BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of Portland Public School District 1J	))))	FINDINGS OF FACT, CONCLUSIONS, AND FINAL ORDER Case No. 26-054-064

I. BACKGROUND

On May 18, 2026, the Oregon Department of Education (the Department) received a written special education complaint (Complaint) from the parent (Parent) of a student (Student) residing in the Portland Public School District (District). 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 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 to engage in mediation or local resolution or for exceptional circumstances related to the complaint.[2]

On May 27, 2026, the Department's Complaint Investigator sent a *Request for Response (RFR)* to the District identifying specific allegations in the Complaint to be investigated and establishing a *Response* due date of June 10, 2026. On June 10, 2026, the District submitted a *Response*, disputing the allegations described in the Complaint. The District submitted the following relevant items:

1. District Exhibit List
2. District Response
3. Notice of Team Meeting, 6/9/2025
4. Prior Written Notice, 6/13/2025
5. IEP Team Meeting Notes, 6/13/2025
6. IEP Team Meeting Notes, 9/18/2206
7. Prior Written Notice, 9/19/2025
8. Notice of Team Meeting, 9/18/2025
9. IEP Team Meeting Notes, 10/8/2025
10. Prior Written Notice, 10/13/2025
11. Prior Notice of Special Education Action, 10/13/2025
12. Notice of Team Meeting, 10/13/2025

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

13. Prior Written Notice, 10/17/2025
14. IEP Team Meeting Notes, 10/22/2025
15. Prior Written Notice, 10/27/2025
16. Notice of Team Meeting, 10/23/2025
17. Student IEP, 11/7/2025
18. Prior Written Notice, 11/14/2025
19. Prior Notice of Consent for Initial Provision of Special Education Services, 11/7/2025
20. IEP Team Meeting Agenda, 9/18/2025
21. Prior Written Notice, 12/19/2026
22. Email: IEE Update, 4/17/2026
23. Email: Re: Time sensitive. Request for an accommodation, 4/30/2026
24. Email: Re: IEE Update, 5/4/2026
25. Email: ODE COMPLAINT, 5/15/26
26. Personal Services Contract…, 5/27/2026—6/1/2026
27. List of Knowledgeable Staff

The Department's Complaint Investigator interviewed the Parent regarding the allegations in this matter ahead of sending the May 27, 2026, RFR. On June 10, 2026, the Parent provided a written *Reply* to the District's *Response*. Included with the Parent's *Reply* were additional documents in support of the Parent's position. The Department's Complaint Investigator determined that additional interviews were not required in this matter. 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 May 19, 2025, to the filing of this Complaint on May 18, 2026.

Allegations	Conclusions
Independent Education Evaluation It was alleged that the District violated the IDEA when it unreasonably delayed providing the independent education evaluation (IEE) at public expense. The Parent previously filed a complaint with the Department, resulting in the Department issuing a decision (26-054-008) ordering the District to either grant the Parents' IEE request for a functional vision evaluation or file for due process to defend its evaluation of the Student. It is alleged that following the issuance of the Final Order in Case 26-054-	**Not Substantiated** The District met the deadline set by the Department's March 20, 2026, order to either grant the IEE or file for due process. Thereafter the District's delay of three school weeks following that decision to grant the IEE, but before initiating a contract with the IEE provider, does not

008, that the District unreasonably delayed providing the IEE. (OAR 581-015-2305; 34 CFR § 300.502)	constitute "unreasonable delay."
Free Appropriate Public Education (Denial of FAPE) It was alleged that the District violated the IDEA when, it delayed providing the independent education evaluation (IEE) for the Student. It is alleged that the District scheduled IEP team meetings ahead of granting the IEE, thereby limiting the Parent and the IEP Team's ability to consider the outcome of the IEE. It is alleged that these actions denied the Student a FAPE. (OAR 581-015-2040; 34 CFR 300.101)	**Not Substantiated** The Student was not denied a FAPE by the passage of time between the District's agreement to grant the IEE and beginning the process to contract with the IEE provider.

REQUESTED CORRECTIVE ACTION
The Parent requests that the District: • Be found out of compliance with the IDEA due to unnecessarily delaying the IEE process, and failing to ensure timely educational planning during the pending IEE process; • Be ordered to immediately complete the IEE process; • Amend documentation discrepancies in the December 2025 PWN to match IEP services accurately, thereby providing clarity around the implementation of transition services, ESY decision making, and service implementation; and, • Provide compensatory education credit for services and other appropriate corrective action.

III. FINDINGS OF FACT

1) The Student in this matter is 16 years old and attends high school in the District.

2) The Student is eligible for special education under the categories of Emotional Behavior Disability and Other Health Impairment.

3) On June 9, 2025, the District sent the Parent a Notice of Team meeting for an IEP team meeting scheduled for June 13, 2025. The notice indicated that the purpose of the meeting was to review the Student's transition needs and services for students over age 16 and develop or review the Student's IEP and placement.

4) On June 13, 2025, the District sent the Parent a prior written notice (PWN) documenting

that the Student's IEP was not completed during that meeting with a meeting scheduled to continue the process on Augst 22, 2025.

5) On September 19, 2025, the District sent the Parent a PWN documenting that the IEP team met for four hours to continue review of the Student's IEP but the IEP was not completed. The team agreed to continue the process on October 8, 2025.

6) On October 13, 2025, the District sent the Parent a PWN documenting the team's October 8, 2025, IEP team meeting, and the need to convene additional meetings to complete the Student's IEP.

7) On October 27, 2025, the District sent the Parent a PWN documenting the team's October 22, 2025, IEP team meeting. The PWN indicated that additional meetings were needed to complete the Student's IEP.

8) On November 7, 2025, the Student's IEP team completed an IEP for the Student. According to the IEP, the Student demonstrates strong vocabulary knowledge and solid decoding skills. The Student can use these skills to engage with grade-level texts in the classroom environment. The Student displays creativity across multiple areas and has a strong interest in music. When well-regulated, the Student is friendly and kind, often using their sense of humor to connect with peers. The Student has established strong friendships and engages positively in social interactions. The Student is observant of surroundings, an honest and loyal friend, and loves learning about things they are interested in. The Student demonstrates awareness of their learning strengths and needs. They prefer not to have direct support in the classroom but engage in meaningful rapport with trusted adults outside the classroom.

9) The Student's November 7, 2025, IEP included specially designed instruction (SDI) and measurable annual goals in Social & Emotional Skills, Classroom/School Skills, Mathematics, Communications, Reading, Writing, and Transition Skills. The Student's IEP called for:

    a) 90 minutes per week of SDI in Social & Emotional Skills provided by the special education teacher;
    b) 90 minutes per week of SDI in Social & Emotional Skills provided by the general education teacher;
    c) 60 minutes per week of SDI in Writing provided by the general education teacher;
    d) 180 minutes per week of SDI in Mathematics provided by the general education teacher;
    e) 60 minutes per week of SDI in Transition Skills provided by the general education teacher;
    f) 210 minutes per week of SDI in Communication provided by a Speech-Language Pathologist;
    g) 60 minutes per week of SDI in Reading provided by the general education teacher;
    h) 90 minutes per week of SDI in Classroom/School Skills provided by the special education

teacher; and,

i) 90 minutes per week of SDI in Classroom/School Skills provided by the general education teacher.

10) On November 14, 2025, the District sent the Parent a PWN documenting the provision of FAPE to the Student as the result of formulating a completed IEP for the Student.

11) On December 19, 2025, the District sent the Parent a PWN responding to a variety of Parent requests. As part of this PWN the District indicated its refusal "to initiate an additional IEE for a Functional Vision Evaluation." The PWN went on to indicate that the District had "authorized a Comprehensive visual acuity exam…as well as a comprehensive Psychological Assessment…" determining that "additional evaluation regarding the Student's vision at public expense [was] not warranted or required."

12) On January 21, 2026, the Parent filed a complaint with the Department regarding the District's December 19, 2025, refusal to provide the requested IEE, as communicated in the December 19, 2025, PWN.

13) On March 20, 2026, the Department issued a Final Order in Case Number 26-054-008, with findings related to the Parent's IEE request. The Department found that the "…Parents' request for an IEE for a functional vision evaluation was addressed at challenging the District's evaluations that determined the Student's special education eligibility, specifically the Emotional Behavioral Disorder eligibility. As part of this investigation the District reported understanding the Parents' IEE request to address visual acuity, rather than the Parents' neurological concerns aimed at the Student's eligibility determination. The District's list of IEE categories includes 'Vision-Functional' however the listed provider did not provide that particular assessment. The records support that the Parent was also likely unaware that the selected provider did not conduct the sort of assessment sought. When the selected provider made a referral to a specialist that could conduct the agreed-upon assessment, the District issued the December 19, 2025, PWN, declining the requested IEE. This PWN was based on the understanding that the Parents' request was an additional IEE request, rather than a continuance of the original request." The Department ordered that the District either grant the Parents' IEE request for a functional vision evaluation or file for due process to demonstrate the appropriateness of the District's evaluation of the Student. The District was given until April 17, 2026, to make this determination.

14) On April 17, 2026, the District sent an email to the Parent granting their request for a functional eye evaluation for the Student and confirming the Parent's choice of provider for the evaluation. The District wrote in part that once it received confirmation of the Parent's chosen provider for the IEE, that the District would begin the process for contracting with the provider for the IEE.

15) On April 17, 2026, the Parent, responding to the District, observed their hope that the IEE would have already occurred by that date, and the potential impact of a delay on the

Student's education. As part of this email the Parent, responding to the District's inquiry, confirmed their preferred provider choice for the IEE.

16) On April 30, 2026, the Parent sent an email to the District asking the District to respond to several issues including the Student's "pending Independent Educational Evaluation (IEE)…" On the same date the Parent sent an email observing that the Student's IEE remained outstanding and that the District's failure to address aspects of the Student's IEP was due in part to the District's "unreasonable delay of IEE".

17) On April 30, 2026, the District responded to many of the concerns in the Parent's email of the same day. The District did not address the IEE.

18) On May 4, 2026, the Parent sent an email to the District asking for information about the District's progress in contracting with the professional to complete the Student's IEE. The Parent noted that the District granted the IEE on April 17, 2026, but that the process had not moved forward to date. The Parent asked for a prompt response, reporting the intention to address any delay through the complaint process and expressing dismay at the length of time for the process and the potential impact on the Student.

19) On May 15, 2026, the Parent sent an email to the District announcing the intent to file a complaint with the Department alleging that the District had created "unnecessary delay" in ensuring the IEE was completed. The Parent noted that the IEE was initially agreed to by the District in the summer of 2025, and to date none was provided.

20) On May 18, 2026, the Parent filed this Complaint.

21) On May 19, 2026, the District contacted the Parent's preferred provider for the IEE.

22) On May 20, 2026, the Parent sent an email to the District and asked that a staff person be identified that had sufficient availability to support the Parent and the Student.

23) On May 21, 2026, the District, responding to the Parent's May 20, 2026, email, offered to meet to discuss the Parent's concerns.

24) On May 22, 2026, the District sent a contract to the Parent's preferred provider for the IEE.

25) On May 26, 2026, the Parent sent the District an email suggesting an IEP team meeting to discuss their concerns. The Parent provided a list of outstanding concerns in that email including the IEE for the Student.

26) On May 27, 2026, the Parent's preferred provider for the IEE returned the contract to the District.

27) On June 1, 2026, the District finalized a contract with the provider for the IEE that was the

subject of the Department's March 20, 2026, order.

28) On June 3, 2026, the Parent sent an email to the District expressing concerns for the Student's education and whether District staff had the bandwidth to respond to the Parent's emails.

29) On June 10, 2026, the District submitted its *Response* in this matter. The District's *Response* reviewed the timeline in this matter observing in part that, due to a variety of reasons "including managing multiple contracts…other priorities, as well as illness-related absences of key staff….the contract process for this IEE did not begin on either the Parent's nor the District's preferred timeline."

30) On June 10, 2026, the Parent submitted their *Reply* to the District's *Response*. The Parent provided additional detail to support their position that the outcome of the IEE was relevant to the review and revision of the Student's IEP. The Parent, in their *Reply*, explained that IEP team meetings convened ahead of the receipt of the outcome of the IEE were, in the Parent's estimation, premature. The Parent's response notes that while the District granted the IEE on April 17, 2026, by email, the process was not implemented until sometime later.

    The Parent's *Reply*, goes on to discuss that the Student "was not making meaningfully educational progress." The Parent explained that their hope was that the outcome of the IEE would provide insight into the Student's struggles, reiterating that their concerns for the Student were raised a year prior, and their perspective that the District had effectively delayed the process for the entire school year.

IV. DISCUSSION

Independent Education Evaluation

It was alleged that the District violated the IDEA when it unreasonably delayed providing the independent education evaluation (IEE) at public expense. The Parent previously filed a complaint with the Department, resulting in the Department issuing a decision (26-054-008) ordering the District to either grant the Parents' IEE request for a functional vision evaluation or file for due process to defend its evaluation of the Student. It is alleged that following the issuance of the Final Order in Case 26-054-008, that the District unreasonably delayed providing the IEE.

The Parent of a child with a disability has the right to an IEE at public expense if the parent disagrees with an evaluation obtained by the school district. If a parent requests an IEE at public expense the school district must, without unnecessary delay, either ensure that the IEE is provided at public expense or initiate a due process hearing to show that the district's evaluation is appropriate. A parent is entitled to only one independent educational evaluation at public

expense each time the public agency conducts an evaluation with which the parent disagrees.[3] An IEE is available to parents where there is disagreement with the district's "evaluation because the child was not assessed in a particular area" in order "to determine whether the child has a disability and the nature and extent of the special education and related services that child needs."[4] There is no strict deadline established by this provisions of 34 CFR § 300.502(b)(2) by which to define "unnecessary delay."[5] The determination whether there was a delay is fact specific.[6] The term, "unnecessary delay", permits reasonable flexibility to accommodate good faith discussions between the parties for arranging for an IEE.[7] Similarly, when the parties continue to discuss the provision of the IEE, there is less chance of a finding of delay.[8] An unexplained delay tends to suggest unreasonable delay. In one case a district sent the parent a prior written notice of its intent not to fund an IEE six weeks after the parent's request. The district then made its due process filing three weeks after the issuance of the PWN. In that instance the court found that the district did not act with unnecessary delay, even though the due process filing came nine weeks after the parent's request.[9]

The Parent alleged that the District delayed the Student's IEE and that such delay amounted to an "unreasonable delay." The Parent pointed to the passage of time between the date set by the Department to either grant the Parent's request for an IEE, or file for due process, and the District's action to ensure the IEE was provided. The Department issued a decision on March 20, 2026, ordering the Department to either approve the Parent's request for the IEE or file for due process. The Department set a deadline of April 17, 2026, for this action. The week of March 23, 2026, was the District's spring break and schools were therefore closed. On April 17, 2026, the District sent an email to the Parent informing them that the District would grant the requested IEE. On April 30, 2026, and May 4, 2026, the Parent sent emails to the District asking for updates regarding the IEE. The record supports that the Parent did not receive a response to those inquiries. The Parent subsequently filed this complaint on May 18, 2026. On May 19, 2026, the District began communicating with the IEE provider to arrange payment for the IEE.

The Parent filed this Complaint alleging that the time between the District's April 17, 2026, agreement to grant the IEE and the May 18, 2026, filing of this Complaint, without initiating the process for the selected provider to begin work on the IEE, amounted to an unnecessary delay. As part of the record in this matter the Parent observed the passage of time from the District's initial agreement to provide the IEE in the summer of 2025, subsequent delays, the Parent's complaint regarding the initial provision of the IEE, the Department's March 2026 order establishing the April 17, 2026, deadline for the District to either grant the IEE or file for due process. The passage of time related to the District's initial agreement to grant the IEE and the April 17, 2026, deadline were issues addressed by the Department's March 20, 2026, order. The

[3] OAR 581-015-2305(1)—(9)
[4] *OSEP Letter to Baus*, 65 IDELR 81 (February 23, 2015)
[5] *Capistrano Unified School Distrtict*,784 F.3d, at 1247
[6] *Id*.
[7] *Letter to Anonymous*, 56 IDELR 175 (OSEP, Augst 13, 2010)
[8] *L.C. v. Alta Loma School District*, 849 F.App'x 678 (9th. Cir. 2021)
[9] *Capistrano Unified School District*, 120 LRP 33844 (CA SEA 2020)

question here is solely whether the time between April 17, 2026, and the filing of this Complaint amounted to an unreasonable delay.

As observed above, courts have held that periods of up to nine weeks following a requested IEE for a district to either approve the IEE or file for due process did not constitute an unnecessary delay. Here the District waited three school weeks before moving to place a contract in place with the IEE provider. Similarly, in the example case above, courts found that a three-week delay between the issuance of a PWN and filing for due process was not an unreasonable delay. The District acknowledged that a combination of competing work and unavailability of staff contributed to a longer than hoped for response to beginning the contracting period with the IEE provider, however that delay was not unnecessarily long.

The Department does not substantiate this allegation.

Free Appropriate Public Education (Denial of FAPE)

It was alleged that the District violated the IDEA when, it delayed providing the independent education evaluation (IEE) for the Student. It is alleged that the District scheduled IEP team meetings ahead of granting the IEE, thereby limiting the Parent and the IEP Team's ability to consider the outcome of the IEE. It is alleged that these actions denied the Student a FAPE.

School districts must provide FAPE to all school-age children with disabilities for whom the district is responsible.[10] Procedural violations may only lead to finding that a child did not receive a FAPE if they: "(I) impeded the child's right to a free appropriate public education; (II) significantly impeded the parents' opportunity to participate in the decision making process regarding the provision of a free appropriate public education to the parents' child, or (III) caused a deprivation of educational benefits."[11] In determining whether a student was denied a FAPE, courts review a district's compliance with both 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 IEP, and whether the school district met the substantive requirements to develop an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances.[12]

The Parent alleges that the District unnecessarily delayed ensuring that the requested IEE was provided. The Parent noted that the Department's March 20, 2026, order directed the District to either grant the IEE, or file for due process to defend the District's evaluation of the Student, by April 17, 2026. The Parent reported that the District waited until April 17, 2026, to communicate its decision to grant the IEE. The Parent further reported that by the date of this complaint, May 18, 2026, the District had not moved to contract with the IEE provider, which amounted to an unreasonable delay, and a deprivation of FAPE for the Student. As observed

[10] OAR 581-015-2040
[11] 20 USD § 1415(f)(3)(E)(ii)
[12] *Endrew F.*, 137 S.Ct. at 999.

above, the District met the April 17, 2026, deadline to either grant the IEE or file for due process. The passage of time between the decision to grant the IEE, a date set by the Department's March 20, 2026, order and beginning the process of contracting with the provider, was not an unreasonable delay, and therefore did not deny the Student a FAPE.

The Department does not substantiate this allegation.

VII. CORRECTIVE ACTION

In the Portland Public School District
Case No. 26-054-064

The Department does not order corrective action in this matter.

Dated: this 17 Day of July 2026



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Ramonda Olaloye
Assistant Superintendent
Office of Enhancing Student Opportunities

Appeal Rights: Partied 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 provision of ORS § 183.484. (OAR 581-015-2030 (14).)