BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of McMinnville School District 40	)	FINDINGS OF FACT,
	)	CONCLUSIONS,
	)	AND AMENDED FINAL ORDER[1]
	)	Case No. 26-054-025

I. BACKGROUND

On February 20, 2026, the Oregon Department of Education (Department) received a written request for a special education complaint investigation from the parents (Parents) of a student (Student) residing in the McMinnville School District 40 (District). The Parents requested the Department to conduct a special education investigation under OAR 581-015-2030. The Department confirmed receipt of this Complaint and forwarded the request to the District.

Under state and federal law, the Department must investigate written complaints that allege violations of the Individuals with Disabilities Education Act (IDEA) and issue an order within sixty days of receipt of the complaint.[2] This timeline may be extended if the Parents and the District agree to the extension in order to engage in mediation or local resolution, or for exceptional circumstances related to the complaint.[3]

On March 4, 2026, the Department's Complaint Investigator sent a *Request for Response (RFR)* to the District identifying the specific allegations in the Complaint to be investigated and establishing a *Response* due date of March 18, 2026.

The District submitted a *Response* on March 18, 2026, denying the allegations, providing an explanation, and submitting documents supporting the District's position. The District submitted the following relevant items:

1. District's Written *Response* to Complaint, dated 03/18/26
2. Meeting Minutes & Notes, 09/15/2025 – 01/20/2026
3. Prior Written Notices (PWN), 11/10/2025, 12/04/2025, 12/17/2025, 02/10/2026
4. Emails between the parties, 02/13/2026 – 03/30/2026
5. Letters and Communication Plans, 02/06/2026 – 02/13/2026
6. Individualized Education Program (IEP) and Placement Documentation, 09/15/2025 – 09/18/2025
7. Behavior Support Plan (BSP), 11/17/2025
8. Manifestation Determination Review (MDR), 11/25/2025

[1] On April 21, 2026, the Department issued a Final Order I this matter. On April 22, 2026, the District requested clarification of the corrective actions. The Department issues this Amended Final Order.

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

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

9. Abbreviated School Day Summary and Consent, 12/19/2025

The District submitted additional documents on March 30, 2026:

1. Email, re: Additional Records Request, Department 26-054-025, 03/20/26-03/30/26
2. Standard Operating Procedure - Coordination Between [Education Service District (ESD)] and Sending Districts, no date
3. Letter of Americans with Disabilities Act (ADA) Accommodations, 02/13/26
4. Tutoring Schedule, 02/05/26-03/10/26

The Parents submitted a *Reply* on March 23, 2026, providing an explanation and rebuttal, and documents in support of the Parents' position. The Parents submitted the following relevant items:

1. Parent Response to the District's Response, 03/18/26
2. IEPs and Amendments, 09/19/2024 – 02/19/2026
3. Emails between the parties, 11/18/2025 – 02/19/2026
4. PWN, 02/10/2026, 02/19/2026
5. Abbreviated School Day Records, 12/19/2025 – 02/19/2026
6. Meeting Requests, 02/10/2026 – 02/17/2026
7. Behavior and ADA Documentation, 09/2024 – 02/13/2026
8. Communication Plan & Responses, 02/06/2026 – 03/18/2026
9. MDR, 11/25/2025

The Complaint Investigator interviewed the Parents on March 26, 2026, and District personnel on March 30, 2026. The Complaint Investigator received a written statement from the Student's mental health case manager on March 24, 2026. The Complaint Investigator reviewed and considered all of these documents, interviews, and exhibits in reaching the findings of fact and conclusions of law contained in this order. This order is timely.

II. ALLEGATIONS AND CONCLUSIONS

The Department has jurisdiction to resolve this Complaint under 34 CFR §§ 300.151-153 and OAR 581-015-2030. The Parents' 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 February 21, 2025, to the filing of this Complaint on February 20, 2026.

Allegations	Conclusions
When IEPs Must Be In Effect The Parents alleged the District failed to implement the Student's IEP when their enrollment in the ESD program was terminated on December 4, 2025, and the Student	**Substantiated** The District did not provide special education and related services in accordance with the

Allegations	Conclusions
didn't receive any services until they were placed on an abbreviated school day on or about January 7, 2026. (OAR 581-015-2220; 34 CFR § 300.323)	Student's IEP between December 5, 2025, and January 7, 2026. Failure to provide special education and related services prior to December 5, 2025 was addressed by the Department in a previous Complaint (Case No. 25-054-092).
Authority of School Personnel The Parents alleged the District did not provide the Student with services when the Student was suspended for more than 10 school days in a school year, and did not return the Student to the last placement when it was determined the Student's behavior was a manifestation of their disability, and the District's failure to implement the IEP. (OAR 581-015-2415, OAR 581-015-2420; 34 CFR § 300.530)	**Substantiated** The District did not initiate services beginning on the 11th day of the Student's suspension when they found the behavior was a manifestation of the Student's disability. The District did not return the Student to their last placement.
Prior Written Notice (PWN) The Parents alleged the District failed to provide the Parents with PWN when the Student was suspended for more than 10 school days in a school year. (OAR 581-015-2310(2); 34 CFR § 303.421(a))	**No Determination Made** This allegation was investigated and addressed by the Department in a previous Complaint (Case No. 25-054-092).
Parent Participation The Parents alleged the District did not offer to hold an IEP meeting at a mutually agreeable place when the February 19, 2026, IEP meeting was scheduled and subsequently held through video conferencing instead of an in-person meeting as requested by the Parents. Further, the Complaint claims the District did not accommodate one of the Parent's known disabilities when attending this IEP meeting. (OAR 581-015-2190(2)(D)(3), OAR 581-015-2195(1); 34 CFR § 300.322)	**Substantiated** The District did not offer to hold a meeting at a mutually agreed upon place when they required the Parents and their advocates to attend virtually while the District's staff attended in person.

REQUESTED CORRECTIVE ACTION
1. "Provide the correct number of [specially designed instruction] (SDI) hours (38 hours as of 12/19/25[,] 29 days total suspended) immediately at a location agreed upon by the IEP team." 2. "Mandatory training for school staff on calculating SDI owed and when to provide SDI." 3. "Provide PWN for suspensions this school year through 12/19/25." 4. "[M]andatory training of when PWN [is] required." 5. "[M]andatory training for school staff regarding manifestation meetings and actions to be taken when it is determined disciplinary suspensions were a manifestation of the disability and the school's failure to implement the IEP." 6. "Mandatory training on when IEP meetings must be in person, and order school to have ASD [*sic*] IEP meetings in person when requested by parent."

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 February 21, 2025. Any facts listed below relating to circumstances or incidents earlier than that date are included solely to provide the context necessary to understand the Student's disability and special education history.

1. The Student is 12 years old and previously attended a middle school in the District and a separate school operated by the Education Service District (Alternative School). The Student is currently in an abbreviated-day program and receiving tutoring.

2. The Student is eligible for services under the IDEA for Emotional Behavior Disability (EBD) and Other Health Impairment (OHI).

3. The Student has a strong sense of justice, a curious mind, is playful and funny, and enjoys basketball and friends.

4. The Student's September 19, 2024, IEP, with revision dates of November 5 and 22, 2024, and February 28, 2025, included the following relevant information:
   a. Parent concerns noted were the Student's reading and writing skills, and frustration that the Student's behavior distracts from the Student's learning. The Parents wanted an "effective plan in place" for the Student's disabilities, which included EBD, "Intermittent Explosive Disorder," Attention-Deficit/Hyperactivity Disorder (ADHD), Autism Spectrum Disorder (ASD), and anxiety. The Parents also expressed their need for communication between school and home.
   b. Present Levels of Developmental and Functional Performance were revised on February 28, 2025, and included confusion with social cues, school as a "huge stressor," the Student

struggling to "manage when [there are] demands or stacked consequences," and a change in routine was also challenging. "Adult assistance will be added to the service summary page as an accommodation" to "provide support during transitions, academic instruction and completion, self-regulation, problem-solving conversations, safety, unstructured activities, and facilitation of appropriate peer interaction." Additionally, on February 7, 2025, the Student's placement was in a self-contained program in a separate public school and "the school team is accessing a Personal Learning Environment (PLE), which is a highly structured setting, to increase [the Student's] academic time on task in addition to increasing [the Student's] social engagement with a staff member."

c. Special Factors indicated the Student had a Behavior Support Plan (BSP) and a goal in the area of Social-Emotional Learning (SEL), as well as a need for assistive technology devices, including text-to-speech, speech-to-text, and talk-to-text.
d. IEP Goals were as follows:
    i. Reading- "By September 2025, [the Student] will increase [their] foundational literacy skills to 80% or higher in 4/5 trials."
    ii. Written Language- "By September 2025, given a topic, background knowledge or source knowledge (from text, visual, audio, or video), and word processing tools, [the Student] will write one paragraph with a topic sentence, three supporting details, and a concluding sentence with correct grammar and conventions in 4/5 trials."
    iii. Math- "By September 2025, with a multiplication chart, [the Student] will add, subtract, multiply, and divide multi-digit decimals to the thousandth place accurately in 4/5 trials."
    iv. Social Emotional- "By September 2025, [the Student] will follow directions and respond to adult requests in an appropriate and timely (30 sec-1 minute) manner in structured and unstructured contexts 8/10 times."
    v. Social Emotional- "By September 2025, [the Student] will display productive school behavior on a daily basis at least 80% of the time."
    vi. Social Emotional- "By September 2025, [the Student] will identify [their] level of anxiety or frustration and use an appropriate strategy to de-escalate/cope 80% of the time."
    vii. Organizational/Study Skills- "By September 2025, given a complex task, [the Student] will organize the task, including what materials are needed, the steps to complete it, and how long it will take in 4/5 trials. Needs one-on-one help."
e. Specially Designed Instruction (SDI) included the following, provided by the Local Educational Agency (LEA) Case Manager in the special education classroom, for the duration of the IEP:
    i. Reading, 600 minutes per month;
    ii. Written Language, 480 minutes per month;
    iii. Math, 600 minutes per month;
    iv. Social/Emotional, 480 minutes per month; and
    v. Organizational/Study Skills, 240 minutes per month.
f. Related Services for the duration of the IEP included counseling "as needed including rehabilitative counseling; crisis counseling as needed; therapeutic recreation, in process of putting in a garden; have to have data that supports the need [for] [Occupational Therapy (OT) and Physical Therapy (PT),] fine motor[,] gross motor[,] it is about [the

Student's] mental status, anxiety and dep [*sic*] and physical activity helps with that," provided by a case manager in a special education classroom, for 60 minutes per month. Additionally, transportation "home/school," twice daily was included.

g. Supplementary Aids/Services: Accommodations included:
   i. Adult assistance for transitions, academic instruction and completion, self-regulation, problem-solving conversations, safety, unstructured activities, and facilitation of appropriate peer interaction, provided by a case manager in all settings for 360 minutes per day from March 1, 2025 to September 18, 2025.
   ii. "Movement and brain breaks at least once per block period (or every 20 to 30 minutes with one [Full Time Equivalent] FTE dedicated to accompany [the Student] 60-90 minutes) as needed (10 to 20 min[utes] [,] 3 to 5 min[utes] each, up to as needed with a goal of reducing the time [to] 20 min[utes] [per] day)." This was to be provided by a case manager in the classroom for 20 minutes per day throughout the IEP.
   iii. Supplementary aids and services provided by a case manager in the classroom for the duration of the IEP included:
      (1) Provide extended time on assignments and assessments, 120 minutes per month;
      (2) Provide multiplication tables, hundreds chart, calculator, manipulatives to support math instruction, 360 minutes per week; and
      (3) Speech-to-text or a scribe to capture ideas in writing for assignments and tests, 120 minutes per month.
      (4) Multimodal instructions and check for clarity of understanding, 120 minutes per month;
      (5) Provide graphic organizers, sentence frames, outlines, and guided notes to assist in assignment completion, 180 minutes per week;
      (6) Text-to-speech, audiobooks, read aloud for grade level materials and for above current functioning level materials, along with all directions, 120 minutes per month;
      (7) Strategic seating to reduce distractions and focus attention on learning, 360 minutes per day;
      (8) Frequent check-ins to provide help and encourage task initiation and completion, 240 minutes per week;
      (9) Provide alternative means to demonstrate mastery as needed, 120 minutes per month;
      (10) Use the BSP to guide proactive and reactive practices when the Student needs support, 360 minutes per day;
      (11) Provide a menu of coping strategy options for the Student to select from when dysregulated, 360 minutes per day; and
      (12) Chunk larger assignments, assessments, and projects into manageable segments, 120 minutes per month.

h. The team determined on February 7, 2025, the Student would be "removed from special education peers into a highly structured [PLE] to increase [their] academic time on task[,] in addition to increasing [the Student's] social engagement with a staff member. This plan will be reviewed every 2-4 weeks as the team gradually increases [the Student's] time in the classroom setting and/or with individual peers[,] which will be based on data and observations. [The Student] is currently spending 30 min[utes] daily of PE and 15

min[utes] daily in recess with [their] classroom peers. An attached step-up plan will be reviewed and monitored as [the Student's] time is increased." The explanation provided was "difficulties with self-regulation, attention, and cognitive flexibility." It was noted the Student needed SDI in a structured environment.

5. A September 2024 BSP included the following relevant information:
   a. The Student experienced challenging behaviors such as disrespect toward adults, physical aggression, elopement, and lack of academic engagement.
   b. Setting events and triggers included arriving to a group upset, hunger, unstructured time, negative interactions with a sibling, non-preferred tasks, perceived difficult academic tasks, when the Student is missing something, when an adult attempts to problem-solve when the Student is already frustrated, uncomfortable feelings, awareness of peers understanding academic material, and change in routine, staff, or expectations.
   c. The function of the behavior was a need for movement and sensory stimulation or reduction, and regular movement breaks might fulfill the Student's sensory needs. Additionally, an increase in challenging behaviors was observed when academic expectations were placed on the Student.
   d. Preventative Strategies included:
      i. Multiple movement breaks.
      ii. Provide reminders to use strategies and visual supports.
      iii. Repeat directions and chunk assignments into steps.
      iv. Strategic seating.
      v. Reminders of expectations with a visual schedule and provide multiple consistent warnings of change.
      vi. Provide clear expectations about the amount of work.
      vii. Create consistency among staff in the use of redirects, prompts for calming strategies, and routines.
      viii. Help the Student develop concrete solutions to problems.
      ix. Work with other adults in the building to establish positive relationships.
      x. Provide a calm-down space and provide the option to eat snacks outside of traditional times.
      xi. Consider all increases in academic demands carefully and, as academic tasks are presented, watch for signs of frustration and offer support.
      xii. Call one of the Parents to problem-solve.
      xiii. Consistent consequences.
      xiv. Breaks cannot be taken away as a consequence.
      xv. Say less and suggest, show, or do.
      xvi. Check in with the Student at the start of the day or class.
   e. Teaching Strategies included instruction in the use of instructional strategies and tools, along with self-regulation strategies. Additionally, teaching strategies for when the Student's needs are not being met, and model expectations using a gradual release for behavior and learning.
   f. Response Strategies included:

i. Appropriate behavior response strategies included building confidence and a growth mindset, positive reinforcement, reminders of how great the Student was, and full access to break activities.
ii. Challenging Behavior strategies were collaborative problem-solving, prompt for calming strategies, redirect to the task, maintain a calm and neutral affect, use similar language across environments, loss of use of supplies used in an unsafe manner, offer a five minute calming break, move the Student closer to the teacher, ignore to the fullest extent possible, reminder of possible consequences, and reiterate the expectation.
iii. Unsafe Behavior strategies were consistent consequences, a reminder there will be consequences, an email was sent to the Parents the same day, and "home communication is key."

6. A September 10, 2025, Special Education Notice of Team Meeting outlined an in-person meeting scheduled for September 15, 2025, to develop or review the Student's IEP. The Behavior Intervention Teacher, the Parents, the Principal, the Case Manager, the Middle School Principal, and Student Services Coordinator 1 were "the individuals required to attend."

7. A September 15, 2025, list of IEP Services from the Alternative School indicated the following relevant information, with all services continuing from September 16, 2025 to September 14, 2026:
   a. SDI for Behavior- social/emotional, 120 minutes per month in the counseling office.
   b. SDI for Behavior, 400 minutes per month at all school sites.
   c. SDI for Reading, 600 minutes per month at all school sites.
   d. SDI for Written Language, 480 minutes per month at all school sites.
   e. SDI for Math, 600 minutes per month at all school sites.
   f. Related Services included transportation twice daily.
   g. Supplementary Aids and Services; Accommodations, all from September 16, 2025, to September 14, 2026, included:
      i. Behavior Plan-reviewed annually and used daily across all settings at all school sites.
      ii. Instructional Materials-break large projects into shorter goals, when giving multi-step or project-based assignments, in a self-contained class at all school sites.
      iii. School Setting-needs breaks, 10-minute break every 30 minutes at all school sites.
      iv. School Setting-seat away from distractions, seat close to preferred adult at all school sites.
      v. Student behavior-set goals with the Student daily as part of the check-in/check-out at all school sites.
      vi. Support tools-calculator, during math assignments in the self-contained class.
      vii. Teaching mode-immediate feedback given privately at all school sites.
      viii. Teaching mode-read directions aloud when grade-level materials and tests are given in the special education classroom.
      ix. Extended time on academic tasks-an extra day for every day given in the special education classroom.

x. Simple instructions broken into smaller tasks with simple language in the special education classroom.
xi. Hands-on tasks-manipulatives and hands-on to show mastery in a special education classroom.
xii. Organizational tools-folders of different colors in the special education classroom.
xiii. Alternative assignments to show mastery for all assignments in the special education classroom.
xiv. Access to a mental health professional to debrief after a crisis event, following an escalation, in the special education classroom.
xv. Movement and brain breaks for tasks with a purpose and a menu of coping strategies, at all school sites.
xvi. Frequent access to a counselor, as needed for SEL instruction, in the counseling office.
xvii. Adult assistance throughout the day to ensure safety and allow the Student to access PE, at all school sites.

h. Supplementary Aids and Services; Modifications, all from September 16, 2025, to September 14, 2026, included:
   i. Instructional materials of individual curriculum and reduced amount of work (50% of expectation), both in the special education classroom.
   ii. Show mastery orally or by other alternative means, when writing is not being assessed, in the special education classroom.
i. Program Modifications/Supports for School Personnel included 10 minutes of sharing the Student's quarterly progress between the District and the Alternative School.

8. Meeting Minutes from the September 15, 2025 IEP Meeting, added the following relevant information:
   a. The meeting was facilitated by a Department Facilitator.
   b. The Parents were concerned with mental health support for the Student and a one-to-one. The Parents noted they wanted the Student to attend a Day Treatment Program, but were willing to consider Alternative School 2. One of the Parents stated they wanted the District to fund the Student's attendance at the Day Treatment Program if the Alternative School 2 did not "work."
   c. One of the Parents asked about adding the need for "counseling/debrief following any incidents" to the Student's IEP. The District's Special Education Director stated they needed data demonstrating a need before they could add "Recreational and Rehabilitative Therapy," and that the data needed to be collected at school.
   d. One of the Parents asked to have crisis counseling added to related services, and the IEP team agreed to add it as an accommodation.
   e. One of the Parents asked the District to "start the process of an evaluation for [that] area for [the Student]."

   Part two of the IEP meeting occurred on September 19, 2025, and the Meeting Minutes note:
   f. The Special Education Director discussed placement options and noted that the IEP Team determined the Student's needs, level of service, and placement, while the District determined the location.
   g. The IEP team, except for the Parents, believed the Student needed a "higher level of care."

h. The Department Facilitator clarified that the district representative would make a determination regarding placement if the IEP team was not in consensus.
i. The Special Education Director, serving as the district representative, determined the Student needed a higher level of care.
j. The Parents did not agree and refused to sign the Release of Information (ROI) to allow the District to "explore therapeutic day treatment options."
k. One of the Parents "became visibly upset, said [they] were going to file a stay put order, and then started shouting insults at [the Special Education Director]."
l. The Department Facilitator ended the meeting.

9. In their Reply, the Parents noted that on September 18, 2025, the Student's placement was changed "without any discussion, input, or collaboration" from the Parents to a day treatment program. Additionally, the Special Education Director stated a referral would be made to the Alternative School 3 first before the District would look at other options, including the Day Treatment Program.

10. According to a September 18, 2025, Special Education Placement Determination document, the IEP Team selected the placement option of "public separate school, out of district, day treatment."

11. A PWN dated November 10, 2025, noted the following relevant information:
    a. The District refused one of the Parents' requests for an IEP meeting, stating the IEP team had selected a day treatment placement on September 18, 2025, and the Parents had signed an ROI on October 31, 2025. "[T]he packets had been submitted" to potential day treatment centers on November 5, 2025, and "The plan [was] to have [the Student] in [their] new placement asap."
    b. The District considered holding an IEP meeting per the Parents' request, but denied that option because the IEP team selected the day treatment placement, and it "was clear" the Student's needs could not be met at the Alternative School.

12. The Student's BSP was updated on November 17, 2025, with the following relevant additions:
    a. The Student experienced behaviors such as elopement, elopement off campus, physical aggression, property destruction, verbal threats, and simulated choking of peers or self.
    b. Preventative interventions included:
        i. Utilize strategies the Student is responsive to.
        ii. Avoid saying "no" and instead use problem-solving.
        iii. Find ways to make requests less assertive, such as by using humor or playfulness.
        iv. Use declarative language and offer flexibility and options.
        v. Redirect using a special interest.
        vi. Give clear expectations and pre-teach expected outcomes when possible.
        vii. Use reflective listening.
        viii. Provide frequent gross motor breaks.
        ix. Show empathy by acknowledging the Student's concerns before acknowledging anyone else's.
        x. Provide choices visually throughout the day.

xi. Allow processing time.
xii. Provide consistent access to snacks.
xiii. Provide activities that engage the Student's hands, such as coloring or building.
xiv. Encourage the use of problem-solving skills.

c. All staff supporting the Student will focus on building "authentic connections."
d. Staff will create a daily schedule for the Student.
e. Reinforcement and self-monitoring included:
   i. Set clear goals for the day in small chunks.
   ii. Identify a reinforcer for the day for maintaining safety.
   iii. Send a class rating scale and daily tracker home every day.
f. Scheduled time daily for social-emotional learning.
g. Post-escalation procedure once the Student is no longer engaging in problem behavior and is engaging with staff:
   i. Provide clear expectations regarding the next options.
   ii. Provide a high level of praise and attention for expected behavior.
   iii. Allow additional processing time post-escalation.
   iv. Avoid making demands and provide space for the Student to process and choose the next activity.

13. On November 18, 2025, the Alternative School suspended the Student and subsequently informed the District that the Student could not return to school until an IEP meeting was held.

14. In a November 18, 2025, email to the Special Education Director, the Parents indicated this day was the Student's 11th day of suspension and requested a Manifestation Determination Review (MDR) meeting. They also requested an IEP meeting "to determine the number of hours of compensatory education the [District] owes [the Student] and the interim alternate education setting it will occur in." The Special Education Director replied on November 21, 2025, provided the date for the MDR (November 25, 2025), and stated, "I heard your request for an IEP meeting. We will schedule one after Thanksgiving."

15. According to the District's Response, "An MDR for this removal was held on November 25, 2025 because [the] Student had been removed for more than 10 cumulative days as of November 18, 2025. PWN dated December 4, 2025, was issued following the November 25, 2025 MDR."

16. In a November 24, 2025, email to the Special Education Director, the Alternative School Principal (Principal), the Behavior Intervention Teacher, Parents' Advocate 1 and 2, District Student Services Coordinator 1, and the Student's private mental health case manager (Outside Case Manager), the Parents stated the Student had "been suspended 15 days[,] tomorrow will make 16." The Behavior Intervention Teacher replied the same day, indicating there was no school that week due to the Thanksgiving holiday.

    a. The Special Education Director replied, "Since school is closed today and tomorrow, [the Student] has been suspended for 14 days. That means we owe [the Student] 4 days of

education. [The Principal], please confirm." The Principal replied, affirming this was correct.

b. The Parents replied on December 1, 2025, and noted the Student had been suspended for 15 days. They stated, "At the manifestation meeting on November 25, 2025, it was determined that [the Student's] behavior is a manifestation of [their] disabilities, and it was also determined it was a result of the [Alternative] School not implementing the IEP. [The Alternative School Principal] admitted at the meeting that the [Alternative] School is not implementing the part of [the Student's] IEP in which the [Alternative] SCHOOL [*sic*] is to provide counseling[,] stating that there are no mental health professionals or counselors on staff." The Parents asked what would be done to correct this.

17. According to MDR paperwork dated November 25, 2025, the Student's behaviors were "aggression toward staff" and "shoved staff" on November 18, 2025, with "disciplinary removal" on November 19, 2025. The current IEP relevant to this MDR was dated September 15, 2025. Consideration of relevant student information included information provided by the Parents, the current IEP and placement, disciplinary information, the Student's November 14, 2025 BSP, and that the Student's behavior demonstrated a pattern. The boxes next to each of the following statements were checked "yes": "The conduct in question was the direct result of the district's failure to implement the student's IEP"; "The conduct in question was caused by or had a direct and substantial relationship to the student's disability(ies)"; and "The conduct/behavior is a manifestation of the student's disability." The Behavior Intervention Teacher completed the form, and the procedural safeguards were offered to the Parents. No associated meeting notes were provided.

18. In their Reply, the Parents noted that, on November 25, 2025, after the District determined the behavior was a result of the Student's disability, the Alternative School failed to return the Student to their previous placement and instead "inappropriately excluded" the Student from school.

19. In a December 1, 2025 email to the Parents, the Principal stated the reason for "the delay in re-entry" was due to guidance from the ESD's attorney, "who advised since placement had been previously determined in a prior meeting[,] any discussion of re-entry needs to be delayed until [the Student's] IEP meeting," and they would address placement at that time. They also noted in the MDR, the Student's behavior was found to be a manifestation of their disability, the Alternative School could not implement the IEP as written because staff could not get the Student to attend for SDI, and the Student's behaviors had "escalated throughout the year" and were at a point in which the IEP could not be implemented as written because the Student was not able to enter the classroom and attend to instruction "in the absence of aggression towards peers or staff."

    a. The Parents replied the same day and asked whether there would be a meeting on Thursday [December 4, 2025].

    b. In a December 2, 2025 email to the Parents, Student Services Coordinator 1 sent a calendar invite with a virtual meeting link. On December 3, 2025, the Parents replied, "Today makes 17 days [the Student] has been suspended from school this school year."

On December 5, 2025, at 1:57 p.m., the Parents replied, "Today make[s] 19 days [the Student] has been suspended."

20. An IEP Meeting for the Student was convened on December 4, 2025. Meeting Notes from the December 4, 2025 IEP Meeting included the following relevant information:
    a. The following were in attendance: Student Services Coordinator 1, the Behavior Intervention Teacher, the Principal, Advocate 1, Advocate 2, the Parents, and the Outside Case Manager.
    b. One of the Parents asked about compensatory time, and if the Student was suspended "indefinitely."
    c. One of the Parents asked about the Student's suspension time and when the Student would return. The Principal stated the Student would not return to the Alternative School. The Student Services Coordinator 1 added it could be "a couple of months" before the Day Treatment Program had room for the Student.
    d. The IEP team agreed to discuss the need for a "one to one" for the Student.
    e. The Student had been suspended for 18 days as of the meeting date.
    f. The Student Services Coordinator 1 suggested setting up tutoring. The IEP team discussed an hour of services "maximum" and asked if it could be done virtually for safety. The team also discussed providing services at the Alternative School.
    g. The Student Services Coordinator 1 stated they would develop an outline of minutes for tutoring services.
    h. Advocate 2 stated the Student was owed 16 hours of compensatory services based on their SDI, but one of the Parents disagreed that this was the correct amount of services owed.

21. PWN from the District, dated December 4, 2025, documented the following:
    a. The multidisciplinary team met to hold an MDR meeting with a "district representative, the [P]arents, and the [ESD]."
    b. The action was proposed because the team wanted to review the behavioral incident and disciplinary response "in light of" the Student's disability and the severity of the behavior.
    c. The team considered not holding an MDR meeting but rejected that option because the team "recognized the severity of the behavior that led to the disciplinary action of suspension from school for 1 day."
    d. The team determined the incident was a "direct failure of IEP implementation and that it was directly related to the [S]tudent's disability."
    e. The team determined the Student should remain home until the Student's IEP Team could hold the IEP meeting requested by the Parents.

22. A second December 4, 2025 PWN documented the following:
    a. Counseling services, as written in the Student's IEP, were not provided.
    b. According to the meeting minutes from the Student's most recent IEP meeting, the team agreed to add a Qualified Mental Health Professional (QMHP) as an accommodation; however, the IEP used the term "counselor" instead of "QMHP." The Alternative School did not have a school counselor on staff, and its associate principal, a school psychologist, served as the QMHP. The accommodation was provided, but not as written.

c. The Alternative School was considered a program rather than a school and was not required to have a school counselor on staff.

23. A third December 4, 2025 PWN documented the following:
    a. The District denied the Parents' request for a one-to-one adult assistant for the Student.
    b. The team considered adding a dedicated one-to-one adult assistant for the Student, but the information provided by the Alternative School indicated the Student had consistent adult assistance throughout their school day and did not need additional support.

24. In a December 4, 2025 email to the "team," Student Services Coordinator 1 provided a breakdown of the SDI in the Student's IEP. They calculated a total of 110 minutes per day with 6 minutes per day for "Behavior-SEL," 20 minutes per day for "Behavior," 30 minutes per day for "Reading," 24 minutes per day for "Written Language," and 30 minutes per day for "Math." They also noted: they would send the updated BSP when they had it; they requested the signed consent for the OT screener; the Behavior Intervention Teacher sent out the MDR with PWN earlier that day; and they would send out PWN from "today's meeting regarding the request for the 1:1 and counseling services."

25. In a December 5, 2025 email to the Parents, the Special Education Director stated, "beginning on the 11th school day of suspension in a school year, and each school day of suspension thereafter, we owe the [S]tudent their services or [SDI] as listed in their IEP. [Student Services Coordinator 1] will work with you to get services set up."

26. On December 5, 2025, the Special Education Director emailed the Parents again to "set up a placement meeting" for the Student. They noted there was already a meeting scheduled for December 17, 2025 but "was hoping" they could meet before then since the Student would not be returning to the Alternative School. The Special Education Director offered December 15, 16, and 17, 2025 as potential dates. One of the Parents stated they preferred to "add discussing placement to the meeting already scheduled" on December 17, 2025.

27. In a December 8, 2025, email to the Special Education Director, with Student Services Coordinator 1, the Principal, the Behavior Intervention Teacher, Advocate 1, Advocate 2, the Outside Case Manager, and the Superintendent copied, the Parents stated, "today makes the 20th day that [the Student] has been suspended this school year."

28. In a December 13, 2025, email to Student Services Coordinator 1, the Parents shared they looked forward to the December 17, 2025, meeting. They noted the Student had been suspended for 24 days as of December 12, 2025. They asked to "have a solid plan" at the upcoming meeting for compensatory education. They indicated they understood the Special Education Director wanted to discuss placement and "the IEP team previously determined that [the Student's] placement is day treatment." They added they wanted to talk about a plan for PE because it was something the Student "needs." They also stated, "On September 18, 2025, the IEP team determined that the school would have an OT assessment done on [the Student] to determined [*sic*] what therapeutic recreation would be good for [the

Student's] Mental Health." They requested a "solid date" when the Behavior Intervention Teacher would get back to them regarding "the initial questionnaire" that went to the OT.

29. An IEP meeting was convened for the Student on December 17, 2025 to discuss the Student's placement. According to a Special Education Placement Determination, the IEP team considered four placement options for the Student. Of those options, the team selected the following two placements:

    a. Public Separate School. Benefits of this option include, "Theraputic [*sic*] setting," "Highest levels of adult support," "Specially trained staff," "Highest levels of individualized attention," and "Opportunity for a parallel schedule." The possible harmful effects of this option include, "No contact with general education peers or curriculum," and "Away from resident school."
    b. Homebound, Abbreviated School Day Program provided through tutoring. Benefits of this option include, "Continued instruction towards IEP goals," and "One on one adult instruction." The possible harmful effects of this option include, "Away from non-disabled peers," and "Limited access to the general education curriculum." The rationale for this selection was, "The team chose this option while placement at a Separate Public School (Day Treatment) is being pursued.

30. In a December 17, 2025, email to Student Services Coordinator 1 and "all," the Parents followed up on the IEP team meeting that day and on compensatory education. They reported the Student's placement "reverted back to" the Middle School on December 4, 2025, because the Principal at the Alternative School said the Student could no longer attend there. "As a result, [the Student] has been without a school placement since December 4, 2025." They noted the temporary plan was for the District to hire a tutor to provide services at a family resource center while they wait for the Student's placement in "day treatment." The Parents agreed to an abbreviated school day for the Student while they were in a "temporary placement pending placement in Day treatment," but the Parents maintained their right to withdraw their consent for this at any time.

31. A Parent/Guardian Abbreviated School Day Summary and Consent dated December 17, 2025, indicated the District offered, and the IEP team considered, "at least one reasonable alternative full-day placement" and discussed "tutoring as a consideration of a reasonable alternative full-day placement." Tutoring was being offered "while the team pursues a placement at a Day Treatment Program." The abbreviated day would help the Student toward their IEP goals because they would be "provided with 1:1 instruction addressing both [the Student's] IEP goals and the general education curriculum." The plan set forth was for the team to meet in 30 days, and if a Day Treatment Program had not been secured, the team would re-evaluate the current plan of tutoring "and determine the best support of [the Student's] needs." Measurement of progress would be through "data tracking" and "student work samples." There would be 270 minutes of instruction per week, and the Student would be "expected to return to a full day on [To Be Determined] TBD." Nine checkboxes were checked, indicating agreement with the plan and understanding of rights regarding an abbreviated day, and the form was signed by one of the Parents on December 19, 2025.

32. PWN, dated December 17, 202[5], confirmed the information and services stated in the aforementioned Abbreviated School Day Summary and Consent dated December 17, 2025.

33. In a December 20, 2025, email to the District, the Parents noted, because the Student's MDR indicated the behaviors were a manifestation of their disability, they believed the IDEA required the Student to return to the placement from which they were suspended. Their understanding, as conveyed by the Special Education Director, was that the Student was only entitled to compensatory education through December 4, 2025 because the Student was, at that point, considered to "not have an educational placement, instead of being suspended." The Parents asserted their belief the Student was still suspended because they had not returned to the placement from which the Student was suspended, and the District owed additional compensatory education. The Outside Case Manager replied to this email on December 26, 2025, stating they believed the Student was owed 38 hours of compensatory education as of December 19, 2025.

34. Meeting notes dated January 20, 2026 indicated the Outside Case Manager, Advocate 2, the Parents, the Student Services Coordinator 1, the Principal, and the Student attended an abbreviated day review meeting. The notes do not indicate whether the meeting was held in person or virtually. The notes documented the following relevant information:
    a. The Student's abbreviated day began on December 17, 2025. It had been 35 days, and the Student had participated in 5 tutoring sessions.
    b. SDI and "time owed" would be discussed during another meeting.
    c. If at any time the Parents wanted to change the plan, the District would have 5 days to move the Student to the prior placement.
    d. One of the Parents asked how the IEP goals were to be measured. They cited state administrative rules requiring it to be in writing. One of the Parents noted the Student functioned well with one-to-one support.
    e. The Outside Case Manager asked whether the team could keep the referral to the Day Treatment Program, even if they chose another option, while they waited for space to open.
    f. The date to return to full-day was still being determined because they did not know the Day Treatment Program's status.
    g. Transportation would be discussed once the placement was determined.
    h. The Student was scheduled to tour the Day Treatment Program on January 23, 2026.
    i. The District offered the Educational Growth Center (EGC) as a full-day option.
    j. The Team decided to keep the service minutes the same since tutoring had just recently begun after winter break.
    k. The Student's expected return date was listed as "pending a day treatment placement." The Team agreed to leave that question as pending without listing a return date.
    l. The next meeting was scheduled for February 20, 2026, at 10:00 a.m and could be in person.

35. A document titled Amendment to Annual IEP - Present Level of Academic and Functional Performance, dated January 20, 2026, indicated the Student was placed on an abbreviated

day and was receiving services through tutoring. The document added the Student was attending tutoring for 90 minutes a day, three days a week, and noted the Student had attended five sessions.

36. In a February 6, 2026, letter to the Parents, the Attorney for the District outlined a communication plan for email and in-person communications. This plan addressed the Parents' concerns about the District's communication with them and concerns staff had shared about how the Parents communicated with staff, "including during in-person meetings." The plan indicated:
    a. Student Services Coordinator 2 was the point of contact, and the intent was to be sure messages were received and responded to.
    b. Email responses from the District would be sent within three working days.
    c. The Parents should leave a voice message when they call, and it would take up to two "business" days for the phone call to be returned.
    d. "Any email that includes personal attacks, name-calling, threats, and/or intimidating and/or harassing language/statements will not be responded to. Similarly, staff have been directed to end any in-person or telephonic conversation when abusive language is used, etc."
    e. Once the Student was back in school, the Parents could reach out directly to the Student's school for time-sensitive matters.
    f. "All in-person meetings must be scheduled in advance."

37. In a February 6, 2026 email to the Attorney for the District, the Parents stated they had not called names, made threats, or cursed in any of their emails, and they were requesting the upcoming February 19, 2026, IEP meeting be in person. They indicated they would not be able to meaningfully participate in the Student's education because of their "severe hearing problems."

38. In a February 10, 2026 email to the Parents, the Attorney for the District noted the February 19, 2026, meeting to discuss the Abbreviated School Day Program would be held virtually. They indicated "there are many ways to comply with both the intent and plain language of the statute and obtain meaningful participation without holding an in-person meeting. Moreover, although I understand that the last in-person meeting did not result in safety concerns, I also understand that in past meetings staff have become concerned for the physical safety of their colleagues due to your behavior during in-person meetings. In short, I can confirm that the meeting next week will, in fact, be held virtually, and that you will receive all of the necessary information so that you can participate." They acknowledged the request for an ADA accommodation, stated staff had not observed an impact on the Parents' ability to participate in previous virtual meetings, and said they would be happy to receive "any and all information" so the District could "fully consider your request for an accommodation, as well as whether alternative accommodations might be able to provide the same level of access as in-person meetings."

    a. The Parents replied the same day, "This IEP team meeting is to be in person unless we consent to holding it via telephonic or other electronic means, and we do not consent."

b. The Attorney for the District replied to the Parents, stating it was the first time one of the Parents had requested ADA accommodations, and added school staff had not "observed an impact on [their] ability to participate in previous virtual meetings due to a disability." The Attorney for the District confirmed the meeting would be held virtually, the Parents would receive "all of the necessary information" to participate, and the District would ensure the "closed captioning" feature was turned on for the meeting.

39. A February 10, 2026, Meeting Request indicated a meeting was scheduled on February 19, 2026, for "Abbreviated School Day Program Review" with the meeting location listed as, "[Middle School] Office and Virtual." Those invited were the Parents, Student Services Coordinator 2, the Middle School Administrator, two special education teachers, Advocates 1 and 2, and the Outside Case Manager.

40. PWN dated February 10, 2026, addressed the Student's placement. "[The Student] was removed from school for 8 days beginning on November 18, 2025 through December 4, 2025, due to disciplinary action. This places [the Student] over 10 cumulative days of suspension for the school year and changes [their] placement for the duration of the suspension." This PWN was drafted as part of corrective actions ordered in a previous complaint.
    a. The explanation indicated, at the MDR on November 25, 2025, the Alternative School needed the suspension to continue until the District scheduled an IEP meeting for December 4, 2025, because the Student was not allowed to return to the Alternative School.
    b. Description of records used included a file review of disciplinary actions and a BSP.
    c. Description of options considered included provision of in-school suspension (ISS), but "the nature of the offense warranted" an out-of-school suspension (OSS).
    d. Description of relevant factors stated, "At the time of the suspension, the team believed [the Student] would return to the [Alternative] School, so no changes were made to the placement page. Once [the] District was made aware that returning to the [Alternative] School was not an option for [the Student], a placement meeting was scheduled and [the Student] was moved to the placement of Homebound (Abbreviated Day through tutoring at a District site) while waiting for a placement at a Separate Public School outside of the District boundaries."
    e. This decision was proposed for implementation on November 18, 2025.
    f. The statement "Procedural safeguards [were] provided to the Parents" was initialed by Student Services Coordinator 1.

41. In a February 13, 2026, 2:57 p.m. email to the Parents, the Attorney for the District confirmed the meeting the following week would be virtual due to "the safety concerns voiced by multiple staff members." They ensured the District would "send [the Parents] the necessary information so that [they] can fully participate."

42. In a February 13, 2026, email sent at 4:24 p.m. to the Attorney for the District, the Parents attached a letter from a medical provider "indicating [their] disability and that [they] need to attend IEP meetings in person in order to meaningfully participate."

a. A February 13, 2026 letter from a medical doctor outlined one of the Parents' hearing loss, which "makes video or phone visits impossible for [this Parent] to get a complete understanding of the interactions." The medical doctor stated, "Please provide accommodation to allow [this Parent] to attend any of [the Student's] academic and IEP meetings in person to allow [this Parent] to understand what is being reported."

43. In a February 17, 2026 email to the Attorney for the District, the Superintendent, the Special Education Director, the Middle School Administrator, the Outside Case Manager, Advocates 1 and 2, and the Parents, Student Services Coordinator 2 stated they looked forward to the February 19, 2026 meeting and "the meeting will be held virtually per the communication plan." They indicated they would send an updated virtual meeting link.

44. In a February 17, 2026, email to Student Services Coordinator 2, the Outside Case Manager advocated for an in-person meeting and claimed that "suddenly reverting back to a virtual meeting" would hinder their ability to attend fully. They asserted Student Services Coordinator 1 provided assurance "all abbreviated day school meetings would be conducted in person at [the Middle School]."

    a. The Parents replied to this email chain the same day, reiterated their request for an in-person meeting, and noted they had provided a doctor's note stating they needed to be "in person to be able to hear things due to my hearing disabilities." They contended the District was violating ADA Title II "as a result of not having this meeting in person."
    b. The Outside Case Manager replied to the email chain noting they had participated in the Student's IEP for two years, were confirmed by the Department Facilitator to be considered "part of [the Student's] team," and informed the Student Services Coordinator 2 they were told they could not participate via the District's virtual platform due to "patient privacy" and maintaining the requirements they were held to under HIPPA. The Outside Case Manager added they were prepared to attend in person.
    c. Student Services Coordinator 2 replied the next day and confirmed the District "will be moving forward with a virtual meeting tomorrow [February 19, 2026]."

45. A February 17, 2026, Meeting Request indicated a meeting on February 19, 2026, for "Abbreviated School Day Program Review" with the location listed as "Virtual." Those invited were the Parents, Student Services Coordinator 2, the Middle School Administrator, two special education teachers, Advocates 1 and 2, the Outside Case Manager, and the Attorney for the District.

46. In a February 18, 2026, email, sent at 4:26 p.m. to the Attorney for the District, the Parents attached an "ADA accommodation letter" from their medical doctor. One of the Parents noted they "felt compelled" to disclose their disability after the LEA "took away" their ability to have meetings in-person.

47. In a February 18, 2026, email to Student Services Coordinator 2, one of the Parents asked if there were any virtual platforms "that would allow all of our IEP team members to participate

in this meeting." Student Services Coordinator 2 replied the next day and provided the name of the platform the District used for virtual meetings.

48. In an undated Abbreviated School Day - Notice to Parents, the District informed the Parents of its intent to "discuss the possibility" of the Student being placed on an abbreviated day during a meeting on February 19, 2026, to be held virtually.

49. According to meeting notes from the February 19, 2026, abbreviated school day meeting, the following information was discussed:
    a. One of the Parents expressed concern that the Outside Case Manager was unable to attend the meeting due to the online platform being used.
    b. The District stated closed captioning was turned on, and one of the Parents noted they did not have closed captioning. After the instructions, one of the Parents indicated the closed captioning was "moving too fast."
    c. One of the Parents asked if the meeting could be recorded, and the team agreed. However, one of the Parents noted, recording the meeting did not allow them to meaningfully participate.
    d. The Student Support Coordinator 2 confirmed the Student was accepted into the Day Treatment Program, and the team discussed what to do in the interim.
    e. The Student Support Coordinator 2 reviewed the abbreviated school day paperwork. They noted the full-day alternative placement option was the EGC. Tutoring was offered while the Student was waiting for placement at the Day Treatment Program.
    f. The team agreed to keep the Student's service time the same but added a physical education (PE) component. Instructional minutes remained at 270 minutes.

50. PWN dated February 19, 2026, documented that the Parents were informed of placement options being discussed at the Student's IEP meeting and "the IEP team determined an abbreviated day through tutoring would be best to meet [the Student's] needs at this time." SDI would be provided on Wednesdays, Thursdays, and Fridays for "90 minutes each day."
    a. This action was proposed because the Student "began the Abbreviated School Day Program on January 7th, 2026. [They have] been participating in 1-1 tutoring. [The Student] has been able to engage in a challenging task for about five minutes and a less challenging task for about 10-15 minutes. When playing an academic game or high energy task, [the Student] can sustain about 20 minutes as [their] maximum amount of time attending to [the] task. The team agrees that [they are] showing progress, however [the Student] is still working on [their] stamina. [The Student] would benefit from continuing an abbreviated day through tutoring."
    b. This action was based on behavior and academic progress, along with a May 27, 2025, FBA, a November 17, 2025, BSP, and the September 15, 2025 IEP.
    c. Other options considered included not implementing the abbreviated day and exploring additional times for the Student to attend. These were rejected because the current plan was meeting the Student's needs.
    d. Other factors were the Student's placement on a waitlist for a day treatment program and the addition of 30 minutes of physical activity one day per week.
    e. It was noted the team would meet on March 20, 2026, to review data.

51. A second PWN dated February 19, 2026, indicated the IEP team proposed to adopt and implement an amendment to the current IEP which changed the Student's placement to an abbreviated school day through tutoring.

52. A February 19, 2026, Amendment to Annual IEP described the aforementioned PWNs, which documented abbreviated day services through tutoring and confirmed a change in placement.

53. On February 10, 2026, the Parents filed this Complaint.

54. According to the District's Response dated March 18, 2026, the District convened an IEP meeting on March 5, 2026, to discuss compensatory education owed to the Student. This meeting was held as part of corrective actions the Department ordered in relation to a previous complaint. In that matter, the District was ordered to provide compensatory education services for the failure to implement the Student's IEP while they were excluded from school from the 11th day of suspension until December 5, 2025. At the March 5, 2026, IEP meeting, the District also discussed compensatory education owed to the Student for instruction missed between December 5, 2025, and January 7, 2026.

55. According to a written statement dated March 30, 2026, the Attorney for the District informed the Complaint Investigator that no services were provided to the Student between December 4, 2025, and January 7, 2026, due to the ESD's removal of the Student, winter break, and the time needed to arrange a tutor. They added the District offered compensatory education for missed instruction during that time, which the Parents accepted. The Attorney for the District added, there were no disciplinary incidents since the Student stopped attending the Alternative School.

56. A service schedule detailed the Student's tutoring instruction, which began on January 7, 2026, and continued until March 6, 2026. The document indicated the Student started at the Day Treatment Program on March 9, 2026. The tutoring schedule reported the Student received services three days per week and only missed one day due to a non-school day on January 30, 2026.

57. According to the District's online 2025-2026 School Year Calendar, schools were closed December 22, 2025 through January 2, 2026.

Parent's Interview

58. In an interview with the Complaint Investigator, one of the Parents stated they had "hearing problems for decades," and requested to have IEP meetings in person. They added the District had sent them a letter with a communication plan, which included virtual meetings due to a "physical safety threat" by one of the Parents. One of the Parents noted this was when they provided a doctor's note.

59. One of the Parents described their hearing loss as “fluctuating hearing loss,” and indicated sometimes it was harder to hear than others. They added online formats were “very challenging” environments for them to hear in. The District and one of the Parents communicated on “at least” three separate emails regarding their request for in-person meetings, and the District denied the Parents’ request each time.

60. One of the Parents mentioned it was difficult to hear during some of the virtual meetings. The IT team continued to correct the sound, but they were dismissive of the fact the Parents stated they were having difficulty hearing the meeting. One of the Parents stated they felt the District was hindering their ability to participate meaningfully in the meetings.

61. One of the Parents stated the communication plan was created because of them, but the District also did not allow the Other Parent or outside IEP team members to attend in person, including the Outside Case Manager.

62. One of the Parents noted the Outside Case Manager was unable to participate in the virtual IEP meeting due to security concerns with the virtual platform and Health Insurance Portability and Accountability Act (HIPAA) requirements. The Parents noted the Student had a lot of behavioral and mental health issues, and the Outside Case Manager had been a strong supporter in the Student’s IEP meetings.

63. One of the Parents shared the District used the events of the December 18, 2025, IEP meeting as the reason for the communication plan. One of the Parents stated they had attended in-person meetings since that date and had stayed with the Student during the Student’s tutorial sessions on campus for an hour and a half a twice per week. The District stated virtual meetings were helpful for team members who were not located at the Middle School. One of the Parents noted the Student’s IEP Team was all located at the Middle School.

64. One of the Parents shared they had attended both virtual and in-person IEP meetings since the Student was in grade school. One of the Parents noted they had always preferred them to be in person. They added the District had held hybrid IEP meetings in the past.

65. One of the Parents indicated they wanted to be proactive regarding placement because the Student “blew out” of a previous Day Treatment Program in June 2025. The Parents attempted to get a “good placement” for the Student prior to September 2025. The District placed the Student at the Alternative School, even though it was not a day treatment program, and they did not have any mental health supports. The Student’s outside providers agreed the Student needed to be placed in day treatment. One of the Parents mentioned they suggested the Day Treatment Program; however, the Special Education Director disagreed and stated the placement would be the Alternative School.

66. One of the Parents stated the Student was suspended from the Alternative School on December 4 or December 5, 2025. The Student was not allowed to return to the Alternative School even though an MDR was held, and it was determined the Student's behavior was a manifestation of their disabilities and the District’s failure to implement the IEP.

67. The Parents reported that an IEP meeting was convened to determine compensatory education owed to the Student due to District's failure to provide special education services to the Student from December 5, 2025 through January 7, 2026. While the Parents and the District agreed on the number of hours the Student would receive, they did not agree on how or when the services would be provided.

Principal Interview

68. In an interview with the Complaint Investigator, the Principal was joined by the Special Education Director, the Attorney for the ESD, and the Attorney for the District.

69. The Principal explained, when they suspended the Student, they reached out to the "sending district" to let them know the behavior led to a suspension. A letter was drafted and sent home to the Parents indicating the suspension took place. The Principal clarified they emailed the suspension letter and called the Parents. The District was notified again once the Student was placed on suspension. The Principal added they made sure transportation was paused for the suspension.

70. The Principal described the Student's behavior during the 2025-26 school year as "challenging." The Principal stated the Student often wandered the halls in the Alternative School's interior. They shared when the Student was able to go into a classroom because they or a staff member "assumed" the Student was "regulated enough" to participate, the Student demonstrated behavioral disruptions in the classroom. These disruptions consisted of placing their hands on others, posturing, using their body to intimidate, body-checking others, pushing staff or students against a wall, and/or throwing items at a staff member or a student.

71. The Principal stated at the MDR for the Student on November 25, 2025, the team had already determined the Alternative School was not the correct placement for the Student. They referenced a conversation in September 2025, in which the team discussed the Student's placement. The Principal added they did not discuss a different placement for the Student because those decisions were "handled through [the] [D]istrict."

72. The Principal noted after the MDR on [November] 25, [2025], they held an IEP meeting on December 4, [2025], where it was determined the Alternative School could not meet the Student's needs. They shared the conversation in that meeting focused on how they could provide the Student with the "education [they] deserve[d]."

73. The Special Education Director added during the meeting in September 2025, the team had determined the Student needed "a higher level of service," but because of the long waiting period for other programs, the team "kept [the Student's] placement at the [Alternative School]" while they were going through that process. The Principal added by November, [2025], they had all the extra data to support the placement change.

Student Services Coordinator 1 Interview

74. In an interview with the Complaint Investigator, Student Services Coordinator 1 was joined by the Special Education Director and the Attorney for the District.

75. Student Services Coordinator 1 clarified that the PWN dated February 10, 2026, was created because Student Services Coordinator 1 thought the ESD sent the PWN to the Parents regarding the Student's suspension beyond 10 school days. When they found out the Parents never received it, they sent the PWN. The Attorney for the District added the PWN was ordered by the Department pursuant to a previous final order, and noted this was the reason for the discrepancy in the dates on the document.

76. Student Services Coordinator 1 confirmed the PWN dated December 17, 2026, should have been dated December 17, 2025.

77. Student Services Coordinator 1 confirmed no services were provided to the Student between December 4, 2025, and January 7, 2026. They stated that when the Student's placement at the Alternative School was terminated, they scheduled a meeting with the Parents on December 17, 2025. During that meeting, the IEP team agreed to an abbreviated day plan, service minutes, and a location for services.

78. Student Services Coordinator 1 stated they reviewed the Student's behavior supports at the December 17, 2025 abbreviated-day meeting. They added they did not make any changes to the FBA or the BIP at the time. Student Services Coordinator 1 clarified they did not review the FBA or the BIP but instead looked at the accommodations on the Student's IEP "that the behavior support provides."

79. The Special Education Director added, during the December 17, 2025 IEP meeting, the IEP team determined an abbreviated day placement was needed and reviewed the behavior supports to determine what the Student would need during the shortened day. The Special Education Director confirmed that the abbreviated day placement was made because they were changing the placement to tutoring until the Student could attend a day treatment program. Student Services Coordinator 1 reported the PWN indicated the decision was based on "an FBA written whenever and a BSP written whenever." They confirmed they did not "pull out anything and review anything."

Student Services Coordinator 2 Interview

80. In an interview with the Complaint Investigator, Student Services Coordinator 2 was joined by the Special Education Director and the Attorney for the District.

81. Student Services Coordinator 2 stated one of the Parents shared their doctor's note regarding their hearing loss to "the whole team." They recalled it was sent either the day of, or the day before the IEP meeting, and added it was "potentially" February 18 or 19, 2026.

82. Student Services Coordinator 2 reported that they offered one of the Parents accommodations, including video recordings of the meetings, closed captioning, detailed notes sent out after the meeting, and the opportunity to pause to ask questions and receive feedback.

83. Student Services Coordinator 2 noted they told one of the Parents the District used a specific online platform for virtual meetings, and recommended team members call in rather than use the video conferencing.

84. Student Services Coordinator 2 asserted their belief the communication plan was for the whole family, and not solely for one of the Parents, which was why both Parents were required to participate virtually.

85. Student Services Coordinator 2 confirmed they participated in meetings where the Parents attended virtually, but added it was "years ago." They added the first virtual meeting they attended with the Parents this year was the meeting on February 19, 2026. Student Services Coordinator 2 observed that the Parents appeared to participate. They added one of the Parents asked questions and provided input throughout the meeting.

86. Student Services Coordinator 2 recalled that District staff who attended the February 19, 2026 meeting met in one space "because the teachers have to leave their classroom." They confirmed school employees, including teachers and the Principal, met together in a space while the Parents, Advocate 1, and Advocate 2 participated virtually. Student Services Coordinator 2 noted the Outside Case Manager did not participate.

87. The Special Education Director shared the reason for the communication plan was due to an incident that occurred at meetings with one of the Parents on September 15, 2025 and September 18, 2025. They noted one of the Parents was "yelling and raising [their] voice and calling [the Special Education Director] names." The Special Education Director recalled one of the Parents "puffed out [their] chest and was leaning over the table." They added the meeting was facilitated by the Department.

Outside Case Manager Written Response

88. According to a written response from the Outside Case Manager, they emailed Student Services Coordinator 2, the Attorney for the District, the Special Education Director, the Middle School Administrator, Advocate 2, Advocate 1, and one of the Parents on February 17, 2026 to share that their employer had identified the District's virtual meeting platform "not capable of providing the security and privacy" necessary for a member of a medical team to participate without compromising patient privacy. The Outside Case Manager stated they were prepared to attend in person and added the meeting on January 20, 2026 was "cordial, professional, and civil." They shared, "reversing to virtual meetings seemed to be escalating without justification." The Outside Case Manager noted Student Services Coordinator 2 declined to consider a different electronic platform or a hybrid model that would allow in-person meetings for some team members and virtual meetings for others.

89. The Outside Case Manager noted that one of the Parents presented at meetings as active, attentive, intentional, and calm. They added one of the Parents took notes and was a quiet participant but did speak up regarding their concerns and needs for the Student. One of the Parents also took notes, acknowledged shortcomings, and acknowledged they raised their voice and apologized. The Outside Case Manager confirmed they had never "heard or seen any direct aggression, physical aggression, verbal aggression, or threat of aggression." They added they heard the Parents state they would file complaints due to violations.

90. The Outside Case Manager confirmed one of the Parents provided the District with a doctor's note explaining their hearing disabilities and the need to attend in-person meetings. The District asked one of the Parents to sign a release of information so their medical records could be accessed and the physician could be contacted.

IV. DISCUSSION

When IEPs Must Be In Effect

The Parents alleged the District failed to implement the Student's IEP when the Student's enrollment in the ESD program was terminated on December 4, 2025, and the Student didn't receive any services until they were placed on an abbreviated day on or about January 7, 2026.

At the beginning of each school year, a school district must have in effect an IEP for each child with a disability within the district's jurisdiction. School districts must provide special education and related services to a child with a disability in accordance with an IEP.[4]

Each public agency must ensure that the child's IEP is accessible to each regular education teacher, special education teacher, related services provider, and any other service provider who is responsible for its implementation; and each teacher and provider is informed of his or her specific responsibilities related to implementing the child's IEP; and the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.[5]

The Student's enrollment at the Alternative School was effectively terminated on December 4, 2025, following a meeting in which the District was notified the Alternative School would no longer serve the Student. Between December 4, 2025, and January 7, 2026, the Student received no SDI or other services required by their IEP. This gap was attributed to the Student's removal from the Alternative School, the subsequent winter break, and the time required to secure a tutor. On December 5, 2025, the District initiated attempts to schedule a meeting to determine placement and one of the Parents agreed to meet on December 17, 2025, even though the District had offered to meet sooner. The District later acknowledged the lapse in services, stating that no services were provided between December 4, 2025 and January 7,

[4] OAR 581-015-2220(1)(a)(b); 34 CFR § 300.323.

[5] OAR 581-015-2220(3); 34 CFR § 300.323.

2026, and offered compensatory education as a remedy. The District reported the Parents agreed to the compensatory services.

While it is outside of the time period of this investigation, an IEP meeting was held on March 5, 2025, to discuss compensatory educational services owed to the Student due to the lapse in educational services from December 4, 2025, to January 7, 2026. The District and the Parent agreed on the number of hours to be provided, but not how or when the services will be provided.

The Department substantiates this allegation.

Authority of School Personnel

The Complaint alleged the District did not provide the Student with services when the Student was suspended for more than 10 school days in a school year, and did not return the Student to the last placement when it was determined the Student's behavior was a manifestation of their disability, and the District's failure to implement the IEP.

A disciplinary removal is considered a change in educational placement and the school district must follow special education due process procedures if the removal will be for more than 10 consecutive school days, or the child will be removed for more than 10 cumulative school days from their current educational placement in a school year, and those removals constitute a pattern. School personnel may consider any unique circumstances on a case-by-case basis when determining whether to order a disciplinary removal for a child with a disability who violates a code of conduct.[6]

Within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the school district must determine whether the child's behavior is a manifestation of the student's disability in accordance with OAR 581-015-2420. If the determination is that the child's behavior is a manifestation of the child's disability, the school district must return the child to the placement from which the child was removed, unless the parent and school district agree to a change of placement as part of the modification of the behavioral intervention plan; the school district removes the child to an interim alternative educational setting for a weapons or drug violation or for infliction of serious bodily injury; or the school district obtains an order from an administrative law judge allowing a change in placement to an interim alternative educational setting for injurious behavior. In addition, the school district must conduct a functional behavioral assessment, unless the school district conducted a functional behavioral assessment before the behavior occurred that prompted the disciplinary action, and implement a BIP; or if the student already has a behavior plan, review the BIP and modify it, as necessary, to address the behavior.[7]

If the determination is that the child's behavior is not a manifestation of the child's disability, the school district may proceed with disciplinary action applicable to children without

[6] OAR 581-015-2415(1)(2); 34 CFR § 300.530.

[7] OAR 581-015-2415(3)(4); 34 CFR § 300.530.

disabilities in the same manner and for the same duration as the procedures would be applied to children without disabilities. If the school district takes such action applicable to all children, the school district must, on the date on which the decision is made to remove the student, notify the parents of that decision and provide the parents with notice of procedural safeguards, provide services to the student in an interim alternative educational setting, determined by the IEP team, and provide, as appropriate, a functional behavioral assessment, and behavior intervention services and modifications that are designed to address the behavior violation so that it does not recur.[8]

In determining whether the child's behavior is a manifestation of the child's disability, the school district, the parent, and relevant members of the IEP team (as determined by the parent and the district) must review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine: If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or if the conduct in question was the direct result of the school district's failure to implement the IEP. If the school district, the parent, and relevant members of the IEP team determine that either of these is applicable to the child, the conduct must be determined to be a manifestation of the child's disability. If the basis for the team's determination is that the school district did not implement the child's IEP, the school district must take immediate steps to remedy those deficiencies.[9]

On November 18, 2025, the Student had been suspended for a total of 11 days. An MDR held on November 25, 2025, concluded that the Student's behavior was a manifestation of their disability and a direct result of the District's failure to implement the IEP, specifically due to the lack of counseling staff at the Alternative School. When the District was notified the Student could not return to the Alternative School, the District did not initiate services on the 11th day of the Student's suspension. Instead, the Student was excluded from all educational services during two distinct periods within the time period of the Complaint. The first exclusion between November 18, 2025 and December 4, 2025, was addressed by the Department in a previous complaint filed by the Parents. The second exclusion, which has not yet been addressed, took place between December 5, 2025 and January 7, 2026.

The Department substantiates this allegation.

Prior Written Notice

The Complaint alleged the District failed to provide the Parents with PWN when the Student was suspended for more than 10 school days in a school year.

Prior written notice must be given to the parent of a child, within a reasonable period of time before a school district proposes to initiate or change, the identification, evaluation, or educational placement of the child, or the provision of a FAPE to the child; or refuses to initiate

[8] OAR 581-015-2415(5); 34 CFR § 300.530.

[9] OAR 581-015-2420; 34 CFR § 300.530(e).

or change the identification, evaluation, or educational placement of the child or the provision of a FAPE to the child.[10]

In reviewing evidence, it was discovered this issue had been addressed in a previous Department complaint filed by the Parents. The Attorney for the District noted the PWN was produced on February 10, 2026, pursuant to the previous Department final order.

This allegation was substantiated by the Department in a Final Order dated February 3, 2026.

The Department makes no further determination regarding this allegation.

Parent Participation

The Complaint alleged the District did not offer to hold an IEP meeting at a mutually agreeable place when the February 19, 2026, IEP meeting was scheduled and subsequently held through video conferencing instead of an in-person meeting as requested by the Parents. Further, the Complaint claims the District did not accommodate one of the Parents known disabilities when attending this IEP meeting.

School districts must take steps to ensure that one or both of the parents of a child with a disability are present at each IEP or placement meeting or are afforded the opportunity to participate, including: notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and scheduling the meeting at a mutually agreed on time and place.[11] When conducting IEP team meetings and placement meetings, the parent of a child with a disability and a school district may agree to use alternative means of meeting participation, such as video conferences and conference calls.[12]

If neither parent can attend, the school district must use other methods to ensure parent participation, including, but not limited to, individual or conference phone calls or home visits. An IEP or placement meeting may be conducted without a parent in attendance if the school district is unable to convince the parents that they should attend. If the school district proceeds with an IEP meeting without a parent, the district must have a record of its attempts to arrange a mutually agreed on time and place such as detailed records of telephone calls made or attempted and the results of those calls; copies of correspondence sent to the parents and any responses received; and detailed records of visits made to the parent's home or place of employment and the results of those visits. The Department considers school district attempts to convince parents to attend sufficient if the school district communicates directly with the parent and arranges a mutually agreeable time and place, and sends written notice to confirm this arrangement; or sends written notice proposing a time and place for the meeting and states in the notice that the parent may request a different time and place, and confirms that the parent received the notice.[13]

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10 OAR 581-015-2310(2); 34 CFR § 303.421(a).

11 OAR 581-015-2195(1); 34 CFR § 300.322.

12 OAR 581-015-2195(6); 34 CFR § 300.322.

13 OAR 581-015-2195(2)(3)(a)(b); 34 CFR § 300.322.

In February 2026, the Attorney for the District issued a Communication Plan requiring all meetings to be held virtually, citing staff safety concerns following an incident in September 2025 in which one of the Parents allegedly used aggressive body language and shouted. According to the Outside Case Manager, the Parents attended an in-person meeting on January 20, 2026. Additionally, the Parent was present on campus twice a week for 90 minutes to stay with the Student during the tutoring sessions that began on January 7, 2026. The Parents requested that the February 19, 2026, meeting be held in person, submitting a letter from a medical doctor on February 13, 2026, documenting one of the Parents' hearing loss, which made virtual communication "impossible." The District denied the in-person request, asserting they had not observed the Parent experiencing participation issues in previous virtual meetings. During the February 19, 2026, meeting, the District used a platform the Outside Case Manager could not access due to security and HIPAA concerns. The Parent reported the provided closed captioning moved too quickly to follow. The District team met in person together in one room, while the Parents and their advocates were required to join remotely. The Student Services Director 2 noted the Parents "appeared to participate."

The IDEA explicitly states, "the public agency must schedule the meeting at a mutually agreed on time and place." The IDEA also states video conferences and conference calls are only to be used "if the parent and the public agency agree" to use those alternative methods. According to L.F. v. Lake Washington School District (2020), the Ninth Circuit upheld a communication plan that restricted a parent to bi-weekly in-person meetings with specific administrators due to the parent's "intimidating" behavior. The court found the plan reasonable because it preserved in-person access while managing the behavior.

In this case, the District used a Communication Plan to remove in-person access. Because one of the Parents demonstrated appropriate attendance at a previous in-person meeting, such as the January 20, 2026, session, without incident, the District's claim that a virtual mandate was "necessary for safety" was unsupported. By refusing to hold an in-person meeting, the District failed to schedule the February 19, 2026 IEP meeting at a mutually agreed-upon location.[14]

Additionally, by sequestering the Parents to a virtual platform while the District team sat together, the District created a dynamic that hindered the collaborative requirement of the IEP process. The IDEA allows parents to include individuals with "knowledge or special expertise." By choosing an inaccessible platform and refusing to switch or allow in-person attendance for the Outside Case Manager, the District also effectively blocked a parent-invited member of the IEP team from participating.[15]

The Department substantiates this allegation.

[14] L.F. v. Lake Wash. Sch. Dist., 947 F.3d 621 (9th Cir. 2020).

[15] 34 CFR § 300.321(a)(6).

V. CORRECTIVE ACTION[16]

In the Matter of McMinnville School District 40
Case No. 026-054-025

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

Action Required	**Submissions**	**As Soon As Possible But No Later Than Due Date**
1. The District must convene a meeting with the Parent(s) to determine appropriate compensatory education services for the Student's lapse in educational services from December 5, 2025, to January 7, 2026 (to the extent they have not already been agreed upon) and develop a plan for the delivery of these services.[17] If the parties are unable to reach an agreement, the compensatory education services offered to the Student shall include: ● 78 minutes of SDI in Behavior-social/emotional; ● 260 minutes of SDI in Behavior; ● 390 minutes of SDI in Reading; ● 312 minutes of SDI in Written Language; and ● 390 minutes of SDI in Math.	The District shall submit to ODE: Written plan for delivery of compensatory education services developed in a meeting with the Parent(s); and Evidence showing compensatory education was provided.	**May 22, 2026** **December 15, 2026**
2. The District must ensure that all District staff responsible for developing, implementing, and monitoring IEPs for District students placed in Public Separate Schools receive training in each of the following areas:	Training agenda/materials to ODE for review/approval.	**June 15, 2026** **October 15, 2026**

[16] 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)).

[17] The Department provides IEP Facilitation services when it is mutually desired by parents and school districts and is available to support the Student's IEP team in this meeting. If a Facilitated IEP meeting is desired, please email ode.disputeresolution@ode.state.or.us.

● When to hold MDR meetings and what actions need to be taken when the behavior is a manifestation of a disability; and ● Parent participation at IEP meetings.	Sign-in sheet from training.	
3. The District must revise the Communication Plan for the Parents to ensure that one or both of the Parents are present at each of the Student's IEP Team meetings or are afforded the opportunity to participate.	Updated Communication Plan with changes.	**May 22, 2026**

Dated: this 23 Day of April 2026



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Ramonda Olaloye
Assistant Superintendent
Office of Enhancing Student Opportunities

E-mailing Date: April 23, 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).)