meeting, the School Psychologist presented the Student's file review. They acknowledged the Student's ASD diagnosis was well documented and eligibility would be based on educational impact. The notes stated the Student's "current academic data showed strong performance," with above-average test scores in math, and average test scores in reading. A classroom observation mentioned work refusals, however there were no current behavioral referrals or incidents.

   The notes indicated the Parent overslept and missed the first portion of the meeting. They were then contacted by phone, and the team explained their position that no new testing was required to determine eligibility. The Parent and team "briefly discussed the difference between a 504 Plan and [an] IEP." According to the notes, the Parent agreed with the team's recommendation and arranged to come in person to sign the consent forms.

9. Direct chat messages between the Parent and the Principal from October 8, 2025 through October 15, 2025 indicated both the Student and the Parent experienced communication issues with the Fifth Grade Teacher. The Parent and the Principal agreed to meet, and messages indicated they spoke about the Parent's concerns. The Principal shared they also spoke with the Fifth Grade Teacher, and assured the Parent the Student's "accommodations will be met moving forward."

10. A direct chat message from the Fifth Grade Teacher to the Parent on October 30, 2025, detailed the Student's work avoidance in class that day. The Fifth Grade Teacher reported, "I had to redirect [the Student] several times about not making noises." The message also described the Student using different objects as fidgets, which became distracting.

11. Direct chat messages dated November 13, 2025 between the Parent and the Fifth Grade Teacher described an interaction on a field trip. The Parent stated, "Once again, [the Student] has provisions in [their] IEP allowing [them] to wear a hood in class. I would assume it also pertains to field trips. Please stop suggesting for [them] to take it off." The Fifth Grade Teacher reported it was a staff member from a different school who asked the Student to remove the hood, and that the staff member was unaware of the Student's accommodations. The Fifth Grade Teacher stated the Student complied on their own. They indicated they asked the Student why the Student complied at the other school, but kept the hood on at their own school. The Parent replied the Student complied because they "felt singled out" and wanted to avoid a confrontation.

12. An IEP Progress Report dated November 14, 2025 described the Student's progress on their self-advocacy goal as follows:

    a. 3/12/25: Code 4 (Progress has been made towards the goal). [The Student] is not yet proactively communicating [their] feelings/preferences;
    b. 6/13/25: Code 4 (Progress has been made towards the goal). [The Student] has been making good progress. [They] will typically approach the teacher first and let [them] know what [they want] to share with peers and what [they want] to approach them about.
    c. 11/14/25: Code 5 (Performance is at or above what is required to meet the goal by the next review). No narrative information was included.

13. The School Psychologist completed a 3-Year Reevaluation File Review Report dated November 18, 2025 (November 2025 Evaluation Report). The results of the evaluation include, but are not limited to, the following:
    a. Previous Evaluation Data:
        i. Previous School District Evaluation dated January 5, 2023
            (1) Behavior Assessment System for Children, 3rd Edition (BASC-3) Teacher Form
                (a) Clinically Significant range: Depression, Atypicality, and Withdrawal.
            (2) Conners Rating Scales, 4th Edition (CRS-4) Teacher Form
                (a) Very Elevated: Inattention/Executive Dysfunction
        ii. Mindsights Evaluation dated November 5, 2024

(1) Kaufman Test of Educational Achievement, 3rd Edition (KTEA-3)
(a) Brief Achievement Composite: Standard Score 103;
(b) Letter & Word Recognition: Standard Score 116;
(c) Spelling: Standard Score 106;
(d) Math Computation: Standard Score 87.
(2) Conners Continuous Performance Test, 3rd Edition (CPT-3)
(a) Hit Reaction Time: T=70 (Atypically Slow);
(b) HRT Standard Deviation: T=77 (Very Elevated);
(c) Variability: T=61 (Elevated);
(d) Detectability: T=56 (High Average);
(e) Omissions: T=63 (Elevated);
(f) Commissions: T=50 (Average);
(g) Perseverations: T=55 (High Average).
(3) Diagnoses: Autism Spectrum Disorder, ADHD combined type, Generalized Anxiety Disorder and other specified depressive disorder.

iii. Medical Statement dated January 20, 2023
(1) Diagnoses: Autism Spectrum Disorder, ADHD and Generalized Anxiety Disorder.

b. Current Educational Performance
i. i-Ready, September 2025
(1) Math Measure: Early 5th grade level
(2) Reading Measure: 4th grade level
ii. Oregon State Testing-SBAC, 2025
(1) ELA-Overall: Level 1, 27th percentile;
(2) ELA-Reading: Level 1, 17th percentile;
(3) ELA-Writing: Level 2, 50th percentile;
(4) Math-Overall: Level 4, 92nd percentile.)

c. Classroom Observation by District Testing Specialist, November 14, 2025
i. "The teacher held up a paper and asked students to find it and show they had it. While a molarity of the students held up the paper, [the Student] did not."
ii. "As the teacher gave instructions, [the Student] looked through papers and began writing. Following the teacher's demonstration . . . [the Student] wrote on [their] poetry paper." "When the teacher asked questions and read prompts aloud, [the Student] appeared to follow along and wrote quickly."
iii. "During the designated work time, [the Student] picked apart [their] eraser while remaining seated. Other students were talking and working on their packets, but [the Student] did not participate in the class activity." When the teacher came over to assist them, the Student "quietly interacted but did not look at the teacher." When peers came over, the Student "did not interact with them."
iv. "Most students were actively working while [the Student] continued to fidget with [their] eraser." When the teacher asked the Student to give them the eraser, the Student "did not appear to comply". When asked if they had questions, the Student replied "No." "After the teacher left, [the Student] put [their] head on [their] hand . . . and appeared to be disengaged from the class activity."

14. A Statement of Eligibility for Special Education dated November 18, 2025, indicated the Student met the eligibility criteria for ASD, but did not require SDI.

15. An Eligibility Summary Statement dated November 18, 2025 indicated the Student met the disability criteria for ASD, but the disability did not have an adverse impact on the Student's educational performance, and they did not need special education. The form indicated the Parent was in agreement by checking the "agree" box and signing the form.

16. Prior Written Notice (PWN) dated November 18, 2025 reported the change in eligibility status. A Withdraw/Transfer Form dated November 18, 2025 documented the Student was exited from special education.

17. A Meeting Summary dated November 18, 2025 detailed the "3[-]year eligibility for ASD" meeting, as prepared by the Case Manager. The summary listed the participants as the Parent, the Step-Parent, the Fifth Grade Teacher, the Case Manager, the School Psychologist, the 504 Coordinator, and the Speech Language Pathologist.

    The summary stated "[b]ased on file review, teacher input … [the Student] is doing really well, … [the Student] does not need services with an IEP, but maybe would benefit from support with a 504[.]" The School Psychologist asserted, "There haven't been strong signs toward needing eligibility." They acknowledged the Student's ASD diagnosis and claimed it did not have an impact on the Student's academic progress. The School Psychologist reported the Student scores "average" on both districtwide and statewide assessments. Therefore, there was no area identified as needing "pull-out instruction."

    The 504 Coordinator mentioned the Student's "resistance" to assessments and work avoidance, acknowledging these factors made it difficult to accurately assess the Student. The Parent shared the Student struggled with social interactions and enjoyed the weekly social-emotional learning groups. Based on the discussion, the team agreed to exit the Student from special education.

18. The District developed the following documents relevant to the 504 process:
    a. Notice to Conduct a 504 Meeting, December 2, 2025
    b. Notice to Conduct a 504 Evaluation, December 9, 2025
    c. Receipt for 504 Notice of Parents and Student Rights, December 9, 2025
    d. 504 Evaluation Report, December 9, 2025
    e. 504 Plan Draft, December 9, 2025
    f. Meeting Agenda, December 9, 2025
    g. Notice of Team Meeting, December 10, 2025
    h. Meeting Agenda, January 6, 2026.

19. On December 15, 2025, the Parent emailed the 504 Coordinator to request a meeting for reimplementation of the Student's IEP. The Parent wanted "specifically to address goals for organizational goal setting & planning, social communication skill building, advocacy and problem solving with peers." They further stated, "We are also interested in pursuing

Assistive Technology, [Behavior Intervention Plan] BIP, occupational therapy[,] and speech and language services[.]" The Parent cited ongoing behavioral and self-advocacy issues as their reason for the request. They stated they noticed consistent miscommunication between the Student and particular staff members. The Parent stated they created "a list of accommodations and suggested implementation thereof" for an upcoming meeting.

The 504 Coordinator replied on December 16, 2025, stating they were looking forward to the 504 Plan meeting on January 6, 2026. They stated they would add the accommodations the Parent mentioned to the 504 Plan draft. The 504 Coordinator also acknowledged the request for re-evaluation for an IEP for the Student. They shared that the "special education team" would like to meet with the Parent on January 6, 2026 to consider evaluation.

20. In an email to the Case Manager on January 5, 2026, the Parent requested meeting notes from the October 3, 2025 evaluation planning meeting. After receiving the meeting notes, the Parent sent an email to the Family Partner, a person supporting the family through the IEP process, commenting, "I was not given this document after the meeting, so this is my first time seeing it. I was not offered[,] nor was additional testing discussed. I still think it contradicts [the Student's] previous IEPs and all evaluations."

21. On January 5, 2026, the Case Manager emailed the School Psychologist and the SLP to inquire if they had notes from the October 3, 2025 Evaluation Planning Meeting. The School Psychologist responded they did not take notes during the "brief phone meeting," however, they put together their recollections and sent those in an attached document. In a second response, the School Psychologist added the Special Education Instructional Coach to the thread, mentioned that "informal calls" did not normally require notes and notices, and asked the Special Education Instructional Coach for verification. The Special Education Instructional Coach thanked the School Psychologist for the written notes, clarified that the October 3, 2025 meeting was an official evaluation planning meeting, even though the Parent participated over the phone, and therefore, meeting notes were required.

22. A Meeting Summary dated January 6, 2026 detailed the "meeting to consider parent request for sp[ecial] ed[ucation] referral," as prepared by the Special Education Instructional Coach. The summary listed the participants as the Parent, the Step-Parent, the Fifth Grade Teacher, the Case Manager, the School Psychologist, the Special Education Instructional Coach, the Principal, the Family Partner, and the ASD Consultant. The notes stated "[The School Psychologist] shared that our meeting today is not for decision making regarding eligibility[,] but more so for us to review [the] Parent['s] request for special education." The Parent and the Family Partner shared two documents outlining concerns and accommodation requests. The team discussed these documents and other topics throughout the meeting.

During the meeting, the School Psychologist shared the November 2025 Evaluation Report and asserted that while it was "clear that [the Student] is a student with [ASD]," the School Psychologist did not believe there was a "significant educational impact" from the disability. They reiterated a 504 Plan was "a good way to support [the Student] and document accommodations needed to access the educational setting[.]" The School Psychologist shared

the Student's progress reports, which indicated the Student was requiring less support for academics, work completion, and behavior needs. They mentioned that OT consult had been discontinued when the Student was in 4th grade, and assistive technology had not previously been on their IEP. The School Psychologist shared the Student had three behavioral referrals in the 2025-26 school year, all of which occurred after the eligibility determination.

The Parent shared their ongoing communication difficulties with District staff regarding the Student's needs and expressed they did not feel "fully informed about what a 504 offers compared to IEP[.]" They reported, "When the IEP exit was discussed, I was not present at the start of the meeting and was told by phone the decision had already been made and I did not need to attend." The Parent shared, "We are still unclear on why the Student was exited from an IEP to a 504, and what data supported that decision." They asserted if they had fully understood the difference, they would not have agreed to the change. They had specific concerns about self-advocacy support in a 504 Plan. The team discussed adding and implementing self-advocacy and social skills accommodations in the 504 Plan.

When the Parent pointed out the box for "repetitive motor movements, use of objects or speech" on the eligibility statement should have been checked "yes," the School Psychologist acknowledged it was checked "no" based on prior testing. The School Psychologist reiterated the eligibility was not based on disability, but on educational impact.

The Parent expressed they felt there was "a gap in services" during the transition from an IEP to a 504, and the Family Partner asserted the Student needed SDI in a special education setting. The team discussed putting the 504 accommodations in place. They agreed to meet again "within the next couple [of] weeks" to continue the discussion.

23. PWN dated January 6, 2026 documented the "description of actions proposed or refused by the District" as "not refer for evaluation at this time." The notice stated "the team will reconvene within 2 weeks" and explained the team needed more time to determine if a referral for a special education evaluation is warranted. The PWN reported "A 504 plan is currently being put in place for this student." However, "At the time of the meeting[,] signatures on the 504 plan have not yet been obtained."

24. On January 8, 2026, the Parent messaged the Principal through the District's messaging system to clarify who the Student's case manager was. The Parent was confused because the Principal had referred to the Case Manager as the Student's "former" case manager; however, the Case Manager called the Parent to set up a meeting. The Principal replied and clarified the 504 Coordinator was the Student's current case manager. They indicated the Case Manager would become the Student's case manager again if the team agreed to reestablish the IEP. The Parent requested not to have the Case Manager as case manager for the Student.

25. On January 8, 2026, the Principal emailed the Special Education Instructional Coach and the Director of Elementary Special Education to ask for guidance around the Parent's case management request. The Special Education Instructional Coach affirmed the Student's case

manager was the 504 Coordinator, as the Student was no longer on an IEP. The Director of Elementary Special Education agreed and reiterated the Student was on a 504 Plan, stating "Parents do not get to choose."

26. On January 8, 2026, the Case Manager messaged the Parent through the District's messaging system to schedule a meeting for January 20, 2026. The purpose of the proposed meeting was to "continue our previous meeting for a request to refer to special education."

27. A January 10, 2026 letter addressed to the Director of Elementary Special Education outlined the Parent's concerns regarding the Student's accommodations, the timeline of the change from an IEP to a proposed 504 Plan, a lack of effective communication and required notices, denial of acceptance into the talented and gifted program, and questioning the qualifications of the Case Manager.

28. A District Withdrawal From Section 504 Form indicated the Student was withdrawn from the District on January 12, 2026. The form detailed the attempt at creating a 504 Plan and indicated the Parent stopped responding to communication from the District on or around January 7, 2026.

29. On January 12, 2026, the Parent filed this Complaint.

30. The Student's Fifth Grade Report Card for the first grading period of the 2025-26 school year indicated the following:
    a. The Student received a score of 4 (Exceeds grade level) in geometric reasoning and measurement.
    b. The Student received a score of 3 (Meets grade level) in phonics and word recognition, literature, informational text, vocabulary acquisition and use, comprehension and collaboration, presentation of knowledge and ideas, numeric reasoning: base ten arithmetic, one of two metrics for physical education, and health.
    c. The Student received a score of 2 (Nearly Meets grade level) in reading fluency, two of five metrics for writing, numeric reasoning: fractions, science, social sciences, and one of two metrics for physical education.
    d. The Student received a score of 1 (Does Not Meet grade level) in three of five writing metrics and conventions of standard English.
    e. For Characteristics of a Successful Learner section, the Student earned the following marks:
        i. Consistently: Attentive and Works Independently.
        ii. Sometimes: Cooperative, Organization, Persistent, Resourceful, Responsible.
        iii. Rarely: Work Ethic-Completes classroom assignments on time/strives for quality.
    f. A note on the report card reads in part, "Please remember that the report card is based on proficiency. If you see report card scores that are graded as 2's, these scores represent most grade level understanding of concepts and that is the expectation at this time."

31. Undated photographs show various visual schedules posted on a classroom whiteboard and corkboard.

32. In an interview with the Complaint Investigator, the Parent explained they initially believed a 504 plan and an IEP were functionally the same, that both included accommodations and SDI. They stated the information they received from the School implied a 504 plan and an IEP were the same, therefore they didn't understand the difference until it was explained by the Family Partner.

33. The Parent acknowledged they missed the beginning of the October 3, 2025 evaluation planning meeting. They shared the School Psychologist and the Case Manager had decided a 504 plan "was a better fit," and the rest of the team agreed. The Parent stated the IEP team told them the Student's self-advocacy goals could be met on a 504 plan through group sessions, and assistive technology would also be included. They did not recall any discussion about testing during the meeting, mentioning the Student had previously had extensive testing done, both by their former school district and outside providers. They believed the outside testing "explicitly states … [the Student] needs to remain on an IEP."

34. Regarding the November 18, 2025 eligibility meeting, the Parent asserted, "I wasn't aware … when I had signed the paper," they had removed the Student from special education, and therefore, SDI. They recalled the 504 Coordinator told them "the IEP would remain in effect until the 504 [plan] was signed." The Parent stated, "I don't think that I was fully informed. I think that I was rushed through signing."

35. The Parent expressed the Student "felt like … [their] teacher was just not listening to [them]." They reported the Student was experiencing bullying and having difficulty self-regulating. The Parent indicated this led them to request reinstating the IEP. They asserted the Student "can't function" without the SDI for "emotional regulation skills." They believed the IEP team did not take the outside psychological evaluation suggestions into consideration when exiting the Student from their IEP.

36. Regarding the Student's accommodation for the use of a hood, the Parent reported there had not been any problems with the hood in the past. They stated they were not aware of any school policy banning hats or hoods, and mentioned other students were allowed to use hats and hoods. The Parent shared the Student used the hood for auditory regulation and to lower distractions. They asserted the Fifth Grade Teacher continually asked the Student to remove the hood, specifically during the Pledge of Allegiance. The Parent shared staff had brought up concerns about emergencies, and the IEP team encouraged changing the accommodation to in-class use only.

37. Regarding the use of fidgets, the Parent shared the Student usually had a fidget from home with them. They stated the Student reported the Fifth Grade Teacher did not allow fidgets in class. The Parent shared they reminded the Fifth Grade Teacher about the accommodation but the Fifth Grade Teacher told them that the Student's use of fidgets in class was causing disruptions and the Student "needed to be provided one from home that was approved by the [Fifth Grade Teacher]."

38. The Parent stated, out of ten accommodations, they believed three were fulfilled: snacks and water in the classroom, an alternative setting for assessments, and a familiar adult for assessments.

39. When asked why they reached out to the Principal to ensure the Fifth Grade Teacher had read the Student's IEP and the Student's accommodations were being met, the Parent shared "[The Student] wasn't really getting along with [their] teacher and [the Student] felt singled out because [the Fifth Grade Teacher] kept asking [the Student] to do things that [they weren't] supposed to be doing." They expressed, "I just kept having to ask [the Fifth Grade Teacher] to review [the Student's] IEP." The Parent believed the conversation with the Principal went well and was satisfied with the initial outcome.

40. Regarding SDI for self-advocacy, the Parent recalled the Student had participated in a small group with the School Counselor the previous school year. However, they believed the Student had not participated during the 2025-26 school year. They stated they were unaware of the Friday afternoon school-wide social-emotional learning groups. The Parent expressed, "Had it been the same as last year, it would've been, I felt sufficient." They asserted no progress reports were entered for the 2025-26 school year until they made the Complaint.

41. In an interview with the Complaint Investigator, the Case Manager shared the Student needed "minimal support … [most] of it was just accommodations in the classroom.", with the allotted 100 minutes per month of SDI in self-advocacy "primarily done in the gen[eral] ed[ucation] classroom." They reported the Student was not currently receiving pull-out services.

42. The Case Manager recalled the team discussing at the October 3, 2025 evaluation planning meeting, the Student "had been very successful and services had been kind of slowly being pulled away as needed." They reported the team shared the possibility of an IEP exit with the Parent at this meeting. The Case Manager stated the Parent signed off on not needing further evaluations.

43. The Case Manager acknowledged the Parent's concerns about the Student's behavior. However, they did not believe the behavior required pull-out special education services, so that was not discussed. They felt the Student's social-emotional needs could be met through small group instruction, which could be accommodated through a 504 plan.

44. Regarding eligibility, the Case Manager stated the Student's needs due to ASD "didn't meet the requirements needed for a school eligibility for an IEP, but that [the Student] could be served based on that diagnosis under a 504." They stated, "It was kind of the direction that the team had been talking about going over the past year at least." The Case Manager asserted that accommodations between the IEP and the 504 could remain the same, and the accommodations could still be provided without a signed 504 plan.

45. The Case Manager shared their duties as case manager for the Student ceased at the November 18, 2025 eligibility meeting when the Parent signed off on exiting the Student from

their IEP. After that meeting, the Case Manager reported, “I didn't really have a role” until the Parent asked to reevaluate eligibility.

46. Regarding SDI, the Case Manager indicated they did not provide the SDI for the Student. They stated the Student attended small group sessions with the School Counselor for SDI, and the classroom teacher was also providing support for the self-advocacy goal. They shared the minutes were recorded according to attendance, and the group ran on a regular schedule. They did not know how progress was tracked or reported.

47. In addition to small group sessions with the School Counselor, the Student also attended Social-Emotional Learning (SEL) groups with the Student Support Coordinator. The Case Manager reported that these SEL groups were part of the Student’s SDI. They were not aware how minutes or progress in the SEL groups was tracked.

48. In an interview with the Complaint Investigator, the 504 Coordinator stated they were invited to the November 18, 2025 eligibility meeting because the IEP team had decided to exit the Student from their IEP. The 504 Coordinator reported, “We talked about how it's for access to education and its accommodations for a 504 plan.” They shared the Parent asked about accommodations but had no further questions. The 504 Coordinator stated, “We did send [the Parent] home with a little info sheet.”

49. The 504 Coordinator expressed at the December 9, 2025 meeting, “we couldn't put the 504 plan in place because nobody could come to an agreement on what accommodations were needed.” Therefore, all parties agreed to meet again after the holidays. They asserted they told the Parent, “at any point they are willing, or they are able to, in writing, request, especially a reevaluation or an evaluation at any time. And we as a school district have, we will honor that and come together and meet about that.”

    A BIP was requested by the Parent in an email on December 15, 2025. However, when the 504 Coordinator reviewed the Student’s behavioral file, they concluded the Student’s behavior was not “impeding [their] learning or the learning of others.” They acknowledged the Parent asked for a reevaluation, “so we were waiting to finalize the 504 plan until after, which was agreed upon” by the team. The 504 Coordinator expressed, “we were in the middle of figuring that all out when they unenrolled.”

50. The 504 Coordinator indicated in the absence of a finalized, signed 504 plan, the Student would continue to receive “universal supports” until the accommodations could be agreed upon.

51. The 504 Coordinator felt they communicated with the Parent in a “timely, effective” manner.

52. In an interview with the Complaint Investigator, the Fifth Grade Teacher stated they believed they had provided the Student’s accommodations. They specifically reported they advised the Student to use speech-to-text for assignments, sat the Student in a low distraction area, and encouraged the Student to take breaks. The Fifth Grade Teacher stated they reviewed a

detailed visual schedule daily with the whole class, had the general schedule posted in several places in the classroom, and wrote additional schedule information on the whiteboard. However, they acknowledged the Student did not have a visual schedule at their desk. The Fifth Grade Teacher stated the Student "had a hard time advocating for [their] breaks." They shared there were several options for "flexible and active seating" and "quiet independent work location" accommodations, and the Student chose not to use those, nor did they use any noise-reducing headphones. Further, the Fifth Grade Teacher reported the written classroom schedule was reviewed daily, but did not specify if specific break times were noted for the Student. The Student did not "advocate for … a preferred break for an area of interest." The Fifth Grade Teacher indicated the Student had access to water and snacks in the classroom, and did not ask for extra snack breaks.

53. Regarding checking for understanding when using figurative or non-literal language, the Fifth Grade Teacher stated, "if we were maybe joking or I was using sarcasm in class, I would refer back, 'Hey, remember this is a joke.'" They shared, "It's a fifth-grade standard to teach similes, metaphors, idioms, lots of figurative language." The Fifth Grade Teacher explained they used a "thumbs up, thumbs down" check-in system with the Student.

54. Regarding the use of fidgets, the Fifth Grade Teacher reported "[The Student] didn't come to school with a fidget tool" and instead would use classroom items as fidgets. They acknowledged the use of a fidget was in the Student's IEP, and stated the Student never requested one from them.

55. Regarding the Student's hood, the Fifth Grade Teacher recalled the Student was not wearing it at the beginning of the school year, "probably due to the heat." However, they reported that once it got colder, the Student began wearing the hood. The Fifth Grade Teacher explained the hood was not a problem until the class went on a field trip to a local middle school. According to the Fifth Grade Teacher, a staff member for the middle school asked the Student to remove the hood, and the Student complied. After the field trip, the Fifth Grade Teacher stated they asked the Student "Hey, I noticed that you took your hood off for the principal. Is there a reason why you took it off there, but you need it at [the School]?" The Fifth Grade Teacher reported the Student replied they "just liked to." The Fifth Grade Teacher expressed, "It was just kind of an honest question, actually, just because of not wearing a hood for so long and then starting to wear the hood." They stated that once the Student began wearing the hood, the Student never took it off.

56. The Fifth Grade Teacher stated the IEP team "felt like [the Student] no longer needed the social emotional goal." Therefore, they believed "it felt like this was okay to be released because of the accommodations that we already had and we were going to put [the Student] onto a 504 [plan] and accommodate [them] that way."

57. When asked how they responded to the Parent's concerns regarding the Student's performance at school, the Fifth Grade Teacher reported being "very concerned" about the Student's work completion, sharing the Student had difficulty finishing assignments, both in and out of class. They shared the Student was "falling behind in academic work in the

classroom," and they had let the Parent know about these concerns. The Fifth Grade Teacher reported they were "concerned about [the Student's] behavior within the classroom as well." They described "making noises" as a significant behavior issue for the Student. They stated the Student would continue making noises after being asked by both them and peers to stop. The Fifth Grade Teacher indicated they informed the Parent about these behaviors.

58. When asked "what differences, if any, did you notice about [the Student's] school performance after [they were] no longer on an IEP?", the Fifth Grade Teacher stated "There was no difference."

59. In an interview with the Complaint Investigator, the Principal stated they were not involved with the IEP meetings, but they did help facilitate the 504 process. They expressed "it was a little bit more cumbersome because the family had created their own list" of accommodations. The Principal reported the Student "was still being served under the accommodations on [their] IEP, mainly just as a level of protection because we were hopeful that the 504 [plan] would be signed and we would just pick up right where we left off."

60. The Principal shared they "felt good" about supporting the communication between the Parent and the Fifth Grade Teacher. They reported they fulfilled the Parent's request to review the Student's IEP "line by line" with the Fifth Grade Teacher and let the Parent know they did so. The Principal "thought that the family was feeling supported, … then discovered later that they didn't feel that way." They reported they noticed a significant shift when the Family Partner became involved.

61. The Principal confirmed the small group with the School Counselor served as the Student's SDI. They explained the separate SEL group with the Student Support Coordinator was "more of a tier one strategy for our building," and any students could attend.

62. Regarding accommodations, the Principal expressed, "I feel like we were meeting them very well." They reported that while there was "never a denial of access[,] [the Student] often refused to have some of those accommodations." The Principal stated they shared this behavior with the Parent. The Parent was particularly concerned about the Student taking breaks, and suggested creating a visual tool, such as a laminated break card, for the Student to use when they couldn't verbalize their need.

63. In an interview with the Complaint Investigator, the School Psychologist shared it was their general practice to perform a file review ahead of any triennial evaluation. They stated they "did a pretty thorough review" and because the Student was already receiving minimal supports, "we were feeling like [the Student] just did not need a lot of [specially] design[ed] instruction." The School Psychologist explained they reviewed the Student's recent academic assessments and all of their previous evaluations, including classroom observations. They shared the Student's test scores were "average" and the Student did not have behavior concerns. The School Psychologist asserted, "When I looked at [the Student's] records and when I talked to the people who were working with [them] at school, I didn't get an impression that there's enough evidence of any educational impact to justify keeping [the

Student] on an IEP." They further explained, "I didn't see any area that looked like it would require any sort of testing. It seemed like there was a lot of compelling evidence that [the Student is] doing quite well academically, social-emotionally."

64. The School Psychologist explained the Parent was late to the October 3, 2025 evaluation planning meeting and was only able to participate by phone. This meant the School Psychologist was not able to give them a printed copy of the file review and only had time to do a basic overview of their findings. They stated they shared with the Parent "there wasn't a lot of educational impact" and asked permission to exit the Student from their IEP and hold a separate meeting for a 504 plan. The School Psychologist recalled explaining to the Parent the 504 plan was "basically all of the accommodations, but no [SDI]." They expressed the Parent "seemed really on board with that when we had explained it at the time. I thought that [the Parent] understood it and was really supportive of the plan at the time."

65. The School Psychologist shared "what [the Student] really needs is just a set of clear accommodations, that would be the best way to provide the least restrictive environment." They did not believe the Student needed pull-out SDI to fulfill their needs. Due to a lack of educational impact from their disability, the School Psychologist believed it was unlikely "eligibility would fit anyway under the Oregon administrative rules for special education."

66. Regarding the email from the Parent on December 15, 2025, the School Psychologist stated, "My recollection is that in the email, [the Parent] was asking for immediate re-implementation of the IEP, just putting it back into place, which isn't how processes work." They acknowledged trying to meet all of the Parent's requests in the email would involve multiple processes, each requiring in-person meetings. Regarding the BIP request, the School Psychologist indicated they believed the Student would not qualify for a BIP.

67. The School Psychologist reported the Parent gave the team "multi-page documents with … demands for various accommodations", which the School Psychologist was able to "boil them down to 10 ideas that we could put onto a 504." They confirmed the team "didn't actually end up managing to make any decisions." The School Psychologist described the process as "just constant back and forth … trying to make it through the multi-page document of 504 accommodations that had been requested."

68. In an interview with the Complaint Investigator, the School Counselor recalled they had the Student in two different types of group sessions in 2025. One group was in the winter of the 2024-25 school year, and one group was in October, November, and December of the 2025-26 school year.

69. The School Counselor stated the purpose of the small group in the winter of the 2024-25 school year was "giving [the Student] ample opportunity to use [their] voice, share [their] voice. And sometimes that was with support from me." They indicated the group sessions supported self-advocacy by providing "lots of opportunity … for [the Student] to share ideas that are low stakes." The School Counselor stated all students in the group "learn to work with other people, as they come to agreements, as they practice communication."

70. The School Counselor shared the 30 minutes group sessions in the fall of the 2025-26 school year used a curriculum which "equips kids with self-regulation tools as well as relationship tools." They reported the tools included breathing techniques, asking for a quiet space, encouraging the students to "use our words," and teaching taking responsibility for their actions, apologizing, and forgiveness. When asked how progress was recorded, the School Counselor stated, "Every time that they did a tool and learned a tool, then they made the little cutout, and then I laminated it and put it on a ring so that they would then have that. And so each week that they had, they had two tools every week, and so they had got all 12."

71. The School Counselor reported that the Student's previous case manager made them aware of the Student's self-advocacy goal during the 2024-25 school year and, during that school year, they "consulted and discussed pre- and post-assessments" with the previous case manager. They reported that they did not discuss the Student's IEP goal with the Case Manager during the 2024-25 school year.

72. The School Counselor shared minutes spent in the group sessions were recorded according to attendance, and the group was at a regularly scheduled time. They reported the Student did not miss any sessions in the winter 2024-25 group and missed one session in the fall 2025-26 group. The School Counselor asserted they reviewed the missed lesson with the Student at the next meeting individually and also had the group share what they learned at the previous meeting.

73. In an interview with the Complaint Investigator, the Student Support Coordinator stated they ran optional, general education SEL groups for 20 minutes per week, and the Student was identified as a student who would benefit from the extra support. They reported their groups were "informal" and not part of the Student's IEP. Therefore, the Student Support Coordinator did not record progress for the Student. They stated the Student had attended the Friday afternoon group twice before the Student began leaving school early for outside services.

IV. DISCUSSION

When IEPs Must Be In Effect

The Complaint alleged that, from the beginning of the 2025-26 school year, the District failed to provide the services and accommodations mandated in the Student's IEP, specifically failing to deliver SDI in self-advocacy and neglecting to implement seven of the ten required accommodations. These omitted supports included preferred seating, movement breaks, access to snacks, gum, and water, and a visual schedule that incorporates breaks to work on preferred interests. Furthermore, the Complaint alleged that the School failed to assess the Student's understanding of literal and figurative language, provide quiet, independent work and break locations for regulation, allow the use of sensory materials, or permit the Student to wear their hood.

School districts must provide special education and related services to a student with a disability in accordance with the student's IEP.[4] The school district must ensure that each staff member, including service providers, has access to a student's IEP and is informed of their specific responsibilities for implementing the IEP.[5] "IEP Teams and other school personnel should be able to demonstrate that, consistent with the provisions in the child's IEP, they are providing special education and related services and supplementary aids and services."[6]

Special education is defined as "specially designed instruction," that is provided at no cost to the parents and is intended to meet the unique needs of a child with a disability. "Specially Designed Instruction" means adapting, as appropriate to the needs of a child with a disability, the content, methodology, or delivery of instruction: 1) to address the child's unique needs resulting from the disability; and 2) ensuring the child's access to the general education curriculum.[7]

A district violates the IDEA when it materially fails to implement an IEP.[8] "A material failure occurs when there is more than a minor discrepancy between the services a school provides to a disabled child and the services required by the child's IEP."[9] As further explained by the court in *Van Duyn*:

> "The materiality standard does not require that the child suffer demonstrable educational harm in order to prevail. However, the child's educational progress, or lack of it, may be probative of whether there has been a significant shortfall in the services provided. For instance, if the child is not provided the reading instruction called for and there is a shortfall in the child's reading achievement, that would certainly tend to show that the failure to implement the IEP was material. On the other hand, if the child performed at or above the anticipated level, that would tend to show that the shortfall in instruction was not material."[10]

Specially Designed Instruction

In this case, the Student's IEP includes 100 minutes per month of SDI in self-advocacy. The District asserts that these services were provided during weekly small group sessions with the School Counselor. While the lessons taught during these sessions may have supported the Student's skills in self-advocacy, the District provided no evidence that the "content, methodology, or delivery" of the instruction by the School Counselor was adapted to address the Student's unique disability-related needs. The Student received the same curriculum as the other students in the group and the lessons were not specifically aligned to the Student's IEP goal. The School Counselor explained that they tracked the Student's progress during sessions by placing laminated self-regulation and relationship tools on a ring. The Student's IEP goal,

[4] OAR 581-015-2220(1)(a); 34 CFR §300.323(c)
[5] OAR 581-015-2220; 34 CFR §300.323
[6] Questions and Answers on *U.S. Supreme Court Decision Endrew F. v. Douglas County Sch. Dist.* Re-1, 71 IDELR 68 (EDU 2017)
[7] OAR 581-015-2000(37); 34 CFR §300.39(b)(3)
[8] *Van Duyn v. Baker Sch. Dist. 5J*, 502 F3d 811 (9th Cir. 2007) ("Van Duyn")
[9] *Id.*
[10] *Id.*

however, requires that they fill out a monthly rubric indicating how they feel about their peer relationships at school and then focus on growth in self-identified areas of need. Neither the School Counselor nor the Case Manager explained how they assessed the Student's progress on that goal. Finally, the School Counselor did not consult with the Case Manager on the implementation of SDI for the Student and the Case Manager had no discernible role in either the design or monitoring of the instruction provided by the School Counselor.

Once it is established that there was a failure to implement the Student's IEP, the question then turns to whether that failure was material. A material failure occurs when there is more than a minor discrepancy between the services a school provides to a disabled child and the services required by the child's IEP. The failure of the District to provide the entirety of the Student's SDI is certainly more than a "minor discrepancy" and constitutes a material failure to implement their IEP.

Accommodations

The Fifth Grade Teacher credibly explained, in detail, how they implemented many of the Student's accommodations, including preferred seating, access to snacks, gum and water, checks for understanding when using figurative language, providing quiet, independent work/break locations, allowing the use of fidgets, and permitting the Student to wear their hood. They were not, however, able to establish that they provided the Student with "Movement breaks (e.g. sensory walk) and activities that require push/pull movement opportunities with cross-lateral movement" or a "Written schedule with times for breaks to work on [their] preferred areas of interest." While the Fifth Grade Teacher indicated that they encouraged the Student to "take breaks" and that the Student never advocated for breaks to work on preferred areas of interest, the Student's IEP does not require that they ask for their own accommodations. It is particularly unreasonable to expect a student to request the implementation of their accommodations when the primary area of need identified in their IEP is self-advocacy.

The Department substantiates this allegation.

Content of the IEP

The Complaint alleged the District failed to appropriately record and report the Student's progress on their self-advocacy goal.

The IEP must include a statement of measurable annual goals, including academic and functional goals. In conjunction with these goals, the IEP must provide a description of how the child's progress toward meeting the annual goals will be measured and when periodic reports on the progress the child is making toward meeting the annual goals, such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards, will be provided.[11]

[11] OAR 581-015-2200(1)(b)(c); 34 CFR § 300.320(a)(2)(3)

The District did not contest this allegation.

Child Find

The Complaint alleged the District failed to properly evaluate the Student's eligibility for special education services, despite the provision of multiple outside evaluations, the academic regression after the Student was exited from special education services, and the Parent explicitly stating IEP supports were necessary for the Student's behavioral, emotional, and advanced academic needs.

Before a school district determines that a student with a disability is no longer eligible for special education, it must first evaluate the student in all areas of suspected disability.[12] Areas for evaluation include, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities. In conducting evaluations, the school district must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent. Assessment and evaluation materials should include those tailored to assess specific areas of educational need. The school district should not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate education program for the child.[13]

The District's decision to exit the Student from special education appears to rely heavily on subjective observations and "informal" group participation, rather than a comprehensive re-evaluation that addressed the specific concerns of both the Parent and District staff. The Parent provided multiple outside evaluations to the District, which are summarized in its November 2025 Evaluation Report. While a District is not required to adopt the findings of outside providers, it is legally mandated to consider them. The evidence provided shows a discrepancy between these outside assessments, which supported continued eligibility, and the District's determination that the Student's disability does not have an educational impact. The Parent explicitly stated that IEP supports were necessary for the Student's behavioral and emotional regulation and the Student had documented diagnoses of ADHD, Generalized Anxiety Disorder and depression by multiple providers. Interviews with the Student Support Coordinator and the School Counselor highlighted the Student's need for regular small-group instruction in self-regulation and social skills. Finally, the Fifth Grade Teacher identified significant concerns with the Student's behavior, engagement, and academic progress. These concerns were corroborated by the classroom observation of the Student as detailed in the November 2025 Evaluation Report. Based on these factors, the District should have recognized one or more suspected areas of disability that warranted a comprehensive evaluation.

The Department substantiates this allegation.

[12] 34 CFR § 300.305(e)
[13] OAR 581-015-2110; 34 CFR § 300.304

Free Appropriate Public Education (FAPE)

The Complaint alleged the District failed to provide the Student a FAPE by failing to implement the Student's IEP as written.

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.[14] In Oregon, the school district who is responsible for providing FAPE to a student is the student's district of residence.[15] The IDEA defines FAPE as special education and related services that: 1) Are provided at public expense, under public supervision and direction, and without charge; 2) Meet the standards of the state educational agency; 3) Include an appropriate preschool, elementary school, or secondary school education; and 4) Are provided in conformity with an IEP.[16]

To determine if a student has been denied a FAPE, courts must consider 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.[17] Not all procedural violations amount to a denial of FAPE. A school district's procedural violation denies FAPE to a student if it results in a loss of educational opportunity or if it seriously infringes on the parents' opportunity to participate in the development of the IEP.[18]

In this case, the District violated the IDEA when it failed to provide the Student with the SDI or accommodations required by their IEP. As discussed above, this was a significant and material failure and resulted in a loss of educational opportunity to the Student because they did not receive the instruction that was deemed necessary to address their unique needs and ensure their access to the general education curriculum.

The Department substantiates this allegation.

V. CORRECTIVE ACTION[19]

In the Matter of Redmond School District 2J
Case No. 026-054-006

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

[14] OAR 581-015-2040(1); 34 CFR § 300.101(a)
[15] OAR 581-015-2040
[16] OAR 581-015-2040; 34 CFR § 300.17
[17] *Endrew F.,* 137 S.Ct. at 999
[18] *W.G. v. Bd. of Trustees of Target Range Sch. Dist. No. 23,* 960 F.2d 1479, 1484 (9th Cir. 1992)
[19] The Department's order shall include any necessary corrective action as well as documentation to ensure that the corrective action has been completed (OAR 581-015-2030(13)). The Department expects and requires the timely completion of corrective action and will verify that the corrective action has been completed as specified in any final order (OAR 581-015-2030(15)). The Department may initiate remedies against a party who refuses to voluntarily comply with a plan of correction (OAR 581-015-2030(17) & (18)).

Action Required	Submissions	As Soon As Possible But No Later Than Due Date
1. The District must provide the Parent with a compensatory education plan to make up for the loss of educational opportunity caused by the failure to implement the Student's IEP. The compensatory education to be offered to the Student shall include 12 total hours of SDI, of which at least 7 hours will be in the area of Self-Advocacy.	The District shall submit the following: Documentation notifying the Parent in writing of the available options for the provision of compensatory services to the Student, including reimbursement or direct instruction. Evidence showing that compensatory services were provided.	**June 30, 2026** **October 15, 2026**
2. If the Student continues to reside in the District, the District shall convene, and invite the Parent to, an evaluation planning meeting and propose a comprehensive evaluation of the Student in all areas of suspected disability. The proposed evaluation shall include, at a minimum, assessment of the Student's eligibility under the category of ASD, as well as their social-emotional, behavior, and academic needs.	A Notice of Meeting indicating that the Parent has been invited to an evaluation planning meeting. A Consent for Evaluation of the Student that describes the assessments proposed by the District.	**March 27, 2026** **April 10, 2026**
3. The District will develop and conduct training for all staff responsible for implementing IEPs and/or developing Consents to Evaluate on their responsibility to: a. Provide educational services to special education students in accordance with their IEPs. b. Provide SDI that is designed, supervised, and monitored by	Training agenda and materials to ODE for review and approval. Sign-in sheet from training.	**April 24, 2026** **June 30, 2026**

a credentialed special education teacher. c. Conduct comprehensive evaluations of special education students in all areas of suspected disability before determining that they are no longer eligible to receive services.		

Dated: this 22 Day of May 2026



_____

Ramonda Olaloye
Assistant Superintendent
Office of Enhancing Student Opportunities

E-mailing Date: May 22, 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).)