**BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION**

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| In the Matter of | ) | FINDINGS OF FACT, |
| Beaverton School District 48J and | ) | CONCLUSIONS, |
| Northwest Regional Education Service | ) | AND FINAL ORDER |
| District | ) | Case No. 26-054-014 |

## I. BACKGROUND

On January 30, 2026, the Oregon Department of Education (the Department) received a written request for a special education complaint investigation from the parents (Parents or Parent) of a student (Student) residing in the Beaverton School District 48J (District), involving the Northwest Regional Education Service District (the ESD). The Parents 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 and the ESD.

Under state and federal law, the Department must investigate written complaints that allege violations of the Individuals with Disabilities Education Act (IDEA) and issue an order within sixty days of receipt of the complaint.[1] This timeline may be extended if the 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 9, 2026, the Department's Complaint Investigator sent a *Request for Response (RFR)* to the District and the ESD identifying the specific allegations in the Complaint to be investigated and establishing a *Response* due date of February 23, 2026.

The ESD submitted a *Response* on February 23, 2026, denying the allegations, and providing an explanation, and submitting documents in support of the ESD's position. The ESD submitted the following relevant items:

1. ESD's Written *Response* to Complaint, 2/23/26
2. Table of Contents, 2/23/26
3. Letter to Parent, 9/5/24
4. ESD Distribution Checklist, 8/20/24
5. Prior Written Notice (PWN), 8/20/24
6. Individualized Family Services Plan (IFSP), 8/20/24
7. Statement of Eligibility, 8/20/24
8. ECSE Evaluation Report, 8/20/24

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

9. Consent for Evaluation, 8/20/24
10. IFSP Meeting Minutes, 8/20/24
11. Notice of IFSP Meeting on 8/20/24, 7/29/24
12. Evaluation/Service Summary, 8/20/24
13. Letter to Parent, 9/22/25
14. ESD Distribution Checklist, 9/5/25
15. Prior Written Notice (PWN), 9/9/25
16. IFSP, 9/5/25
17. Placement Decision, 9/5/25
18. Child Progress Report, 9/5/25
19. IFSP Meeting Notes, 9/5/25
20. Notice of IFSP Meeting on 9/5/24, 9/3/25
21. ESD Service Log, 12/4/25 - 1/12/26
22. ESD Contact Log, 12/1/25 - 1/26/26
23. IFSP Meeting Notes, 12/12/25
24. IFSP Signature, 12/12/25
25. Transportation Request, 12/18/25
26. Notice of IFSP Meeting on 12/12/25, 12/5/25
27. Prior Written Notice (PWN), 12/12/25
28. Enrollment and Service/Provider History 12/2/24 - 1/6/26, 2/13/26
29. ecWeb Activity Log, 7/25/24 – 2/9/26
30. List of Relevant ESD Staff, 2/23/26
31. Declaration of Records Custodian, 2/19/26

The ESD submitted an additional document on March 11, 2026.

32. Placement Decision, 12/12/25

The District submitted a *Response* on February 23, 2026, denying the allegations, providing an explanation, and submitting documents in support of the District's position. The District submitted the following relevant items:

1. District's Written *Response* to Complaint, 2/23/26
2. Student Profile, 2025-26 School Year
3. Principal's Calendar, 1/5/26
4. Complaint Filed by Parent, 12/18/26
5. District Investigation Notes, 12/18/26
6. Email Exchanges Amongst District staff, 1/22/26 – 2/11/26
7. Google Calendar Email Notification for December 12, 2025 IFSP Meeting, 12/12/25
8. Email Exchanges Amongst District Staff and With Parents, 6/10/25 – 2/11/26
9. Direct Messages Between District Staff and Parents, 9/2/25-1/3/26

The District submitted a video on March 11, 2026, which it received from the Parents on December 18, 2025.

The Parents submitted a *Reply* on March 2, 2026, providing an explanation and rebuttal.

The Complaint Investigator interviewed District personnel on March 9, 2026. On March 10 and 13, 2026, the Complaint Investigator interviewed ESD personnel. Virtual interviews were conducted instead of on-site interviews. The Complaint Investigator contacted the Parents and their attorney to request an interview, but the Parents and their attorney declined to be interviewed. The Complaint Investigator reviewed and considered all of these documents, interviews, and exhibits in reaching the findings of fact and conclusions of law contained in this order. This order is timely.

## II. ALLEGATIONS AND CONCLUSIONS

The Department has jurisdiction to resolve this Complaint under 34 CFR §§ 300.151-153 and OAR 581-015-2030. The Complainant's allegations and the Department's conclusions are set out in the chart below. The conclusions are based on the Findings of Fact in Section III and the Discussion in Section IV. This Complaint covers the one-year period from January 31, 2025, to the filing of this Complaint on January 30, 2026.

| Allegations | Conclusions |
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| **Implementation of the IFSP**<br><br>The Complaint alleges that the District and ESD violated the IDEA by failing to provide ECSE and related services in accordance with the Student's IFSP.<br><br>(OAR 581-015-2830; 34 CFR §300.323) | **Not Substantiated**<br><br>There is no evidence that any of the Student's IFSP services or supports were not provided. |
| **Placement and Least Restrictive Environment in ECSE**<br><br>The Complaint alleges that the District and the ESD violated the IDEA when it failed to ensure that the placement of the Student was determined by a group of persons, including the Parent, and other persons knowledgeable about the Student, meaning of evaluation data, the placement options; and that, to the maximum extent appropriate, ECSE services are provided in the least restrictive environment. Specifically, the District and/or the ESD unilaterally removed the Student from their current placement and no special education services have been provided since this occurred.<br><br>(OAR 581-015-2845; 34 CFR §300.116) | **Not Substantiated**<br><br>The Student's placement was changed at the December 12, 2025 IFSP meeting by the team, which included the Parent.<br><br>The team agreed that the Student needed a placement with more adult support, structure, and direct instruction. The team agreed the Student would start the new placement in January 2026. The Student started attending the ESD preschool program on January 7, 2026. |

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| **Parent Participation – EI/ECSE Program**<br><br>The Complaint alleges that the District and the ESD violated the IDEA by interfering with the Parent's ability to participate in decisions with respect to the identification, evaluation, IFSP and educational placement of the Student, and the provision of a free appropriate public education to the Student. This included unilaterally changing the Student's placement and preventing Parent's access to the Student's educational records on the District's Parent Square and Seesaw platforms.<br><br>(OAR 581-015-2750; 34 CFR §300.501) | **Not Substantiated**<br><br>There was no evidence of a unilateral change in the Student's placement.<br><br>The District reported that upon unenrollment from the District, a parent's access to the District's online platforms, including ParentSquare, is removed. However, a parent can request copies of their child's education records from the District at any time, regardless of enrollment status.<br><br>The ESD maintained the Student's special education records, which parents can access on the ESD's parent portal or, alternatively, parents can request copies of their child's education records from the ESD.<br><br>There is no evidence that the District or ESD deleted or destroyed the Student's education records. There is also no evidence that the Parent made any records requests to the District or the ESD to access the Student's records. |
| **Free Appropriate Public Education (FAPE)**<br><br>The Complaint alleged that the District failed to provide the Student with a free appropriate public education.<br><br>(OAR 581-015-2850[3]; 34 CFR §300.101) | **Not Substantiated**<br><br>There is no evidence that either the ESD or the District violated the IDEA, or that the Student was denied FAPE. |

**REQUESTED CORRECTIVE ACTION**

[3] There was a clerical error in the *Request for Response*, which cited OAR 581-015-2040.

- The Department must find that the District denied the Student FAPE.
- The District must be required to immediately convene an emergency IFSP meeting to develop a detailed Health and Safety Plan as part of the Student's IFSP; provide compensatory services to remedy the educational loss suffered from December 17, 2025, onward; and train all relevant staff on the implementation of IFSPs for non-verbal autistic students.
- The Department must find discriminatory practices. The District must be directed to restore the Student's full student records from backups and issue a formal, written apology for the discriminatory neglect and record destruction.
- The Department must order the district to immediately reinstate the Student into an appropriate ECSE program with all related services, pending a proper IFSP team meeting to determine placement.
- The Department must issue findings for the destruction of records. The District must be required to: provide the Parent with a complete, certified copy of all recovered educational records; and adopt and submit to the Department a strict policy prohibiting the deletion of any student record during the active complaint or investigation.

## 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 31, 2025. Any facts listed below relating to circumstances or incidents earlier than that date are included solely to provide context necessary to understand the Student's disability and special education history.

1. The Student is 4 years old currently attending a specialized preschool program at the local Education Service District's (the ESD's) Early Childhood Center (the ECC).

2. The Student is currently eligible for Early Childhood Special Education (ECSE) services under the disability category of developmental delay.

3. The Student's medical history includes a medical diagnosis of autism spectrum disorder (ASD).

4. The Student's initial ECSE eligibility was established on August 20, 2024.

**2025-26 School Year**

5. The Student was enrolled in a full-day general education preschool program [the Preschool Program] starting in the 2025-26 school year.

6. The District reported, "[T]he Student resides within the boundaries of [the ESD]." "The Student attend[ed] and receive[d] ECSE through [the Preschool Program] located within a

District elementary school." The Preschool Program "is run by the District, with [the ESD] providing special education services to eligible students. [The Preschool Program] general education teacher is an employee of the District; however, [the ESD] develops the Student's IFSP and works with the classroom teacher on implementation in the classroom. While the classroom teacher has access to Student's IFSP, the District does not maintain special education records for Student." "[The ESD] still maintains the obligation to provide ESCE and, ultimately, FAPE to the Student."

"[R]esident districts are responsible for providing transportation for students with IFSPs… the District provided transportation to the Student consistent with any relevant provisions of the IFSP."

7. The ESD reported, "The ESD provides early intervention and ECSE special education services to students under the IDEA. [The ESD] does not operate or manage [the Preschool Program] at [the Elementary School]; [the Preschool Program] and day-to-day site supervision and general education activities at [the Elementary School] are the responsibility of [the District]. [The ESD's] responsibility… is limited to the IDEA-funded services that [the ESD] staff provided to [the Student] and to ensuring the integrity of special education records maintained in [the ESD] systems."

8. On September 5, 2025, the ESD convened an Individualized Family Services Plan (IFSP) meeting to "[d]evelop or review an individualized family services plan (IFSP) and services/placement for [the Student]."

9. The Student's September 5, 2025 IFSP (September 2025 IFSP) included the following, in relevant part:

    a. <u>ECSE Services</u>:

    Specially Designed Instruction: In the areas of cognitive, adaptive, receptive communication, expressive communication, and social; to be provided by the Service Coordinator; Method: "Direct, Direct and Indirect/consultation"; for 30 minutes, two times per month.

    ECSE Service Coordination: To be provided by the Service Coordinator; Method: "Direct, Phone calls, meetings, paperwork"; for eight hours per year.

    Instruction to Parents in Support of Family Outcomes: To be provided by the Service Coordinator; Method: "Consultation, Parent coaching indirect consultation"; for 30 minutes, one time per month.

    Speech/Language Therapy: To be provided by the "SLP/SLPA"; Method: "Direct, Direct and Indirect/consultation"; for 30 minutes per month.

Occupational Therapy: To be done by the "Occupational Therapist/COTA"; Method: "Direct, Direct and Indirect/consultation"; for 15 minutes, two times per month.

Transportation: Paid by District; four times per week to and from [the Preschool Program] at [the Elementary School].

b. Non ECSE Services: Community Preschool; seven hours, four times per week at [the Elementary School].

The Student attends an early childhood program 28 hours per week; ECSE services will be provided with typical peers in an early childhood program for .5 hours per week.

c. Supplemental Services, Adaptions and Accommodations: Alternative seating to support movement needs, and visual supports to assist with transitions and routines.

d. Modifications or Support for Program Personnel: ECSE consult to staff, Preschool Program, and family; for 30 minutes, one time per month.

e. Consideration of Special Factors: The Student's family has limited English proficiency and the Student has communication needs.

f. Developmental Information - How the Child's Disability Affects Participation in Appropriate Activities: "[The Student's] delays in development impact [their] ability to participate in daily routines, communicate with others, and engage in play. [They] also [have] difficulty meeting [their] self-care needs within age-appropriate and cultural expectations."

g. Health Status: "[M]ay have some word approximations, but [the Parent] is not sure what [the Student ] is saying."

The Parent tried potty training "but [the Student] has not made any progress. [The Student] refuses to sit on the toilet, does not let [the Parent] know when [their] diaper needs to be changed, and becomes upset when [the Parent] wants to change [their] diaper."

h. Goals: One goal each in the areas of adaptive (follow 1-step directions and safety commands), social/emotional (increase socialization and flexibility with peers and routines), and expressive communication (increase expressive communication).

i. Family Outcomes/Plan to Enhance Development: The family is most concerned about the Student following safety commands and improving social skills, including learning how to play with peers.

j. Placement: Community Preschool.

Benefits: In environment with same-aged peers; general education preschool curriculum; natural learning environment for the Student; teacher coaching and direct service model; and peer modeling.

Possible Harmful Effects: There may be less direct support for individualized goals and objectives; curriculum may not be specifically designed to address individual goals; and environment may be more distracting at times.

10. On September 8, 2025, the Student, age three, started attending the Preschool Program at the Elementary School.

11. The District reported that the Student initially started in the preschool class for three-year old children, with their same-aged peers. Because of concerns about the Student's behavior and safety, School staff moved the Student to the preschool class for four-year olds in October 2025.

12. The District provided ParentSquare Communication history between School staff and the Parent from September 2, 2025 to January 3, 2026.

13. September 2025 ParentSquare messages from the teacher of the three-year old class (the Preschool Teacher) to the Parent indicated that the Preschool Teacher shared concerns about the Student's behavior, including hitting and pushing peers.

14. In a September 23, 2025 ParentSquare message to the Parent, the Preschool Teacher wrote, "I mentioned already that [the Student] sometimes pushes students when [the Student] doesn't have one-on-one attention from a teacher or when [the Student] doesn't have something that [the Student] wants…. We've been doing our best to attend to [the Student's] needs and teaching [them] how to have positive interactions with other students… we decided to start keeping track of how many times [the Student] pushed, hit, or grabbed something away from another student today. Today we counted that it happened 24 times. One of the times [the Student] kicked another student in the face. This is becoming a safety concern for the students in our class, including for [the Student], because some of the other students have begun to try to hit [the Student] after [the Student] pushes them. I'm going to update [the Student's] support team at [the ESD] to ask for ideas about how to best support [the Student] and the school principal is also included in this message so [they] can be aware of the situation. We will continue to document the behavior and try different strategies to support [the Student]."

15. In an October 8, 2025 ParentSquare message to the Parent, the Preschool Teacher provided an update on the Student's behavior and mentioned a "plan for changing [the Student's] class." "Yesterday… In the afternoon, [the Student] seemed tired and frustrated and [they] got quite aggressive including pushing a shelf over onto another student's head… Today [the Student] started the day in my class and [the Student] was showing more aggression towards other students in general… [the Student] pulled three students' hair and pushed another student. After that, we decided to have [the Student] go to a more calm environment and

[the Student] visited the other class, again…. [The Student] stayed there from lunch until end of the day and [the teacher of the four year old preschool class (the Teacher)] said [the Student] was calm and mostly playing by [themselves], but [they] did not show any aggression toward anyone else for the rest of the day… Tomorrow, I'm hoping [the Student] will stay in [the Teacher's] class for the whole day so we can make the official enrollment change on Monday like we planned."

16. The Teacher reported the decision was made to move the Student to the four-year old preschool class because of safety concerns for the three-year olds. The Preschool Teacher was having trouble monitoring the Student's behavior and keeping students safe. School staff thought the Student would do better with older children because they were more aware of what was happening, and better at verbalizing their needs and protecting themselves.

    The Principal reported the Parent was aware of concerns that the Student was being very physical with peers and School staff were trying to prevent peers from getting hurt.

    The Teacher and the Principal reported the plan was discussed with the Parent before the change was implemented, the Parent was part of the decision making process, and the Parent was on board with the move.

17. The ESD reported they were not involved in the classroom change.

18. In a November 6, 2025 ParentSquare message to the Parent, the Teacher wrote, "[The Student's] transition from [the other] class was much smoother than either of us anticipated… Some of the behaviors [they were] exhibiting in [the other] class (hair pulling, scratching, pushing) have been showing up now in our room. For the first few weeks there was none, but we think that now [the Student] is more comfortable, [they are] attention seeking again. I am working closely with [the ESD] to meet [the Student's] needs using visuals, consistent verbal responses, and lots of positive praise and attention with engaging with the class… Please do keep [the Student's] fingernails short. [Their] scratching of classmates is very painful."

    Additionally, the Teacher reported, "At quiet time, [the Student] takes off [their] shoes, socks, and pants. Unfortunately not all in the same location, so they are mixed with other students. Earlier this week, [the Student] was kicking off [their] boots when playing outside. I had to bring [the Student] back inside during recess to get [their] shoes back on[.]"

19. The Teacher reported issues with the Student removing their clothes was a common occurrence. The Student would often take their clothing off in the classroom and while outside at recess. It was impossible to force the Student to wear weather-appropriate clothing when they did not want to, but School staff would keep the Student inside at recess if they refused.

    The Teacher reported if they tried to make the Student to do something the Student did not want to do, the Student could become physically defiant, which could become a safety issue.

20. In a December 1, 2025 ParentSquare message to the Parent, the Teacher wrote the Student's ESD Service Coordinator (the Coordinator) would be "going out on [medical] leave soon and [another ESD provider (the Provider)] taking over [the Student's] IFSP… I have shared in the past some of the behaviors in the class that are a struggle," including scratching, hair pulling, hitting/pushing, and grabbing. "We have been doing our best to be consistent with our responses and language we use with [the Student][.]"

21. In a December 3, 2025 ParentSquare message to the Parent, the Teacher wrote, "I wanted to check in today because while we were hoping for [the Student] to be settling in, each day has been a little more trying this week. Today there were 2 large incidents with students receiving injuries." First, the Student kicked a peer in the face. Second, the Student ran up to a peer and hit them in head with the Student's water bottle. The peer "went to the nurses office for ice and because a large bump was visible, the nurse required concussion protocol (no symptoms of concussion)."

22. The Teacher reported they had ongoing conversations with the Parent about the Student's behavior and safety issues. The Teacher believed the Student needed a classroom with more adult support and supervision, to teach the Student the skills they needed in the moment and provide reminders to keep their hands to themselves.

23. The Provider reported the following about their involvement with the Student, in relevant part:

    a. They provided consultation support to the Coordinator and the rest of the Student's ECSE team. The team tried implementing various interventions to address the Student's behavior, but they were not successful.

    b. The ESD providers and the Teacher shared their concerns about the Student needing more support than could be provided in Preschool Program classroom setting. The Student needed a higher level of adult support to provide direct instruction and facilitate social situations with peers. The Student needed a lot of adult attention and, if they did not get it, they engaged in negative behaviors to gain attention.

    c. The ESD knew the Parent was concerned about needing fulltime care for the Student during the day. The ESD preschool program option that would best meet the Student's needs was a half-day program. As the team believed the Student could benefit from ABA services, they discussed the option of combining ABA with the ESD's half-day program to provide full-day coverage for the Parent. However, the Provider noted that it was the Parent's choice and the Parent had the right to keep the Student in the Preschool Program at the Elementary School.

    d. The ESD team had monthly check-in meetings with the Parent. At the December 4, 2025 check-in meeting, ESD staff shared their opinion that the Student needed a more structured program with a higher level of adult support. The ESD offered to work with the

Parent to provide transportation and combine ABA services with the ESD preschool class to build a full-day program for the Student. The Provider reported the Parent agreed with the ESD's recommendation but wanted to make sure they could find better ABA options than what they had experienced in the past. The team agreed the Provider would supply the Parent with a list of ABA providers for the Parent to contact, and the Parent would keep the ESD informed of their progress with enrolling in ABA services.

24. Service logs provided by the ESD indicated that a "Parent collaboration" meeting was held on December 4, 2025, between the Parent and ESD service providers. The service log notes from the ESD noted the following:

    a. "Discussed current strategies in place at [the Preschool Program], continued difficulty with [the Student's] aggressive behaviors and safety in a general education environment."

    b. "Team discussed the support [the Student] currently needs at school and recent incidences that were safety concerns for other students. Team agreed that finding a new ABA clinic and an onsite class would be best for [the Student] at this time."

    c. "They discussed the possible placement change with [the Parent] and seeing if [the Parent] is comfortable."

    d. "Plan: Continue to support [the Student] at school, attend placement change meeting."

25. The Provider reported that if the Parent had indicated they disagreed with the ESD's recommendation, the team would not have scheduled a subsequent IFSP meeting to discuss the placement change.

26. Following the December 4, 2025 meeting, the Provider reported that updates from the Parent indicated that the process of registering for ABA services was going very quickly.

27. In a December 11, 2025 ESD Service Log note, the Coordinator wrote, "Teacher report: "[The Student] has improved [their] ability to take turns with peers on the slide at recess but continues to need adult supervision at all times to prevent [them] from pushing or kicking peers when [the Student] is waiting for [their] turn."

    Observation: "[O]bserved during nap time/quiet time today – [the Student] needed support from [the Teacher] lying next to [the Student] on [their] mat to keep [them] occupied and in order to prevent [the Student] from walking/stepping on [their] peers…. When the teacher left [the Student's] side, [they] ran around the room and did step on a peer who was laying down and needed adult support to redirect [them] off the peer… continue current supports in place (busy box for nap time, weighted blanket, positive reinforcement when engaged in safe behaviors)."

28. On December 12, 2025, the ESD convened an IFSP meeting, which included the Parent, the Teacher, the Principal, the Coordinator, the Provider, and other ESD providers.

29. The Coordinator emailed the team on December 12, 2025, which included a link to the meeting and stated, “IFSP Placement Change Meeting… We are looking forward to discussing a placement change for [the Student’s] special education services.”

30. The December 12, 2025 IFSP meeting notes included the following, in part:

    a. Purpose of Meeting: “[T]o review placement options and consider change of placement.”

    b. The Parent confirmed they received the procedural safeguards sent by the ESD.

    c. “Discussed and signed Written Agreement.”

    d. The Teacher shared, “Challenges include [the Student’s] need for more frequent and immediate verbal models for communication support, and [the Student’s] physical communication when [their] expressions aren’t verbal.”

    e. The Parent shared, “They are hopeful that the new ABA, AST, will better support [the Student’s] needs. They had a negative experience at their last ABA clinic.”

    f. The team reviewed placement options, and the benefits and possible harmful effects of each. These options included continue with the current placement; a placement with a higher level of support; a placement with less support; and a more natural environment.

    g. “[The Parent] asked about having [the Student] attend ABA in the morning and then go to [the Elementary School] in the afternoon. [The Principal] shared that [the Preschool Program] classroom is funded through a grant which doesn't allow half-day enrollment. [The Student] cannot continue at [the Elementary School] if [they are] not full-day.”

    h. “After reviewing goals, progress and placement options. The team determine the ECSE classroom to be the most appropriate place for [the Student] to receive [their] services.”

    i. “Start date for new placement will be: January. The team will update dates on the cover page when they hear the start date for ABA.”

31. The December 12, 2025 Placement Decision included the following information, in relevant part:

    a. The team selected “Specialized ECSE Classroom” from the three options listed.

    b. Reason: “[The Student] requires a highly structured classroom with a low student to teacher ratio that provides multiple daily opportunities to practice and generalize new skills in the adaptive, social and expressive communication areas of development.”

c. Benefits: Opportunities to practice preschool-skills in a structured, supported environment; specialized curriculum to address goals in all areas of developmental need; specially trained staff; specially designed supports provided; multiple opportunities for practice; learn and practice strategies can be generalized into a typical preschool environment; and access to typical peers.

32. The ESD provided an "Individualized Family Service Plan Participants" document, which included a list of individuals who attended the December 12, 2025 meeting. The document also showed that the Parent signed electronically under "I have participated in the development of this plan for Early Childhood Special Education services in this plan" and "I have received the procedural safeguards notice."

33. The ESD issued a Prior Notice of ECSE Action dated December 12, 2025, proposing to change the Student's IFSP and provision of FAPE because "[the Student] demonstrates an area of need that requires a more supportive, structured, and specialized classroom environment with more adult support in order to meet [their] IFSP goals and participate in classroom activities and routines safely." "A revision was held to change the placement of [the Student's] special education services from a community preschool classroom to a specialized early childhood special education classroom. Because of this change in placement, [the Student's] service levels will be changed accordingly: Occupational therapy consultation 1x/month for 30 minutes, SLP consultation 1x/month for 30 minutes, Specially designed instruction 2 hours/day for 4 days/week, and parent collaboration meetings 1x/quarter for 30 minutes following the ECSE school calendar."

34. In its Response, the ESD reported, "The meeting notes reflect that the team discussed placement options and that the team - with the Parent present - decided to revise [the Student's] placement to a more restrictive ECSE classroom at [the ECC] because [the Preschool Program] funding at [the Elementary School] did not permit half-day attendance. The Parent signed the paperwork revising the IFSP and a transportation request was processed. [The ESD's] service and contact logs show [the Student] began attending [the ECC] on 01/07/2026 and that there was no interruption of IFSP services as a result of the change in placement." The ESD denied that a unilateral change of placement occurred without parental participation or consent.

35. ESD Service Log notes for service providers that attended the December 12, 2025 IFSP meeting indicated an IFSP revision meeting was held "to change placement from community classroom to specialized classroom… Team was in agreement."

36. The District reported that at the IFSP meeting on December 12, 2025, "the team, including Parent, agreed to a change in placement… in order to allow half-day attendance and better meet Student's needs. The Student began attending [the ECC] on January 7, 2026 with no interruption in IFSP services."

37. District staff reported the following about the December 12, 2025 IFSP meeting:

a. The Teacher indicated the Parent was concerned about changing programs because transitions were difficult for the Student. The Parent asked if the Student could continue to attend the Preschool Program for half of the day for consistency.

b. The Principal reported ESD staff indicated the Student's current placement could not meet their needs and the Student would be better served in an environment with better adult to student ratio, where they could teach replacement skills.

38. ESD staff reported the following about the December 12, 2025 IFSP meeting:

a. The ESD Provider reported the Parent seemed confused at the December 12, 2025 meeting, although the team had discussed the plan with the Parent the previous week and the Parent expressed agreement with the plan. The ESD wanted to make sure they had transportation available as soon as the Parent finalized the ABA program arrangements and asked the Parent to keep them updated.

b. An ESD ECSE Specialist reported the Parent seemed frustrated that the Student could not continue to attend the Preschool Program half-time. However, the team agreed that the Student's behaviors were more than could be addressed in the current placement.

39. When asked, District and ESD staff all stated the Parent never expressed any disagreement with (1) the decision to change the Student's placement, (2) the move to a more restrictive placement, or (3) the specific ECSE program that was selected by the team.

40. The Parents reported that on December 17, 2025, "[The Student] was sent home in near-freezing winter weather wearing only a sleeveless shirt, without [their] jacket or sweatshirt. [They] had also not been changed out of a soiled diaper for the entire school day."

41. In a December 17, 2025 ParentSquare message to the Teacher, the Parent expressed that they were "extremely concerned and upset about what happened to [the Student] today."

42. On December 18, 2025, the Parent submitted a formal complaint, dated December 17, 2025, to the District using the District's electronic complaint form:

a. "I am extremely concerned and upset about what happened to my [child] today. My child is 4 years old, has autism, and is highly sensitive. [The Student] came home wearing only [their] undershirt and freezing weather, with [their] diaper not changed, suffering from runny nose, diarrhea, and a severe diaper rash that made it difficult for [them] to walk... This situation is unacceptable and unsafe. They know that we are working so hard to move [the Student] from your school to a different place to [the Student's] needs, but [the Student] deserves to be treated as anyone else in [their] age group. My child cannot advocate for [themselves], and it is the school's responsibility to protect [their] health, dignity, and safety. I have video for [the Student]… I can provide it the video from my home security camera showing how [the Student] came home."

b. The Parent indicated the complaint involved discrimination on the basis that "[l]ately they trying to get rid of [the Student] because [their] autism and they keep saying [the Student is] not safe for other kids and they made me move [the Student] back to the ABA service."

c. The Parent indicated the Student was physically hurt and the incident required medical attention. "Leaving [the Student] in only [their] undershirt in very cold weather made [the Student] cough and having runny noses and fever."

43. On December 18, 2025, a District Compliance Officer emailed the Parent, "We have received your complaint form. Thank you for voicing your concerns and for advocating for your child… I am sorry your [child] has had a negative experience at school. Per School Board Policy KL – Public Complaints, the first step in the complaint process is to have an informal problem-solving conversation with the school principal. I have copied [the Principal] on this email so [they] can reach out to you for an informal conversation. Please note that, due to winter break, staff will likely be unavailable to respond or investigate until January. I will follow up after winter break."

44. On December 18, 2025, the Principal investigated the Parent's District Complaint:

a. "The classroom teacher has been out sick with the flu all week."

b. "[The Student] refused to put on [their] sweater or jacket at dismissal time. When a paraeducator retrieved the sweater [they] had previously removed from [the Student's] backpack, [the Student] began screaming. The paraeducator tried to help [the Student] put on the sweater, but [the Student] pulled it off and placed it back in [their] backpack. [The Student] also refused to wear [their] coat and put it in [their] backpack. When [the Student] boarded the bus, [the Student] was wearing a tank top, pants, and shoes."

c. "The paraeducator changed [the Student] at approximately 1:15 p.m., which is [the Student's] typical changing time. [The paraeducator] reported that [the Student] had runny, smelly diarrhea. Later that day, the staff did not notice any odor, which is usually the prompt for a second change."

45. The Teacher responded to the Parent's ParentSquare message on December 18, 2025, stating they had been home sick all week with the flu but they were working on finding out what happened. They shared that they spoke with classroom staff, who reported the Student's diaper was changed in the afternoon. When the Student left for the bus, they had one jacket on and another in their backpack.

46. The Teacher reported they contacted the staff members who escorted the Student outside to the bus after school. Staff reported they tried to get the Student to put their jacket on but the Student refused and got very upset, and they did not force the issue further. The Teacher stated they would have done the same thing in that situation because it was impossible to force the Student to wear something against their will, and the Student's physical reactions could be dangerous.

The Teacher noted that the bus is very close to where the Student exits the Elementary School, and the bus is heated. The Student gets door-to-door transportation service, and is dropped off right in front of their home. Any amount of time they were outside was minimal.

47. The Teacher reported there are two paraeducators assigned to the classroom. They never leave a child in the same pull-up for an entire day. The students have regularly scheduled changes. In addition, before any of the three staff members leaves the classroom for their break, they check to see if any student needs to be changed. At the end of the school day, the staff conducts an additional diaper check before students leave the classroom.

48. District staff reported that the Student did not have any special needs or individual plan related to toileting, and it was not a special education issue. The process and timing of changing students was the same for everyone in the class.

49. The Parent responded to the Teacher's December 18, 2025, claiming what the Teacher reported was not true. The Parent sent a video from a security camera at the family's front door. The Parent said Student's diaper was full when they got home and "[the Student is] sick [they] have Diarrhea… tried to schedule [them] Dr appointment but unfortunately nothing[.]" The Parent stated this was "the result of deliberate negligence."

50. The video provided by the Parent to the District depicted a bus pulling up to the front steps of the Student's home. When the Student got off the bus, the Student immediately went up the stairs and met the Parent at the front door, where the Parent was waiting for the Student. The Student was wearing shoes, pants, and a tank top, and carrying their backpack. The Student was outside for a few seconds before escorted inside by the Parent.

51. The District did not dispute the fact that the Student was wearing a tank top and no jacket when they got off the bus.

52. The District reported the following about the December 17, 2025 incident, in relevant part:

    a. "[V]ideo footage from the bus shows that Student rode the bus home without incident and did not appear to be in distress."

    b. "The classroom teacher was absent on December 17; upon [their] return, [they] looked into the incident as reported by Parent" and communicated with the Parent through ParentSquare.

    c. "[N]othing in the IFSP provides that the general education teacher is responsible for toileting or clothing Student. Thus, even if the District erred in this regard, it would not constitute a violation of the IDEA."

53. The ESD reported, "[ESD] staff were not on site that day and [the ESD] does not run or manage [the Preschool Program] classroom," and "is unable to confirm the specific events" alleged to have occurred at the Elementary School.

54. The Principal reported that, as part of the response to the Parent's December 18, 2025 formal complaint, an office secretary called the Parent on December 19, 2025 at 11:38 AM to set up a meeting with the Principal. They left a voicemail, but the School did not receive a call back from the Parent.

55. On January 6, 2026, the District Compliance Officer emailed the Parent, "We are writing to follow up regarding the complaint you submitted on December 18. As we have not received a response to our prior outreach, we will be closing the complaint at this time. If you have additional information you would like us to consider, please feel free to contact us."

    The Parent responded on January 16, 2026, denying that they were contacted by the District and requested that their complaint be "reopened for review."

56. On January 7, 2026, the Student started attending the ESD's "Specialized ECSE Classroom."

57. The Principal stated they waited until they received confirmation from the ESD that the Student was attending the ESD program before they unenrolled the Student from the District.

58. The Principal reported that when a student is unenrolled from the District, parents no longer have access to ParentSquare or other District online platforms. However, a parent can request a copy of their child's education records from the District at any time.

59. On January 30, 2026, the Parent filed this Complaint, which included the following, among other things:

    a. "On December 17, 2025, the district failed to provide the basic care and safe environment required for [the Student] to access [their] education. As a non-verbal 4-year-old with autism, [they are] entirely dependent on staff for well-being… This neglect created a harmful and unsafe environment, making it impossible for [the Student] to benefit from [their] IFSP services, thereby denying [the Student] FAPE."

    b. "As a direct result of the district's actions to destroy records and obscure the December 17 incident, [the Student] has been effectively and unlawfully removed from [the Preschool Program]. [The Student] has not been transferred to another program, and no educational services are being provided. This constitutes a drastic change of placement and denial at services without any IFSP team meeting, parental consent, or due process, and clear violation of IDEA."

    c. From January 21 to 22, 2026, the Parent filed a police report and a tort claim. The Parent claimed, "[T]he district willfully deleted [the Student's] entire student profile and associated records from its communication and data system." This included "the record

of [their] IFSP, communications, and progress, preventing the parent from meaningful participation in their educational planning and violating the right to access records."

60. The ESD reported it provided "the IFSP services described on the IFSP coversheet during December 2025, and those services are documented in [the ESD's] service log. [ESD] staff who were assigned to provide IFSP services to [the Student] (service coordinator, OT, ECSE providers) provided the IDEA-funded services that [the ESD] was responsible for, as reflected in the service documentation. [The ESD] therefore disputes the allegation that it failed to implement the IFSP. If the Parent believes specific IFSP-required supports (for example, site-level personal care routines or classroom supervision) were not provided by site staff, that concern pertains to [the District's] operation of [the Preschool Program] and not to [the ESD's] provision of IDEA services."

61. "[The ESD] disputes the allegation that [the ESD]… destroyed special education records. [The ESD's] special education records for [the Student] are intact and preserved in ecWeb, the Student Information System [the ESD] uses for EI/ECSE Records." The ESD provided the activity log for the Student's ecWeb file, which "does not indicate any deletions or removals of information by [ESD] users."

62. The ESD submitted special education records with its February 23, 2026 Response, including an ecWeb activity log for the Student's records and a "Declaration of Records Custodian" dated February 19, 2026.

    The Declaration stated, "I, [the Records Custodian], am the designated Records Custodian for [the ESD] and am responsible for maintaining the educational records of students, including [the Student]. Pursuant to FERPA and Oregon Administrative Rules, I hear by certify that the enclosed records are true and accurate copies of the educational records maintained for [the Student] in the ordinary course of business. These records are provided in response to an ODE complaint received on 02/09/2026. I declare under penalty of perjury under the laws of the State of Oregon that the foregoing is true and correct to the best of my knowledge."

63. ESD staff indicated that (1) parents can access their child's special education records online, using the ESD's parent portal, or (2) they can request copies of student records at any time. When asked, ESD staff reported they had no knowledge of any records request made by the Parent.

64. The District reported, "[The ESD] maintains Student's education records. The District has no role in providing the Parent with access to these records… the District does not utilize the Seesaw platform. The District does utilize ParentSquare; however, the District has never limited Parent's access to ParentSquare and Parent has had unrestricted access to contact the classroom teacher through ParentSquare. ParentSquare access was revoked when the Student was unenrolled from [the Preschool Program] at [the Elementary School] following the IFSP team placement decision."

65. The Parent's March 4, 2026 Reply noted, "For a child with [the Student's] disabilities, the IFSP inherently includes goals and supports related to health, safety, communication, and personal care as prerequisites for learning. The district's failure to ensure [the student's] basic physical needs… constitutes a direct failure to implement the necessary supports outlined in [their] IFSP, impeding [their] progress on all educational goals."

## IV. DISCUSSION

### Implementation of the IFSP

The Complaint alleged that the District and the ESD violated the IDEA by failing to provide ECSE and related services in accordance with the Student's IFSP.

An IFSP must be written before ECSE or related services are provided to a child, and services must begin as soon as possible following the IFSP meeting.[4]

Contractors and subcontractors must ensure that the IFSP is available to the parents at no cost and as soon as possible. Copies of a child's IFSP must also be made available to each regular preschool teacher, ECSE specialist, related service provider, and any other service providers who are responsible for its implementation. Contractors and subcontractors must inform each teacher and provider of their specific responsibilities for implementing the child's IFSP and the specific accommodations, modifications, and supports that must be provided for or on behalf of the child in accordance with the IFSP. Contractors and subcontractors must provide ECSE and related services to a child with a disability in accordance with the IFSP.[5]

In this case, the Student's IFSP was developed on September 5, 2025, shortly before the Student started attending the Preschool Program.

The Parent claimed that the District and the ESD failed to implement the Student's IFSP, stating the December 17, 2025 incident (Student being sent home without a jacket and with an unchanged diaper) was proof that the IFSP was not implemented. However, nothing in the Student's IFSP mentioned services or supports related to toileting or dressing the Student.

District staff reported the Student's needs related to toileting and clothing were addressed in the same manner as the rest of the class. The Student did not have any individual needs or specific plans related to toileting or clothing. These are general education issues, which applied the same to all students in the class regardless of disability status, and were not related to the Student's IFSP or ECSE services.

The ESD reported the ECSE service providers implemented the Student's services as identified in the Student's IFSP. There is nothing in the record to suggest that the District or the ESD failed to implement the Student's IFSP.

[4] OAR 581-015-2830; 34 CFR §300.323.
[5] OAR 581-015-2830; 34 CFR §300.323.

The Department does not substantiate this allegation.

**Placement and Least Restrictive Environment in ECSE**

The Complaint alleges that the District and the ESD violated the IDEA when it failed to ensure that the placement of the Student was determined by a group of persons, including the Parent, and other persons knowledgeable about the Student, meaning of evaluation data, the placement options; and that, to the maximum extent appropriate, ECSE services are provided in the least restrictive environment. Specifically, the District and/or the ESD unilaterally removed the Student from their current placement and no special education services have been provided since this occurred.

Contractors and subcontractors must ensure that a child's placement is determined by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of evaluation data, and the placement options. To the maximum extent appropriate to the needs of the child, ECSE services must be provided in the least restrictive environment in which children without disabilities participate.[6] In determining the least restrictive environment, the team must consider the continuum of alternative placements, as well as (1) modifications needed to implement the child's IFSP; (2) the level of support needed by the child; (3) any potential harmful effect on the child or on the quality of services they need; and (4) the child must not be removed from education in age appropriate classrooms solely because of needed modifications.[7]

District and ESD staff reported they had ongoing conversations with the Parent, including monthly meetings, regarding how the Student was doing in the Preschool Program, and concerns about behavior and safety issues. The District's ParentSquare message history confirmed that communication occurred between the Preschool Program and the Parent about these concerns. At the December 4, 2025 Parent Collaboration meeting, ESD staff expressed the opinion that the Student had a higher level of needs than could be addressed in the Preschool Program and they recommended an ECSE specialized classroom run by the ESD. Because the team knew the Parent needed the Student to be in a full-day program, the ESD offered to work with the Parent to combine ABA services and the ECSE class, as well as provide transportation between the two programs.

ESD staff indicated the Parent approved this plan and, therefore, the ESD scheduled the December 12, 2025 IFSP meeting to discuss a placement change. The ESD Provider conveyed that this meeting would not have been scheduled if the Parent was not on board with the plan to change the Student's placement.

At the December 12, 2025 IFSP meeting, the team, including the Parent, discussed placement options. District and ESD staff reported that the team agreed that a placement change was

[6] OAR 581-015-2865(1); 34 CFR §300.116.
[7] OAR 581-015-2865(5); 34 CFR §300.116.

needed to provide the Student with the appropriate level of adult support and direct instruction. While staff conveyed that the Parent was concerned that the transition would be difficult for the Student and was frustrated the Student could not continue to attend the Preschool Program half-time, there is no evidence in the record indicating the Parent expressed disagreement with the change in placement. The December 12, 2025 IFSP Participant document contained the Parent's acknowledgment and signature that they participated in the development of the plan, and they received the procedural safeguards notice provided by the ESD.

The change in placement made on December 12, 2025 was made by team agreement. The team determined that the placement change would be implemented in January 2026, once ABA services were in place.

The Student's last day at the District's Preschool Program was December 17, 2025. On December 17 and 18, 2025, the Parent reported the Student was sick, and the Student did not return to the Elementary School for the last two school days before winter break. After the break, the Student started attending the ESD's ECSE specialized classroom on January 7, 2026. There is no evidence of a gap in the Student's ECSE services. It is unclear why the Parent claimed that no special education services have been provided since the Student stopped attending the Preschool Program.

The Department does not substantiate this allegation.

**Parent Participation – EI/ECSE Program**

The Complaint alleges that the District and the ESD violated the IDEA by interfering with the Parent's ability to participate in decisions with respect to the identification, evaluation, IFSP and educational placement of the Student, and the provision of a free appropriate public education to the Student. This included unilaterally changing the Student's placement and preventing Parent's access to the Student's educational records on the District's Parent Square and Seesaw platforms.

Contractors or subcontractors must provide one or both parents the opportunity to participate in meetings with respect to the identification, evaluation, IFSP, placement, and the provision of a free appropriate public education (FAPE) to the child. This includes providing parents with written notice of meetings sufficiently in advance to ensure that parents will have the opportunity to attend.[8] The IFSP team must consider the concerns of the parents for enhancing the development of their child.[9]

(1) As previously stated, there was regular communication between the ESD, the District, and the Parent. The District and the ESD shared concerns that the Student would be better served in a more structured placement, with a higher level of adult support and direct instruction. The

[8] OAR 581-015-2750; 34 CFR §300.501.
[9] OAR 581-015-2820

December 12, 2025 placement change was made by the team at an IFSP meeting, including the Parent. There is no evidence that a unilateral change in placement occurred.

(2) The Parent claimed that the District "willfully deleted [the Student's] entire student profile and associated records from its communication and data system," including "the record of [the Student's] IFSP, communications, and progress[.]" The Parent noted that the District deleted information from the District's ParentSquare and Seesaw platforms.

The District asserted that it did not delete any of the Student's education records. The District submitted copies of the ParentSquare message history between District staff and the Parent in response to this complaint, as well as the Student's Profile for the 2025-26 school year, among other things. Regarding other records cited by the Parent, the District stated that it does not maintain the Student's special education documents, and it does not use the Seesaw platform.

The District reported that when a child is unenrolled from the District, parents can no longer use ParentSquare and other District platforms. However, parents can still obtain access to their child's education records by requesting copies from the District. The District stated it does not delete or destroy records when a student is unenrolled.

The Principal indicated that they waited until they received confirmation from the ESD that the Student was enrolled and started attending the ESD program before they unenrolled the Student from the Preschool Program at the Elementary School.

The ESD reported it is responsible for maintaining the Student's special education records. The ESD submitted copies of the Student's special education records in response to this complaint, including the Student's IFSPs and related documents. Additionally, the ESD submitted an activity log for the Student's records maintained by the ESD, as well as a declaration from the ESD's Records Custodian, attesting that none of the Student's records have been deleted.

The ESD indicated parents can view their child's special education records on the ESD's parent portal. Additionally, a parent can request copies of their child's education records from the ESD at any time.

There is no evidence in the record that either the District or the ESD deleted or destroyed any of the Student's education records. There is also no evidence in the record that the Parents requested access to any of the Student's records from the District or the ESD.

The Department does not substantiate this allegation.

**Free Appropriate Public Education (FAPE) for ECSE**

The Complaint alleged that that the District failed to provide the Student with a free appropriate public education.

A free appropriate public education must be available to all children residing in the State between the ages of 3 and 21.[10] For children beginning at age three, the State must ensure that the obligation to make FAPE available begins no later than the child's third birthday.[11]

Contractors and subcontractors must provide ECSE and related services to all resident children from three years of age until the age of eligibility for public school. For purposes of FAPE for ECSE, (1) a preschool child with a disability is considered resident of the service area where the child is currently living; and (2) "school district" means contractors or subcontractors.[12]

Virtually all case law interpreting the meaning of "FAPE" has involved school-aged children. In order to determine whether a child has been denied a FAPE, the courts review a district's compliance with the procedural and substantive components of the student's education. Reviewing courts must inquire whether the school district complied with the procedural requirements of the IDEA, and whether the school district met the substantive requirement to develop an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances.[13]

Not every procedural error is sufficient to rise to a denial of FAPE.[14] The procedural test consists of three pivotal procedural errors: (1) whether the student suffers a loss of educational opportunity;[15] (2) whether the parent's right to participate in the IEP process was infringed;[16] or (3) whether the procedural error caused a "deprivation of educational benefit."[17] Procedural errors rise to the level of a denial of FAPE where, absent the errors, there is a "strong likelihood" that alternative educational possibilities for the student "would have been better considered."[18]

In this case, the ESD was responsible for the implementation of the Student's IFSP and ensuring FAPE was made available to the Student. There is no evidence that the District or the ESD failed to implement any services or supports contained in the Student's IFSP. There is no indication that the Parent's right to participate was infringed, or that the Student suffered a loss of educational opportunity or benefit.

The Department does not substantiate this allegation.

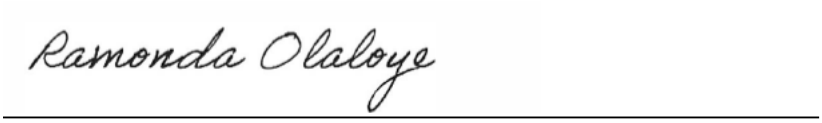
**V. CORRECTIVE ACTION**

*In the Matter of Beaverton School District 48J and Northwest Regional Education Service District*
*Case No. 26-054-014*

[10] OAR 581-015-2850; 34 CFR §300.101.
[11] OAR 581-015-2850; 34 CFR §300.101.
[12] OAR 581-015-2850; 34 CFR §300.101.
[13] *Endrew F. v. Douglas Cty. Sch. Dist.*, 137 S.Ct. 988, 999 (2017).
[14] *Amanda J. v. Clark Co. Sch. Dist.*, 267 F.3d 877, 892 (9th Cir. 2001) (citing *Roland M. v. Concord 13684 Sch. Comm.*, 910 F.2d 983, 994 (1st Cir. 1990)).
[15] *Target* Range, 960 F.2d at 1484.
[16] *Id.*
[17] *Amanda J.*, 267 F.3d at 892 (citing *Roland M.,* F.2d at 994).
[18] *M.L. v. Federal Way Sch. Dist*., 394 F.3d 634, 657 (9th Cir. 2005).

The Department does not order corrective action in this matter.

Dated: this 31 Day of March 2026



Ramonda Olaloye
Assistant Superintendent
Office of Enhancing Student Opportunities

E-mailing Date: March 31, 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).)