BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of Ashland School District 5	))))	FINDINGS OF FACT, CONCLUSIONS, AND FINAL ORDER Case No. 26-054-047

I. BACKGROUND

On April 9, 2026, the Oregon Department of Education (Department) received a written request for a special education complaint investigation (Complaint) from the parent (Parent) of a student (Student) residing in the Ashland School District (District). The Complaint requested that the Department conduct a special education investigation under OAR 581-015-2030. The Department confirmed receipt of the 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 Parents and the District agree to the extension to engage in mediation or local resolution or for exceptional circumstances related to the complaint.[2]

On April 23, 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 May 7, 2026.

With the *Response*, the District submitted the following relevant items:

1. District *Response Letter*
2. Child Study Team (CST)Notes- 10/18/24, and 1/17/25
3. Functional Behavior Assessment / Behavior Intervention Plan (FBA/BIP), 5/27/25
4. FBA/BIP 5/27/25 Rev. 11/04/25
5. FBA/BIP 5/27/25, Rev. 01/15/26
6. Psychoeducational Evaluation, 5/27/25
7. Autism Spectrum Disorder (ASD) Initial Report, 5/27/25
8. Speech Language Evaluation Report, 5/23/25
9. Statement of Eligibility- ASD, 5/27/25
10. Statement of Eligibilities- EBD and OHI, 5/23/25
11. Individual Education Plan (IEP), 5/27/25

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

12. Placement Determination, 5/27/25
13. Prior Notice and Consent for Initial Provision of Special Education, 5/27/25
14. Prior Written Notice (PWN) of Special Education Action, 5/27/25
15. IEP Meeting Notes, IEP Snapshot, 5/27/25
16. Re-Entry/Safety Plan, 10/27/25
17. Re-Entry/Safety Plan, 1/8/26
18. IEP Amendment, 1/15/26
19. Placement Determination, 1/15/26
20. Behavior Specialist weekly notes to Parent, 1/9/26 – 1/23/26
21. PWN Placement and FAPE, 1/15/26
22. Meeting Notes, IEP Snapshot, 1/15/26
23. Initial Evaluation Student Referral File
24. Emails between Parent and District, dated 5/6/25-1/15/26
25. Initial Evaluation Student Referral File
26. Student Referral for Initial Eligibility 3/11/25
27. Student Weekly Schedule, undated
28. Student Behavior Tracking cards**,** from 1/19/26-3/13/26
29. Behavior Log, 10/02/25 -12/10/25
30. Incidence Summaries, 3/19/26-4/22/25

The Parents submitted documents in support of their Complaint on May 12, 2026. In all, the Parent submitted the following relevant items:

1. Parent *Rebuttal* to District Response, 5/12/2026
2. Email exchanges between Parent and District, dated 02/03/25 to 4/21/26
3. Supporting Documents- FBA/BIP and revisions on 11/04/25 and 1/15/26
4. Original Re-Entry/Safety Plan, 10/27/25

On May 12, 2026, the Parent submitted a *Reply* to the District's *Response*.
The Parent stated that the Student has repeatedly been excluded from other children and activities due to an overly punitive and unrealistic Safety Plan. To exclude the Student from other children and activities is to take away the opportunity to meet social and behavioral objectives. Outdoor play and recess should be a right for all children to have, regardless of disability, and no punishment should be excessive in its execution or in the length of time given.

On April 13, 2026, the Complaint Investigator interviewed the Parent, with a second interview on May 18, 2026. The Complaint Investigator held virtual meeting interviews with the District Special Education Director on May 18, 2026 and with the building Principal on May 19, 2026. The Complaint Investigator reviewed and considered all these documents, interviews, and exhibits in reaching the findings of fact and conclusions of law contained in this order. This order is timely.

II. ALLEGATIONS AND CONCLUSIONS

The Department has jurisdiction to resolve this Complaint under 34 CFR §§ 300.151-153 and OAR 581-015-2030. The Parent'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 April 10, 2025 to the filing of the Complaint on April 9, 2026.

Allegations	Conclusions
Review and Revision of IEPs It was alleged that the District violated the IDEA when it failed to address the Student's unique educational needs. Specifically, the District failed to address the Student's exclusion from non-disabled peers in Recess, Cafeteria, and Field Trips and revise the IEP as the IDEA requires. (OAR 581-015-2225;34 CFR §300.324(b))	**Not Substantiated** The District reviewed the IEP when requested by Parent and made revisions adding behavioral supports and instruction.
Nonacademic Services and Settings It was alleged the District denied the Student the opportunity to participate in extracurricular and nonacademic activities such as recess and cafeteria without providing parental notice, without convening the IEP team to review disability-related factors contributing to the exclusion, and without considering necessary accommodations or supports. (OAR 581-015-2070; 34 CFR §300.107, 300.117)	**Substantiated** The District's failed to consider accommodations and supports that would allow the Student to participate in extracurricular and nonacademic activities.
Parent Participation It was alleged that the District made changes to the Behavior Support Plan and implemented the changes without Parent's knowledge or consent. (OAR 581-015-2190; 34 CFR §300.322(a))	**Substantiated** The changes to the Behavior Plan resulted in a change of placement. This occurred outside of an IEP meeting and the Parents were not given the opportunity to provide meaningful input.

Allegations	Conclusions
Prior Written Notice It was alleged that the District violated the IDEA by not providing the Parent with prior written notice within a reasonable time before the District proposed to initiate, change, or refuse the contents of the IEP's Behavior Support Plan, denying the opportunity to understand the District's reasoning and preventing the ability to take appropriate action. (OAR 581-015-2310; 34 CFR §300.503)	**Substantiated** The Safety Plan, and related revisions to the Behavior Plan, resulted in a change of placement and required that the District provide the Parents with PWN.
Free Appropriate Public Education (FAPE) Due to the alleged IDEA violations detailed above, the Complaint alleges that the District failed to provide the Student with a free appropriate public education. (OAR 581-015-2040; 34 CFR §300.101)	**Substantiated** The change of placement to a more restrictive setting resulted in a loss of educational opportunity to the Student and denial of a FAPE.

REQUESTED CORRECTIVE ACTIONS
The Complainant requests: 1. Staff training to staff and building administrators which includes: a. Training on the Student's revised IEP/Behavior supports b. Positive behavior techniques and de-escalation strategies c. Trauma informed supports d. IDEA protections for inclusion/exclusion from school activities 2. Immediate IEP meeting to revise supports required to end exclusion from lunch with peers, field trips, and recess, Revise the Student's Behavior Plan to include supports that will enable the Student to attend class field trips and successfully join peers at recess and lunch periods for socialization and exercise. 3. Provide written acknowledgment of the mishandling of these issues and specific commitments to improving guidance and procedures relevant to monitoring student progress, IEP implementation, and student evaluation. 4. Compensatory services for missed supports.

III. FINDINGS OF FACT

IDEA regulations limit complaint investigations 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 April 10, 2025. Any facts listed below relating to circumstances or incidents earlier than that date are included solely to provide context necessary to understand the Student's disability and special education history.

1. The Student in this matter is ten years old and attends the fourth grade in a District elementary school.

2. The Student attended Kindergarten as a general education student at a different school within the District for the 2021-2022 school year. Reports show the Student was academically successful but struggled to comply with classroom expectations and engaged in disruptive behaviors related to anxiety issues.

3. In first grade, the Student was briefly enrolled in a different elementary school in the District, and then enrolled in a local Charter School. The Parent reported that [the Student] "had a really hard experience [at both schools]", with physical incidents such as poking, hitting, punching, often getting sent home every single day. The Student was then homeschooled until permission to transfer to the current school was obtained in March 2024.

4. Upon enrolling in the current school, at the end of the 2024-25 school year, the Student engaged in several incidents of undesired behaviors when dysregulated. In response, the District implemented targeted interventions for the Student to support social-emotional and behavioral learning in the school setting.

5. On February 3, 2025, the Parent submitted a written request to evaluate, to see if the Student, "who has recently been diagnosed with a generalized anxiety disorder and has been struggling with various issues socially and emotionally", would qualify for an IEP.

6. The Parents met with the District evaluation team on March 11, 2025, to discuss initial evaluation. The evaluation plan developed included academic, behavioral, adaptive, and pragmatic language. The team received permission for a psychoeducational evaluation, a functional behavior assessment (FBA), and an initial Autism Spectrum Disorder (ASD) Report from the Regional Autism specialist.

7. On May 27, 2025, the full evaluation team including the Parents, reassembled to review the results of the assessments. The team established that the Student met eligibility requirements for special education services under the category of Autism Spectrum Disorder (ASD). The District also considered eligibility in the areas of Other Health Impairment and Emotional Behavioral Disability but found the Student not eligible in those areas.

8. The ASD Initial Report dated May 27, 2025, describes results of a series of standardized assessments relating to determining educational needs and level of impact in this category. The Report summarizes the Students' strengths as including:
    a) strong abilities in scientific thinking and mechanical reasoning
    b) a keen interest in hands-on activities, particularly involving building
    c) excels in small groups
    d) socially motivated and actively seeks to establish friendships, showing a desire to interact and play with peers

    The report lists notable challenges including:
    a) social interactions
    b) cognitive flexibility
    c) sensory processing
    d) strong preference for predictable routines and structured activities

    The Report concludes that the Student meets the profile consistent with Pathological Demand Avoidance (PDA) within the autism spectrum. PDA is characterized by an extreme avoidance of everyday demands, heightened anxiety, and strong need for control. Students with this profile may struggle with traditional behavioral interventions, which can inadvertently increase stress or oppositional responses.

9. As part of the initial evaluations, the team also reviewed Speech Language Assessments dated May 23, 2025. This social-communication assessment summarized the Student as "experiencing deficits in pragmatic communication skills which are consistent with Autism Spectrum Disorder…", with the Clinical Evaluation of Language Fundamentals, 5th edition (CELF-5) Pragmatics Profile scores in the 1st percentile as compared to peers.

10. The Psychoeducational report dated May 7, 2025, summarized the assessments contained in the report; showing that the Student comprehended academic material quickly and performed at grade level, but also needed intensive support due to behavioral dysregulation. The report summarized educational needs for the Student as follows:
    a) social-emotional learning to support academic performance
    b) foster self-management; including managing stress, controlling impulses, and setting personal goals
    c) provide opportunities to learn self-monitoring of social behavior. The Student may not be able to see the impact of their behavior on others in the midst of the situation
    d) use small group feedback to assist self-awareness- a social group can increase awareness of the impact that behaviors can have on others, providing not only direct skill training but also an opportunity for helpful feedback from a counselor or peers in a safe setting

    The report summarized behavioral recommendations to the educational team as follows:

a) introduce a mood-meter system to help identify feelings and [anger] triggers
b) use a calming area as a safe retreat
c) modify student-to-teacher ratio: "A lower student-to-teacher ratio may be necessary to allow for more frequent interaction between [the Student] and the instructors. The inclusion of aides, parent helpers, or other paraprofessionals within the classroom can help provide the additional external structure needed to remain more appropriately controlled. [The Student] can be easily overstimulated by classroom noise or activity with multiple nuanced social skills."
d) allow periodic breaks

11. The team reviewed the Functional Behavior Assessment (FBA) and Behavior Intervention Plan (BIP), dated 5/27/25. The plan was comprised of information collected from the Parents, teachers, evaluators and the building Principal. The plan summarized the functional behavior concerns of the Student across the following areas: cognitive flexibility, social thinking, language and communication, attention and working memory, and emotional and self-regulation. All of these areas and their corresponding sub-skills were rated as 4-'sometimes difficult', or 5-'consistently difficult' for the Student

12. An initial Individualized Education Program (IEP)was developed on May 27, 2025, and lists the following pertinent information:

    a) Parent Concerns-concerns about teacher placement for next year
    b) Special Factors- yes, for behavior only
    c) Present Levels include:
        i. Strengths: Progress monitoring data in the area of academics shows performance at the average or above average range in the general education setting.
        ii. Needs: The Student is still developing critical social and emotional skills, making it harder to participate in group activities, class discussions, and social times like recess or lunch; doing best in small low-stimulus group setting with gentle adult support, and time to practice social skills in a calm space.
    d) How disability affects progress : An ASD diagnosis impacts the Student's ability to regulate emotions and behavior consistently across settings, increases difficulty following adult directions- both task and safety-related, often results in physical aggression toward adults and peers, and significant disruption of the learning environment.
    e) Specially Designed Instruction :
        i. Behavior-Social/emotional- 60 minutes per week, pull-out and in the classroom
    f) Related Service: none selected

g) Accommodations: reduce verbal feedback, social stories, access to sensory breaks, preferential seating, behavior plan (BIP)
h) Consultation to Staff- consultation to staff from Occupational Therapist and Autism Specialist, 300 minutes per year for each
i) Nonparticipation Justification: "[The Student] will receive 60 minutes/week in Emotional Regulation in a small group or individual pull-out or push-in setting that meets [their] unique needs." "[The] Student requires a smaller or more quiet setting to organize their thoughts and attend to instruction or classroom tasks."

Placement Determination was completed with the team selecting 80% or more of the school day in the general education setting, with removal for service time.

13. In the Fall of 2025, despite implementation of the Student's BIP and special education services, the Student continued to exhibit significant behaviors, particularly during unstructured times such as recess, passing time, and lunch. Between October 7 and October 22, 2025, seven Student behavioral incidents were logged into the 5-point behavior tracking system; with three incidences being rated as minor (a 1 or 2), and four incidences being rated as major (a 3, 4, or 5) on the scale. There was no record of Parent contact on any of these major incidents provided in the documentation.

14. On October 23, 2025, the Student was suspended out of school for two days for yelling obscenities during class and sexualized behaviors. The Principal contacted the Parent to discuss the behavior incident and to notify the Parent that the Student was being suspended for two days. The Parent was informed of several other behavioral incidents from the previous two weeks, none of which the Parent had previous knowledge. The Principal then communicated with the Parent that signing a Re-Entry/ Safety Plan document was required for the Student to be allowed to return to the school.

15. On October 27, 2005, the District implemented the initial Re-Entry/Safety Plan (Safety Plan). The Parent was informed that the Re-Entry/Safety Plan was presented as a requirement for the Student to return to school and required Parent signature. The safety plan contained the following items:

a) Purpose of the Plan: Given an academic task or teacher's directive, the Student often becomes non-compliant to avoid difficult work. Often, the Student has hit and/or pushed/thrown objects/screamed at kids when upset or frustrated because the Student does not know how to communicate frustration in a more productive way.
b) Target Behaviors: Follow teacher directions the first time, follow school rules during unstructured situations, safe behaviors/not hurt anyone, and appropriate communication

c) Daily schedule: “The following is a behavior plan for managing inappropriate, unsafe, or destructive behavior.” The Plan includes the Student’s daily period-by- period schedule and identifies the staff responsible for escorting the Student to and from different locations throughout the day. The schedule specifies that Morning and Lunch Recess will be in the Library. Arrival and Lunch will be in the Sensory Café.

d) Additional Notes:

i. bathroom breaks- call the office to request an escort
ii. a protocol if the Student leaves the building
iii. no technology access
iv. supervised at all times
v. positive reinforcement system
vi. preferred seating near adult
vii. field trips- needs to be accompanied by a family member

16. The Parents wrote an email on November 4, 2025 to the Principal requesting reconsideration of parts of the Safety Plan, specifically the requirement for a family member to accompany the Student on field trips, saying it was not possible for [the Parents] to attend field trips and that it was unfair to make that requirement. To this date, the Parents had never been informed of a field trip ever being an issue for the Student, nor did the Parents ever have a discussion on this topic before the Safety Plan was presented. The Parents requested more information as to why the restriction on field trips was included, as there was no explanation in the Safety Plan.

17. On November 4, 2025, the School Psychologist sent an email to District staff, seeking information to update the Safety Plan. They requested a digital copy of the Student’s re-integration plan from the suspension, the new Behavior Tracking Cards, and the added Sensory Breaks with the Case Manager.

18. Updates to the existing BIP were made by the School Psychologist on November 4, 2025, with the updates posted electronically to staff. The updates were made by the School Psychologist in an attempt to incorporate information from the October 27, 2025 Re-Entry/Safety Plan into the Student’s BIP. Edits made included: a) removing ‘the opportunity to select alternative/structured recess’ as an intervention during escalation, because the Safety Plan already dictated the structured recess in the Library, and b) adding that the Student would be supervised by escorts during transitions. The ‘use of fidgets’ and ‘sensory breaks’ language were both re-worded in the document but those accommodations had already appeared in the initial FBA/BIP dated 5/27/25.

19. According to the Parent's Reply, the District did not notify them of the changes made to the BIP or send the Parents a revised copy. The Parents remained unaware of the changes until April 2026. Additionally, the IEP Team did not meet to review the restrictions put in place by the Safety Plan, or to consider alternative accommodations, until the Parent requested an IEP Amendment meeting on January 15 ,2026. Although the Parents were required to sign the Safety Plan on 10/27/25, the Parents did not have input into or agreement with many components of the Safety Plan, such as the Student's exclusion from peers at recess.

20. On November 7, 2025, while preparing to embark on the Student's first field trip, a series of events unfolded, ultimately resulting in the Student missing the event and being pulled from school for several weeks prior to and immediately after the Winter Break. The Teacher reported the incident as follows: the Student "had a rock about the size of [a] fist that was painted like a pizza, playing with it in class. I asked for it to be put away in the backpack. When we were waiting for the bus outside for our fieldtrip, [the Student] had the rock in hand, pretending to throw it. I asked again for it to be put back in the backpack." The Principal then became involved, and the Student ran away to the edge of the school property. This incident reaffirmed the District's view that adult support would be helpful for field trips. The Principal again discussed this with the Parent.

21. The Parent describes the November 7, 2025 incident in this way: "The rock in question was a worry rock painted like a pizza, [which had been] brought from home [as a comfort], as [the Student] was traumatized thinking the police would be called if [the Student] couldn't get through the day successfully. While the bus was loading, the teacher had asked [the Student] to put the rock away, which was refused, and led to *threatening* to throw the rock. [The Principal] admitted to [the Parent] at that time that [there had been a threat made about] the police again, for stepping too close to the sidewalk which was considered 'off-campus.' Angry at this point, I pulled [the Student] out and [went] home for the day." Since then, the Student's anxieties have been heightened by the fear of police being called making [the Student] no longer want to attend field trips and sometimes school.

22. On December 3, 2025, the Parent emailed the Principal, volunteering to attend the next field trip scheduled for December 11, 2025. The Parent felt that this would be best for everyone to have a successful field trip.

23. On December 10, 2025, the Parents wrote to the Case Manager requesting an IEP meeting and an informal pre-meeting with the Case Manager, and without the Principal, to collaborate on approach and "to start forming a more thorough and encompassing

[behavior] plan moving forward, and perhaps try some new strategies." The Case Manager rejected this request, citing that administrative support would be needed.

24. On December 10, 2025, an incident occurred involving [the Student] stabbing a pen into a peer's back resulting in two days of suspension. This suspension also coincided with the Student's scheduled field trip with the class.

25. On December 10, 2025, the Parent wrote an email to the Principal stating that the Parents did not feel safe or comfortable sending the Student back to school until after the IEP revision meeting scheduled for January 15, 2026 occurred, because the Parents did not feel the BIP was working and an entirely new plan needed to be drafted and included in the IEP.

26. The Parent also emailed the Special Education Director on December 10, 2025, concerned that the Parent had never been allowed to meet with the Student's Case Manager to come up with a plan on how to revise the BIP, as the Principal would not allow the Parent to meet or discuss anything with the Case Manager without the Principal being present. The Parents had never been able to speak with the Case Manager up to this point. The Parents expressed concerns with the effectiveness of the BIP and questioned the entire approach for a child with ASD. The Parent voiced appreciation for "being kind and trying, but [the Parents] disagree with a lot of things [the Principal] has done so far this year. [..]and we don't see why [the Principal] has to be involved."

27. The Special Education Director responds on December 10, 2026, that "The reason [the Principal] is involved is because the majority of support[..]is through behavioral support. [The Principal] is in charge of [the Student's] behavior plan and supporting the team with implementation. The Case Manager works on the IEP goals and that is a much smaller portion of the whole plan of support."

28. On December 11, 2026, the Principal requests another Re-Entry meeting for the Student to return to school from suspension. The Parent refuses the request until "after the IEP revision meeting, because [the Student] needs a new plan entirely." Additional points in this email included:
    i. what has been implemented is not working
    ii. the [safety] plan does not take the IEP into consideration, seeming completely separate
    iii. the Student's behavior is tied to being on the spectrum, with severe anxiety and emotional under-development
    iv. the Student's behavior has now reverted back several years
    v. the Parents have been "begging for meetings" and put-off repeatedly

vi. the Student cannot go back to school until a new plan is in place.

29. On December 12, 2025, the Parent sent an email to the Special Education Director, agreeing to an offer to meet on Jan 6, 2026, but "not with the Principal present". The Parent voiced concern about the Principal saying the Student is not allowed to go on field trips without the Parents, and also repeatedly threatening to call the cops on the Student. The Parent writes: "The behavior plan that you said the Principal oversees, is the thing we are most concerned about at this time. This plan has been a concern from the start. We had specifically requested in the past that some of these things not be part of a punishment, [..] so we were extremely concerned when we saw them appear, things like the bathroom escort and loss of recesses. We know for a fact things are going to continue to worsen if we do not alter the plan immediately."

30. The Special Education Director replies that the school also agrees that the Safety Plan is not working, but convinces the Parents to meet with the school team including the Principal, to begin preparing for the upcoming IEP/BIP amendment meeting.

31. The Parent brought the Student to their Pediatrician on December 16, 2025, concerned that the "lack of physical outdoor play was causing more issues than the disability," as evidenced by increased anxieties and problems at school. The Pediatrician agreed to write a note to school recommending regular outdoor recess.

32. On January 5, 2026, the Parent and school staff held a pre-conference to discuss concerns in preparation for the IEP Amendment meeting scheduled for January 15, 2026. The proposed changes to the Safety Plan were discussed, and though some of the Parent concerns were addressed in the revisions, the Parent voiced continuing disagreement with exclusion from Recess. The Parent was again informed that the revised Re-Entry/Safety Plan must be signed to allow the Student to return to school.

33. The Meeting Notice developed on January 5, 2026, describes the purpose of the IEP meeting as reviewing existing information about the Student and deciding if additional testing is needed, and reviewing the IEP and placement of the Student.

34. A District Behavior Specialist worked with the Student and communicated with the Parents for a two-week period from January 9, 2026 to January 26, 2026. While completing a file review, the Behavior Specialist noted that the Autism Spectrum Disorder (ASD) Initial Report dated 5/27/25, was not in the District system, and that the Student did not have communication or SLP services on the IEP, despite recommendations in the ASD Report and well-documented needs in social communication. The report is forwarded by the

Autism Consultant. The Behavior Specialist invites the new SLP for the building to review the Student information and extends an invitation for the SLP to join the upcoming January 15, IEP Amendment meeting to discuss adding social communication services.

35. The revised Re-Entry/Safety Plan, dated January 8, 2026, is presented at the Jan 15, 2026 IEP amendment meeting and signed by school staff, the Parent, and the Student. Changes to the initial Re-Entry/Safety Plan of 10/27/2025 were as follows:
    i. Added: Safety Expectations: no yelling or screaming, no hitting, pushing, kicking, no throwing objects, no destruction of property
    ii. Schedule changes: 'Specials Class' time changed to 'Library or Resource' (45 min., 4x per week)
    iii. Added: Technology access allowed if the Student follows the Code of Conduct and does not access unauthorized sites
    iv. Added: Gradual release to General Education setting: After 10 successful school days of successful participation, the team will review [the Student's] progress. At that time, one new area or activity may be released to a more student-directed option. The area released will be determined based on data, behavior progress, and readiness. Continued release will occur gradually and intentionally to support long term success
    v. Field Trips changed to: Field Trips must be accompanied by 1:1 support or a family member (preferred)

36. The IEP Amendment meeting on January 15, 2026, offered additional supports and services for the Student. Parent concerns noted the need for physical activity at recess, and also noted issues arising from the adult escort to the restroom. Specific amendments to the IEP included: adding a new Special Factor concern in the area of Communication, updating the Functional Performance section with discussion of increasing time in the special education setting, and a note about increased behavioral incidents. The District added an additional 300 minutes per week of SDI in Behavior and social- emotional services and added 60 minutes per week of SDI in social-communication. A visual schedule, scheduled bathroom breaks, and scheduled movement breaks were all added to the Accommodations section, and consult from the Case Manager to teachers was added for 60 minutes per week. The Nonparticipation Justification was amended to state, "[The Student] will receive 300-650 minutes/weekly in Social/Emotional Skills and accommodations and 60 minutes/weekly in the area of Social Communication in a small group or individual pull-out special education setting to meet [their] unique needs."

37. The Student's FBA/BIP document was revised again, dated January 15, 2026, to reflect the IEP amendment decisions. The changes made were, adding a) provision of social skills instruction in small groups, and b) movement breaks throughout the day. The previous

changes to the FBA/BIP made on November 4, 2025 were not mentioned during the IEP Amendment meeting.

38. When leaving the January 15, 2026 IEP Amendment meeting, the Parent believed that there would "no longer be a Safety Plan and that the original Behavior Plan would govern, as we were still unaware of the November 4, 2026 modification to the plan. Not only was this apparently untrue, the Safety Plan became the governing body of my child's entire day and overruled anything the IEP stated." The Parents also claims the Amended IEP and revised FBA/BIP from the January 15, 2026 meeting were never sent to the Parents after the meetings, and were not received until requested in April 2026.

39. The Meeting Notes, from the January 15, 2026 IEP Amendment meeting note the following: The IEP Team met to "discuss [the Student's] current functional and behavioral needs and to determine if the current placement is supportive enough for social/emotional/behavioral and academic needs."
    a. Academic testing in Language Arts and Math show the Student at grade level.
    b. Present Level-Functional performance: Amendment 1/15/26: The Student has had 21 behavioral incidents since the beginning of the school year including disrespect, refusal, yelling, inappropriate language, verbal threats, property destruction, and physical aggression towards peers. There is a current FBA/BIP in place, and staff have made the following changes to the schedule to avoid the Student becoming escalated/unsafe:
        i. Escorted by staff during transitions, spend recess times in the Library instead of outside on the playground,
        ii. Spend time in the Resource Room/Library during PE and Music classes,
        iii. Require extra adult support during any field trips away from the school.

    The IEP Team agreed today to implement:

        i. Scheduled movement break- Two times daily, and
        ii. Scheduled bathroom break- Two to three times daily

    The IEP Team also agreed, based on the Initial Autism Evaluation Report and current social communication needs, to add SLP services in a Social Communication group with peers, for 60 minutes per week.

40. A Placement Determination, dated January 15, 2026, increased the Student's time in the special education setting to 21-60% of the day for specially designed instruction. The benefits listed include a "higher level of support for focus, behavior, and social needs. Provides small group support in a quieter setting." All team members agreed.

41. Starting around March 30, 2026, the Student began asking the Principal returning to recess. On April 6,2026, the Parent wrote to the District that the Student "would like to go back to outside recess and has been asking to do so for weeks. Six months of punishment is far too long for any child this age." The Parent requested another IEP revision meeting within 30 days to address re-instating recess immediately, "Since this matter is greatly affecting [the Student's] ability to socialize with peers and the lack of exercise is actually very detrimental to [the Student's] mental health. Denying recess goes against everything that was discussed at the IEP Revision meeting."

42. On April 8, 2026, the Principal responded that the Safety Plan requires having 2 solid weeks of good behavior for each restriction to end, and since returning from Winter break the Student had been allowed to walk to the bathroom alone, use technology, and did not have an escort to class. The Principal also noted that other factors, such as Spring Break and Student absences, had extended the timeline for completing each phase of the Student's "Step-Up Plan." The Principal shared that, on March 20, 2026, the Student worked with the Case Manager on a 10-day plan to transition back into the cafeteria for lunch and would have the options of outdoor recess or library each day by April 14, 2026.

43. On April 9,2026, the Parent filed this Complaint.

44. On May 18,2026, the Special Education Director described Student progress on behavioral goals as slow through spring, but on April 16, 2026, the Student had made enough progress to attend recess and lunch in the location of the Student's choosing.

IV. DISCUSSION

Review and Revision of IEPs

The complaint alleged that the District violated the IDEA when it failed to address the Student's unique educational needs.

The District is required to annually review the Student's IEP to determine whether the annual goals for the Student are being achieved and revise the IEP, as appropriate, to address any lack of expected progress toward the annual goals, among other matters.[3]

Starting in November of 2025, the Parent requested an IEP meeting because the Safety Plan and the Behavior Plan was not improving behavioral dysregulation for the Student. The District complied by scheduling an IEP amendment meeting on January 15, 2026, and significantly increased supports and SDI in the areas of behavior and social communication.

The Department does not substantiate this allegation.

Nonacademic Services and Settings

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

The Complaint alleged the District denied the Student the opportunity to participate in extracurricular and nonacademic activities such as recess and cafeteria without providing parental notice, without convening the IEP team to review disability-related factors contributing to the exclusion, and without considering necessary accommodations or supports.

Specific to nonacademic settings, the IDEA requires each public agency to take steps, including the provision of supplementary aids and services determined appropriate and necessary by the child's IEP Team, to provide nonacademic and extracurricular services and activities in the manner necessary to afford children with disabilities an equal opportunity for participation in those services and activities[4]. A district must provide opportunities for each student with a disability to participate in nonacademic and extracurricular services and activities, including meals, recess periods, and other services and activities with nondisabled students to the maximum extent appropriate to the needs of the student.[5]

The IEP must include a statement of the special education and related services and supplementary aids and services to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child to be involved in and make progress in the general education curriculum and to participate in extracurricular and other nonacademic activities.[6]

Together these requirements mean that during an IEP Team meeting, when considering the Least Restrictive Environment, the IEP Team must consider the whole student and the student's entire educational environment. In addition to core classes, students may also have electives, lunch, recess, passing time, and both scheduled and unscheduled activities. Discussing nonacademic activities and the necessary supplementary aids, services and supports, is essential to the development and progress of the student and is a requirement for FAPE.

In this case, the District's implementation of the Safety Plan on 10/27/2025 took away social opportunities afforded by interaction with peers during recess and lunch, creating an informal removal, without the IEP Team addressing the change in placement this created for almost three months. The Oregon Department of Education defines informal removals as being temporary removals when a student is taken out of their usual learning environment for reasons like behavior management, focus enhancement, or decompression. These removals generally exclude the Student from regular school operations, such as recess, lunchroom, assemblies or field trips. Informal removals include placing the student in a sensory/quiet room, an administrator's office, or any other location that excludes standard classroom activities and peer interactions because of their behavior; yet these removals are not accompanied with planned, proactive, individualized strategies aimed at addressing the student's individual needs resulting directly from their disability.

[4] OAR 581-015-2070; 34 CFR §300.107(a)
[5] OAR 581-015-2070; 34 CFR §300.117
[6] 34 CFR §320(a)(4)

While the Safety Plan itself may have been a necessary action for the District to ensure the safety of students and staff in the building, the Safety Plan extended well past only addressing safety and became the operational behavior plan; affecting the Student's non-participation in general education by excluding them from activities and locations formerly available to the Student. This took place outside of the IEP process, and impacted the Student's placement by altering their level of participation in the general education setting.

This informal removal remained from October 27, 2025 until the District met January 8, 2026, to amend the Safety Plan, and on January 15, 2026 to Amend the IEP when behavioral supports and placement changes were addressed. At these meetings the District did address the Parent's repeated requests to remove the requirement of a family member accompanying the Student on field trips, and to add a 'gradual/slow release' component on the exclusions placed on recess and lunch. The IEP amendment on January 15, 2026, added additional behavioral supports and SDI, but also added new non-academic setting restrictions by removing the Student from the 'specials' classes for 3 hours per week. The meeting notes and Placement Determination document from that meeting do not address the removals with meaningful alternatives that would provide the Student an equal opportunity for participation and access to nonacademic activities. These considerations should be documented in the IEP and Placement Decision documents. Even with the increased behavior supports, the Student remained excluded from recess and the cafeteria until April 14, 2026, and remains at risk of future exclusion according to the Safety Plan.

In this case, there was little evidence of consideration of supports which could remediate the Student's removal time from social opportunities, or of a formulated plan to systematically return the Student into those environments.

The Department substantiates this allegation.

Parent Participation

The Complaint alleged that the District violated the IDEA by making changes to the Behavior Plan and implemented changes without Parents knowledge or consent.

Under the IDEA, a school district must provide one or both parents the opportunity to participate in meetings with respect to the identification, evaluation, IEP, and educational placement of the child.[7] At these meetings "[P]arents have the right to bring questions, concerns, and preliminary recommendations to the IEP Team meeting as part of a full discussion of the child's needs and the services to be provided to meet those needs."[8]

In this case, the District provided the Parent notice of all IEP meetings and afforded the Parent a meaningful opportunity to participate in the Student's IEP meetings. The revisions made to the Student's BIP on November 4, 2025 aligned the BIP with changes already implemented with the Re-entry/Safety Plan on October 27, 2025. Regardless of which

[7] OAR 581-015-2190(1); 34 CFR § 300.501(b)
[8] Letter to Northrop (OSEP 5/21/13), citing 71 Fed. Reg. 46,678 (2006)

document precipitated the changes, the result is that the Student's time in general education was significantly reduced such that it constituted a change of placement. This occurred outside of an IEP meeting and without giving the Parents an opportunity to provide input.

The Department does not substantiate this allegation.

Prior Written Notice

The complaint alleges that the District violated the IDEA by failing to send a PWN explaining the District decision to change the IEP/BIP.

School Districts must provide PWN to parents within a reasonable period of time before the District proposes or refuses to initiate or change identification, evaluation, educational placement, or provision of FAPE to a child.[9] 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. A PWN must be provided "whether or not the proposal or refusal is made during the course of an IEP meeting."[10]

As discussed above, the revisions to the Student's BIP resulted in a change of placement. The District was required to provide the Parents with PWN informing them of the placement change.

The District substantiates this claim.

Free Appropriate Public Education (FAPE)

This complaint alleges that due to the alleged violations detailed above, the District failed to provide the Student with a free appropriate public education.

To determine if a student has been denied a FAPE, courts must consider 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.[11] Not all procedural violations amount to a denial of FAPE. A school district's procedural violation denies FAPE to a student if it results in a loss of educational opportunity or if it seriously infringes on the parents' opportunity to participate in the development of the IEP.[12]

In this case, the Student has well-documented needs in social communication and was denied the opportunity to engage in social interactions with their peers due to ongoing removals from the general education setting, particularly during highly social times such as recess and lunch. This resulted in a loss of educational opportunity to the Student and a denial of FAPE.

[9] OAR 581-015-2310 (2); 34 CFR 300.503
[10] Letter to Chandler (OSEP 2012)
[11] *Endrew F.*, 137 S. Ct. at 999
[12] W.G. v. Bd. of Trustees of Target Range Sch. Distr. No. 23, 960 F.2d 149,1484(9th Cir. 1992)

The Department substantiates this allegation.

ADDITIONAL FINDING

IEP Content

When developing a student's IEP, the IEP must include a statement of the student's present levels of academic achievement and functional performance, including how the student's disability affects the student's involvement and progress in the general education curriculum. It must also include measurable annual goals designed to meet the student's needs that result from the student's disability to enable the student to be involved in and make progress in the general education curriculum and meet each of the student's other educational needs that result from the student's disability. The IEP must also include information on how the student's progress toward meeting the annual goals will be measured and provided to the parents. Finally, each IEP must include a statement of the specific special education and related services and supplementary aids and services to be provided to the student, or on behalf of the student.[13]

The evidence in this case showed that the Student had needs in the area of social communication that the District had identified at the time of their initial IEP on May 27, 2025. The Student's IEP did not include any special education services to address the Student's social communication needs until the IEP Amendment on January 15, 2026. At that time, 60 minutes per week of SDI in social communication was added to the Student's IEP.

V. CORRECTIVE ACTION

In the Matter of Ashland School District 5
Case No. 026-054-047

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

Action Required	Submissions	Due As Soon As Possible But Not Later Than
1. The District will develop and conduct training for all building administrators and staff who have key responsibilities in developing and implementing behavior plans and disciplinary actions for students with disabilities on the District's obligation to: a) Provide PWN of any change in placement; b) Provide opportunities for students with disabilities to	Training agenda and materials to ODE for review and approval. Sign-in sheet from training.	September 15, 2026 December 15, 2026

[13] OAR 581-015-2205(1); 34 CFR §300.320

participate in nonacademic and extracurricular activities to the maximum extent appropriate to the needs of the student; c) Provide parents with the opportunity for meaningful participation in placement decisions.		
2. The District will convene a meeting with the Parent to determine appropriate compensatory education services for the loss of educational opportunity caused by the District's removal of the Student from the general education setting for more time than indicated in their IEP, and for the District's failure to address the Student's social communication needs in their IEP. The compensatory services offered to the Student shall include, at a minimum, 18 hours of SDI in social communication. If the parties are unable to reach an agreement on the compensatory education to be offered to the Student, either party can request that the determination be made by the Department.	A written plan for the compensatory education developed at a meeting with the Parent. Evidence showing that compensatory services were provided.	October 15, 2026 January 15, 2027

Dated: this 5 Day of June, 2026



Ramonda Olaloye
Assistant Superintendent

Office of Enhancing Student Opportunities

E-mailing Date: June 5, 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).)