BEFORE THE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of	)	FINDINGS OF FACT,
Harney County SD 3	)	CONCLUSIONS, AND FINAL ORDER
	)	Case No. 26-054-012

I. BACKGROUND

On January 26, 2026, the Oregon Department of Education (the Department) received a special education complaint (Complaint) from a Parent (Parent) regarding the special education of a Student (Student] who resides in the Harney County School District]. The Parent alleged that the District had violated one or more provisions of the Individuals with Disabilities Education Act (IDEA). The Department conducted a special education complaint investigation pursuant to Oregon Administrative Rule 581-015-2030.

Under state and federal law, the Department must investigate written complaints that allege violations of the Individuals with Disabilities Education Act (IDEA) and issue an order within sixty days of receipt of the complaint.[1] This timeline may be extended if the 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 February 2, 2026, the Department's complaint Co-Investigators (Investigators) sent a Request for Response to the District identifying the Parent's allegations of IDEA violation and requesting a narrative response and specified documents to be submitted by February 13, 2026.

The District submitted a Response to the Complaint on February 13, 2026, and included all the requested documents except emails. The District asked for extra time to redact email records before sending them. The District submitted the following documents in support of its position:

1. Narrative Response
2. Table of Contents
3. Notice of Team Meeting, 12/03/25
4. IEP dated 04/21/25, as revised 12/03/25
5. Special Education Placement Determination, 12/03/25
6. Meeting Notes, 12/03/25
7. Prior Notice of Special Education Action, 12/03/25
8. IEP Snapshot, 12/02/25
9. Prior Notice about Evaluation/Consent for Evaluation, 12/03/25
10. Consent to Invite Outside Agency Personnel, 12/03/25

[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. Statement of Eligibility for Special Education, Specific Learning Disability (90), 04/22/2025
12. Statement of Eligibility for Special Education, Other Health Impairment (80), 04/22/2025
13. Permissions to Obtain and Release Information, 10/30/2025
14. Authorization to Use and/or Disclose Educational and Protected Health Information, 03/17/25
15. Function Based Worksheet and Behavior Intervention Plan (BIP), 12/24/25, reviewed and updated 01/13/2026
16. Data tracking, 11/10/2025-01/05/26
17. PBIS Point Sheet, 01/13/2026j-01/23/26
18. Meeting Agenda and Notes, 01/12/26
19. IEP dated 04/21/25, as revised 12/03/25 & 01/12/26
20. Prior Notice about Special Education Action, 01/12/26
21. Special Education Notice of Team Meeting, 12/03/2025
22. SDI Schedule for [Student], 01/12/26
23. Annual Academic and Functional Goals and Objectives Progress Report, 04/22/25 for Reading Goal added 01/12/26
24. Student Contact Log, 01/15/25-02/05/26
25. Psycho-Educational-Assessment-Evaluation Report, 04/08/25
26. Written Agreements between the Parent and the District, 04/22/25
27. IEP, 04/22/25
28. Special Education Notice of Team Meeting, 04/10/2025
29. Prior Notice of Special Education Action, 04/22/25
30. Meeting Notes, 04/22/25
31. IEP Snapshot, 04/22/25

Because of technical difficulties in accessing and redacting emails, the District was unable to provide email records to the Investigators until February 23, 2026. At the Investigators' request, the District submitted three additional documents on February 26, 2026.

32. IEP dated 12/27/2024
33. IEP Meeting Notes, 12/27/24
34. IEP Progress Reports dated 06/05/25, 10/24/25, and 01/16/26

On February 18, 2026, the Parent submitted a narrative *Reply* to the *Response* disputing each of the District's denials of the allegations in the Complaint. In addition, the Parent forwarded emails they exchanged with district staff. On March 17, 2026, the Parent submitted, at the Investigators' request, the following document:

1. Neuropsychological Evaluation 07/29-09/09/25

The Investigators spoke by phone with the Parent on January 30, 2026, to clarify the allegations in the Complaint. The Investigators met with the Parent via Zoom on March 9, 2026. The Investigators interviewed the District's Superintendent, the Principal, and the Special Education

Director on March 3, 2026. The Special Education Teacher was on leave and was unavailable to interview. The Parent and Student received support from a wraparound service organization that provided a Wraparound Care Coordinator and contracted with an Advocate to assist the Parent in navigating special education processes. Both of these service providers attended IEP team meetings and had Parent consent to communicate directly with District staff regarding the Student's IEP. The Investigators interviewed the Advocate by phone on March 2, 2026 but were unable to interview the Wraparound Care Coordinator. The Investigators reviewed and considered all of the documents, interviews, and exhibits in reaching the findings of fact and conclusions of law in this order.

II. Allegations and Conclusions[3]

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 27, 2025 to the filing of this Complaint on January 26, 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 that were necessary to fully address the Student's needs that result from the Student's disabilities. Specifically, the Parent alleges that the IEP Team did not consider including positive behavioral supports to address the Student's behavior that impeded with their learning and that of other students, and did not consider input from the Parent and from the student's wraparound service provider. (OAR 581-015-2200; 34 CFR §300.320)	**Substantiated** The present levels of performance in the IEP show that the Student's reading performance was very low, yet the Student's Language Arts goal anticipated that the Student would read grade level text and answer comprehension questions. The Student was unable to read grade level text, and the IEP did not include any services to increase the Student's reading skills until the last month of the complaint period.
IEP Implementation The Complaint alleged that the District violated the IDEA by not providing special education and	**Substantiated** The Student's IEP included a Language Arts goal and a Math goal, neither of which was achievable given the Student's

[3] Investigation of special education complaints is limited to alleged violations of the IDEA during the one-year complaint period. The complaint in this case includes allegations that do not state a violation of the IDEA. The Parent has been directed to other potential avenues of redress for non-IDEA concerns.

Allegations	Conclusions
related services in accordance with the Student's IEP. (OAR 581-015-2220; 34 CFR §300.323)	very low scores on standardized tests. The IEP provided for SDI in both of those areas, but there is no evidence that the Student ever received such SDI. The Student frequently left the classroom to go to the resource room and seek assistance with assignments or to go to the office. The IEP includes a self-management goal to address this behavior and indicates that the Student would receive SDI. The SDI was ineffective, and the Student continued to leave class. The District failed to convene an IEP meeting to address the Student's limited progress and revise the IEP, as the IDEA requires.
Prior Written Notice (PWN) The Parent alleges that the District violated the IDEA by failing to provide to the Parent Prior Written Notice to inform and explain the District's decisions, including any proposals and/or refusals to initiate or change anything about the Student's special education. (OAR 581-015-2310; 34 CFR §300.503)	**Not Substantiated** The District gave the Parent PWN with every meeting. The Parent did not identify any times when the District should have but did not provide PWN.
Free Appropriate Public Education (FAPE) The Parent alleges that the District violated the IDEA by denying the Student a FAPE. Specifically, the Parent states that District has not developed and/or implemented an IEP reasonably calculated to enable the Student to make progress in light of the Student's circumstances. (OAR 581-015-2040; 34 CFR §300.101)	**Substantiated** The IDEA requires that an IEP be "reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances". The Student made little, if any, documented progress toward IEP goals during the complaint period.

REQUESTED CORRECTIVE ACTION
The Parent requests District actions to resolve this complaint as follows: 1. Immediate review of IEP implementation 2. Incorporation of Symmetry Care behavior plan into IEP

3. Compensatory services for missed supports
4. Staff corrective action/training if necessary
5. Written assurance of compliance

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 Investigation does not consider facts before or after the Complaint period. However, facts outside of the Complaint period may be included to provide context necessary to understand the circumstances surrounding this Complaint.

1. The Student is 13 years old and is in 7th grade in a District middle school (Middle School). The Student has resided within the District since the middle of the 2023-24 school year.

2. The Student is eligible for special education as a child with a Specific Learning Disability (SLD) and Other Health Impairment (OHI).

3. An IEP dated December 17, 2024 was in effect during first three months of the complaint period. This IEP included in relevant part:

    a. Present Levels of Performance

        i. Academic performance: The Student, then in 6th grade, was performing significantly below grade level in reading (grade 1) and math (grade 3).

        ii. Functional performance: "When [the Student] gets overwhelmed or frustrated, [they] will sometimes completely shut down. [They] will refuse to respond or move. [They] need to be given time (without verbal interaction), to reset and comply with directions".

    b. Measurable Annual Goals

        i. Language Arts: "Given instructional level material, [the Student] will read the passage and be able to answer comprehension questions from a variety of texts with 75% accuracy."

        ii. Math: "Given a math word problem at [their] instructional level, [the Student] will be able to identify the important information of the problem and solve it using ratios, fractions, and muti-digit numbers 3/4+ times."

    c. Specially-Designed Instruction

        i. Language Arts: 60 minutes weekly in all school sites, provider LEA

        ii. Math: 60 minutes weekly in all school sites, provider LEA

d. Supplementary Aids/Services; Accommodations

i. Teaching mode: Check for comprehension
ii. School setting: Preferential seating
iii. Instructional materials: Graphic organizers
iv. Instructional materials: Reduce amount of work
v. Support tools: Calculator
vi. Text to Speech/Speech to text
vii. Sentence stems/word banks-writing tools
viii. Access to Resource Room
ix. Instructional materials: Break large projects into shorter goals
x. Opportunity to reset when frustrated

4. On December 17, 2024, the IEP team considered two placements: (a) regular education classroom 100% of the day with special education push-in, and (b) Regular education 80%+ with special education pull out. The Team selected the second option as the Student's least restrictive environment.

5. An undated SDI Schedule for the Student indicates that the Student would receive "daily support for work completion or skills practice" in a daily Skills lab. In addition, a paraprofessional would be "available for support and small group instruction when needed" in science, social studies, language arts, and math.

6. District notes for the December 17, 2024 meeting state that the purpose of the meeting was to review the IEP and plan for the Student's upcoming April 2025 three-year reevaluation. The Parent asked for a full evaluation.

7. On December 17, 2024, the IEP team outlined the 3-year-reevaluation plan. A file review conducted on December 10, 2024 cited math, reading, written language and behavior as areas of concern. Assessments would include tests of academic achievement, cognitive ability, and behavior. Communication assessment was not included in the evaluation plan because "[the Student] had a full Communication evaluation in May of 2022, and was not eligible for Communication disability". The Parent signed consent for evaluation.

8. On April 8, 2025, the School Psychologist completed a Psycho-Educational Assessment-Evaluation Report as part of the Student's 3-year reevaluation.

a. The School Psychologist considered the Student's developmental history, educational records, and data from four assessments: Woodcock-Johnson Tests of Cognitive Abilities, Fourth Edition (WJ-IV Cognitive); Woodcock-Johnson Tests of Achievement, Fourth Edition (WJ-IV Achievement); Behavior Assessment System for Children, Third Edition (BASC-3); and Conners, Fourth Edition (Conners 4). Relevant findings included:

i. Full scale IQ 76

ii. Academic Achievement Testing yielded low reading and written language scores (at or below percentile rank 1). The only higher scores were in math, ranging from percentile rank 5 to 23.

iii. Standardized State Assessment scores place the Student at Grade 1 in reading and Grade 2 in math.

iv. Behavior assessment yielded average scores and several "at risk" or "potential clinical significance" scores (conduct problems, depression, atypicality, study kills, functional communication, and emotional regulation.

b. The School Psychologist made several recommendations:

i. Regular attendance at school will help [the Student] make progress in his classes and toward his goals on his Individual Education Program.
ii. Allow [the Student] to use a quiet space to de-escalate when feeling overwhelmed.
iii. Provide structured breaks during instructional time.
iv. Use visual aids and prompts to support communication.
v. Implement a behavior chart to monitor and reinforce positive behaviors.
vi. Modify academic work to [the Student]'s instructional level.
vii. Allow [the Student] access to assistive technology such as text to speech, audio books, speech to text, and word prediction.
viii. Offer alternative assignments that align with [the Student]'s interests and strengths.
ix. Allow extended time for assignments and assessments and/or shortened assignments and assessments.
x. Modify classroom seating arrangements to minimize distractions.
xi. [The Student] may benefit from participation in individual, group, or family counseling services.
xii. Allow [the Student] to check-in regularly with a trusted adult on campus.

9. On April 22, 2025, the IEP Team met to review the Psycho-Educational report and to complete the 3-year reevaluation. The team determined that the student continued to be eligible for special education as a child with an Other Health Impairment (OHI) and Specific Learning Disability (SLD).

10. On April 22, 2025, the Student's IEP Team met to review and revise the Student's IEP. Attending were the Student, the Parent, the Case Manager, a General Education Teacher, the Principal, the School Psychologist, the Speech Language Pathologist, and several Wraparound service providers. The IEP developed on that day included the following components relevant to this Complaint:

a. Special Factors: The Team agreed that the Student exhibited behavior that impeded their learning and that of others and the Student needed assistive technology devices or services.

b. Parent input: the Parent expressed concern about the student's lack of progress.

c. Present Levels of Academic Performance: The IEP recapitulated the findings described in the Psycho-Educational evaluation. The team agreed that the Student's low reading skills made it difficult to "keep up in the general education classroom without supports and accommodations".

d. Present Levels of functional Performance: After briefly summarizing the behavior assessment data, the team agreed that, "Because of [the Student's] struggle with reading, [they] get overwhelmed in the classroom and need support in the resource room to complete assignments".

e. Measurable Annual Goals

    i. Language Arts: Given instructional/grade level material, [the Student] will read the passage and be able to answer comprehension questions from a variety of texts with 75% accuracy on grade level material and 80% accuracy on instructional material.

    ii. Math: Given a math word problem at his instructional level, [the Student] will be able to identify the important information of the problem and solve it using ratios, fractions, and muti-digit numbers with 75% accuracy as measured by unit assessments and daily work.

    iii. Self-Management: [The Student] will increase his self management by attending, staying in class for instruction, and completing the assignment 5/5 core classes 3/4 days per week.

f. Specially Designed Instruction

    i. Language Arts: 60 minutes/week, all school sites, provided by LEA

    ii. Math: 60 minutes/week, all school sites, provided by LEA

    iii. Self-management: 30 minutes/week, provided by LEA

g. Supplementary Aids/Services. Accommodations: This IEP includes all the supplementary aids and accommodations as the previous IEP but also added:

    i. Instructional materials: Copy of class notes

    ii. Instructional materials: Notes on test/quizzes

    iii. Teaching mode: Visual prompts

h. Non-participation Justification noted as >80% General Education instruction with less than 15% /day pull out.

11. On April 22, 2025 the IEP team considered two placements: (a) regular education classroom 100% of the day with special education push-in, and (b) Regular education

80%+ with special education pull out. The Team selected the second option as the Student's least restrictive environment.

12. April 22, 2025 Meeting Notes describe the Parent's concerns about the Student's lagging progress and summarize the IEP team's discussion and decisions.

13. The April 22, 2025 IEP was in effect for most of the complaint.

14. On June 5, 2025, the District gave the Parent an IEP Progress Report, which stated:

    a. Math and Language Arts goals: "new goals—not enough recorded data to accurately report progress"

    b. Self-Management goal: The Student "has been making a much better effort at going to class at least for instruction ….. does come to the resource room often when … working on independent work, and is actually completing the work."

15. During the summer of 2025, the Wraparound service provider paid for outside tutoring in reading. The Student reportedly made significant gains, as the Student's October 24, 2025 Progress Report indicated.

16. The Parent, who continued to be concerned about the Student's slow progress, obtained an independent evaluation. A licensed psychologist conducted a comprehensive neuropsychological evaluation over several sessions in July, August, and September 2025.

    a. The Psychologist considered the Student's family, developmental, medical, history, medical, social, and behavioral history, and previous supports and interventions. The Psychologist interviewed the Parent, the Wraparound Care Coordinator, the Special Education Teacher, and the Reading Tutor who worked with the Student during the summer.

    b. The evaluation included extensive testing, including:

        i. Wechsler Intelligence Scale for Children, 5th Edition (WISC-V)
        ii. Wide Range Assessment of Memory and Learning, 3rd Edition (WRAML-3-BRIEF)
        iii. Comprehensive Trail-Making Test, 2nd Edition (CTMT-2)
        iv. Stroop Color and Word Test, Children's Version (SCWT)
        v. Test of Variables of Attention (TOVA)
        vi. Peabody Picture Vocabulary Test, 5th Edition (PPVT-5)
        vii. Expressive Vocabulary Test, 3rd Edition (EVT-3)
        viii. Wechsler Individual Achievement Test, 4th Edition (WIAT-4)
        ix. Behavior Assessment System for Children, 3rd Edition (BASC-3)
        x. Behavior Rating Inventory of Executive Function, 2nd Edition (BRIEF-2)

c. The academic achievement components of the testing yielded findings similar to the scores from the April 8, 2025 psychoeducational evaluation: The Student could read at the first-grade level and performed only somewhat higher in math.

d. The Psychologist pointed to a mismatch between the Student's reading level and the IEP goals, which anticipated that the Student would be able to read at grade level. The Psychologist reported that the Special Education Teacher had not to expressed a belief that the Student was capable but chose not to participate in class work and did not want to listen to instructions. The Special Education Teacher informed the Psychologist that the Student did not receive any one-on-one instruction while in the resource room and that about 75% of written materials had to be read to the Student because their reading level was too low to read the assigned work.

e. The Psychologist offered the following recommendations for the IEP team to consider:

    i. Daily one-on-one instruction in a phonics-based program for 60 minutes daily plus comprehension and fluency instruction at the Student's reading level.
    ii. Increased math and writing skills instruction adapted to the Students current abilities.
    iii. Directly teach compensatory skills, such as how to use text-to-speech and speech-to-text software and use of a calculator.
    iv. Major modification of the Student's curriculum and possible change of placement to a separate program or school.
    v. Comprehensive speech and language evaluation and services, if indicated..
    vi. Accommodations to reduce noise and distractions in learning environments.
    vii. Special education advocacy services to support the Parent in IEP meetings.
    viii. Implementation of multisensory methods to enable the Student to engage with materials in a variety of ways.
    ix. Regular check-ins with a school counselor or another trusted adult to help the Student learn emotional regulation and anxiety management.

17. On October 24, 2025, the District gave the Parent an IEP Progress Report, which stated:

a. Math goal: "[The Student] scored a 429 on the iReady Math Diagnostic (grade level is 508) this places him at grade 2. [The Student] is scoring 80% or better on daily classwork and unit assessments with some support."

b. Language Arts goal: "The Student] scored 709 on the HMH Reading Diagnostic which is a grade equivalent of 3.2 [and] has been successful in comprehension questions at 70% with some adult support."

c. Self-Management goal: The Student "had missed 26 class periods in Quarter 1". The Student "was willing to complete most of the work for these classes, but still missed out on that instruction time". The Student "struggles mostly with 2nd and 3rd period class times".

18. The IEP team met on December 3, 2025. New participants at this meeting included: two additional general education teachers, an Advocate, the district SLP, a family services representative, and the District's Special Education Director.

    a. The Parent shared with the IEP team the Neuropsychological Evaluation Report.

    b. The Team did not amend the IEP. All IEP content was identical to that of the April 22, 2025 IEP.

    c. The Team changed the Student's placement from "Regular education 80%+ with special education pull out" to [The Student] will work in the Resource room for the majority of [the school day] on the Apex[4] program for CORE classes, and will attend elective classes with continued supports and lunch with nondisabled peers."

19. December 3, 2025 IEP meeting notes indicate that the team spent time discussing the Parent's request for a communication evaluation. The Speech-Language Pathologist said that the communication evaluation from 3 years earlier yielded a composite score too high for the student to qualify for speech and language services. The Advocate asked about the Student's pragmatic language. The Team agreed to conduct an evaluation of the Student's social communication needs. The team also discussed the use of a behavior analysis and support tool, the FBA to BIP worksheet. Advocate raised concerns about the Student's ability to complete grade-level work when their reading skills are so far below grade level. The Special Education Teacher explained that they were doing the reading instruction for the Student during all the other instruction. The team decided that Student would enroll in APEX and participate in the Resource Room, where they could receive support from the Special Education Teacher and paraeducators. The team agreed to review this change of placement at a meeting scheduled for January 12, 2026

20. The District gave the Parent Prior Notice about Evaluation/Consent for Evaluation on December 3, 2025 notifying the Parent that the District would conduct a communication evaluation, which would include Comprehensive Assessment of Spoken Language (CASL), and Oral Language Sample, a Pragmatic Profile, Observation, and file review. A note on this Prior Notice adds that the District "would also be conducting an FBA/BIP".

21. The District gave the Parent PWN on December 12, 2025 formalizing the team's decision to change the Student's placement from 80%+ in the regular classroom to a self-contained setting for core classes and integration with typically developing peers for electives, lunch, and recess. The PWN explained that the reason for the change in

[4] APEX is a virtual school that offers asynchronous self-paced learning.

placement was the Student's avoidance of work in the regular education setting and the Student's request to receive core instruction in the resource room.

22. An SDI Schedule dated December 3, 2025 provides that the Student's schedule included each school day:

    a. Math (60 minutes weekly): "Support (or adult support) provided or available for small group/reteach concept" during 2nd period in APEX Math and 4th period in Skills Lab.

    b. Language Arts (60 minutes weekly): "Support (or adult support) provided or available to complete work/reteach concepts" in Skills Lab during 4th period, and 3rd, 7th, and 8th periods in APEX.

    c. Self-Management Skills (30 minutes daily): "Support provided in Skills Lab to complete work/reteach concepts" during 3rd and 4th periods and Advisory.

23. A revised SDI Schedule dated January 12, 2026 included for each school day:

    a. Math (60 minutes weekly): "Support (or adult support) available for small group/reteach concept" during 2nd period in APEX Math.

    b. Language Arts (30 minutes daily): "One on one support through APEX curriculum" in 4th period in APEX Reading and "Adult support available for small group/reteach concepts" in during 6th and 8th periods in APEX Science and APEX Social Studies.

    c. Self-Management Skills (30 minutes daily): "Support provided to complete work/reteach concepts" in Apex Reading " during 4th period and Advisory.

    d. Reading (30 minutes daily): Direct Instruction-through reading intervention program.

24. On January 12, 2026, the District convened an IEP meeting. Attending were: the Parent, the Special Education Teacher, the Special Education Director, the Middle School Principal, the Superintendent, the Advocate, a Symmetry representative, and a DHS representative. IEP Meeting Notes describe the meeting as follows in relevant part :

    a. Purpose: Review the Student's current progress with supported Online instruction and schedule change

    b. Description of APEX and process of adult support

        i. APEX has embedded text-to-speech function

        ii. Student was receiving 1 class period (52 minutes) of one-on-one instruction on APEX material with a paraprofessional

        iii. Student "works in close proximity to [the Special Education Teacher] and is able to ask for clarification or support on any assignment"

c. Discussion of information from the Parent's outside evaluation: The Team agreed to add an Annual Goal and SDI in reading, 30 minutes/day.

d. Progress Information:

   i. The Parent asked for access to APEX curriculum but was informed that only progress data was accessible

   ii. The Parent asked for more frequent progress reports and was told that could be decided at the next IEP meeting.

e. Behavior/FBA/PBIS plan:

   i. The Special Education Teacher reported that the Student was motivated and engaged with online instruction, and had not asked to leave the classroom.

   ii. The Special Education Teacher had sent "FBA documents" to team members in December as requested by Symmetry Care representative in December, who provided a PBIS plan in early January.

   iii. The Advocate discussed the importance of the Student receiving a consistent response to his actions or work avoidance as well as consistency across school and home settings. The Special Education Teacher agreed to "work on figuring out" a point system so that "everybody can follow it".

25. The Student's IEP, as revised on January 12, 2026 included the following additions or changes:

    a. Present levels: Assessment data from the Neuropsychological evaluation that the Parent obtained independently and shared with the IEP on December 3, 2025. The testing yielded academic achievement scores similar to those found in the April 8, 2025 psychoeducational evaluation report. The Student scored at or below percentile 1 (exceptionally low) in all reading tests except a percentile 3 (below average) score for reading comprehension. Math scores were somewhat higher, but the math composite score was percentile 1 with all component test score ranging from Below average to low average.

       Educational impact: Because of struggles with reading, [the Student] gets overwhelmed in the classroom and needs support in the resource room to complete assignments or in the classroom.

    b. Annual goals[5]:

[5] The math goal is missing from the January 12, 2026 revision of the IEP. This appears to have been an inadvertent omission, as the IEP still includes math SDI.

i. Language Arts (revised): Given instructional/grade level material, [the Student] will *listen to* [emphasis added] the passage and be able to answer comprehension questions from a variety of texts with 75% accuracy on grade level material and 80% accuracy on instructional material.

ii. Self Management (unchanged): [The Student] will increase his self management by attending, staying in class for instruction, and completing the assignment 5/5 core classes 3/4 days per week.

iii. Reading (new): Given instruction in syllabication and the rules of reading and spelling, Blake will increase his ability to decode and understand multisyllabic words with 75% accuracy.

c. SDI (new): SDI in reading, 30 minutes daily, in the resource room.

d. Accommodations: Student Behavior Card

e. Supplementary Aids/Services; Modifications: Instructional materials: Modified curriculum (online program)

26. The Wraparound service persuaded the District to adopt a Function Based Worksheet and Behavior Intervention Plan (BIP) on November 24, 2025, and the District updated it on January 12, 2026. The identified Behavior of Concern was the Student's practice of going to the office and refusing to go to class or the Resource Room. The functions of the Student's behavior were presumed to be to gain adult and peer attention and to avoid work. The strategies selected to change the Student's behavior were, (a) "Assign [the Student] to online courses within the school setting to receive peer interaction and staff support ", and (b) Build positive relationships between staff and the student."

27. On January 16, 2026, the District gave the Parent an IEP Progress Report, which stated:

a. Math goal: "[The Student] is able to identify information needed to solve a problem 100% of opportunities , identifying the operation 2/6 opportunities independently and able to complete the calculations 3/6 opportunities when given the steps visually or verbally."

b. Language Arts goal: Prior to going online, [the Student] would not actively participate in his ELA class or complete the work, so there is no valid data. Since going online [the Student] has been very inconsistent in comprehension skills [and] will not use the text to speech feature on the online program. When [the Student] will allow someone to read [aloud], [they] will engage 50% of the time in the comprehension questions.

c. Self-Management goal: "From 1/12/25 to 12/03/25 [the Student] missed 26 class periods. Completion of work was inconsistent at this time. After schedule change, 12/4/25 to 1/16 [the Student] did not go to the office during class time."

d. Reading goal: "This goal was just implemented on 1/2/2026."

28. Positive Behavior Intervention & Support (PBIS) point sheets for the first four weeks of 2026 show the Student's satisfactory performance on the four Focus Goals listed below. It is unclear how these goals relate to the Student's IEP goals.

    a. Have no further disciplinary action from the school for the next 90 days

    b. Follow directions when asked at home & school without argument or defiance (within 2 prompts)

    c. [Student] to report positive views of [self] versus consistent negative self-talk

    d. [Student] to report an ability to express emotions effectively

29. On January 26, 2026, the Parent filed this Complaint.

IV. DISCUSSION

IEP Content

The Complaint alleged that the Student's IEP did not include SDI and accommodations that would enable the Student to make progress in the general education curriculum and did not include positive behavioral supports to address the Student's behavior.

An Individualized Education Program (IEP) is a written statement of an educational program which is developed, reviewed, revised and implemented for a school-aged child with a disability[6]. The definition of IEP in the federal IDEA regulations specify that an IEP must be developed, reviewed, and revised in accordance with regulations describing required participants, the process of development, review, and revision of the IEP, and IEP implementation[7]. These federal regulations and state administrative rules are unambiguous in their requirement that an IEP is to be developed by an IEP team that includes the parents, that occurs in the context of a meeting of the entire IEP team[8] including the parents, unless the school district is unable to convince the parents to participate.

At an IEP meeting to develop or review and revise an IEP, the IEP team must review all required IEP components:

a. A statement of the student's present levels of academic achievement and functional performance, including how disability affects the student's involvement and progress in the general education curriculum;

[6] OAR 581-015-2000 (15); 34 CFR §300.23

[7] OAR 581-015-2190 through 581-015-2235; 34 CFR §§300.320 through 300.324

[8] Under some circumstances, the parents and district may agree in writing to excuse the attendance of one or more members of the IEP Team

b. A statement of measurable annual goals, including academic and functional goals, (and, for children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of short-term objectives);
c. 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;
d. A statement of the specific special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the student;
e. The projected dates for initiation of services and modifications and the anticipated frequency, amount, location and duration of the services and modifications;
f. An explanation of the extent, if any, to which the child will not participate with children without disabilities in the regular class and activities; and
g. A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on State and districtwide assessments.

During the Complaint period, three IEPs were in effect: the IEP developed on December 17, 2024; the IEP reviewed and revised on April 22, 2025; and the IEP revised on January 12, 2026. The IEP team met on December 3, 2025 but only changed the Student's placement and did not revise the IEP at that time.

All IEPs and revisions during the complaint period include the statement, "Because of struggles with reading, [the Student] gets overwhelmed in the classroom and needs support in the resource room to complete assignments or in the classroom." The Student's "exceptionally low" reading skills were well documented in the District's April 8, 2025 psychoeducational assessment and the independent neuropsychological evaluation the Parent shared, but the District did not provide any explicit instruction in reading until January 2026. The IEPs in effect for most of the complaint period did not include any goals or SDI in reading despite the fact that the Student's reading level was so low that they were unable to participate in and make progress toward IEP goals and in the general curriculum.

The District did provide accommodations that circumvented the Student's literacy deficits, such as text-to-speech and speech-to-text software and an adult reading aloud to the Student. Such accommodations do nothing to address the core problem of the disconnect between the Student's reading level and the IEP Goals. As recently as the December 3, 2025 IEP, the Student's Language Arts goal stated that the Student would read grade level material. The math goal similarly anticipated that the Student would be able to read a math word problem at his instructional level. All assessment data demonstrates that the Student, a seventh grader, was incapable of reading at or even close to grade level. The Student's only reading gains during the complaint period followed an intensive summer reading program provided by the Wraparound service rather than the District. During almost the entire complaint period, the IEP did not

include any SDI in reading. After the Advocate pressed the District to provide direct and explicit reading instruction to the Student, the team added a Reading Annual Goal and Reading SDI 30 minutes daily on January 12, 2026, two weeks before the end of the complaint period. The investigators were unable to determine whether any reading SDI has been provided even since that time.

The Department substantiates this allegation.

IEP Implementation

The Parent alleges that the District violated the IDEA by not providing services as determined by the IEP Team and included in the Student's IEP.

The IDEA provides that at the beginning of each school year, school districts must have in effect an IEP for each student with a disability[9]. A school district must make special education and related services available to a student in accordance with an IEP[10]. The IEP of a student with a disability must be accessible to teachers and other service providers responsible for IEP implementation, and inform all providers of their specific responsibilities regarding implementation of the IEP[11]. Districts must review and revise IEPs at least once every 365 days[12]. IEP review and revision may be necessary more frequently to address lack of progress toward IEP goals[13].

In this case, the Student's SDI Schedules indicate that the Student received SDI, but the Investigators were unable to determine that the Student ever received SDI in any of his goal areas. During lessons in the regular classroom, the Student repeatedly left to go to the resource room seeking assistance with assignments or to go to the office, where no teaching and learning took place. The Student's SDI schedule indicates that their SDI involved working "in close proximity to the Special Education Teacher and an option to ask for clarification or support on any assignment" and "support provided to complete work/reteach concepts". The Investigators were told that a paraeducator was always available to the Student. Nominally including SDI on an IEP or on an SDI Schedule does not equal provision of SDI, and nor is having an adult available or providing undefined support.

During the entire complaint period, the Student did not come close to achieving IEP goals, and the District did not convene an IEP meeting to address the lack of progress. Only in late fall 2025 and early January 2026, when the Advocate and a Wraparound Care Coordinator encouraged the district to develop more effective behavior support and to address the Student's reading deficits, did the District convene IEP meetings to address the Student's lack of

[9] 34 CFR §323(a); OAR 581-015-2220(1)(a)

[10] 34 CFR §300.323(c)(2); OAR 581-015-2220(1)(b)

[11] 34 CFR §300.323(d); OAR 581-015-2220(3)

[12] OAR 581-015-2225(1)(a); 34 CFR §300.324(b)(1)(i)

[13] OAR 581-015-2225(1)(b); 34 CFR §300.324(b)(1)(ii)

progress. According to the January 16, 2026 Progress Report, the Student has continued to make little progress.

The Department substantiates this allegation.

Prior Written Notice (PWN)

The Complaint alleges that the District failed to provide prior written notice (PWN) of its decisions. The IDEA requires a school district to give parents PWN within a reasonable period of time before it proposes or refuses to initiate or change anything related to the identification, evaluation, educational placement, or the provision of FAPE to a child with a disability[14]. PWN must be both specific and explanatory[15], including:

a. A description of the action the school proposed or refused;
b. An explanation of why the school proposes or refuses to take the action;
c. A description of each evaluation procedure, assessment, record, or report the school used as a basis for the proposed or refused action;
d. A statement that the parents of a child with a disability have procedural safeguards under IDEA and how parents can obtain a copy of the procedural safeguards notice;
e. Sources for parents to contact to obtain assistance in understanding the IDEA;
f. A description of other options considered and the reasons why those options were rejected; and
g. A description of other factors that are relevant to the school's proposal or refusal.

The purpose of such detailed PWN requirements is twofold. First, it assists school personnel to consider options carefully and make decisions on the basis of articulable criteria or reasoning. Second, it gives parents definitive statements of school district decisions and to understand exactly what considerations led to those decisions. Although it may seem redundant to issue a PWN when parents are present for discussions and decisions or receive email notifications, the IDEA requirement is unambiguous that formal PWN notice is required whenever the District makes a decision related to the special education of a student with a disability.

In this case, the District gave the parents PWN four times during the Complaint period: on April 22, 2025 regarding the IEP reviewed and revised on that date; on December 3, 2025 regarding the Student's change in placement; on December 3, 2025 regarding communication evaluation and functional behavior assessment (FBA) and Parent consent; and January 12, 2026, regarding an updated behavior support plan and the addition of SDI in reading.

The District used the Department's standard form and provided all required information. The Parent told the investigators that the District had failed to provide PWN but was unable to answer the investigators' questions about specific times the District did not provide PWN.

[14] OAR 581-015-2310(a); 34 CFR §300.503(a)
[15] OAR 581-015-2310(b); 34 CFR §300.503(b)

The Department does not substantiate this allegation.

Free Appropriate Public Education (FAPE)

The Complaint alleges that the District has violated the IDEA entitlement to a FAPE because the Student made little progress toward IEP goals and in the general curriculum.

School districts must provide a free appropriate public education (FAPE) to all school-age children with disabilities for whom the district is responsible. The IDEA defines FAPE[16] as special education and related services that:

a. Are provided at public expense, under public supervision and direction, and without charge;
b. Meet the standards of the [state educational agency];
c. Include an appropriate preschool, elementary school, or secondary school education; and
d. Are provided in conformity with an individualized education program (IEP)[17] .

The US Supreme Court has established a two-prong FAPE test[18] that includes procedural and substantive elements:

a. Procedural: Did the school district comply with IDEA procedural requirements, and
b. Substantive: Was the IEP reasonably calculated to enable the child to receive educational benefit?

Not all procedural violations amount to a denial of FAPE. However, a district's procedural violation(s) deny FAPE to a student if they result in loss of educational opportunity or if they seriously infringe the parents' opportunity to participate in IEP development[19]. If procedural violations alone constitute a denial of FAPE, it is unnecessary to address the second prong of the FAPE inquiry[20]. If a school district demonstrates that it observed IDEA's procedural requirements, the question remains whether the IEP is substantively adequate. When this is the case, it is necessary to determine whether the IEP enabled the student to benefit.

Progress is the key indicator of whether a school district has provided the requisite benefit to a student with a disability. In a 2017 decision[21] , the US Supreme Court held that "[t]o meet its substantive obligation under the IDEA, a school must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances" and added

[16] 34 CFR §300.17

[17] OAR 581-015-2040

[18] Hendrick Hudson Central Sch. Dist. v. Rowley, 458 U.S. 176 (1982)

[19] W.G. v. Bd. of Trustees of Target Range Sch. Dist. No. 23, 960 F.2d 1479, 1484 (9th Cir. 1992)

[20] Id.

[21] Endrew F. v. Douglas County Sch Dist RE-1, 580 US 386 (2017)

that "[a] substantive standard not focused on student progress would do little to remedy the pervasive and tragic academic stagnation that prompted Congress to act." The Court emphatically rejected the "merely more than de minimis standard that prevailed in some US federal circuit courts and elaborated that an IEP must be "appropriately ambitious" and that "every child should have the chance to meet challenging objectives".

In this case, the Investigators found no major problems with procedural compliance. However, the Student made little, if any, progress throughout most of the complaint period. The District provided no reading instruction for most of the complaint period, and the Student's reading achievement levels, as documented on two psychoeducational evaluations conducted during the complaint period, is so low that the Student is unable to read grade-level content. The Investigators were able to find no information about whether the reading SDI is being provided since the January 12, 2026 IEP revision. The Student's behavior of concerns is now being addressed through PBIS; the PBIS point sheets during the last three weeks of the complaint period indicate that the Student is making progress toward the behavioral goals. However, any progress the Student is making has emerged only in the last few weeks of the complaint period.

The Department substantiates this allegation.

V. CORRECTIVE ACTION[22]

In the Matter of Harney County School District 3
Case No. 26-054-012

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

Action Required	Submissions	Due As Soon As Possible But No Later Than
The District must provide the Student with Compensatory Education plan account for the SDI not provided pursuant to the Student's IEP. The Compensatory Education to be offered to the Student Shall include at least: SDI for Reading, 85 hours SDI for Math, 85 hours SDI for Writing, 85 hours	The District shall submit the following: Completed plan for delivery of Compensatory Education developed in a meeting with Parent.	April 27, 2026

[22] 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	Due As Soon As Possible But No Later Than
The District must hold a meeting with the Parent to develop a plan to deliver SDI.	Evidence showing compensatory education was provided.	March 27, 2027
The District will provide training to the relevant members of the Student's school regarding • Review and Revision of IEPs. • Specially Designed Instruction • Periodic reporting to parents on IEP goal progress	The District shall submit the following: Training materials and agenda Sign-in sheet, with names and roles of participants.	 May 29, 2026 June 30, 2026

Dated: this 26 Day of March 2026



Ramonda Olaloye
Assistant Superintendent
Office of Enhancing Student Opportunities

E-mailing Date: March 26, 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).