BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of	)	FINDINGS OF FACT,
Neah-Kah-Nie School District 56	)	CONCLUSIONS,
	)	AND FINAL ORDER
	)	Case No. 26-054-036

I. BACKGROUND

On March 16, 2026, the Oregon Department of Education (the Department) received a written request for a special education complaint investigation from a community member (Complainant) regarding the special education of students (Students) enrolled in a classroom (the Program) operated by the Neah-Kah-Nie School District 40 (District). The Complainant requested that the Department conduct a special education investigation under OAR 581-015-2030. The Department confirmed receipt of this Complaint and forwarded the request to the District.

Under state and federal law, the Department must investigate written complaints that allege violations of the Individuals with Disabilities Education Act (IDEA) and issue an order within sixty days of receipt of the complaint.[1] This timeline may be extended if the Complainant and the District agree to the extension in order to engage in mediation or local resolution or for exceptional circumstances related to the complaint.[2]

On March 24, 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 April 6, 2026. The District and their counsel requested an extension to provide a *Response* which the Department granted.

The District submitted a *Response* on April 20, 2026, denying the allegations, providing an explanation, and submitting documents in support of the District's position. The District submitted the following relevant items:

1. District's Written *Response* to Complaint, 3/20/26
2. Email and Program training documentation, various dates
3. Program Information, including student schedules, substitute teacher lesson plans, staff data collection procedures, curricular and picture exchange examples, classroom structure examples, various dates and undated
4. Safety Care Training Competencies
5. Staff duties and expectations, 2025-2026
6. Student Attendance Records (Student #1-#6), 2025-2026

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

Student #1

7. Prior Written Notices (PWNs), 12/19/26, 10/10/25, 10/8/25
8. Consent for Evaluation, 10/10/25
9. Agreement executed by Parents and the District to revise Student's IEP, 5/6/25
10. Notice of Team Meeting, 12/19/2025, 10/1/25
11. Meeting Summary, 12/19/25, 5/6/25
12. Meeting Minutes 10/10/25
13. IEP Amendment, 10/10/25
14. Functional Behavior Assessment Plan (FBA), 12/15/2025
15. Behavior Support Plan (BSP), 12/15/25
16. IEP, 10/10/25
17. Special Education Placement Determination, 10/10/25
18. IEP Amendment, 10/13/24
19. Related Service Log for Autism Specialist, Occupational Therapist, Physical Therapist, and Speech Services, 4/1/25-3/17/26
20. Speech Language Pathologist Log Notes, 9/24/25-3/18/26
21. IEP Progress Reports, 2025-2026
22. IEP Snapshot, undated
23. Data samples of academic work, various dates and undated

Student #2

24. PWNs, 2/11/26, 10/3/25, 2/13/25
25. Notice of Team Meeting, 1/9/26, 9/26/25, 2/17/25
26. Special Education Meeting Minutes, 2/11/26, 2/27/25
27. Meeting Summary, 10/3/25
28. IEP, 2/11/26, 2/27/25
29. Special Education Placement Determination, 2/11/26, 10/2/25, 2/27/25
30. BSP, 2/11/26, 10/2/25
31. IEP Amendment, 2/27/25
32. Related Service Log for Autism Specialist, Occupational Therapist, and Speech Services, 4/1/25-3/17/26
33. Speech Language Pathologist Log Notes, 9/24/25-3/18/26
34. IEP Progress Reports, 2025-2026
35. IEP Snapshot
36. Acadience Benchmark testing, 2025-2026
37. Data samples of academic work, various dates and undated
38. Home Communication Log, 11/13/25-4/1/26

Student #3

39. PWN, 2/13/26, 11/3/25, 11/3/25, 10/2,25, 11/26/24
40. Consent for Evaluation for FBA, 11/3/25
41. Agreement executed by Parents and the District to excuse general education teacher IEP team meeting, 10/31/25, 10/2/25
42. Notices of Team Meeting, 1/28/26, 1/8/26, 10/31/25, 9/16/25, 11/18/2024
43. Meeting Summary, 2/5/26, 11/3/25
44. Meeting Minutes, 10/2/25, 11/26/24
45. IEP Amendment, 10/2/25

46. FBA, 1/21/26
47. BSP, 2/5/26
48. IEP, 10/2/25, 10/4/24
49. Special Education Placement Determination, 10/2/25
50. Related Service Log for Autism Specialist, Occupational Therapist, and Speech Services, -3/18/25-3/17/26
51. Speech Language Pathologist Log Notes, 9/23/25-3/18/26
52. IEP Progress Reports, 2024-2025, 2025-2026
53. IEP Snapshot
54. BSP, 2/5/26
55. Self-Care (Toileting) Plan, Procedure, and Data Collection documents, 9/18/25
56. Food Log Data collection tool of foods consumed and those refused, 25-26
57. Data Collection Plan with fidelity measures of frequency of data collection per target skill associated with IEP goals, rubric for intensity levels of prompting and types of prompt with descriptions, as well as an example of progress monitoring data collection specific to this student, various dates or undated
58. Samples of academic work, various dates and undated with data collection regarding intensity levels of prompting included by staff using STAR curriculum[3], various dates or undated

Student 4:

59. Restraint and Seclusion documentation including notations of how Student was triggered and staff attempts of de-escalation, 10/29/25, 6/4/25, 5/23/25, 10/9/25/ 3/20/25, 12/1/25
60. PWN, 2/20/26, 1/29/26
61. Written Agreements between Parent and District documenting excusal of general education teacher, 1/16/26, 10/6/25, 3/20/25
62. Notice of Team Meeting, 2/4/26, 1/23/26, 1/14/26, 10/6/25, 6/5/25, 3/4/25
63. Special Education Meeting Minutes, 2/20/26, 3/20/25
64. Meeting Summary, 1/29/26, 1/16/26, 10/9/25, 10/6/25, 6/6/25
65. IEP, 2/20/26, 3/20/25
66. Special Education Placement Determination, 2/20/26
67. IEP Amendment, 3/20/35
68. Authorization to Use and/or Disclose Educational and Protected Health Information, 10/6/25
69. BSP, 10/23/25, 6/6/25
70. FBA, 5/27/25
71. Related Service Log for Autism Specialist, Occupational Therapist, and Speech Services, 3/18/25-3/17/26
72. Speech Language Pathologist Log Notes, 9/3/25-3/31/26
73. IEP Progress Reports, 2025-2026
74. IEP Snapshot

[3] The STAR Curriculum is an evidence-based curriculum used by the District for students who require discrete trial training, pivotal response training and teaching fundamental routines in a comprehensive manner; the curriculum covers six curricular areas of receptive language, expressive language, spontaneous language, functional routines, academics and play/social skills. https://starautismsupport.com/curriculum/star-program

75. Daily Communication Log with behavioral notations, documenting the entire school day in thirty-minute increments, identifying target activity, use of STAR, Starfall, and Touchmath curricula, student participation and refusals and use of sensory objects and breaks, 6/3/25-3/17/26
76. ABC data collection documents including frequency of target behaviors (hair pulling, grabbing, biting), target of aggression (staff or peers), location and antecedents, 5/15/25 - 5/23/25
77. Samples of academic work, various dates and undated with data collection regarding intensity levels of prompting included by staff using STAR curriculum

Student #5:

78. PWN, 1/9/26, 1/13/26, 5/7/25, 6/4/25
79. Notice of Team Meeting, 1/6/26, 5/23/25, 4/26/25
80. Meeting Summary, 1/8/26, 5/7/25
81. Special Education Meeting Minutes, 6/4/25
82. IEP Amendment, 6/4/25
83. Special Education Placement Determination, 1/8/26, 6/4/26
84. Authorization to Use and/or Disclose Educational and Protected Health Information, 1/8/26
85. IEP, 6/4/26
86. Related Service Log for Occupational Therapist, and Speech Services, 3/19/25-3/11/26
87. Speech Language Pathologist Log Notes, 9/23/25-3/17/26
88. IEP Progress Reports, 2025-2026
89. BSP, 3/30/26
90. Classroom academic samples, home school PECs icon daily data collection (2pgs.in length with variable intervals for data collection that differed from 5 min transition to longer 30-40 min activities) logs, various dates and undated
91. Behavior Incident Report, 2/26/26

Student #6

92. PWN, 1/9/26, 10/23/25, 10/23/25, 4/21/25, 10/31/25
93. Notice of Team Meeting, 1/6/26, 10/1/25
94. Meeting Summary, 1/9/26, 4/21/25
95. Special Education Meeting Minutes, 10/23/25, 10/31/25
96. Restraint and Seclusion Incident Report and Debrief, identifying triggers and signals of behavior as well as interventions/de-escalation attempted, 2/27/26
97. IEP Amendment, 10/23/25
98. FBA, 1/8/26
99. BSP, 1/9/26
100. IEP, 10/23/25, 10/21/24
101. Special Education Placement Determination, 10/23/25
102. Related Service Log for Autism Consultant, Physical Therapist, Occupational Therapist, and Speech Services, 4/1/25-3/17/26
103. Speech Language Pathologist Log Notes, 9/24/25-3/18/26
104. IEP Progress Reports, 2025-2026
105. IEP Snapshot

106. Academic samples, various dates and undated, including examples of use of McGraw Hill curriculum for reading miscue analysis, reading fluency and reading comprehension tasks, Reading Milestones, progress monitoring data for written language, reading, fine motor activities, various dates and undated

The Complainant submitted a *Reply* on April 21, 2026.

On May 28, 2026, in reply to an Investigator request, the District provided the Investigator with:

1. Safety Care Competencies, undated

The Complaint Investigator interviewed the Complainant on April 27, 2026, and the Complainant sent their interview response (which is also termed as Complainant's *Reply)* on May 4, 2026.

On May 19, 2026, the Complaint Investigator completed an interview process with fourteen District personnel. The District personnel returned all interview narratives and supporting documentation on June 1, 2026. Virtual interviews were conducted instead of on-site interviews. The Complaint Investigator reviewed and considered all of these documents, interviews, and interview photos in reaching the findings of fact and conclusions of law contained in this order.

Given the nature of the systemic investigation, on May 5, 2026, the Department determined there was good cause to extend the timeline for this investigation requiring a final order be issued on or before June 30, 2026. This order is timely.

II. ALLEGATIONS AND CONCLUSIONS

The Department has jurisdiction to resolve this Complaint under 34 CFR §§ 300.151-153 and OAR 581-015-2030. The Complainant's allegations and the Department's conclusions are set out in the chart below. The conclusions are based on the Findings of Fact in Section III and the Discussion in Section IV. This Complaint covers the one-year period from March 17, 2025 and March 16, 2026, however the Complainant's allegations were identified to have occurred during the 2025-2026 school year only.

Allegations	**Conclusions**
When IEPs Must Be in Effect The Complaint alleges that the District violated the IDEA by not providing special education services in accordance with the Students' IEPs. (OAR 581-015-2220; 34 CFR §300.323)	**Not Substantiated** The District provided substantial evidence, including educational records and progress reports as well as detailed staff interviews, that the Students received specially designed instruction and made progress on their

	current goals as required by their individual IEPs.
Free Appropriate Public Education (FAPE) The Complaint alleges that the District failed to provide the Students with a free appropriate public education by not providing special education services in accordance with the Students' IEPs. (OAR 581-015-2040; 34 CFR §300.101)	**Not Substantiated** The District provided substantial evidence that the Students were each provided a FAPE.

REQUESTED CORRECTIVE ACTION
1. Provide compensatory education services for the Students who have not received the special education services identified in their IEPs.

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 March 17, 2025. Any facts listed below relating to circumstances or incidents earlier than that date are included solely to provide context necessary to understand the Students' disabilities and special education histories.

In investigating this Complaint, the Investigator reviewed records of six students enrolled in the Program during the 2025-2026 school year, who are identified throughout this Order as Students #1-#6.

1. The Program is a special education classroom, specifically a Structured Learning Classroom, located at a District elementary school serving students with disabilities enrolled in all elementary grades. The Program has 3 assigned paraprofessionals and a certified teacher to work with six students full-time. When staff take breaks, they are covered by a special education professional from a different program. One of the six students is supported by a non-program paraprofessional and the school team (principal, counselor, school psychologist and other special education staff) provide support when requested.

2. The Complaint alleged that the Students were not receiving special education services from the special education teacher, that the Students were "routinely neglected" and that "the needs of multiple students appear to be inadequately addressed." In their interview, the Complainant indicated concerns regarding supervision, safety and basic care with examples of "student-on-student and student-on-staff aggression" which they stated, "occurred almost

constantly throughout the day, sometimes multiple times within short periods, significantly disrupting the learning environment." The Complainant also indicated that they and other classroom staff "were all given the same curriculum for safety training and that "the training offered did not match expectation." The Complainant also reported the classroom teacher was not aware of individual student needs and that staff was inadequately trained, leaving "an unsafe and unsupported place for the students and staff."

3. In their *Reply* to the District's response, the Complainant confirmed that, during the Fall of 2025 through December of 2025, they worked as an instructional assistant substitute in the Program and thereafter, served as an instructional assistant in the Program from December of 2025 through February of 2026.

4. On May 5, 2026, a current District employee independently emailed the Investigator to support the Complainant's assertions. This employee documented that they had begun employment in the classroom at the beginning of the 2025-2026 school year. They described significant concerns with insufficient staffing and the collective students' behavior, characterizing the behavior as "physically violent" with multiple incidents requiring the support of "1-4 staff members" involving physically aggressive conduct towards themselves and others and elopement incidents. The employee also reported that the Program had four staff members for 5-6 students at a time, concluding "there is not enough 1 on 1 for all of these students to learn and grow", while acknowledging that "[s]ome students have even progressed".

5. In their response, the District provided numerous documents describing the program design, the intentional use of curriculum, adaptations and specially designed instruction provided individually and collectively to students assigned to the Program:

    a. Numerous detailed classroom schedules in both text versions and picture schedule versions, detailing tasks, instructional times, structures for transitions in 5 to 15 minute increments;

    b. Detailed substitute teacher plans describing classroom organization, use of specific curriculum, detailed supports for each student through the school day, including levels or support through each scheduled activity, including support for inclusion in music, library, art and cooking classes;

    c. Data collection procedures, including descriptions of prompts or supports with a rubric of uniform expectations to ensure fidelity of data collection efforts;

    d. Examples of functional communication prompts for picture exchange and/or assistive technology use by students with adaptive needs in the area of functional communication skill development, including examples of common "wants" and "needs" and expression of "feelings";

e. Examples of classroom organization including materials' organization, positive reinforcement/token economy, picture exchange materials for selection of choice and to teach and reinforce classroom or daily living skill routines, first/then schedules for transition and task completion, functional math activities, self-regulation prompts (Zones of Regulation or similar activities), as well as displays of calendar and classroom schedules with picture exchange colorful symbols (icons) paired with descriptive words; and

f. Schedule of assigned staff duties, including daily data collection, use of STAR Autism lessons, daily preparation of individual student icon schedules, independent work systems, maintaining student choice area and sensory room and coverage of bus duty.

6. In their response, the District also provided numerous training exhibits depicting training content and the inclusion of all Program instructional assistants and the Complainant, to assist personnel to support students in their individual attainment of replacement behaviors and in the decrease of problem behavior:

   a. Copy of September 22, 2025 training materials presented by a school psychologist on "Supporting Students with Diverse Learning Needs";

   b. Copy of an October 15, 2025 training provided by ESD Autism Consultant to Program employees, regarding topics of social engagement, increasing length of interactions through pivotal actions, language, imitation, play, ways to increase initiation and the number of opportunities for communication. This training also included additional materials on Picture Exchange System Phases for functional communication;

   c. Documentation of a January 5, 2026 special education training on behavior, self-awareness and co-regulation provided at a district wide training;

   d. Documentation dated January 12, 2026 confirming that the Complainant had completed Safety Care Training[4], described by District materials to train staff on topics including incident prevention, incident minimization, physical safety, after an incident, physical management. An agenda provided by the District documents that detailed topics within this training include "understanding behavior, the A-B-C's of behavior, supportive environment, differential reinforcement, staff behavior, safe environment, safety habits, antecedents to dangerous behaviors, safety stance, calling for assistance, leadership and teamwork, de-escalation, management of dangerous objects, protective shuffle, elbow and shoulder check, wrist release, stripping a grab, multiple release strategies, safe use of physical management, recovery, debriefing, data collection and analysis, and multiple hold/transport options";

[4] Safety Care Training from QBS is an ODE approved restraint and seclusion training, https://www.oregon.gov/ode/students-and-family/healthsafety/Documents/approvedtrainingprograms.pdf.

e. Copy of a February 2, 2026 training scheduled for special education staff on "Repairing Relationship Ruptures and Foundations of Trauma" and attendance sheet documenting the attendance of Program professionals;

f. Copy of a February 2026 special education staff training on addressing student elopement; and

g. Email documentation dated March 1-2, 2026 confirming that Program staff were enrolled to complete Safety Care Training Refresher training.

7. District attendance records from the 2025-2026 school year document that each of the following students had been enrolled in and attending instruction in the classroom identified by the Complainant.

8. Student #1: This Student is ten years old and is eligible for special education under the category of Autism Spectrum Disorder.

   a. An annual IEP meeting was convened for Student #1 on October 10, 2025 (Student #1's IEP). The IEP includes goals and specially designed instruction (SDI) to address Student #1's needs in the areas of self-regulation, social skills, functional communication, reading, mathematics, written language, and independent transitioning. The IEP indicates that Student #1 is eligible for alternate assessment.

   b. Behavior, functional communication and assistive technology needs are identified by Student #1's IEP as special factors for consideration in the entirety of their IEP.

   c. Student #1's IEP includes the accommodations of use of simplified speech for directions, sensory regulation strategy use, sensory breaks, extra processing time, mini-visual schedule for routines, alternation of high demand and low demand tasks, visual communication supports, positive behavior supports, preferential seating, and modified curriculum.

   d. Student #1's IEP requires support for personnel, including consultation with speech language pathologist, special education teacher, augmentative alternative communication specialist, occupational therapist, and physical therapist.

   e. Student #1 has a Behavior Support Plan (BSP) dated December 13, 2025. According to the BSP, Student #1's behaviors of concern include self-injury through biting, physical aggression towards adults when dysregulated, and "uncontrollable crying that is non-responsive to efforts to calm". The BSP identified replacement behaviors of using functional communication tools, sensory tools for regulation, and "coping strategies to deal with disappointment while maintaining an appropriate voice level and safe body." Among proactive strategies included in the BSP, staff are directed to use sensory tools to help Student #1 regulate, visuals, semantic mapping, and a "wait box" with fidgets.

f. Progress reports regarding Student #1's performance indicate, at the end of the third school trimester of the 2025-2026 school year:

i. Progress has been made on several objectives in the areas of co-regulation, some skills associated with their "your turn card", math, and independent transitioning; and

ii. Progress has been made at the rate to anticipate accomplishment of the objectives in the areas of using sensory strategies of feelings and tools charts, some skills associated with their "your turn card", use of multi-modal communication, use of visual scripts and sentence frames, reading, and written language.

9. In their interview regarding Student #1, the Complainant focused on describing their concerns that Student #1's work went unchecked, the classroom teacher had no idea what the Student "knew and did not know" and that "behavior daily involved behavior against students and staff" and even when the Complainant was a victim of unprovoked attacks and "witnessed other random attacks on staff…no adjustment to the student's IEP was made."

10. In their interview, Student #1's special education teacher (Case Manager) provided the following summary of Student #1's needs, progress and the programming provided:

a. Student #1 has responded positively to use of four curricula, the Zones of Regulation, Everyday Speech, SOLER (Social Learning and Emotional Regulation) and the essentials curriculum of STAR, demonstrating progress in their self-regulation skill development, specifically using the Calming Corner and an improved ability to return to their schedule when a break is completed;

b. The Case Manager provided detailed explanations of how these curricula are used with each student, and progress noted for Student #1 to include the ability to articulate when they want something different from the "preferred item on the list;" and

c. The Case Manager discussed Student #1's response to social cartooning, implementation of a trial of AVAZ on AbleNet to increase peer interaction.

11. During their interviews, District and ESD professionals offered the following observations of Student #1's needs and progress during the 2025-2026 school year:

a. The General Education Teacher (Teacher) shared details of how Student #1 is included within the general education classroom, providing how Student #1 joins and participates in class activities with typically developing peers, and their successful participation in P.E., field trips, class parties, assemblies and recess alongside their classmates. Reviewing specific IEP goals, the Teacher remarked on a reduction in Student #1's biting/self-injurious behavior, improvement in communication of "wants" and Student #1's positive response to an aid drawing "pictures of safe options and choices." Finally, the Teacher reflected on Student #1's growth using sentence frames and Student #1's ability to now communicate their feelings and ideas in class. The Teacher also commented that in their

collaboration with the Case Manager, indicating that the Case Manager "has been intentional in fostering Student #1's independence and inclusion in the school community, even guiding peers so they can learn what an "appropriate peer support looks like" for Student #1.

b. The Occupational Therapist (OT) recalls Student #1 initially refusing assistance and headphones when bothered by noise or sounds. The OT offered very detailed notes on individual activities with Student #1 and their successes and responses to the activities, including observations of Student #1 responding to use of sensory activities, sensory room, calming cards and the "Super Hero Room" included in the Structured Learning Classroom. The OT includes pictures of Student #1's active progress from October of 2025 to present as well as copies of Student #1's daily schedule with PECs icons, sensory break request icons on AAC device, Student #1's weighted vest, calming corner areas, sensory bins, and sensory activities including spin seat, trampoline, and swing.

c. The School Principal (Principal) shared their observations of Student #1's inclusion in the general education classroom, commenting that the student is now taking turns, answering questions and acting as "willing participant in the classroom". The Principal included pictures of Student #1's PECs icon schedules for "waiting turns", recess, and use a bathroom pass for functional communication and use of toileting plan/routine.

d. The Autism Specialist (Specialist) shared their observations of Student #1's continued progress on turn taking through the school year, across multiple settings expanding from their use of "Your turn" card to use of a "Wait" card. The Specialist also shared that Student #1 "has made significant progress with regard to independent transitioning with the classroom" and "transition outside the classroom to recess and then back to the classroom with typically developing peers (rather than an adult)". Drawing on their decades of experience as an autism consultant, the Specialist affirmatively complimented the Case Manager on their professional skills working with all of the students, noting that the Case Manager "is a veteran teacher who is highly skilled in special education and particularly skilled in creating, implementing and collecting data for meaningful IEP goals/objectives for autistic students with high level needs."

e. The Speech Language Therapist (SLT) reflected on their "push-in" observations of Student #1 in their classrooms and noted progress toward their self-regulation goal which "over time [Student #1] has shown increasing ability to participate in co-regulation routines, accept adult support and paid communication attempts alongside moments of dysregulation." The SLT also provided examples of growth with Student #1's functional communication goals in use of verbal speech, modeled speech, visual supports and AAC supports.

12. Student #2: This Student is seven years old and is eligible for special education under the category of Autism Spectrum Disorder.

a. An annual IEP meeting was convened for Student #2 on February 11, 2026 (Student #2's IEP). The IEP includes goals and SDI to address Student #2's needs in the areas of self-regulation, perspective taking, resilience (persistence to complete tasks), written language, and speech intelligibility. Student #2 participates in grade level state and district wide assessments.

b. Behavior and functional communication needs are identified by Student #2's IEP as special factors for consideration in the entirety of their IEP.

c. Student #2's IEP includes the accommodation of assignments shortened for length, extra time to complete assignments, a behavior support plan, Unified PE, sentence frames and/or word banks for open ended writing tasks, extra time to process before required to respond to questions or begin a task, dictation or scribe with writing tasks, use of visual comic strip conversations to draw out social situations, simplified directions and check for understanding after general directions are given, familiar tester for assessments, access to calming stations/breaks with fidgets, sensory or calming manipulatives and preferential seating in all classroom settings and state/district assessments.

d. Student #2's IEP requires support for personnel, including consultation with autism specialist and occupational therapist.

e. Student #2 has a BSP dated February 11, 2026. According to the BSP, Student #2's behaviors of concern include an escalation cycle in which Student #2 will "become increasingly silly and hyperactive, grab items that are not [theirs], yell and refuse to leave…[which can] escalate to throwing items, pushing, hitting or kicking peers or adults". The BSP identified replacement behaviors as using tools to self-regulate, removing themselves from the situation, use of a calming station in the room or use of "help card" to get adult assistance. Among proactive strategies included are individualized visual schedule, pre-teaching transitions, comic strip conversations to draw out social situations, break after high intensity activities such as PE or recess, alternate activity for PE or recess, use of calming space, pairing with positive peer model, visual timer for transitions, video-modeling and social stories for perspective taking, positive feedback for perseverance through difficult task, and a positive reinforcement chart.

f. Most of Student #2's progress reports from the 2025-2026 first and second trimesters indicate:

   i. Progress has been made on several objectives in the areas of speech intelligibility; and

   ii. Progress has been made at the rate to anticipate accomplishment of the objectives in the areas of play skills, taking a break and using a calming tool in the face of intense emotions, following their school schedule without difficulties when regulated,

engagement in grade level reading activities, development of written language skills, and conversation skills.

13. In their interview regarding Student #2, the Complainant focused on describing their concerns "regarding inappropriate contact initiated by this student towards other students", alleging that the Case Manager did nothing to stop or address this "in spite of being repeatedly told it was occurring". The Complainant further explained that they "did not observe any education about the inappropriateness of this behavior, or interventions following these reports."

14. In their interview, Student #2's Case Manager provided the following summary of Student #2's needs, progress and instructional programming:

    a. Student #2 did not spend much time in their general education environment during the prior grade "due to unsafe behaviors" and this year has been "able to access the academic instruction" by gradually building up time in the general education setting to approximately 65% of their day;

    b. Student #2 receives instruction daily in the SLC using the Everyday Speech Curriculum of video modelling and seeing/hearing perspectives of multiple individuals in contrived scenarios. This student responded significantly to this curriculum, most improvement seen in their resiliency goal and written language skill development; and

    c. Student #2 is now on a random and intermittent reinforcement system, using preferred tools like a body scan to self-regulate and demonstrate safe behaviors.

15. During their interviews, District and ESD professionals offered the following observations of Student #2's needs and progress during the 2025-2026 school year:

    a. The Teacher shared observations of Student #2's growth in a non-preferred task of writing, recalled dysregulation and refusal at the beginning of the year compared to spring observations of Student #2 beginning "the day writing with very little prompting to get started" and persevering though a task, "producing more writing" than earlier in the school year. The Teacher also described the Case Manager's leadership in implementing a successful strategy of "green zone" signs for Student #2 to go to class with a "body scan", an intervention the Teacher described as "very helpful in checking in with the student and helping them regulate".

    b. The OT shared positive observations from their work with Student #2, noting progress in the amount of crying through use of the quiet corner, facilitated scribing and use of preferred activities after non-preferred activities. The OT also included multiple dated specific photos of Student #2's growth and use of sensory tools within the SLC environment.

c. The Principal explained their observation of Student #2's growth by comparing the 21 behavioral incidents prior to the development of Student #2's new BSP to the 4 incidents after the BSP was implemented, specifically identifying improvement in perspective taking and Student #2's willingness to cartoon with the Principal to problem solve an issue in February of 2026. The Principal also credited implementation of the "Regulate, Relate and Reason" training provided to staff to assist Student #2 to de-escalate much more rapidly.

d. The Specialist discussed their multiple observations of Student #2's growth in transitioning in the hallway between classrooms, and the progress they have made to allow staff to accompany Student #2 part-way and then allow Student #2 to independently finish the transition. The Specialist also credited the Case Manager and staff use of a research-based strategy of "cartooning" to help illustrate social problems, referencing their log notations of Student #2 using this process to discuss social situations in which Student #2 previously struggled

e. The SLT commented that Student #2 has demonstrated meaningful growth in participating in reciprocal conversations with peers and adults, showing increasing independent using questions to maintain interactions. The SLT also provided examples of Student #2's growth with speech articulation skills and self-monitoring of speech production during structured activities.

16. Student #3: This Student is seven years old and is eligible for special education under the category of Autism Spectrum Disorder.

a. An annual IEP meeting was convened for Student #3 on October 2, 2025 (Student #3's IEP). The IEP includes goals and SDI to address Student #3's needs in the areas of multimodal communication skills, personal hygiene skills, safety (remain in assigned area), fine motor skills, social communication skills of play and turn-taking, and pre-academic skill acquisition. Student #3's IEP also indicates they will participate in alternate assessment.

b. Behavior, functional communication and assistive technology needs are identified by Student #3 's IEP as special factors for consideration in the entirety of their IEP.

c. Student #3's IEP includes the accommodations of prompts to remain in assigned area and attend to small group instruction, visual communication supports, extra processing time before responding, option for food reinforcers, toileting plan, embedded use of an AAC device into daily lessons and activities, adult monitor to help Student #3 to not put non-food items into their mouth, familiar tester during assessments, sensory support breaks, visual daily schedule with use of transition chime and token, and alternating the schedule of high demand and low demand tasks. The visual communication supports included use of a daily visual schedule, cue cards, first/then, PECs icons, social stories, calming visuals and visuals for making requests, and activity communication boards.

Sensory support breaks included use of fidgets, weighted blankets, chewies, sensory swing, trampoline, a quiet separate place for breaks and use of spinning chairs.

d. Student #3's IEP requires support for personnel, including consultation with Assistive Technology Consultant, Speech Language Pathologist, Autism Consultant, and Occupational Therapist.

e. Student #3 has a BSP dated February 5, 2026. According to the BSP, Student #3's behaviors of concern include frequent crying, occasional self-injury through biting, rare elopement, infrequent chair flipping and pinching. The BSP identified replacement behaviors of use of multi-modal communication for making requests, use of first/then schedule based upon their request and selection of a calming tool from a choice board when the Student is becoming increasingly escalated. Among proactive strategies included in the BSP are maintaining line of sight supervision, use of visual schedules and supports, access to augmentative communication device, use of first/then board to show when they will have access to preferred activity, daily structured routine and a transition routine that "allows processing time and visual supports."

f. Progress reports regarding Student #3's performance indicate, at the end of the third school trimester:

   i. Progress has been made on several objectives in the areas of self-hygiene, and fine motor skills; and

   ii. Progress has been made at the rate to anticipate accomplishment of the objectives in the areas of multimodal communication, remaining in assigned area, social communication, requesting a turn with speech or their AAC device, and pre-academic readiness.

17. In their interview regarding Student #3, the Complainant focused on describing their concerns that Student #3's academic needs were not being addressed, that the Case Manager could not tell the Complainant "what level they were on" and that Student #3's work was not graded by the Case Manager and daily learning was "interrupted by violence and aggression." The Complainant also stated there was never a plan to teach Student #3 "how to say 'No'" to aggression or inappropriate physical contact by peers. The Complainant opined that there "was never any plan or attempt at offering social-emotional education or support to [Student#3]".

18. In their interview, Student #3's Case Manager provided the following summary of Student 3's needs, progress and programming provided to Student #3:

    a. Student #3 has progressed from being unaware of a class routine and structure to knowing how to check their schedule and go to the next assigned area;

b. During the last year, Student #3 had previously not used a communication device and was now using their "talker frequently for their own exploration and for intentional communication";

c. Student #3 has begun learning from a high [frequency] sight word program with scaffolded visual instruction (Reading Milestones) and has "started writing the words from the story on their white board";

d. Most of the time, Student #3 uses their bathroom pass to indicate the need to visit the bathroom and a routine booklet visual aid was created to decrease their dependence on staff prompting; and

e. Peer interaction skills have progressed by using the "My turn" card, improving their stamina to stay in the circle time activity.

19. During their interviews, District and ESD professionals offered the following observations of Student #3's needs and progress during the 2025-2026 school year:

a. The Teacher shared that Student #3 follows a scheduled routine with adult support and their communication device and thus now participates in the general education class, recess, afternoon literacy time, choice time and fields trips. The Teacher also explained that Student #3 interacts with preferred peers and Teacher and will indicate to an adult if they want to "draw, paint, play kitchen or read". "While this student prefers to be mostly non-verbal, we have seen several instances over the past months that indicate that they are reading…and have begun writing simple words to go with stories."

b. The OT focused most of their observations on Student #3's access to and use of their headphones, oral chewies, scheduled and needed breaks in their daily schedule. The OT provided details and photos of many sensory activities Student #3 enjoys and benefits from, including the sensory room, swing, sensory bins, and calming corner. Finally, the OT described Student #3's growing independence in their toileting routine.

c. The Principal shared observations of Student #3's progress using multimodal options to make choices and comments, even responding when asked "what was bothering them?". The Principal echoed Student #3's growth with independence in their hygiene routine.

d. The Specialist shared detailed observation of Student #3's progress with engaging in non-preferred tasks by relying on classroom routines, a "check schedule" prompt and this has led to increased engagement in pre-academic and academic tasks. Also noting growth with hygiene independence, Student #3 was also observed to be able to transition back to their classroom independently while maintaining appropriate physical proximity.

e. The SLT shared observed progress toward attaining their functional communication goal across classroom activities. Student #3 demonstrated increasing independence "to use

multimodal communication to request, comment, gain attention, participate in shared activities to navigate vocabulary on their AAC device". The SLT also noted increased use of verbal language, gestures and eye contact with communication partners.

20. Student #4: This Student is nine years old and is eligible for special education under the category of Autism Spectrum Disorder.

    a. An annual IEP meeting was convened for Student #4 on February 20, 2026 (Student #4's IEP). The IEP includes goals and SDI to address Student #4's needs in the areas of fine motor skills, self-hygiene, use of self-regulation tools to maintain safe hands and body; respect of personal boundaries, and academic readiness (identify common attributes, and the use of communication modalities). The Student is assigned to the alternate assessment.

    b. Behavior, functional communication and assistive needs are identified by Student #4's IEP as special factors for consideration in the entirety of their IEP.

    c. Student #4's IEP includes the accommodation of preferential seating, visual models for numbers and letters, behavior support plan, access to touch screen, medical protocols for allergy awareness, epi-pen use and seizure response, reduced number of assignments/tasks, adult assistance/support as needed for safety of self/others, access to AAC supports, and visual schedule.

    d. Student #4's IEP requires support for personnel, including consultation with school nurse, speech language therapist, AAC specialist, and Autism Consultant.

    e. Student #4 has a BSP dated October 23, 2025. According to the BSP, Student #4's behaviors of concern include "grabbing, hair pulling, biting attempts, biting and charging" to protest, gain attention or "a response to being startled". The BSP identified replacement behaviors of use of "low tech single page communication board, nonverbal communication strategies or gestures to seek attention, help or protest" and learning to greet friends with a "high five or other greeting" as well as using sensory tools to self-regulate. Among proactive strategies included in the BSP are the use of first/then visual and language with preferred choice following non preferred task, use of visual choice wheel of preferred objects/activities", sensory diet of input such as compressions, modelling pro-social and play skills, adult planning of their body position and plan "seating so that the Student is not in close proximity to potential targets", elimination of environmental objects that cause the Student to engage in stimming, single page communication board with reciprocal engagement during an activity, single page of basic communication icons, "check and connect" with visuals and extra time for transitioning to new activity, visuals of tools and toys with their expected use, positive reinforcement for use of safe hands and feet, and access to noise cancelling headphones.

    f. Progress reports regarding Student #4's performance at the end of the second school trimester indicated that Student 4 had made progress on several objectives in the areas

of fine motor skills, self-care/hygiene skills, identifying emotions using their communication device, maintaining safe body, academic readiness, and the use of communication modalities.

21. In their interview regarding Student #4, the Complainant focused on describing a lack of instruction for this Student and the frequency of the Student's behaviors. The Complainant referenced an exclusion of Student #4 from specials (music, art, library, etc.), was concerned that Student #4 had demonstrated regression from a lack of functional and academic instruction and difficulty implementing Student 4's toileting plan.

22. In their interview, Student #4's Case Manager provided the following summary of Student #4's needs, progress and the programming provided to Student #4:

    a. Student #4 initially refused to transition to the bathroom for hygiene but now is responding to positive reinforcement options in the sensory room after hygiene routine is completed;

    b. Student #4 is working on physical boundary respect with a low-tech communication board to ask for a turn or give a turn; and

    c. Student #4 has made progress using a clean-up icon to move on to a new activity in place of getting "fixated on particular objects or stimming patterns".

23. During their interviews, District and ESD professionals offered the following observations of Student #4's needs and progress during the 2025-2026 school year:

    a. The Teacher shared that Student #4 demonstrates more responsiveness to adult redirection within the school environment compared to earlier in the year when they would "exhibit high resistance to redirection". The Teacher recalled Student #4's communication progress being evidence on a recent field trip when compared to their performance on the same field trip the previous school year. The Teacher explained that "[Student #4] exhibited a marked increase in non-verbal communication…to express engagement and interest in marine life [which] directly facilitated great participation in a hands-on cooperative activity."

    b. The OT observed that Student #4 was now able to leave a sensory break room to transition to the work area when given a visual prompt and has worked with SLC staff about more sensory room visuals. In February of 2026, the OT recalled the Student attempting to "pull staff hair" when Student #4 was not allowed to access something they wanted and the professional commented they'd not seen aggressive behavior in over a week. The OT noted that Student #4 benefits from quiet time alone and calming corners, scheduled and as needed breaks with sensory objects and that Student #4 has made progress accepting headphones and wearing them for short durations during loud classroom situations.

c. The Principal explained that Student #4 uses paper communication tools to express their needs because the AAC device "becomes a perseverating stimming object that is hard to resist", and Student #4 has made progress using communication paper boards. The Principal has seen Student #4 complete more academic tasks both in writing and math, and has observed them working on number counting, writing their name and copying words. The Principal also shared that the family resides outside of the district boundary and the family chooses to bring them to their school program.

d. The Specialist reports that their observations and that of staff indicate Student #4 has made improvement with self-regulation. In their opinion, Student #4 is consistently using their communication board and staff model sentences such as "I want" when Student #4 uses a finger to point to objects as a request. Finally, Student #4 is very consistently completing work tasks at their independent work station.

e. The SLT provided multiple examples to document that Student #4 has demonstrated increased participation in shared activities with adults using communications supports and multimodal strategies. The SLT also indicated increased intentional use of low-tech communication boards, gestures, sign language, guiding adults, joint attention, eye contact, and object exchange to communicate their wants, needs, requests and participation in activities.

24. Student #5: This Student is eight years old and is eligible for special education under the category of Traumatic Brain Injury.

a. An annual IEP meeting was convened for Student #5 on June 4, 2025 (Student #5's IEP). The IEP includes goals and SDI to address Student #5's needs in the areas of motor skills, daily living skills (chronoception skills in relation to personal relevance), reading comprehension, social communication, mathematics, and written language. Student #5 participates in state and district wide assessment with accommodations.

b. Behavior and functional communication needs are identified by Student #5's IEP as special factors for consideration in the entirety of their IEP.

c. Student #5's IEP includes the accommodations of a scribe, simplified directions/check for understanding, directions presented orally and/or with visual model, extra time to process before being required to respond to questions or begin a task, preferential or designated seating and line placement, visual models to communicate emotions, feelings and needs, visual schedule, access to noise-dampening headphones and tools, pre-teaching/social stories/ visuals for changes in routine, visual/verbal cues and adult support/supervision when participating in transitions, calming breaks, including motor breaks, fidgets, sensory and calming manipulatives, familiar tester for assessments due to communication needs, manipulatives, modified writing paper, and adult support for non-academic classes, food consumption and safety during meal times.

d. Student #5's IEP requires support for personnel, including consultation with occupational therapist and speech language therapist.

e. Student #5 has a BSP dated March 30, 2026. According to the BSP, Student #5's behaviors of concern include ignoring directions, invading personal space, disruptive loud noises and a loud voice, ripping paper and breaking pencils, throwing school materials, knocking over tables, bookshelves and chairs and kicking at adults who are trying to redirect or regulate. The BSP identified replacement behaviors of use of visuals and voice to request help, a quiet work space or a break in the calming corner to regulate as well as using identified behaviors to gain attention in a positive way. Among proactive strategies included in the BSP are use of an individualized visual schedule, building gross motor and sensory breaks into their schedule, pre-teaching expected behaviors, defining safe body visually with a "smiley face and frowny face", use of positive reinforcement, visual options include mini schedules, using a timer or check boxes, first/then visual checklist, visual break card, and providing jobs throughout the days.

f. Progress reports regarding Student #5's performance indicate, at the end of the third school trimester:

   i. Progress has been made on several objectives in the areas of writing, reading comprehension, participating in whole group instruction by listening and completing assignments with supports, and written language;

   ii. Progress has been made at the rate to anticipate accomplishment of the objectives in the areas of daily living skills, social communication, language goals, and mathematics; and

   iii. Student #5's previous progress with transitioning between activities had decreased.

25. In their interview regarding Student #5, the Complainant explained that "this student was not frequently in the SLC classroom". It is unclear from Complainant's brief statement whether they actually witnessed any of the concerns with disrobing or their allegation that "nothing was put into place to address [physical aggression and disrobing] and/or teach [Student #5] more functional behavior."

26. In their interview, Student #5's special education teacher provided the following summary of Student #5's needs, progress and programming provided to Student #5:

    a. Student #5 had their placement changed from nearly full time in general education due to dysregulation and unsafe behaviors;

    b. After completion of a new FBA and BSP, the team has developed a "system that has stabilized the Student's responses";

c. With the increased structure, Student #5 is becoming more flexible and learning to cope with changes; and

d. This Student has become "very dependent on staff support so we are building small opportunities for them to experience and celebrate independence such as completing activities in an independent work station". This approach is building independence for Student #5, and the team is "sure to acknowledge [Student #5's] responsible actions".

27. During their interviews, District and ESD professionals offered the following observations of Student #5's needs and progress during the 2025-2026 school year:

a. The Teacher commented that they still "work with this student daily in the classroom with the support of an aide" and noticed that Student #5 has made significant progress with maintaining routine, transitions and completing classwork. Student #5 is also observed to be wanting to be helpful to a peer, an interest being encouraged and incentivized by the special education team.

b. The OT shared that Student #5 has been "successful joining regular class carpet time instruction by being able to sit near peers in a separate chair" with paraprofessional facilitation with visuals and/or verbal prompts to help them ask questions in a quiet voice and participate in class instruction. The OT indicates that Student #5 has benefitted from short defined work times, visual and verbal prompts to facilitate frequent movement and walk breaks, snack breaks and quiet time in the learning center with puzzles, toys and manipulatives, noting that staff are also using social stories to support Student #5 to transition back to the class and instructional activities. Finally, the OT acknowledged some external (family) factors that are impacting Student #5's progress and praised SLC staff for allowing Student #5 to take breaks in a variety of settings ("Super Hero Room, Learning Center, calming corner in the general education classroom and sensory room in the SLC").

c. The Principal observed and provided photos of social stories used by the SLC team to support Student #5's progress with staying on this schedule and remaining in the classroom. The Principal also provided photos of staff sketching expectations for Student #5 to be successful and demonstrate attentive learner attributes ("voice off, eyes are looking, ears are listening"). The Principal praised Student #5's ability to join a learning circle and transition from activity to activity as a result of their individualized schedule.

d. The Unified PE Teacher commented that Student #5 has demonstrated positive progress by successfully maintaining class with support of special education personnel and is able to follow "expected predictable routines during our class time", including joining circle to learn the expectations and activities for the day.

e. The SLT has observed progress with self-management and safety goals with Student #5's recent ability to consistently transition safely to and from speech sessions using visual

supports for transition. Recently, Student #5 became upset and crumpled a worksheet but was then able to use a first/then visual, accept redirection and complete the activity.

28. Student #6: This Student is 8 years old and is eligible for special education under the category of Autism Spectrum Disorder.

    a. An annual IEP meeting was convened for Student #6 on October 23, 2025 (Student #6's IEP). The IEP includes goals and specially designed instruction (SDI) to address Student #6's needs in the areas of functional communication, mathematics, reading, written language, fine motor skills, and social/emotional and behavior skills (following classroom routines, respect other's space and belongings). Student #6 will participate in alternate assessment.

    b. Behavior, functional communication and assistive technology needs are identified by Student #6's IEP as special factors for consideration in the entirety of their IEP.

    c. Student #6's IEP includes the accommodation of positive reinforcement system for task completion with option for food or activity reinforcers, visual communication supports (daily visual schedule, cue cards, first/then board, PECs icons, social stories, topic communication boards, scripts and sentence frames), transition objects/visuals, access to noise muffling headphones, alternate high demand tasks with low demand tasks in the daily schedule, visual mini schedule and access to sensory self-regulation tools, assistance to use sensory self-regulation strategies, use simplified speech, provide answers to choose from including the option to respond differently, and staff support for making transitions.

    d. Student #6's IEP requires support for personnel, including consultation with an Autism Consultant, Occupational Therapist, Physical Therapist, and Augmentative and Alternative Communication Specialist.

    e. Student #6 has a BSP dated January 9, 2026. According to the BSP, Student #6's behaviors of concern include elopement, crying/hitting/biting/throwing items and taking items. The Plan identified replacement behaviors of use of communication of their wants and needs to follow her schedule and gain what they way before eloping and learning to "ask before taking items that belong to others." Among proactive strategies included in the BSP are use of visual schedule, mini-schedule and checklists, first/then with preferred choice activity following a structure task, providing choices when possible, access to noise cancelling headphones, language scripts and visuals to support language development, regular sensory diet, and provision of commenting strategies that "work for students who are seeking autonomy".

    f. Progress reports regarding Student #6's performance indicate, at the end of the third school trimester:

i. Progress has been made on several objectives in the areas of fine motor skills, reduction of aggressive conduct[5], transitions within the SLC classroom, elopement, personal space boundary from others, refraining from touching those items in the classroom setting marked as "off limits";

ii. Progress has been made at the rate to anticipate accomplishment of the objectives in the areas of independently expressing protest, labelling and commenting during structured activities, all math skills, sight word reading and decoding at end of 1st grade level; and

iii. Expected progress has not been made with "respecting the belongings of others" and the team is intervening with social story use and "requesting their turn before touching an item".

29. In their interview regarding Student #6, the Complainant focused on describing their concerns That Student #6's work went unreviewed and the classroom teacher did not know what level the Student was at. Student #6 was described by the Complainant as a "highly volatile student [who] initiated violent actions against fellow students and staff almost constantly, multiple times an hour on most days [and] was never given appropriate attention to help them learning better functioning behavior." The Complainant also indicated that this "student eloped multiple times a day…[and] these elopements were not addressed in a meaningful way."

30. In their interview, Student #6's Case Manager provided the following summary of Student #6's needs, progress and programming provided to Student #6:

a. The school team facilitated a trial of the AVAZ augmentative communication device on an Ablenet device for Student #6 and the Case Manager indicates use of this device has helped Student #6 "increase their vocabulary and reading/writing skills;

b. With the new device, Student #6 has started to initiate the use of oral language to make requests and comments and, at this time, their "oral vocabulary is expanding rapidly"; and

c. Student #6 responded well to social cartooning and scripts to acquire new social skills and is motivated by novel small toys and is currently engaged with a token economy to complete activities to "shop" in the office at the "market" for reinforcing toys earned.

31. During their interviews, District and ESD professionals offered the following observations of Student #6's needs and progress during the 2025-2026 school year:

a. The Teacher noted Student #6's progress in using different ways to communicate "whether that be a visual chart or device or even their words," with this type of

[5] Student #6 was noted in progress report as having become "more aggressive" but is responding to a new positive reinforcement/token economy created for them.

communication being visible during class parties and field trips. The Teacher also shared Student #6's academic progress, especially with reading "due to the SLC teacher's structured routines and expectations for their class". The Teacher proudly explained that Student #6 "received a perseverance award for their growth in reading."

b. The OT explained how the SLC routine "is set up to alternate between work times, choice time and calming corner/break spaces in place" and that Student #6 is consistently using their headphones "in most settings", and that Student #6 benefits from extra snack breaks, drawing/art breaks, tablet and technology breaks and sand box time. The OT provided multiple photos of the sensory items Student #6 uses during their school day.

c. The Principal explained that Student #6 utilizes sentence frames to help them communicate and as a result their communication has increased immensely. Student #6 now uses sentence frames to express wants and needs instead of unsafe behaviors. The Principal also provided photos of sentence frames Student #6 uses to request favored objects. Finally, the Principal also shared the new replacement behavior system of "Bunny Bucks" to use positive reinforcement for Student #6 to demonstrate and maintain a safe body instead of attempting to elope or take other students' personal items.

d. The Specialist shared that Student #6 demonstrates many characteristics associated with a PDA, pathological demand avoidance or pervasive drive for autonomy, a "profile of autism". After the FBA meeting in January 2026, the team reviewed helpful strategies to use with "students of this profile", and the Specialist now observes Student #6 does an "excellent job completing academic tasks with [Case Manager]" and that professional is "nicely picking up on [Student #6]'s indirect requests". Finally, the Specialist credits the new reinforcement system for Student #6's progress following expected routines and using a safe body.

e. The Physical Therapist (PT) has observed Student #6 participating in school-based routines and movement activities. The Case Manager and their classroom staff have implemented structured group movement activities in which students take turns using the Smart Screen to participate in chosen movements. When Student #6 demonstrated decreased interest, the team created an adapted PE opportunity for Student #6 to engage in at the end of the school day. The PT affirmed that the professional team "consistently monitor the student's participation and adjust routines and activities as needed to support [their] engagement, participation, safety and ability to maintain a safe body.

IV. DISCUSSION

When IEPs Must Be in Effect

The Complaint alleges that the District violated the IDEA by not providing special education and related services in accordance with the Students' IEP. This included failing to implement the

Students' IEP goals, specially designed instruction, accommodations and access to and engagement in the general education setting in accordance with the Students' IEP.

School districts must provide special education and related services to a Students with a disability in accordance with the Students' IEP.[6] The school district must ensure that each staff member, including service providers, has access to a Students' IEP and is informed of their specific responsibilities for implementing the IEP.[7] "IEP Teams and other school personnel should be able to demonstrate that, consistent with the provisions in the a Students' IEP, they are providing special education and related services and supplementary aids and services."[8]

A district violates the IDEA when it materially fails to implement an IEP.[9] A material failure occurs when the services a school provides to a disabled child fall significantly short of the services required by the child's IEP. Minor discrepancies between the services provided and the services called for by the IEP do not give rise to an IDEA violation.[10] As further explained by the court in Van Duyn:

> "The materiality standard does not require that the child suffer demonstrable educational harm in order to prevail. However, the child's educational progress, or lack of it, may be probative of whether there has been a significant shortfall in the services provided. For instance, if the child is not provided the reading instruction called for and there is a shortfall in the child's reading achievement, that would certainly tend to that the failure to implement the IEP was material. On the other hand, if the child performed at or above the anticipated level, that would tend to show that the shortfall in instruction was not material."[11]

In reviewing individual student progress to determine whether each student's IEP has been implemented, a student's education progress must be viewed in the light of their individual circumstances. Endrew F. v. Douglas County Sch. District RE-1, 58- U.S. 386 (U.S.2017). Documentation provided by the Specialist, and other District professionals is strong evidence that the SLC professional team has received sufficient professional training, including the use of de-escalation strategies and co-regulation techniques to implement the SLC students' IEPs.

Thus, reviewing each student's progress reports and information from professional interviews indicates that:

1. Student # 1 presents with behavioral, functional communication and assistive technology needs requiring multiple professionals (OT, SLT, Specialist and Case Manager) to collaborate to design routines and interventions to implement Student #1's IEP and BIP in a manner so that the student makes relative progress on their individual goals. Student #1's IEP and BIP require consistent use of accommodations, specifically sensory and

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

positive behavior supports and individual routines to support Student #1's skill development of replacement behaviors to decrease their self-injury incidents of biting, physical aggression towards adults and dysregulated, and "uncontrollable crying that is non-responsive to efforts to calm".

Some progress has been made in Student #1's goals of co-regulation, some skills associated with her "your turn card", math, and independent transitioning. Conversely, substantial progress has been made towards achieving their goals in using sensory strategies of feelings and tools charts, some skills associated with her "your turn card", use of multi-modal communication, use of visual scripts and sentence frames, reading, and written language. Professional interviews and photo evidence clearly document that Student #1 is responding to the specially designed instruction, use of key curricula and new AAC device as well as social cartooning. Here, detailed and lengthy interviews of the general education teacher, OT, SLT, Principal or Autism Specialist provide substantial evidence that Student #1's progress reports are accurate.

2. Student #2 presents with behavioral, and communication needs requiring multiple professionals (OT, SLT, Specialist and Case Manager) to collaborate to design routines and interventions to implement Student #2's IEP and BIP in a manner so that the student makes relative progress on their individual goals. Student #2's IEP and BIP require consistent use of accommodations, specifically sensory and positive behavior supports and individual routines to support Student #2's skill development of replacement behaviors to decrease their yelling, throwing items, pushing, hitting or kicking peers or adults.

   Some progress has been made in Student #2's goals and objectives related to speech intelligibility skill development. Conversely, substantial progress has been made towards achieving their goals in areas of play skills, taking a break and using a calming tool in the face of intense emotions, following their school schedule without difficulties when regulated, engagement in grade level reading activities, development of written language skills, and conversation skills. Professional interviews and photo evidence clearly document that Student #2 is responding to the specially designed instruction, gradually building up time in the general education setting to approximately 65% of their day. Daily instruction in Everyday Speech has been specifically helpful, allowing Student #2 to learn from video modelling and seeing/hearing perspectives of multiple individuals in contrived scenarios. The detailed and lengthy interviews of the general education teacher, OT, SLT, Principal or Autism Specialist provide substantial evidence that Student #2's progress reports are accurate.

3. Student #3 presents with behavioral, functional communication and assistive technology needs requiring multiple professionals (OT, SLT, Specialist and Case Manager) to collaborate to design routines and interventions to implement Student #3's IEP and BSP in a manner so that the student makes relative progress on their individual goals. Student #3's IEP and BIP require consistent use of accommodations, specifically sensory and positive behavior supports and individual routines to support Student #3's skill

development of replacement behaviors of occasional self-injurious biting, elopement, chair flipping and pinching.

Some progress has been made in Student #3's goals of self-hygiene, and fine motor skills. Conversely, substantial progress has been made towards achieving their goals in multimodal communication, remaining in assigned area, social communication, requesting a turn with speech or their AAC device, and pre-academic readiness. Professional interviews and photo evidence clearly document that Student # is responding to the specially designed instruction, structured routine and schedule, their AAC device as well as Reading Milestones literacy curriculum. The detailed and lengthy interviews of the general education teacher, OT, SLT, Principal or Autism Specialist provide substantial evidence that Student #3's progress reports are accurate.

4. Student #4 presents with behavioral, functional communication and assistive technology needs requiring multiple professionals (OT, SLT, Specialist and Case Manager) to collaborate to design routines and interventions to implement Student #4's IEP and BIP in a manner so that the student makes relative progress on their individual goals. Student #4's IEP and BIP require consistent use of accommodations, specifically sensory and positive behavior supports and individual routines to support Student #4's skill development of replacement behaviors to decrease the use of "grabbing, hair pulling, biting attempts, biting and charging" to protest, gain attention or "a response to being startled".

   According to progress reports at end of 2nd trimester, Student #4 had made progress on several objectives in the areas of fine motor skills, self-care/hygiene skills, identifying emotions using their communication device, maintaining safe body, academic readiness, and the use of communication modalities. Professional interviews and photo evidence clearly document that Student #4 is responding to the specially designed instruction, low tech communication boards, and sensory break options offered through their team's design. The detailed and lengthy interviews of the general education teacher, OT, Specialist, Principal or Autism Specialist provide substantial evidence that Student #4's progress reports are accurate.

5. Student #5 presents with behavioral and functional communication needs requiring multiple professionals (OT, SLT, and Case Manager) to collaborate to design routines and interventions to implement Student #5's IEP and BSP in a manner so that the student makes relative progress on their individual goals. Student #5's IEP and BIP require consistent use of accommodations, specifically sensory and positive behavior supports and individual routines to support Student #5's skill development of replacement behaviors to decrease their incidents of ignoring directions, invading personal space, disruptive loud noises and a loud voice, ripping paper and breaking pencils, throwing school materials, knocking over tables, bookshelves and chairs and kicking at adults who are trying to redirect or regulate.

   Despite notations of regression with transitioning progress, some progress has been

made in Student #5's goals of writing, reading comprehension, participating in whole group instruction by listening and completing assignments with supports, and written language. Conversely, substantial progress has been made towards achieving their goals in daily living skills, social communication, language goals, and mathematics. Professional interviews and photo evidence clearly document that Student #5 is responding to the specially designed instruction as well as a significant change in placement and with the increased structure, Student #5 is becoming more flexible and learning to cope with changes. The detailed and lengthy interviews of the general education teacher, OT, Specialist, Principal and Unified PE Teacher provide substantial evidence that Student #5's progress reports are accurate.

6. Student #6 presents with behavioral, and functional communication and assistive technology needs requiring multiple professionals (OT, PT, Specialist and Case Manager) to collaborate to design routines and interventions to implement Student #6's IEP and BSP in a manner so that the student makes relative progress on their individual goals. Student #6's IEP and BSP require consistent use of accommodations, new AT application, positive reinforcement and flexibility to continually monitor and update routines support Student #6's skill development of replacement behaviors to decrease their incidents of elopement, crying/hitting/biting/throwing items and taking items.

   Although expected progress has yet to be made in Student #6's difficulty "respecting the belongings of others", the team is intervening with social story use and "requesting their turn before touching an item". Some progress has been made in Student #6's goals of fine motor skills, reduction of aggressive conduct, transitions within the SLC classroom, elopement, personal space boundary from others, refraining from touching those items in the classroom setting marked as "off limits". Conversely, substantial progress has been made towards achieving their goals in independently expressing protest, labelling and commenting during structured activities, all math skills, sight word reading and decoding at end of 1st grade level. Professional interviews and photo evidence clearly document that Student #6 is responding to the specially designed instruction, personalized token economy and new AAC device. There detailed and lengthy interviews of the general education teacher, OT, Specialist, Principal and PT provide substantial evidence that Student #6's progress reports are accurate.

Free Appropriate Public Education (FAPE)

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

Each school district is responsible for providing a free appropriate public education to school age children with disabilities for whom the school district is responsible.[12] In order to determine whether a Students has been denied a FAPE, the courts review a district's compliance with the procedural and substantive components of the Students' education. Reviewing courts must

[12] OAR 581-015-2040(1); 34 CFR §300.101(a).

inquire whether the school district complied with the procedural requirements of the IDEA, and whether the school district met the substantive requirement to develop an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances.[13]

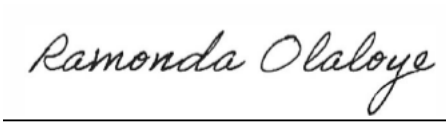
Not every procedural error is sufficient to rise to a denial of FAPE.[14] The procedural test consists of three pivotal procedural errors: (1) whether the Students suffers a loss of educational opportunity;[15] (2) whether the Complainant's right to participate in the IEP process was infringed;[16] or (3) whether the procedural error caused a "deprivation of educational benefit."[17] The Department has determined there is no evidence of a deprivation of educational benefit regarding any of the six students. As the Department did not substantiate the allegation relative to implementation of the individual Students' IEPs, the Students have not been denied a FAPE.

V. CORRECTIVE ACTION

In the Matter of Neah Kah Nie School District 56
Case No. 26-054-036

Based on the facts provided, no corrective action is ordered.

Dated: this 30 Day of June 2026



Ramonda Olaloye
Assistant Superintendent
Office of Enhancing Students Opportunities

E-mailing Date: June 30, 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).)

[13] *Endrew F.*, 137 S.Ct. at 999.
[14] *Amanda J. v. Clark Co. Sch. Dist.*, 267 F.3d 877, 892 (9th Cir. 2001) (citing *Roland M. v. Concord 13684 Sch. Comm.*, 910 F.2d 983, 994 (1st Cir. 1990)).
[15] *Target* Range, 960 F.2d at 1484.
[16] *Id.*
[17] *Amanda J.*, 267 F.3d at 892 (citing *Roland M.,* F.2d at 994).