BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of Hermiston School District 8	)	FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL ORDER Case No. 26-054-052

I.BACKGROUND

On April 16, 2026, the Oregon Department of Education (Department) received a written request for a special education complaint investigation from the parent (Parent) of a student (Student) residing in the Hermiston School District 8 (District). The Parent requested the Department conduct a special education investigation under OAR 581-015-2030. The Department confirmed receipt of this Complaint and forwarded the request to the District.

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

On April 28, 2026, the Department's Complaint Investigator sent a *Request for Response (RFR)* to the District, identifying the specific allegation in the Complaint to be investigated and establishing a *Response* due date of May 12, 2026.

The District submitted a *Response* on May 12, 2026. In its *Response*, the District disputed the allegation, provided an explanation, and submitted documents in support of the District's position. The District submitted the following relevant items:

1. Preliminary Independent Educational Evaluation (IEE) Email Exchanges, 11/20/25
2. Prior Written Notice (PWN) re Approval for IEE, 11/25/25
3. IEE Approval Email, 12/1/25
4. Email Exchange re Clarifying School Psychologist Requirements, 12/2/25
5. Email Exchange re list of assessment to not conflict with IEE, 12/22/25
6. Parent Email Containing IEE and Request for Reimbursement, 2/5/26
7. IEE, 1/31/26
8. IEE Invoice, 12/30/25
9. IEE Invoice, 1/31/26
10. Email exchange declining to pay for IEE, 2/5/26

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

11. 1st offer to hold IEP meeting to review the IEE, 2/6/26
12. 2nd offer to hold IEP meeting to review the IEE, 3/2/26
13. PWN re IEE Reimbursement, 3/5/26
14. Email to Parent w/ KL-AR Complaint Procedure, 3/13/26
15. Parent KL-AR Complaint to Superintendent, 3/23/26
16. Superintendent KL-AR Decision Letter, 3/30/26
17. Parent KL-AR Appeal to Board, 4/1/26
18. Board KL-AR Decision Letter, 4/16/26
19. School Psychologist vs. Clinical Psychologist Information, undated
20. IEE Reimbursement Meeting Notes, 3/13/26
21. Speech Language Eval Report, 11/21/23
22. Evaluation ReportQ1 Report Card and Schedule 2025-2026, 12/1/23
23. Eligibility Statement (OHI), 12/5/23
24. Eligibility Statement (SLD), 12/5/23
25. Eligibility Statement (SLI), 12/5/23
26. Eligibility Summary Statement, 12/5/23
27. PWN re Eligibility, 12/6/23
28. Speech and Language Evaluation Report, 12/3/25
29. Eligibility Statement (SLI), 12/9/25
30. Eligibility Summary Statement, 12/9/25
31. Amendment to Eligibility Summary Statement, 12/9/25
32. PWN re Eligibility, 12/11/25
33. PWN re Eligibility, 12/12/25
34. Evaluation Report, 1/15/26
35. Eligibility Statement (OHI), 12/17/25
36. Eligibility Statement (SLD), 12/17/25
37. PWN re SLD and OHI Evaluation, 1/29/25
38. Narrative Response, 5/12/26

On May 15, 2026, the Parent submitted a written Reply to the District's May 12, 2026 Response and documentation.

The Parent submitted the following items:

1. Parent response, 5/15/26
2. Exhibit P1 Board Escalation, 4/1/26
3. Exhibit P2 IEE Complaint, 4/16/26

On May 26, 2026, the Complaint Investigator interviewed the Parent. The Complaint Investigator interviewed District personnel on May 27, 2026. Virtual interviews were conducted instead of on-site interviews. 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 17, 2025 to the filing of the Complaint on April 16, 2026.

Allegations	Conclusions
Independent Education Evaluation (IEE) The Parent alleged that the District violated the IDEA when it offered to pay for an IEE requested by the Parent, but declined to pay for the IEE that the Parent had procured because the IEE did not meet the District's IEE criteria. The Parent further alleged that the District did not follow the appropriate procedure when declining to pay for the IEE that did not meet the District's criteria, when it did not initiate a hearing to show that the District's evaluation of the Student was appropriate. Also, the Parent alleged that the District failed to consider unique circumstances. (OAR 581-015-2305; 34 CFR §300.502)	**Substantiated** The District granted the IEE request and provided the Parent with its IEE criteria. The Parent chose to utilize an independent evaluator that the Parent knew did not meet the District's IEE criteria. The District failed to either fund the IEE completed by the Parent or show in a hearing that the IEE failed to meet District criteria.

REQUESTED CORRECTIVE ACTIONS

The Parent requested corrective action as follows:

1. Order the District to reimburse the parent $585 for the IEE that the Parent procured.
2. The ODE consider the history from Case No. 21-054-033 in developing appropriate corrective actions to prevent the alleged error in the future.

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 17, 2025 Any facts listed below relating to circumstances or incidents earlier than that date are included solely to provide context necessary to understand the Student's disability and special education history.

1. The Student is a 5th grade student who qualifies for special education services under the eligibility criteria of Specific Learning Disability (SLD).

2. The Student was evaluated in November and December of 2023 for SLD, Other Health Impairment (OHI) and a Speech Language Impairment (SLI). The Student was found eligible for special education services under the category of SLI.

3. An annual IEP and evaluation planning meeting was held on September 23, 2025. The team agreed to re-evaluate the Student for SLI. The Student's other parent (Parent #2) signed consent to evaluate for SLI. The Parents share equal decision-making authority with regard to educational decisions, including the ability to sign consent to evaluate.

4. By email to the District dated November 17, 2025, the Parent requested the following: "I am now requesting an Independent Education Evaluation, along with your recommended testing and input to identify the suspected other health impairment."

5. On that same date, the District's special education director (Director) responded by email asking the Parent what areas of disagreement that they had with the 2023 evaluation and provided a copy of the evaluation.

6. On November 18, 2025, the Director also offered to schedule a meeting with the Parent to have one of the Evaluation Team staff review the evaluation report with the Parent.

7. On that same date, the Parent declined the offer to review the evaluation report in person and indicated that they preferred communication regarding the evaluation by email.

8. After the District answered questions that the Parent had about the 2023 evaluation by email, the Parent formally requested an IEE based upon disagreement with the 2023 evaluation. Specifically, they stated, "I disagree with the district's conclusion that [the Student] does not qualify for a Specific Learning Disability in the areas of Basic reading skills, Reading Fluency, and Reading Comprehension (including characteristics of dyslexia)".

9. By email dated December 1, 2025, the Director notified the Parent that the IEE request had been granted and provided the District's IEE criteria.

10. Thereafter, Prior Written Notice (PWN) was sent informing the Parent that the IEE request was approved. It provided that the Parent did not disagree with the scores in the District's evaluation, but with the determination that the Student did not meet eligibility criteria for SLD.

11. In response, on December 1, 2025, the Parent stated that they had not reached out to the potential evaluators that were provided by the District but had researched the cost of private evaluators. The Parent further stated the following: "For the elimination of doubt, do you see a problem with accepting an evaluation for a Washington Licensed Psychologist with PhD, and HSPP?"

12. On December 2, 2025, the Director informed the Parent that the evaluation needed to be completed by an Oregon Licensed School Psychologist.

13. The District's evaluation for SLI was completed on December 3, 2025.

14. An IEP meeting was held on December 9, 2025. The IEP team determined that the Student no longer qualified under the eligibility category of SLI and dismissed the Student from special education. On that same date, the IEP team agreed to evaluate the Student in the areas of SLD and OHI.

15. The District's evaluation of the Student for SLD and OHI was completed on January 15, 2026.

16. An IEP meeting was held on January 28, 2026. At that meeting, the Student was found eligible for special education services under the category of SLD and ineligible under the category of OHI.

17. By email dated February 5, 2026, the Parent emailed the District a letter from an IEE evaluator as well as invoices for the IEE. The IEE was completed by an outside evaluator that did not meet the District's IEE criteria.

18. On that same date, the Director responded by email stating that the Director would work with the District's business office to get the Parent reimbursed for the expenses.

19. The next day, the Director emailed the Parent offering an IEP meeting to discuss the IEE obtained by the Parent.

20. By email dated February 6, 2026, the Parent indicated that an IEP team meeting was not needed immediately based on the January 28, 2026 IEP meeting where the Student was determined eligible for services under the category of SLD.

21. On March 5, 2026, the District sent the Parent PWN that it was declining to reimburse the cost of the IEE because the outside evaluator did not meet the District's IEE criteria, specifically, the outside evaluator was a Washington Licensed Psychologist. The District's IEE criteria requires the IEE to be completed by an Oregon Licensed School Psychologist.

22. On March 13, 2026, the Director met with the Parent to discuss the denial of reimbursement for the IEE, among other things.

23. On March 23, 2026, the Parent submitted a complaint to the District's Superintendent regarding the denial of reimbursement for the IEE.

24. On March 30, 2026, the Superintendent issued a letter affirming the decision not to reimburse for the IEE because it did not meet the District's IEE criteria.

25. On April 1, 2026, the Parent appealed the March 30, 2026 decision to the school board.

26. On April 16, 2026, the Board issued a letter affirming the March 30, 2026 decision.

27. No unique circumstances were submitted by the Parent to justify the use of an outside evaluator that did not meet the District's criteria.

28. On April 16, 2026, the Parent filed this Complaint.

IV. Discussion

Independent Education Evaluation

The Parent alleged that the District violated the IDEA when it offered to pay for an IEE requested by the Parent, but declined to pay for the IEE that the Parent had procured because the IEE did not meet the District's IEE criteria. The Parent further alleged that the District did not follow the appropriate procedure when declining to pay for the IEE that did not meet the District's criteria, when it did not initiate a hearing to show that the District's evaluation of the Student was appropriate. Also, the Parent alleged that the District failed to consider unique circumstances.

The applicable provision regarding IEEs is in 34 CFR §300.502(b) which provides the following:

1) If a parent requests an independent educational evaluation at public expense, the public agency must, without unnecessary delay, either—
    a. File a due process complaint to request a hearing to show that its evaluation is appropriate; or
    b. Ensure that an independent educational evaluation is provided at public expense, unless the agency demonstrates in a hearing pursuant to §§300.507 through 300.513 that the evaluation obtained by the parent did not meet agency criteria.

Similarly, OAR 581-015-2305(4) provides: if a parent requests an independent education evaluation at public expense, the school district must, without unnecessary delay, either: (a) ensure that an independent educational evaluation is provided at public expense unless the school district demonstrates in a hearing under OAR 581-015-2345 that the evaluation obtained by the parent did not meet school district criteria in accordance with (3); or (b) Initiate a due process hearing under OAR 581-015-2345 to show that its evaluation is appropriate.

The Office of Special Education Programs (OSEP) issued a guidance letter regarding this issue in 2004. In *Letter to Parker*, 41 IDELR 155 (Feb. 20, 2004), OSEP opined the following:

Section 300.502(b)(2) of the regulations states that "If a parent requests an independent educational evaluation at public expense, the public agency must, without unnecessary delay, either (i) initiate a hearing under §300.507 to show that its evaluation is appropriate; or (ii) ensure that an independent educational evaluation is provided at public expense, unless the agency demonstrates in a hearing under §300.507 that the evaluation obtained by the parent did not meet agency criteria." Therefore, if a parent elects to obtain an IEE by an evaluator not on the public agency's list of evaluators, the public agency may initiate a due process hearing to demonstrate that the evaluation obtained by the parent did not meet the public agency criteria applicable for IEEs or there is no justification for selecting an evaluator that does not meet agency criteria. If the public agency chooses not to initiate a due process hearing, it must ensure that the parent is reimbursed for the evaluation.

In this instance, the District granted the IEE. The Parent inquired if the IEE could be completed by a provider in Washington. The District responded that the outside evaluator did not meet the District's IEE criteria and provided an explanation as to why. With this knowledge, the Parent went forward with the outside evaluator that did not meet the IEE criteria and subsequently requested reimbursement which the District denied.

The plain language of both 34 CFR §300.502(b) and OAR 581-015-2305(4) dictate that, unless a school district demonstrates in a hearing that the evaluation obtained by the parent did not meet the public agency criteria, or that there is no justification for selecting an evaluator that does not meet agency criteria, it must ensure that the evaluation is provided at public expense. In this case, the District did neither.

The Parent further asserted that the District did not comply with IDEA by not allowing the Parent to show unique circumstances to deviate from the IEE criteria. While IDEA provides that the district must allow parents the opportunity to demonstrate that unique circumstances justify the selection of an evaluator that does not meet agency criteria, the Parent did not provide the District with any unique circumstances.

The Department substantiates this allegation.

V. CORRECTIVE ACTION

In the Matter of Hermiston SD 8
Case No. 26-054-052

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

Action Required	**Submissions**	**Due As Soon As Possible But Not Later Than**
The District must either reimburse the Parent for the cost of the IEE or demonstrate in a due process hearing that the IEE completed by the Parent did not meet the District's criteria.	Evidence to ODE that the District has either reimbursed the Parent for the cost of the IEE or demonstrated in a due process hearing that the IEE did not meet the District's criteria.	October 15, 2026
The District will develop and conduct training for all staff responsible for responding to Parent requests for IEEs on the District's responsibility to respond to those requests.	Training agenda and materials to ODE for review and approval. Sign-in sheet from training.	July 15, 2026 October 15, 2026

Dated: 6/15/2026



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Ramonda Olaloye
Assistant Superintendent
Office of Enhancing Student Opportunities

Emailing Date: 6/15/2026

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).)