BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of	)	FINDINGS OF FACT,
Baker School Districts 5J and Harney County	)	CONCLUSIONS,
Union High School Districts 1J	)	AND FINAL ORDER
	)	Case No. 26-054-042

I. BACKGROUND

On March 24, 2026, the Oregon Department of Education (the Department) received a written request for a special education complaint investigation from the parent (Parent) of a student (Student) who attends a Charter School sponsored by the Harney Union High School (Harney) and served by the Baker School District (Baker) (collectively "Districts"). The Parent requested that the Department conduct a special education investigation under OAR 581-015-2030. The Department confirmed receipt of this Complaint and forwarded the request to the Districts.

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

On April 2, 2026, the Department's Complaint Investigator sent a *Request for Response (RFR)* to the Districts identifying the specific allegations in the Complaint to be investigated and establishing a *Response* due date of April 16, 2026.

The Districts submitted a joint *Response* on April 16, 2026, denying the allegations, providing an explanation, and submitting documents in support of the Districts' position. The Districts submitted the following relevant items:

1. Districts' Written *Response* to Complaint, 4/16/26
2. Psychoeducation Evaluation Report, 2/6/23
3. Individualized Education Program (IEP) 9/15/25
4. Evaluation Planning Meeting Notes, 10/13/25
5. Consent to Evaluate signed by Parent, 10/13/25
6. Confidential Evaluation Report, 12/4/25
7. Speech-language Evaluation, 12/11/25
8. Eligibility Meeting Notes, 1/27/26
9. Eligibility Determination, 1/27/27
10. IEP, 2/27/26
11. Prior Written Notice (PWN), 2/27/26

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

12. IEP Meeting Notes, 2/27/26
13. PWN, 4/1/26
14. Email correspondence between Districts and Parent
15. Districts Historical Records, 2017-2025

The Parent submitted a *Reply* on April 13, 2026 to the Districts' *Response*. The Parent also submitted the following relevant items with their *Reply* and additional information through email on April 16, 2026:

1. Parent's *Rebuttal* to Districts' Written Response, 4/20/26
2. PWN, 4/1/26
3. Information regarding IEE Possible Evaluators, no date
4. Course Reports and Current Grades
5. Email correspondence between Districts and Parent
6. Meeting Notes, 9/15/25
7. Meeting Notes, 9/29/25
8. PWN, 10/13/25
9. Statement of Eligibility for Special Education, 1/27/26
10. Eligibility Supporting Documents, 1/27/26
11. Appendices of Exhibits P-ZF, no date

The Complaint Investigator interviewed the Parent on April 24, 2026. On May 11 and 14, 2026, the Complaint Investigator completed an interview process with eight of the Districts' personnel. The Districts also submitted additional documents related to the interview process on May 15, 2026. The Complaint Investigator reviewed and considered all documents, interviews, and interview exhibits in reaching the findings of fact and conclusions of law contained in this order. The Complaint Investigator also considered a limited number of documents dated after the Complaint date as they were submitted by both Parties and are relevant to the requests the Parent made in their requested corrective action list. 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 25, 2025 to the filing of this Complaint on March 24, 2026.

Allegations	**Conclusions**
IEP Content The Parent alleges that the Districts violated the IDEA when they failed to include goals, specific special education and	**Not Substantiated** Baker addressed the Student's adaptive and academic needs in

related services, and supplementary aids and services in the Student's IEP to fully address the Student's needs that result from the Student's disabilities. (OAR 581-015-2200; 34 CFR §300.320)	the development of the February 2026 IEP.
Evaluation and Reevaluation Requirements The Parent alleges that the Districts violated the IDEA when it failed to complete an appropriate and timely reevaluation of the Student's educational and adaptive needs. (OAR 581-015-2110 and 2105; 34 CFR §300.116)	**Not Substantiated** Baker utilized a reevaluation process consistent with state and federal regulations.
When IEPs Must Be in Effect The Parent alleges that the Districts violated the IDEA by not providing special education and related services in accordance with the Student's IEP. This included failing to implement the Student's IEP goals and specially designed instruction and accommodations. (OAR 581-015-2220; 34 CFR §300.323)	**Substantiated in Part** Baker and Harney have not implemented the reading comprehension SDI identified in the Student's February 2026 IEP.
Independent Education Evaluation The Parent alleges that the Districts violated the IDEA by not providing the Parent with timely response to Parent's request for an Independent Education Evaluation and by imposing unreasonable criteria on the IEE (a funding cap) that did not allow for a comprehensive evaluation. (OAR 581-015-2305; 34 CFR §300.502)	**Not Substantiated** Baker appropriately responded to the Parent's request for an IEE.
Compliance with Final Order of State of Oregon Department of Education The Parent alleges that the Districts violated the IDEA by failing to comply with corrective actions directed by the State Superintendent of Public Instruction Final Order 25-054-091. (OAR 581-015- 2030; 34 CFR §§300.151-153 & 34 CFR §300.504)	**Not Substantiated** Baker and Harney have, thus far, complied with Final Order 25-054-091 regarding the development of a compensatory education plan with the Student's IEP team and the Parent.

Prior Written Notice The Parent alleges that the Districts violated the IDEA by not providing the Parent with prior written notice (PWN) within a reasonable period of time before the Districts proposed or refused to initiate or change the identification, evaluation, educational placement, of provision of a free appropriate public education to the Student. This included the failing to provide PWN in response to the Parent's requests regarding the scope of the Student's reevaluation. (OAR 581-015-2310; 34 CFR §300.503)	**Not Substantiated** Baker provided sufficient PWN regarding the scope of the Student's reevaluation.
Free Appropriate Public Education (FAPE) The Parent alleges that the Districts failed to provide the Student with a free appropriate public education. (OAR 581-015-2040; 34 CFR §300.101)	**Substantiated** The failure to implement the reading comprehension SDI required by the Student's IEP has denied the Student a FAPE.

REQUESTED CORRECTIVE ACTION

The complainant requested corrective action as follows:

1. Address the improper removal and reduction of IEP goals and amount of specially designed instruction.
2. Ensure access to comprehensive neuropsychological evaluation at no cost to the parent.
3. Establish safeguards to prevent similar issues moving forward.
4. Documented compliance by Districts with the State Superintendent of Public Instruction Final Order 25-054-091.
5. Provision of compensatory education.

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 25, 2025. Any facts listed below relating to circumstances or incidents earlier than that date are included solely to provide context necessary to understand the Student's disability and special education history. The Department also recognizes that the Parties were involved in a state complaint investigation, 25-054-091, and the Department did not review any allegations of that investigation as they were addressed with the Department's February 3, 2026 Order.

1. The Student is fifteen years old and is in the ninth grade. They are eligible for special education under the category of Autism Spectrum Disorder.

2. The Student is enrolled and attends the Charter School, a virtual public charter school sponsored by Harney.

3. Harney contracts with Baker to provide special education services and support to students at the Charter School. As explained in the Districts' *Response*, "In this role, Baker School District is responsible for ensuring compliance with the [IDEA], including evaluation, eligibility determination, IEP development, and coordination of special education services."

4. The Student's September 15, 2025 IEP (September 2025 IEP) was in place during the initial part of the investigation period. The IEP included the following information, in relevant part:

    a. Student strengths, interests and preferences: The Student is a "visual learner" and "understands best with step-by-step models and worked examples.". The Student "uses graphic organizers and checklists effectively," and "persists when tasks are chunked and expectations are clear."

    "[The Student] is a virtual-only student and is not on campus for any classes. The IEP will reflect the virtual-only setting. Suppose the student were to be seen on campus or transition to another setting. In that case, the team should review the IEP to ensure that accommodations, modifications, and services meet the student's needs in the new setting chosen by the family."

    b. Parent Concerns: The "original and amended PWN did not state a concrete proposal or refusal (no specific services/minutes), so I cannot tell what action the district is asking us to accept." "The September 3 meeting was labeled as a 'transfer IEP' meeting even though no LEA/district representative who could commit resources was present." "References to 'programming may look different' are program-model statements, not individualized, data-based reasons for change." "As a transfer, [the Student] must receive comparable services to [their] prior IEP until a new IEP is adopted… [The Student] has not received IEP services since the start of the 2025-26 school year (September 2, 2025)."

    c. Present Levels: "Through a full inclusion model, which utilizes collaboration between special education staff, general education teachers, and the child's learning coach (usually the parent), special education services and specially designed instruction are provided in the general education setting."

    Teacher Input: The Student is passing all their classes and has responded to 100% of the attendance emails. "There are no concerns at this time."

    Communication: "During two 30-minute speech-language sessions, the SLP observed [the Student's] speech, language and social communication abilities. The SLP observed [the Student's] communication abilities in all areas to be more than functionally adequate."

The Student "is capable of making progress towards both [their] speech and language goals when provided 30 minutes/week of speech-language [SDI] *IF the student is motivated and completes daily articulation home carry-over practice." "IF the student is NOT motivated to work on [their articulation,* then the recommended speech-language service minutes are 60 minutes/month to address [their] language goal." (emphasis in original)

The present levels include academic and other assessment data from December 2024 indicating:

i. Reading: Grade 5 vocabulary skills, grade 7 literature comprehension skills and grade 4 informational text skills;

ii. Mathematics: Grade 6 numbers and operations, grade 7 algebra and algebraic thinking, grade 5 measurement and data, and grade 4 geometry;

d. Annual Goals: Included goals in the areas of reading, writing, social/emotional/behavior, math, language and articulation.

e. Specially Designed Instruction (SDI): The anticipated location for all SDI is designated as "Virtual Classroom" and the role responsible for monitoring the SDI is identified as either "LEA-SLP" or "LEA."

i. Speech/Language for 30 minutes per week;
ii. Written Language for 120 minutes per week;
iii. Mathematics for 150 minutes per week;
iv. Social Skills for 30 minutes per week; and
v. Reading for 30 minutes per week.

f. Related Services: The student is not in need of related services.

g. Supplementary Aids/Service; Accommodations: Ability to break testing sessions into smaller chunks of time; Test with a familiar staff member; Check for comprehension when directions are given; Reteach/Pre-teach routines when a new routine is introduced; Access to manipulatives, calculator, scratch paper for math; Visual prompts to support lessons; Read directions, grade level materials and tests aloud; Text to Speech/Speech to Text; Break large projects into shorter goals; Allow for processing time; Test in a separate setting; Movement breaks between academic tasks; and Allow test retakes for tests under a C grade.

h. Supports for School Personnel: Consultation to teaching staff from the Case Manager regarding services on the IEP for 15 minutes per semester.

i. Non-Participation Justification: "[The Student] will participate 100% in general education." "One-on-one advisory visits are offered for each student, and may include

progress checks, instruction, supported work completion, and/or specially designed instruction . . . provided by a general education teacher." "Specially designed instruction will be provided through consultation with special education staff, specialized support in the general education curriculum, vectored instruction, and/or another specialized curriculum targeting the student's needs."

5. The Parent and the Districts were involved in a Department Complaint Investigation, Case No. 25-054-91, filed on December 5, 2025. The Department issued an Order on February 3, 2026 that, in part, determined:

   a. The Districts had failed to implement Student's IEP from the first day of the 2025-2026 school year through December 5, 2026;

   b. The Districts had failed to provide adequate descriptions of the SDI to be provided to the Student in the areas of Written Language, Math, Social Skills and Reading;

   c. A written plan for compensatory education was to be developed at an IEP meeting and provided to the Department before March 15, 2026: and

   d. Submission of evidence of compensatory services was due to the Department by August 31, 2026.

6. On October 13, 2025, the Parent met with the Student's IEP team to plan a re-evaluation of the Student. Personnel at the meeting included the Student's case manager (Special Education Teacher 1), the Student's Speech and Language Pathologist (SLP), Baker's Diagnostician (Diagnostician), the Student's Advisory/General Education Teacher (Teacher)[3], and Baker's Special Education Director (Director). The Eligibility Planning Document and notes of the team meeting indicate the team discussed:

   a. The Parent's concern with the Student's skills in language areas, including reading and writing and the Diagnostician suggested completion of "ELA assessments";

   b. The team reviewed previous assessments that "show [the Student] performs within the average to below average range" on academic standardized assessments and the Student "needs lots of supports to stay at grade level";

   c. The team agreed that "no cognitive assessments [were] needed";

   d. The SLP suggested use of a "parent checklist, informal assessments of spoken language and observation";

   e. An autism rating scale would be updated and the team confirmed they would "be evaluating for ASD [Autism Spectrum Disorder]";

[3] The Student's General Education Teacher (Teacher) is an employee of the Charter School

f. The Diagnostician and SLP would complete observations of the Student's classroom skills;

g. The team determined no assessment of motor abilities was required;

h. The Student was described to currently "access the fidgets and sensory input item that [they need]; and

i. The team and the Parent agreed to the evaluations suggested and the Parent did not request any additional evaluations at that time.

7. On October 13, 2025, the Parent provided a consent for re-evaluation:

   a. The consent specifically authorized a Woodcock Johnson Test of Achievement (reading, mathematics and written language skills), Autism Spectrum Rating Scales, Informal Language Tasks and Parent Checklist (Communication), Observations, and a Vision Screening Checklist;

   b. The Prior Written Notice (PWN) attached to the parental consent indicated that Baker proposed a re-evaluation "to look at [the Student]'s growth in achievement and behavior" and "informal measures…to look at social communication";

   c. The PWN informed the Parent that, were they to disagree, the Parent "may request an [additional] assessment"; and

   d. The PWN further explained that a file review and "Parent Referral Survey" were completed to inform the decisions proposed in the PWN.

8. In their interview, the Parent discussed their concerns with the reevaluation PWN and explained that the PWN should have included "what areas were evaluated, what areas were not evaluated and why those areas were not evaluated", with the lack of executive function evaluation as an example. The Parent also explained that "had they known the SDI would be cut by [Baker]", they would have "pushed earlier for a (*sic*) assessment of all known need areas."

9. In the interview of relevant Baker personnel regarding the Student's reevaluation process, interviewees shared:

   a. The Diagnostician indicated the team's focus was to gather additional standardized information regarding the Student's academic skills, specifically since they were passing all of their classes, and "to see how [the Student] had progressed from their last evaluation";

   b. The SLP indicated that the assessment completed was consistent with the intent of the evaluation planning team and the consent executed by the Parent and that their

assessment results were accurately summarized in the eligibility determination documents;

c. The Baker Special Education Coordinator (Coordinator) indicated that the scope of the reevaluation was consistent with the re-evaluation plan developed in October of 2025; and

d. The Special Education Teacher 1 also confirmed that the reevaluation completed was consistent with the assessment list provided to the Parent and the Parent's consent.

10. The Diagnostician completed a Confidential Evaluation Report on December 4, 2025 which indicated:

a. Areas of academics (mathematics, reading and written language), communication (specifically language), behavior related to attention, classroom skills and health were areas of reported concern;

b. On a standardized assessment of academic skills, the Student demonstrated average oral language skills, low brief reading skills, average basic reading skills, low reading comprehension skills, average brief math and average math calculation skills as well as average cross-domain achievement skills;

c. On a supplemental standardized battery of academic skills, the Student demonstrated low oral comprehension skills, low sentence reading fluency, average applied problem completion and average written language samples when compared with the skills of similar peers.

d. Completion of a virtual classroom observation indicated that:
   i. The Student "usually asks for help almost immediately after" the teacher has provided directions and that the Student "is checking to make sure [they understand] the directions correctly" which demonstrates "good advocacy skills";
   ii. The Student was noted to struggle "to understand 1-2 step directions and will get distracted by the entire assignment"; and
   iii. The Student was also noted to frequently require "multiple explanations of the directions (explained in different ways) to understand the task" and that "as soon as [the Student] understands [they] can work well independently."

e. During the assessment, the Student was noted to "occasionally ask questions aside from the assessment" and "was working hard on being social". The Student was also observed by the Diagnostician to make "good effort throughout the sessions, putting thought into [their] responses many times" and the Student did "get distracted a few times but usually caught "themselves" and was able to redirect to the task at hand".

f. Completion of the Autism Spectrum Rating Scale by the Parent indicated that the Student exhibited:

i. Although socialization was generally not noted as an "area of concern, the Student had "difficulty developing and maintaining relationships with [peers]";
ii. The Student was noted to exhibit unusual behaviors including an intolerance for "changes in routine", engaging in "apparently purposeless, stereotypical behaviors" and a possible overreaction to "certain sensory experiences";
iii. The Student was observed to have "deficits in attention and/or motor/impulse control", was noted to be "argumentative" and having "difficulty paying attention to one thing while ignoring distractions" and appeared to be disorganized; and
iv. The Diagnostician's Report concluded that the Student demonstrated deficits in social emotional reciprocity, nonverbal communicative behaviors used for social interactions, and developing, maintaining and understanding relationships."

11. The SLP completed a Speech and Language Assessment Report on December 11, 2025. Their report summarized results from the Middle School Curriculum Based Measure for Language and additional receptive/expressive and pragmatic language tasks to corroborate findings, indicating that:

a. The Student demonstrated 94.7% accuracy with making inferences, 87.5% accuracy with figurative language, 100% accuracy in conversation with no observable grammatical errors and all words were understandable to the SLP;

b. The Student demonstrated perspective taking and requesting language skills during the gathering of a language sample, one hundred percent correct use of irregular past tense verbs and the ability to combine sentences without the use of "and" in a correct manner 77% of the time;

c. The Student demonstrated 100% accurate responses to reading comprehension questions;

d. In terms of vocabulary at middle and high school level, the Student was assessed to use antonyms with 100% accuracy, use synonyms with 66-100% accuracy, demonstrate 100% accuracy in use of homophones and word relationship skills as well as context clues and 87.5% accurate use of prefixes;

e. The Student's speech was rapid, "however, across several language samples, [their] conversational speech was found to be 98% intelligible…even when the context was unknown.";

f. In use of story retelling skills, the Student stated 76% of the required story grammar elements, and "was able to retell" when a "verbal question or prompt was provided" and in a second retelling task, the Student stated 92% of the required story elements;

g. Using the School-age Language Assessment Measures, the Student was noted to demonstrate strong perspective taking;

h. In conclusion, the SLP summarized the Student's strengths to include multiple domains of receptive/expressive language, pragmatic language and areas of challenge to include description of word relationships, pronunciation of /r/, limited facial expression and eye contact, limited interest or effort when "made to talk about unfamiliar peer's topics" and that they may not "always recognize non-verbal cues."

i. The SLP recommended SDI targeting word relationships, family resources to support pronunciation of /r/ in light of a "lack of academic impact", and increased opportunities for the Student to "practice social language skills."

12. On January 27, 2026, the Parent and IEP team members (Special Education Teacher 1, Teacher, Autism Consultant, Diagnostician, SLP, Coordinator and Director) met to review the Student's assessment results and determined that the Student remained eligible for special education in accordance with the category of Autism Spectrum Disorder. The Eligibility Determination form and transcribed meeting notes indicate that the re-evaluation results were reviewed in detail, and that the team, including Parent, all agreed with the eligibility decision.

13. The Eligibility Form includes key information utilized by the IEP team in reaching an eligibility decision, including:

a. Summary of existing information reviewed to inform the re-evaluation process;

b. Developmental history;

c. Parent input regarding the Student's "historical and current characteristics that are associated with an autism spectrum disorder";

d. Results of three professional observations, including professionals knowledgeable about the behavioral characteristics of autism spectrum disorder;

e. Results of a social communication assessment conducted by a speech and language pathologist;

f. Results of a standardized autism identification tool;

g. Results of medical information, vision and hearing screenings; and

h. Additional assessments, including results of the academic evaluation completed by the Diagnostician.

The Eligibility Form requires the team to review the criteria for eligibility under Autism Spectrum Disorder, specifically social communication and interaction deficits, restricted, repetitive patterns of behavior, interests or activities; and the determination of whether a

student is eligible for special education. The Student's Eligibility Form includes signed agreement of all team members, including Parent, with the determination.

14. In their interview, the Parent discussed their IEP Content concerns:

    a. The Parent explained that Baker relied on a limited evaluation to make decisions about cutting Student's goals and services and a fuller evaluation should have been conducted; and

    b. The Parent disagreed with Baker's use of prior data to make decisions regarding the Student's educational needs.

15. In the Interview of relevant Baker staff regarding the Student's eligibility determination in January of 2026, interviewees shared:

    a. The Diagnostician and SLP both indicated the eligibility determination of Autism Spectrum Disorder was consistent with their professional observations and evaluations of the Student;

    b. Upon review of the evaluation reports, eligibility determination meeting notes and documentation, the Autism Consultant[4] indicated that, in their professional opinion, the eligibility determination was appropriate;

    c. The Coordinator stated that the eligibility team (including the Parent) considered the evaluation data, including standardized assessment results, speech-language evaluation information, observations, teacher input, parent input, and review of educational performance within the virtual instructional environment. They specifically recalled that the eligibility discussion accurately reflected that the Student continued to demonstrate characteristics consistent with Autism Spectrum Disorder, including needs related to executive functioning, communication, social interaction, task completion, and reading comprehension; and

    d. The Special Education Teacher 1 also confirmed that the SLP and Diagnostician's reports accurately provided information consistent with the eligibility category of Autism Spectrum Disorder.

16. On February 27, 2026, the Student's Parent and IEP team members (Special Education Teacher 1, Teacher, SLP, Special Education Coordinator, Director and the Diagnostician) met to develop an annual IEP (February 2026 IEP) for the Student, including the following information, in relevant part:

    a. Student strengths, interests and preferences: The Student demonstrates good self-advocacy skills, is respectful and polite, prefers graphic organizers, tasks that are chunked, clear expectations and using checklists.

[4] The Autism Consultant is an employee of the Education Services District (ESD)

"[The Student] is a virtual-only student and is not on campus for any classes. The IEP will "be tailored to the virtual-only environment". "If the student is taking classes on campus or transitions to a different setting, the team should review the IEP to ensure that accommodations, modifications, and services meet the student's needs in the new setting selected by the family."

b. Parent Concerns: The Parent reported that math is going well, "slow but getting great scores." The Parent continues to have "social concerns and concerns surrounding SDI."

c. Present Levels: The Student is reported to read 78 words per minute with one error on a 9th grade reading passage with 99% accuracy. They scored 80% in their English multi-paragraph assignment and earned an A in their Algebra class for Semester 1. The Student was reported to use speech to text and text to speech with no behavioral concerns noted by the team. The Student was reported to have demonstrated "improved receptive language skills" having met the prior IEP goal. The Present Level of the Student's IEP included academic and speech and language evaluation results.

   Teacher Input: The Student was noted to have been a "little behind in a couple of classes" due to recent illness but "was currently working to catch up".

d. Transition Planning: Included results of an informal transition assessment which indicated the Student would like to work outside and with a team, has interests in video game design, cyber security and computer engineering. The transition goals addressed training, education, employment and independent living skill development. The Student's IEP included transition activities to support independent living skills, a course of study to lead to graduation anticipated in 2029 and a transfer of rights expected to occur in 2028.

e. Annual Goals: Included goals in the areas of reading comprehension and language.

f. Specially Designed Instruction (SDI): The anticipated location for all SDI is designated as "virtually" and the role responsible for monitoring the SDI is identified as either the SLP or the "LEA".

   i. Communication-Social for 30 minutes per month; and
   ii. Reading for 40 minutes per month.

g. Related Services: The Student will receive speech/language therapy 30 minutes monthly from the SLP.

h. Supplementary Aids/Service; Accommodations: Break testing sessions into smaller chunks; Testing with a familiar staff member; Check for comprehension when directions are given; Reteach/preteach content when a new routine is introduced; Access to calculator, manipulatives, scratch paper for math; Visual prompts to support lessons; Teacher read directions, grade level materials and tests aloud; Use of text to speech and

speech to text; Break large projects into shorter goals; Allow for processing time; Testing in a separate setting; Movement breaks between academic tasks; and test retakes for tests which yield of grade of less than a C with a maximum of 3 retakes per test.

i. Supports for School Personnel: Consultation for 15 minutes per semester from the Case Manager to all teaching staff regarding services on the Student's IEP; Consultation 90 minutes annually by the ASD specialist with the Parents; and 45 minutes annual consultation from the SLP with the Parents regarding articulation concerns.

j. Non-Participation Justification: The Student will participate 100% of the time in the general education environment and is attending a public online charter school "utilizing a full inclusion model".

17. Meeting notes and a transcription of the February 27, 2026 IEP align with the IEP content and PWN provided by Baker:

    a. The Parent's concern with removal of social, math and writing goals is documented multiple times throughout the meeting notes;

    b. The Parent requested an Independent Educational Evaluation (IEE) and the "postponement of removing any goals until the IEE results are received" and the Director agreed to the IEE and "confirmed that the IEP would be written based on current scores";

    c. There is clear communication among multiple team members, including the Parent, in developing and agreeing upon the reading and language IEP goals; and

    d. There is no indication in the notes or transcription that the Parent requested additional or different accommodations during the IEP meeting.

18. The IEP team reviewed the Parent's proposal for the compensatory education ordered in Case No. 25-054-091 "based on the service grid minutes that were missed from the start of the year" and their request to "primarily seek instruction to develop specific skills…rather than assistance with general coursework or simply tracking minutes." The team also discussed instructional models for the compensatory education and the Director proposed "implementing 30 minutes of one-to-one virtual instruction four days a week until the beginning of school to provide support and address identified gaps."

19. Baker issued PWN on February 27, 2026 indicating the following:

    a. The Student's reading goal was updated to focus on reading comprehension, and SDI will focus on this goal;

    b. The Student's communication goal focusing on word relationships will remain in place;

c. The PWN confirmed service minutes, duration and scheduling as noted in the IEP and added that the SLP would add the Student to a virtual social language group "to support social communication skills";

d. Goals and services regarding math calculation, applied math problem solving and written expression skills were no longer included because the Student's academic testing results indicated that they were performing within the average range;

e. The social skills goal was removed because "it cannot be directly monitored within a full asynchronous virtual setting without peer access" and the articulation goal was discontinued due to a "lack of educational impact and near-100% intelligibility" and therefore consultation minutes on articulation were included; and

f. The PWN acknowledged that Parent had requested an Independent Education Evaluation (IEE).

20. On March 2, 2026, the Parent emailed the Director and IEP team members to "formally object to the recently finalized IEP and proposed compensatory services plan". The Parent provided details regarding the Student's current educational model to support their objection to the compensatory services plan. The Parent also explained their objection to the IEP was "reduction of SDI minutes [and] removal of academic goals". Additionally, the Parent requested a comprehensive IEE at public expenses "addressing executive functioning, working memory, processing speed and functional academic performance within the virtual instructional model."

21. In their interview, the Parent discussed their IEP Content concerns:

a. The Parent confirmed that the IEP Content allegation is specifically related to Baker's determination that the Student was no longer eligible for math, writing or social SDI;

b. The Parent also explained that there was insufficient information to justify this determination;

c. The Parent disagreed with the removal of the social goal because of the Student's virtual environment;

d. The Parent also indicated that the IEP identifies reading comprehension as an educational need but reduced the Student's reading SDI to only 40 minutes monthly;

e. The Parent maintained that the IEP does not identify which provider will deliver SDI, "how often, for how long, in what format and how it is tracked and monitored";

f. The Parent explained that the accommodations provided do not address the Student's needs related to their ADHD and in their interview, the Parent listed specific accommodations the IEP does not include;

g. The Parent wanted the IEP team to reinstate the prior SDI until the IEE was completed.

22. In the Interviews of relevant personnel regarding Student's February 2026 IEP, the Diagnostician, SLP, Coordinator, Teacher and Special Education Teacher 1 each provided detailed answers that affirmed that the present level, selection of accommodations and SDI goals were appropriate to support the Student's engagement in and access to their general education curriculum. In their separate interviews, each professional described their professional justification for the inclusion of each component of the IEP and explained the Student's specific academic and adaptive needs which justified the components of the IEP.

23. On March 3, 2026, the Director emailed the Parent indicating that the "reduction in SDI minutes" will be documented in PWN and asking if the Parent had "a specific evaluator in mind to complete the assessment or would you like me to provide you with a list of qualified school psychologists."

24. On March 3, 2026, the Parent emailed the Director requesting "an update on the district's criteria and process for IEE's, including evaluator qualifications…the funding process, any funding caps and whether there are limitations on the type or scope of evaluation the district will fund".

25. In separate emails on March 4, 2026, the Parent and the Director discussed options for the compensatory service type, amount, and delivery method. After detailed negotiation of these topics, the Director emailed confirmation that Baker would review the Parent's "comp ed structure"[5], their "thoughtful description of the instruction type that works best for [the Student] and I think the schedule you lined out will work." The Director also stated that if the Charter School agreed, the Director would send the Parent a compensatory education agreement and that they hoped to "get this started by next week."

26. On March 5, 2026, the Director emailed the Parent and provided a copy of Baker's IEE policy and explained that they were "in the process of updating our list of Independent Education Evaluators" and would send the names to the Parent "as soon as possible." The Director also offered to review credentials of any person or clinic the Parent wanted to complete the IEE.

27. On March 9, 2026, the Director emailed the Parent a compensatory education letter, and Parent returned the signed compensatory agreement on March 10, 2026 in which the Parties agreed to 3 hours per week of compensatory instruction delivered 3 days a week in one hour session for the remainder of the school year and then two hours per day, four days per week for a 12 week summer period. The Parties also agreed to an instructional approach and specific skills to be addressed in the compensatory education sessions.

28. In their interview, the Parent explained their concerns with the compensatory education:

[5] The Parent's email provided mathematical calculation of the Student's loss in services to yield 26 hours from September, and 105.3 hours from October 2025 through March 4, 2026.

a. The Parent indicated that PWN should have been issued regarding the compensatory education offer, that specifically explained why outside-provider compensatory services were rejected by Baker;

b. Additionally, the Parent explained that "the district did not correct the core SDI implementation and documentation problem ODE had already identified" when it did not change the program model to "fit [the Student's] actual IEP needs";

c. Also, "after compensatory services began, the updates still looked like generalized narrative summaries, not true service logs with clear SDI accountability"; and

d. The Parent also explained that the compensatory services are not being "designed, supervised and monitored by a credentialed special education teacher."

29. On March 13, 2026, the Parent emailed the Director and requested an IEE of "neuropsychological functioning" based on the Student's documented "ADHD and executive functioning profile" and identified several private providers the family was considering. In a subsequent email of the same date, the Parent advised the Director that only one evaluator has confirmed availability to conduct a neuropsychological evaluation "in the near term."

30. In their interview, the Parent explained their request for an IEE:

a. The Parent "needed a comprehensive pediatric neuropsychological evaluation, not a narrow review limited to the same scope the district had already used to support cuts [to the Student's SDI];

b. The Parent also explained that, on March 24, 2026, Baker provided names of additional providers that the Parent later learned included two professionals affiliated with Baker Charter Schools; and

c. The Parent indicated that the list of providers did not include professionals capable of completing a neuropsychological evaluation within "the district's $2500 cap."

31. On March 18, 2026, the Director emailed the Parent and approved the use of the Parent-selected IEE provider:

a. The Director provided details of the IEE process, including an IEE spending cap of $2500 and that direct payment to the provider would occur;

b. In response, the Parent requested the IEE be a comprehensive neuropsychological evaluation at a cost of $4500;

c. On March 19, 2026, the Director responded to the Parent in which the Director declined to change the previously offered scope and funding cap of the IEE; and

d. In an additional email on March 19, 2026, the Director offered a written list of the assessments completed in Baker's reevaluation. The Director explained that "[i]f you are requesting testing in areas beyond what [is listed], the district reserves the right to complete those evaluations first. The district must have the opportunity to conduct its own assessments in these new areas" before considering an IEE request.

32. On March 20, 2026, the Parent emailed again to request a broader IEE than offered by Baker, requesting a waiver of the cost limitation, explaining that their request for an IEE is based on Baker's "evaluation being insufficient to fully assess areas of known need."

33. On April 1, 2026, the Coordinator emailed the Parent PWN declining the Parent's request for a "comprehensive neuropsychological evaluation" as the evaluation was "beyond the scope of areas previously evaluated by the district." The PWN indicated that "any additional areas of suspected disability should be addressed through the evaluation planning process rather than through an IEE at public expense." Baker also declined the Parent's request to waive the previously identified cost limitation.

34. In their interview, the Director explained the negotiation of the compensatory education plan and Baker's decisions, including the April 1, 2026 PWN to grant the Parent's request for an IEE and to decline the Parent's requests to expand the scope and financial allocation offered relative to the IEE granted:

    a. The Director determined the scope of the IEE based on the evaluation Baker had completed and calculated the cost of the evaluations by reviewing their current procedures and the average costs reported by two other Oregon local education agencies (Including a large urban school district and a smaller rural school district); and

    b. From the Director's perspective, the corrective action ordered by 25-054-091 is being implemented as outlined in the Final Order.

35. On March 18, 30, 31 and April 1, 2, and 6, 2026, the Compensatory Special Education Teacher (Special Education Teacher 2) emailed the Parent with updates regarding each of the compensatory education sessions provided to the Student.

36. In their interview, the Special Education Teacher 2 explained their previous and current work providing compensatory services for the Student, including the scheduling and special education services provided. When asked if barriers to providing the scheduled services had arisen and interfered with the service provision, they responded, "a few small scheduling challenges" had occurred, however adjusting meeting times to accommodate the Wednesday speech sessions have allowed the Student and the Special Education Teacher 2 to plan around conflicts and to make "sure the student receives services consistently".

37. In their interview, the Parent discussed their IEP Implementation concerns and explained that Baker "has not produced clear, reliable implementation records, especially for reading SDI

after February 27, 2026." The Parent also explained that Baker had mis-used accommodations or supported performance to justify cutting the Student's SDI.

38. To support personnel's interview responses, additional documents were submitted including:

    a. Communications from the Autism Consultant to the Parent regarding implementation of the Student's February 2026 IEP;

    b. Implementation document from the Special Education Teacher 2 including notes and emails of compensatory education sessions for a timeframe including and beyond the time period of this investigation;

    c. Semester 1 grade report indicating the Student attained A's and B's in all courses;

    d. A copy of grades to date from current courses indicating that the Student has B's or a high C in all current coursework;

    e. Examples of IEP implementation by Teacher 1 explaining their use of accommodations to support the Student's access and engagement in the general education curriculum. The Teacher 1 included examples regarding multiple attempts on assignments/tests, chunking, guided notes, progress monitoring, extra-time, daily communication, reduced assessment questions, use of text to speech and speech to text as well as untimed assessments. The Teacher 1 did not include any documentation or explanation of how they are implementing the Student's reading comprehension SDI; and

    f. In response to this inquiry, the Special Education Teacher 1 responded that they had participated in IEP development in February 2026 but provided no detail about how the Student's SDI in reading comprehension is being implemented.

39. In their interview, the Parent clarified their allegation that Baker has not implemented the February 2026 IEP because the Parent has not received a clear record of how the Student's Reading SDI is being provided. In response to a question regarding the implementation of the February 2026 IEP accommodations, the Parent responded that the accommodations are being implemented, but their concern was that the Charter School's previous mis-use of accommodations have resulted in "accommodated and support-dependent performance".

40. In their interview, the Parent explained that the Districts' collective failures have denied the Student a free appropriate public education and that the Districts' conduct "continues to place an unfair burden on [the Student] and the family, who are being forced to carry responsibilities that should be met through properly delivered SDI services."

IV. DISCUSSION

IEP Content

The Complaint alleged that the Districts violated the IDEA when they failed to include goals, specific special education and related services and supplementary aids and services in the Student's IEP to fully address the Student's needs that result from the Student's disabilities.

In their interview, the Parent explained that Baker relied on a limited evaluation to make decisions about cutting the Student's goals and services and a fuller evaluation should have been conducted. Additionally, the Parent disagreed with Baker's use of prior data to make decisions regarding the Student's educational needs. The Parent's reply and attached documentation also asserted that the February 2026 IEP content violates IDEA because Baker refused to wait for the IEE results to be completed and reviewed before utilizing its own evaluation of the Student's educational and adaptive needs to direct the development of the Student's IEP.

An IEP must contain (1) a statement of the student's present levels of achievement and functional performance, including how the student's disability affects the student's involvement and progress in the general education curriculum; (2) measurable annual goals and a description of how the student's progress toward meeting the annual goals will be measured and reported; (3) a statement of the specific special education and related services and supplementary aids and services to be provided to the student; (4) the projected dates for initiation of services and the anticipated frequency, amount, location, and duration of the services; and (5) an explanation of the extent to which the student will not participate with children without disabilities in the regular class and activities.[6]

There were two IEPs in effect during the complaint period, the September 2025 IEP, and the February 2026 IEP. As noted by both Parties, the content of the September 2025 IEP was already reviewed by the Department in Case No. 25-054-091 and a Final Order regarding this IEP was issued in December 2025. The Parent's interview clarified that their complaint focuses specifically on the content of the February 2026 IEP.

Upon review, the February 2026 IEP includes all required components identified by federal and state regulations. In the February 2026 IEP Present Level, the Student's interests and preferences reference use of accommodations that appear within the IEP itself. The Parent is reported to have commented that "math is going well" and that they continued to have social concerns for the Student. In addition to results of two evaluation reports, the team updated the Student's Present levels with current data on reading, mathematics, use of assistive technology and improvement in receptive language skills.

In accordance with their age, the team has utilized information from an informal transition assessment to add a transition planning component to the Student's IEP. The annual goals in the IEP address the educational needs identified by the recent reevaluation results (reading comprehension and language development) and staff interviews confirm these educational needs are the foundation of the Student's IEP. The meeting notes provide documentation of IEP team discussion regarding the SLP services to include support for the Parent and the Student with

[6] OAR 581-015-2200(1); 34 CFR §300.320(a).

any continued articulation issues and inclusion of the Student in a virtual social language group to support peer interaction.

The Parent's clear concern with the February 2026 IEP content arises from their belief that a future IEE will justify a change to the Student's educational needs, specifically, the reinstatement of goals and SDI for written expression, mathematics and social skills. At this point in time, an IEE has yet to be completed and reviewed by the Parent and the Student's IEP team. Thus, the Parent's allegation presents a theoretical opportunity for a change in the identification of the Student's needs but does not present evidence that the February 2026 IEP fails to include appropriate content to meet the Student's needs at the time it was written.

The Department does not substantiate this allegation.

Evaluation and Reevaluation Requirements

The Parent alleges that the Districts violated the IDEA when they failed to complete an appropriate and timely reevaluation of the Student's educational and adaptive needs.

The Parent explained that the reevaluation was insufficient because PWN should have included "what areas were evaluated, what areas were not evaluated and why those areas were not evaluated", with the lack of an executive function evaluation as an example. The Parent also explained that, "had they known the SDI would be cut by [Baker]", they would have "pushed earlier for a (*sic*) assessment of all known need areas."

In Oregon, reevaluation procedures begin with an evaluation planning process, require notice and consent of the Parent and the completion of a reevaluation with a variety of assessment tools and strategies to gather relevant functional, development and academic information regarding the Student. [7] A district is directed that no "single measure or assessment"[8] may be used as the sole criterion in the reevaluation process and federal regulations and the U.S. Department of Education, Office of Special Education Programs specifically require the review of existing data as a component of the reevaluation process. [9]

Here the Parent and Baker began the reevaluation process with the required evaluation planning meeting. The records, meeting notes and interview responses in this case validate that the evaluation planning team reviewed existing data and considered the Parent's concerns regarding the Student's language arts skills and their social concerns for the Student to determine which evaluations were required to understand the Student's current functioning and needs. The Parent executed consent on October 13, 2025 for the selected evaluations after receipt of detailed PWN listing exactly what evaluations, observations and information would be gathered through the reevaluation process. The PWN explained which assessments the team determined were not required (e.g. cognitive and gross motor evaluations). Additionally, the PWN provided to the Parent also advised that they could request additional evaluations if they disagreed with the evaluation plan developed.

[7] OAR 581-015-2100; 34 CFR §300.304, 34 CFR §300.305.
[8] OAR 581-015-2100 (3)(b);
[9] OAR 581-015-2115(1)(a); 34 CFR §300.305(a)(1); *Letter to Anonymous*, 48 IDELR 136 (OSEP 2007)

The Parent was an active participant in both the evaluation planning meeting and had the PWN before completing a consent for evaluation. While the Parent asserts that a review of existing data (including use of prior evaluation results) was inappropriate, the state and federal regulations require districts to include existing data as part of the reevaluation process. The Parent asserts that, had they known the future evaluation results, they would have requested additional evaluations. However, no evaluation planning team member could have known in October of 2025 the results of the evaluations yet to be conducted. Further, as noted by PWN in October of 2025 and Baker's March 18, 2026 email correspondence, the Parent is still able to request that Baker conduct additional evaluations if they believe such assessments are needed.

The Department does not substantiate this allegation.

When IEPs Must Be in Effect

The Parent alleges that the Districts violated the IDEA by not providing special education and related services in accordance with the Student's IEP. This included failing to implement the Student's IEP goals and specially designed instruction and accommodations.

In their interview, the Parent discussed their IEP Implementation concerns and explained that Baker has "not produced clear, reliable implementation records, especially for reading SDI after February 27, 2026". The Parent also explained that Baker mis-used accommodations or supported performance to justify cutting the Student's SDI.

During interviews, Baker and Charter School staff provided details and some examples and records of implementation. Baker also provided Semester 1 grades and current grades indicating the Student was passing or earning above average grades in all but one course. The Autism Consultant provided communications sent to the Parent regarding implementation of the Student's February 2026 IEP and an explanation of their implementation of the IEP. Although the Parent's complaint isn't focused on delivery of SLP services, the SLP described their implementation of the February IEP with clear examples. In their interview, Teacher 1 described the use of multiple accommodations to support the Student's access to and engagement in the general education curriculum.

School districts must provide special education and related services to a student with a disability in accordance with the student's IEP.[10] "IEP Teams and other school personnel should be able to demonstrate that, consistent with the provisions in a student's IEP, they are providing special education and related services and supplementary aids and services."[11] In its Response, the Districts asserted that "SDI may be delivered by someone other than a special education teacher (e.g. a general education) so long as the SDI is directed and overseen by the special education teacher."[12] In contrast, neither the Special Education Teacher 1 nor the general education teacher (Teacher 1) provided any response to how either of these professionals are implementing the Student's IEP goal in reading comprehension.

[10] OAR 581-015-2220(1)(a); 34 CFR §300.323(c)
[11] Questions and Answers on *U.S. Supreme Court Decision Endrew F. v. Douglas County Sch. Dist.* Re-1, 71 IDELR 68 (EDU 2017)
[12] Districts Response, pg 9

A district violates the IDEA when it materially fails to implement an IEP.[13] 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.[14] 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."[15]

The failure of Baker and Charter School professionals to describe or document the provision of reading comprehension SDI must be considered with the probative value of the Student's grade reports. With the Student accessing their curriculum through a virtual program model, the Department is unable to gather additional documentation from classroom teachers to determine the extent to which the Student's reading comprehension disability is impacting their attainment of curricular material. Here the Parent has countered that the lack of SDI places the obligation on the family to provide support for the Student. The Districts provided no evidence that the Student's reading comprehension SDI was provided, and the recent reevaluation indicates that the Student continues to require reading comprehension SDI.

The Parent's second IEP implementation allegation regarding Baker's misuse of accommodations to reduce the Student's SDI is related to the Parent's disagreement with the reevaluation process and the content of the Student's IEP, rather than a failure of implementation. When interviewed, the Parent acknowledged that the Student has received the accommodations required by their IEP.

The Department substantiates this allegation, in part, as it relates to implementation of SDI in the area of reading comprehension.

Independent Education Evaluation

The Parent alleges that the Districts violated the IDEA by not providing the Parent with timely response to the Parent's request for an Independent Education Evaluation and by imposing unreasonable criteria on the IEE (a funding cap) that did not allow for a comprehensive evaluation.

[13] *Van Duyn v. Baker Sch. Dist. 5J*, 502 F3d 811 (9th Cir. 2007) ("Van Duyn")
[14] *Id.*
[15] *Id.*

A parent of a student with a disability or suspected disability has the right to an independent educational evaluation (IEE) at public expense if the parent disagrees with an evaluation obtained by the school district. "Independent educational evaluation" means an evaluation conducted by a qualified examiner who is not employed by the school district responsible for the education of the child. "Public expense" means that the school district either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent. If a parent requests an IEE at public expense, the school district must provide information to parents about where an IEE may be obtained and the school district's criteria applicable for IEEs. If an IEE is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation, the qualifications of the examiner, and cost, must be the same as the criteria the school district uses when it initiates an evaluation, to the extent those criteria are consistent with the parent's right to an IEE. A school district may not impose conditions or timelines related to obtaining an IEE at public expense.[16]

Here, the Parent has requested an IEE on multiple occasions, including at the end of the February 2026 IEP meeting and thereafter in multiple emails with the Director. The Director has responded to the Parent, providing a cost limitation consistent with Baker's policy and information from two other school districts. The consistent thread across the communication is that Parent does disagree with the academic evaluation results shared in January of 2026 but they are also attempting to use to the IEE process to seek a broader evaluation than the one Baker completed. Since Baker did not complete a comprehensive neuropsychological evaluation, the Parent's request for an IEE of that nature broadly exceeds the evaluations conducted by Baker. Again, the Parent may elect to request such a comprehensive neuropsychological evaluation be conducted by Baker, but the Parent cannot use the IEE process to accomplish such a request.

Communications regarding the IEE request and clarification of the process have occurred within the period of February 27, 2026 through April 1, 2026 PWN and thus Baker's responses to the Parent's requests have been timely.

The Department does not substantiate this allegation.

Compliance with Final Order of State of Oregon Department of Education

The Parent alleges that the Districts violated the IDEA by failing to comply with corrective actions directed by the State Superintendent of Public Instruction Final Order 25-054-091. The Parent's interview clarifies that the focus of this allegation relates to the provision of compensatory education services ordered by the Department.

In the February 2026 Order, the Department directed that a written plan for compensatory education was to be developed at an IEP meeting and provided to the Department before March 15, 2026: and that submission of evidence of compensatory services to the Department by August 31, 2026. Here, the IEP team, including the Director and the Parent, discussed compensatory services during the February 2026 IEP meeting. The discussion was memorialized

[16] OAR 581-015-2305; 34 CFR §300.502.

by the transcribed meeting notes. The IEP team reviewed the Parent's proposal for compensatory education "based on the service grid minutes that were missed from the start of the year" and their request to "primarily seek instruction to develop specific skills…rather than assistance with general coursework or simply tracking minutes." The team also discussed instructional models for the compensatory education and the Director proposed "implementing 30 minutes of one-to-one virtual instruction four days a week until the beginning of school to provide support and address identified gaps."

On March 2, 2026, the Parent emailed the team to object to the compensatory education plan discussed at the IEP team meeting. On March 4, 2026, the Director and Parent continued a detailed email conversation throughout the day negotiating the compensatory education plan. On March 9, 2026, the Director emailed the Parent a compensatory education letter and the Parent returned a signed compensatory agreement on March 10 2026. The Parties' agreement directs a schedule for the compensatory instruction, an instructional approach and the specific skills to be addressed in compensatory sessions. Since the Department's Order required the compensatory education plan be completed before March 15, 2026 and that agreement was reached on March 10, 2026, in a timely manner.

The second requirement of the Final Order is for the Districts to provide evidence that the compensatory services have been provided by August 31, 2026. Baker has provided evidence through the interview with Special Education Teacher 2[17] and copies of email documentation and service notes that the compensatory service provision has begun. It is too soon to determine whether the Districts will provide the evidence that is required by the Department prior to the completion date.

The Department does not substantiate this allegation.

Prior Written Notice

The Parent alleges that the Districts violated the IDEA by not providing the Parent with prior written notice (PWN) failing to provide PWN in response to the Parent's requests regarding the scope of the Student's reevaluation.

School districts must provide PWN to parents within a reasonable period of time before the district proposes or refuses to initiate or change the identification, evaluation, educational placement, or provision of FAPE to a child.[18] PWN must include a description of the action proposed or refused; an explanation why the action was proposed or refused; a description of each evaluation procedure, assessment, record, or report used as the basis of the proposal or refusal; a description of other options the IEP team considered and the reason why they were rejected; a description of other relevant factors; and notice of procedural safeguards.[19]

[17] In response to a comment from Parent, the Department has confirmed through Special Education Teacher 2 has current state licensure required to provide the Student's compensatory education services.
[18] OAR 581-015-2310(2); 34 CFR §300.503.
[19] OAR 581-015-2310(3); 34 CFR §300.503.

The purpose of PWN is to inform parents of a district's final action on a proposal or refusal to initiate or change elements of a student's special education program.[20] The formal requirement of written notice "has an important purpose that is not merely technical… [it] creates a clear record" to eliminate future factual disputes, and assists parents in presenting complaints related to an action proposed or refused by the district.[21] A PWN must be provided "whether or not the proposal or refusal is made during the course of an IEP meeting."[22] PWN must also be provided when a district agrees or disagrees with a change proposed by a parent.[23]

In this matter, the Parent attended the evaluation planning meeting and thereafter was provided PWN before they gave written consent to the evaluation. The PWN included a list of evaluations for which consent was sought and an explanation of why other evaluation areas were not being assessed. The consent specifically authorized a Woodcock Johnson Test of Achievement (reading, mathematics and written language skills), Autism Spectrum Rating Scales, Informal Language Tasks and Parent Checklist (Communication), Observations, and a Vision Screening Checklist. These evaluations were completed in accordance with parental consent. No additional PWN was required regarding the scope of the evaluation.

The Department does not substantiate this allegation.

Free Appropriate Public Education (FAPE)

The Parent alleges that that the Districts failed to provide the Student with a free appropriate public education.

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.[24] In order to determine whether a student has been denied a FAPE, the courts review a district's compliance with the procedural and substantive components of the student's education. Reviewing courts must inquire whether the school district complied with the procedural requirements of the IDEA, and whether the school district met the substantive requirement to develop an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances.[25] Not every procedural error is sufficient to rise to a denial of FAPE.[26] The procedural test consists of three pivotal procedural errors: (1) whether the student suffers a loss of educational opportunity;[27] (2) whether the parent's right to participate in the IEP process was infringed;[28] or (3) whether the procedural error caused a "deprivation of educational benefit."[29] The Department has substantiated the allegation relative to Student's IEP was not implemented and such a substantiation is a deprivation of educational benefit.

[20] Letter to Lieberman (OSEP 2008).
[21] *Union Sch. Dist. v. Smith*, 20 IDELR 987 (9th Cir. 1994).
[22] Letter to Chandler (OSEP 2012).
[23] Letter to Lieberman (OSEP 2008).
[24] OAR 581-015-2040(1); 34 CFR §300.101(a).
[25] *Endrew F.*, 137 S.Ct. at 999.
[26] *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)).
[27] *Target* Range, 960 F.2d at 1484.
[28] *Id.*
[29] *Amanda J.*, 267 F.3d at 892 (citing *Roland M.,* F.2d at 994).

The Department substantiates this allegation with regard to implementation of the Student's IEP.

V. CORRECTIVE ACTION

In the Matter of Baker School District 5J and Harney Union High School District 1J
Case No. 26-054-042

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

Action Required	**Submissions**	**Due Date**
Harney (or Baker via its contract with Harney) will convene a meeting with the Parent to create a plan for the delivery of compensatory education services for the loss of educational opportunity caused by the failure to provide the Student with the reading comprehension SDI required by their IEP. The compensatory services offered to the Student shall include, at a minimum, 2 hours of SDI in reading comprehension.	A written plan for delivery of compensatory education developed at a meeting with the Parent. Evidence showing that compensatory services were provided.	**June 30, 2026** **September 30, 2026**

Dated: this 22 Day of May 2026

Ramonda Olaloye

Ramonda Olaleye
Assistant Superintendent
Office of Enhancing Student Opportunities

E-mailing Date: May 22, 2026

Appeal Rights: Parties may seek judicial review of this Order. Judicial review may be obtained by filing a petition for review within sixty days from the service of this Order with the Marion County Circuit Court or with the Circuit Court for the County in which the party seeking judicial review resides. Judicial review is pursuant to the provisions of ORS § 183.484. (OAR 581-015-2030 (14).)