BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of Parkrose School District 3	))))	FINDINGS OF FACT, CONCLUSIONS, AND FINAL ORDER Case No. 26-054-066

I. BACKGROUND

On May 18, 2026, the Oregon Department of Education (Department) received a written Complaint (Complaint) from the parent (Parent) of a student (Student) who resides and attends school in the Parkrose School District (District) regarding the special education of the Student. The Parent requested that the Department conduct a special education investigation, as provided by Oregon Administrative Rule (OAR) 581-015-2030.

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 June 4, 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 June 17, 2025.

The District submitted a *Response* on June 17, 2026 denying the allegations, providing an explanation, and submitting documents in support of the District's position. The District submitted the following relevant items:

1. District's Written *Response* to Complaint, 6/17/26
2. Additional Support Team Summary Notes, 3/6/24
3. Medical Statement, 12/26/25
4. Prior Notice and Consent for Initial Provision of Special Education Services, 2/4/26
5. Parent Permissions for Release of Information, 11/15/24
6. Emails, 4/16/26 - 4/21/26
7. Letters from Parent, 4/25/26

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

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

8. Letter to Parent, 4/25/26
9. Letter to Parent, 4/21/26
10. Emails, 4/21/26 - 4/30/26
11. Letter to Parent, Undated
12. Attendance Record, 2025-2026
13. Student Records Request, 2/7/25
14. Authorization to Use and/or Disclose Information 10/16/25
15. Birth Certificate, Undated
16. Utility Record, Undated
17. Authorization to Use and/or Disclose Information 9/8/25
18. Authorization to Use and/or Disclose Information 9/8/25
19. Reading Progress Monitoring, 10/29/24
20. Reading Progress Monitoring, 4/3/25
21. Reading Progress Monitoring, 1/27/26
22. Reading Progress Monitoring, 5/21/25
23. Reading Progress Monitoring, 9/4/25
24. Reading Intervention Tracking Sheet, 9/15/25 - 2/4/26
25. Letter from Physician, 5/27/26
26. Emails, 5/18/26 - 6/13/26
27. District Independent Educational Evaluation Procedures, Undated
28. Request for Special Education Transportation, 2/12/25
29. Meeting Agenda, Undated
30. Statement of Eligibility for Special Education – Other Health Impairment (OHI), 5/29/26
31. Occupational Therapy (OT) Evaluation, 5/14/2026
32. Prior Written Notice, 6/1/26
33. Individualized Education Program (IEP), 5/29/26
34. OT File Review, 5/27/26
35. Notice of Team Meeting, 5/19/26
36. Eligibility Summary, 5/29/26
37. Special Education Placement Determination, 5/29/26
38. Conference Summary, 5/29/26
39. Parent Consent for Individual Evaluation, 5/29/26
40. IEP at a Glance, 5/29/26
41. Behavior Support Plan, Undated
42. Visual Schedule. Undated
43. Email, 5/15/26
44. Notice of Team Meeting, 5/19/26
45. Prior Written Notice, 5/15/26
46. Individualized Education Program, 3/2/26
47. Special Education Placement Determination, 3/2/26
48. Meeting Request, 2/12/26
49. Eligibility Summary, 2/4/26
50. Initial Social Communication Evaluation, 2/24/26
51. Initial Psychoeducational Evaluation Report, 2/24/26

52. Meeting Summary, 2/4/26
53. Disability Statement-Specific Learning Disability (SLD), 2/4/26
54. Disability Statement-Emotional Behavior Disability (EBD), 2/4/26
55. Disability Statement-Autism Spectrum Disorder (ASD), 2/4/26
56. Disability Statement-Intellectual Disability (ID), 2/4/26
57. Prior Notice and Consent for Provision of Special Education Services, 2/4/26
58. Notice of Team Meeting, 11/20/25
59. Notice of Referral, 10/3/25
60. Parent Consent for Individual Evaluation, 10/3/25
61. Meeting Summary, 10/3/25
62. Notice of Team Meeting, 9/23/25
63. Disability Statement (OHI), 2/4/26
64. Notice of Referral, 1/13/25
65. Conference Summary, 1/13/25
66. Section 504 Plan, 2/12/25
67. Conference Summary, 5/15/26
68. Emails, 2/4/26 - 2/5/26
69. Communication Plan, 4/24/26

The Parent submitted a list of documents the Parent was prepared to produce at the request of the Complaint Investigator. The Complaint Investigator determined that many of the documents addressed issues outside the scope of the investigation or were duplicative of documents provided by the District. The Parent submitted the following relevant item at the request of the Complaint Investigator:

1. Confidential Psychological Assessment, 10/28/26

The Parent submitted a *Reply* to the District's *Response* on June 18, 2026.

The Complaint Investigator interviewed the Parent on July 8, 2026. The Complaint Investigator interviewed District personnel on July 3 and July 6, 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 May 19, 2025 to the filing of the Complaint on May 18, 2026.

Allegations	Conclusions
Child Find The Complaint alleges that the District violated the IDEA by failing to identify, locate, and evaluate the Student as a child in need of special education services. (OAR 581-015-2080; 34 CFR §300.111)	**Substantiated** The District failed to conduct an evaluation when it had sufficient information to suspect the Student had a disability.
Evaluation and Reevaluation Procedures The Complaint alleges that the District violated the IDEA by failing to complete a comprehensive evaluation of the Student to identify the Student's special education needs. (OAR 581-015-2110; 34 CFR §300.304)	**Not Substantiated** The District completed a timely and thorough evaluation of each suspected area of disability of the Student in accordance with the consent for evaluation signed by the Parent.
Determination of Eligibility The Complaint alleges that the District violated the IDEA when it failed to identify the Student as a student with a disability who needs special education and related services under the eligibility categories of Autism Spectrum Disorder, Intellectual Disability, Specific Learning Disability, Speech and Language Impairment, and Other Health Impairment. (OAR 581-015-2120; 34 CFR §300.306)	**Not Substantiated** The District appropriately considered each of the suspected eligibility categories
Parent Participation The Complaint alleges that the District violated the IDEA by interfering with the Parent's ability to participate in decisions with respect to the Student's IEP and the provision of a free appropriate public education to the Student. Specifically, the Complaint alleges the District failed to provide the Parent adequate notice of an IEP team meeting to be held on February 4, 2026, predetermined the special education eligibility of the Student outside of the IEP process, withheld information from the Parent regarding the denial of special education eligibility following the February 4, 2026 IEP team meeting, failed to	**Not Substantiated** The District scheduled the February 4, 2026 Eligibility Meeting at a mutually agreed upon time and place and provided sufficient notice of the meeting to the Parent. The outcome of the meeting was not predetermined as the team discussed each potential eligibility category at the

allow the Parent to make an audio recording of an IEP team meeting as an accommodation for the Parent's disability, failed to convene an IEP team meeting to revise the IEP following the Parent's request, and unilaterally developed a "communication plan" that improperly restricted the Parent's communication with the District's staff. (OAR 581-015-2190, OAR 581-015-2225; 34 CFR §300.501, 34 CFR §300.324)	meeting before making its determination. The District's refusal to allow the Parent to record an IEP team meeting did not deprive the Parent of the ability to participate in the IEP meeting. The District timely convened an IEP meeting to revise the Student's IEP following the Parent's request. The District developed a communication plan to ensure the Parent's concerns were routed to the correct personnel and properly addressed. The communication plan did not restrict the Parent's communication with District staff.
Prior Written Notice The Complaint alleges the District violated the IDEA by failing to provide the Parent with required prior written notice. Specifically, the Complaint alleges the District failed to provide prior written notice regarding the Parent's December 6, 2024 request for special education evaluation, the District's denial of special education evaluation eligibility on February 4, 2026, a change of service delivery method in mathematics on April 9, 2026, the reduction of reading intervention minutes on February 6, 2026, the determination not to conduct an occupational therapy evaluation, and assistive technology evaluation, and a functional behavior assessment, and the refusal to reconsider eligibility under the category of Other Health Impairment in the Spring of 2026, and the failure to address the Parent's request for an independent educational evaluation on April 28, 2026.	**Not Substantiated** The Parent's December 6, 2024 request for a special education evaluation falls outside of the one-year complaint period. Nonetheless, the District did provide a written explanation of its decision to the Parent. The District provided sufficient prior written notice of its eligibility determination on February 4, 2026. The District was not required to provide prior written notice of the termination of general education reading interventions

(OAR 581-015-2040; 34 CFR §300.101)	or the change in provision of math SDI. There is no record of a request by the Parent for assessments in the areas of occupational therapy, assistive technology or functional behavior. Thus, the District was not required to issue prior written notice regarding assessment in those areas. The District did not refuse to reconsider eligibility under the category of Other Health Impairment in Spring 2026. The District properly addressed the Parent's request for an independent educational evaluation.
Independent Educational Evaluation The Complaint alleges the District violated the IDEA by failing to properly respond to a request for an Independent Educational Evaluation ("IEE") made by the Parent on April 17, 2026. (OAR 581-015-2305; 34 CFR §300.502)	**Not Substantiated** The District properly responded to the Parent's request for an Independent Educational Evaluation.
Educational Records The Complaint alleges the District violated the IDEA by failing to provide the Parent with a complete set of educational records following the Parent's request on April 22, 2026. (OAR 581-015-2300; 34 CFR §300.613)	**Not Substantiated** The District provided the Parent with the Student's educational records following the Parent's request.
When IEPs Must Be in Effect	**Not Substantiated**

The Complaint alleges that the District violated the IDEA when it did not implement special education and related services in accordance with the Student's IEP. This includes the provision of specially designed instruction in the area of mathematics. (OAR 581-015-2220; 34 CFR §300.323)	The District provided services in accordance with the Student's IEP.
Content of IEP The Complaint alleges that the District violated the IDEA when it failed to include information in the Student's IEP that is necessary to the Student's unique educational needs. Specifically, the Complaint alleges the IEP does not include goals to appropriately address the Student's needs in the areas of reading, math, and behavior and also does not include appropriate supports and services in the areas of reading, behavior, attendance, and occupational therapy. (OAR 581-015-2200; 34 CFR §300.320)	**Not Substantiated** The District proposed goals in the areas of reading, math, and behavior. The District provided services and accommodations to address the areas of reading, behavior, attendance, and occupational therapy. There is no evidence to suggest the proposed IEP was inappropriate.
Free Appropriate Public Education (FAPE) Due to the alleged IDEA violations detailed above, the Complaint alleged that the District failed to provide the Student with a FAPE. (OAR 581-015-2040; 34 CFR § 300.101)	**Substantiated** The District failed to provide the Student with a FAPE from May 19, 2025 until the development of the Student's initial IEP on March 3, 2026.

REQUESTED CORRECTIVE ACTIONS
The Complainant requests the Department: 1. Vacate the February 4, 2026 eligibility determination on procedural and substantive grounds and direct the District to convene a properly noticed eligibility meeting, with parent participation confirmed by calendar invitation, written modality agreement, and at least ten calendar days' advance notice. 2. Order the District to make eligibility determinations on the existing record under each of Autism Spectrum Disorder, Other Health Impairment, Intellectual Disability, Specific Learning Disability (including dyslexia in basic reading, reading fluency, and written expression), and Speech or Language Impairment, applying OAR 581-015-2130, 2150,

2155, 2160, and 2170, and giving controlling weight to the District's own SRS-2, CCC-2, KABC-II, WIAT-4, and CELF-5 results, the Mindsights independent psychological evaluation, the Multnomah County DD Services eligibility determination of April 10, 2026, and the Walrod chronic-condition letter of May 7, 2026.

3. Order the District to fund the Independent Educational Evaluation requested April 22, 2026 at the rate of the Complainant's identified provider (Mindsights), under the unique-circumstances exception cited in the request, without further delay.
4. Order the District to issue Prior Written Notice for each refusal and each change identified above.
5. Order the District to revise the Student's IEP to include (a) a structured-literacy reading program identified by name (S.P.I.R.E. or equivalent), with curriculum, trained personnel, dosage, fidelity- of-implementation data, and dyslexia-specific progress monitoring; (b) restored reading service at a minimum of 150 minutes per week and increased as the WIAT-4 profile warrants; (c) goals rewritten to be appropriately ambitious under Endrew F., describing the child's measurable skill outcome in the natural environment; (d) a Functional Behavior Assessment followed by a PDA- informed Behavior Support Plan; (e) an Occupational Therapy evaluation; (f) an Assistive Technology evaluation; (g) an individualized paraprofessional support analysis with consideration of in-classroom paraprofessional support in light of the documented safety, regulation, and demand-avoidance profile; (h) reconsideration of SLP service minutes; (i) reconsideration of ESY eligibility on the iReady regression data and attendance data; and (j) an attendance support plan.
6. Order the District to conduct a compensatory education analysis covering (a) the 30-minute weekly reading-service reduction from February 4, 2026 forward; (b) the September 3, 2024 through approximately November 2025 Child Find delay period, including the September 3, 2024 to February 7, 2025 records-request delay and the subsequent period during which the District failed to initiate a special education evaluation notwithstanding sustained parent notification of the Student's profile, behavioral presentation, and medical events — a period during which the family settled for a Section 504 Plan because special-education eligibility was not being offered; (c) the period between the February 4, 2026 eligibility denial and the corrected eligibility determination ordered above; (d) any further period the Department identifies as denial of FAPE; and (e) instructional time lost during the acute medical recovery week of January 13–23, 2026 during which the District nevertheless administered Day 2 of the KABC-II cognitive battery and Day 2 and Day 3 of the CELF-5 language battery rather than deferring testing.
7. Order the District to produce, within 30 calendar days of the corrective-action order, the complete records identified in the Complainant's April 22, 2026 FERPA records request and the Complainant's May 9, 2026 dedicated-records-inspection-session request, including all raw test protocols, RTI/MTSS records, reading-intervention attendance and progress monitoring, internal communications regarding the student, all Prior Written Notices, the December 16, 2025 Medical Statement and December 29, 2025 fax cover sheet, observation notes, item-level data, and the complete cumulative file. The District shall provide records in copy form (electronic or paper as the Complainant elects) where

in-person inspection is not feasible as a means of meaningful review, in accordance with 34 C.F.R. § 99.10 and OAR 581-021-0270.

8. Order the District to withdraw, in writing, the unilateral Communication Plan of April 24, 2026 and to issue written confirmation that all members of the Student's IEP team remain available to the parent for IEP-related communications under 34 C.F.R. §§ 300.322 and 300.501(b).
9. Order the District to issue a single-page IEP team roster identifying each team member's legal name, current District title, TSPC licensure or credential number, role in the most recent evaluation, and decision-making authority at the February 4, 2026 eligibility meeting.
10. Order, as to the School Psychologist specifically: (a) personnel-level corrective action documented in writing for the fourteen-month interval between her December 6, 2024 written acknowledgment of the Complainant's special education evaluation request and the District's February 4, 2026 eligibility meeting, during which no consent-to-evaluate form was transmitted, no Prior Written Notice was issued, and the family was directed to a Section 504 Plan rather than to the evaluation process the parent had requested; (b) individualized retraining on the affirmative duties of a School Psychologist under 34 C.F.R. §§ 300.301 (initial evaluation timelines), 300.503 (Prior Written Notice), and 300.300 (informed parental consent), with particular attention to the obligation to disclose all category-level eligibility determinations to a parent before soliciting consent for services; and (c) a written acknowledgment to the Complainant that the December 6, 2024 evaluation request was received and not actioned within the required timeframe, with a copy of that acknowledgment placed in the Student's permanent educational record.
11. Order the District to provide systemic corrective action, including District-level staff training on Child Find for transferring students with known prior 504 plans; on the obligation under 34 C.F.R. § 300.305(a) to review existing evaluation data including outside provider records; on the OHI definition at 34 C.F.R. § 300.8(c)(9) (including its explicit naming of ADHD and heart conditions); on the procedural requirements of 34 C.F.R. § 300.322; on the Prior Written Notice requirement at 34 C.F.R. § 300.503; on the IEE response obligation at 34 C.F.R. § 300.502(b)(2); on Pathological Demand Avoidance (PDA) as a recognized clinical profile of Autism Spectrum Disorder and on PDA-informed instructional and behavior-support practices, including masking recognition; on the appropriate scope and limits of FERPA in parent communications about safety incidents affecting their own child; and on incident-handling and parent-notification protocols for incidents affecting students with disabilities, including the expectations triggered when a student with disabilities is harmed regardless of whether that student is the disciplined party.
12. Conduct a records-management review of the active educational records held at the Student's Elementary School and issue findings regarding the integrity of those records.
13. Order the District to conduct, within thirty calendar days, a documented coordination meeting between the McKinney-Vento Liaison, the Director of Special Education, the school-based special education team for the Student, and the Complainant, to (a) confirm the Student's continuous McKinney-Vento eligibility on the record; (b) document

the affirmative duties of the Liaison under 42 U.S.C. § 11432(g)(6)(A)(iv) to coordinate with special education on the Student's behalf; (c) review the Child Find and evaluation timeline alleged in this complaint against the categorical prohibition on attendance-based, residency-based, records-transfer-based, and enrollment-timing-based denials of services to McKinney-Vento children; and (d) memorialize a written interagency-coordination protocol for ongoing McKinney-Vento and special education coordination for the Student. Provide systemic corrective action including District-wide training of McKinney-Vento Liaisons and Special Education staff on the affirmative coordination duty at § 11432(g)(6)(A)(iv) and on the applicability of Child Find to McKinney-Vento students under 34 C.F.R. § 300.111(c)(2).

14. Order the District to (a) include Stronger Oregon / Roseburg Therapy / Stronger Schools in the Student's outside-provider record going forward; (b) obtain, under appropriate authorization, available records of Stronger Oregon's November 2023 through spring 2025 engagement with the Student, including the AQ Child, ASD DSM-5, and ASQ-3 instruments transmitted by the parent on May 22, 2025; and (c) document, on the educational record, any institutional knowledge held by Parkrose staff of the Student's Stronger Oregon engagement at the time the District proceeded with the February 4, 2026 eligibility determination.
15. Such further relief as the Department determines appropriate to bring the District into compliance and to remedy the denial of FAPE to this student.

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 May 19, 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 nine years-old and will begin the fourth grade in the fall of 2026. The Student resides and attends school within the District.

2. The Student has current diagnoses of autism spectrum disorder (ASD), mild intellectual disability, attention-deficit/hyperactivity disorder (ADHD) and generalized anxiety disorder.

3. The Student is eligible for special education under the primary category of Other Health Impairment (OHI) and secondary category of Emotional Behavior Disability (EBD).

4. The Student enrolled in the District in the fall of 2024 while in the second grade.

5. The Parent requested a special education evaluation of the Student in December of 2024. In response, the District convened an evaluation planning meeting on January 13, 2025. At the meeting. The Parent expressed their concern that the Student may have reactive attachment disorder. The Parent said the Student had been exposed to domestic violence and

experienced housing insecurity. The Parent shared that the Student displayed dangerous behaviors at home. The Parent reported that the Student is very sensitive to textures and has sensory issues. The Parent also reported a history of extreme school avoidance that had improved that year. The Parent further reported that the Student's therapist believed the Student had low self-esteem and struggled with attention.

The District noted the Student was performing below grade level in all academic areas. Specifically, the Student was performing at the kindergarten level in both reading and math. The District also reported concerns about the Student's attention. The Student's teacher reported an absence of the maladaptive behaviors seen by the Parent at home.

The District refused the Parent's request for a special education evaluation based on the Student's history of inconsistent access to instruction due to inconsistent attendance prior to, and during, their enrollment in the District.

6. The District provided prior written notice of its refusal to conduct a special education evaluation of the Student on January 13, 2025.

7. Following its refusal to conduct an evaluation, the District began providing general education school-based interventions through its additional support team to the Student in the areas of reading and math.

8. The support team also attempted to incentivize the Student to improve attendance with a reward system.

9. On February 12, 2025, the District developed a Section 504 Implementation Plan, which reflected a diagnosis of "Adjustment Disorder," and provided accommodations for the Student in the general education environment.

10. The interventions provided by the District were largely ineffective. The Student finished the second grade still performing at the kindergarten level in reading and math. The Student continued to struggle with attendance.

11. In the fall of 2025, the Student began the third grade. The Parent again requested an evaluation for special education eligibility from the District. The District scheduled an evaluation planning meeting for October 3, 2025 to discuss the renewed request.

12. The District convened the evaluation planning meeting as scheduled. The Parent attended the meeting and presented a portion of the Student's medical records obtained through MyChart. The records indicated concerns in the areas psychological trauma, oppositional behavior, and the need for a referral to a pediatric psychiatrist. The District noted the records did not contain a formal diagnosis.

    The Parent expressed concerns regarding continuing concerning behaviors, including school avoidance. The Parent also shared their concerns related to possible learning difficulties. The

Parent informed the District that they were in the process of obtaining a psychological evaluation from Mindsights, a private agency.

The District provided information regarding the interventions provided to the Student since the last evaluation planning meeting.

The team agreed that a special education evaluation of the Student was appropriate. The team agreed to move forward with an evaluation to look at concerns related to a possible learning disability and behavioral concerns. It agreed to conduct a cognitive assessment, an academic assessment, and a speech and language assessment.

The District explained to the Parent the need to avoid duplicating testing conducted by Mindsights in order to ensure validity, and the Parent was in agreement to delay the assessment until the completion of the Mindsights assessment to avoid any duplicative testing.

13. The District provided the Parent with a Consent to Evaluate on October 16, 2025. The plan proposed evaluations in the areas of achievement, curriculum-based academics, intelligence, behavior, speech and language, a medical/health statement, observations, and a developmental history.

14. Mindsights completed its report on October 28, 2025 and the Parent provided the report to the District.

15. The Mindsights report was completed by a clinical psychologist, who utilized the following:

- Parent Interview
- Student Interview
- Wechsler Intelligence Scale for Children-5th Edition (WISC-V)
- NEPSY Developmental Neuropsychological Assessment-2nd Edition (NEPSY-II)
- Autism Diagnostic Observation Schedule-2nd Edition (ADOS-2)
- Social Communication Questionnaire (SCQ)
- Parent Form Behavior Assessment System for Children-3rd Edition (BASC-3)
- Parent Rating Scales (PRS)
- Adaptive Behavior Assessment System-3rd Edition (ABAS-3)
- Parent Form Revised Children's Manifest Anxiety Scale-2nd Edition (RCMAS-2)
- Roberts Apperception Test for Children and Adolescents-2nd Edition (Roberts-2)

16. Results of the WISC-V indicated the Student is developing foundational cognitive skills more slowly than most children their age.

Results of the NEPSY-II indicated the Student faced significant challenges in focusing attention, holding rules in mind, following directions, and resisting impulses.

Results of the ADOS-2 were associated with a moderate level of autism spectrum disorder symptoms.

Results of the SCQ completed by the Parent were associated with the presence of autism-related behaviors for the Student.

The Parent's responses on the clinical scales of the BASC-3, indicate that the Parent observes the Student to show significantly more frequent and intense symptoms of impulsivity, excess energy, distractibility, aggression, rule-breaking, and defiance than is typical (Hyperactivity, Attention Problems, Aggression, and Conduct Problems scores). The Parent also observed the Student to show heightened levels of moodiness, irritability, and psychologically unusual behaviors, such as saying things that do not make sense (Depression and Atypicality scores).

On the Adaptive Skills scales of the BASC-3, the Student exhibited delays in the ability to adjust to changes in situations or routines, exhibit positive social skills, follow everyday routines independently, and express themself clearly and effectively (Adaptability, Social Skills, Activities of Everyday Living, and Functional Communication scores).

Results of the ABAS-3 indicated the Student demonstrates significant delays in adaptive behavior capacities relative to other children their age in contemporary U.S. culture. The Student's skills and abilities across these domains appear at a level that is consistent with deficits in applying helpful strategies to daily activities, communication, and taking in cues from their environment to assist them in understanding how to engage successfully across settings.

Results of the RCMAS-2, indicated that the Student is experiencing significantly higher-than typical levels of anxiety overall as compared to other children of the same age . In addition, the Student endorsed significantly more frequent and intense symptoms of social anxiety than other children of the same age, such as worrying about other children laughing at them, worrying others will tell them they are doing something the wrong way, feeling alone even around others, and being nervous about having to talk in front of people at school.

17. The psychologist concluded the Student met the criteria for diagnoses of an intellectual disability in the mild range, ADHD of the combined hyperactive/impulsive and inattentive type, autism spectrum disorder, and generalized anxiety disorder.

18. The psychologist summarized their findings as follows:

"[The Student] is an artistic and imaginative [child] who shows curiosity about the world and a desire to connect with others. [The Student] learns best when given structure, visual supports, and opportunities for hands-on, concrete learning. While [the Student] experiences significant developmental differences related to cognition, attention, communication, and flexibility, [the Student] also demonstrates meaningful strengths, such as creativity, playfulness, and persistence when [they feel] supported and confident. [The Student's] emotional and behavioral challenges are best understood in the context of [the Student's] autism, intellectual disability, ADHD, and anxiety, which together shape how [the Student] experiences and responds to [their] environment. When [the Student] feels comfortable, [the Student] is capable of joyful connection, humor, and engagement. With consistent

routines, patient guidance, and supportive adults who encourage autonomy and collaboration, [the Student] can continue building … skills and confidence across settings."

19. Following receipt of the Mindsights report, the District updated its evaluation plan to include testing to address ASD as a suspected disability, adding a social communication assessment, the Adaptive Behavior Checklist, and the Social Responsive Scale, 2nd edition to the plan. The Parent consented to the updated plan via telephone.

20. The District scheduled an eligibility determination meeting for February 4, 2026. The District provided notice of the meeting to the Parent, which included the date, time, and location of the meeting. The notice also presented the option to the Parent to request a different location or time and cautioned that the meeting may be held in the Parent's absence. The meeting notice was emailed to the Parent and the school psychologist confirmed the meeting via telephone with the Parent.

21. The District completed an Initial Social Communication Evaluation on February 4, 2026. The evaluation was completed by a licensed speech and language pathologist utilizing the following assessment tools:

    - Children's Communication Checklist-Second Edition (CCC-2)
    - Testing and school observations
    - Clinical Evaluation of Language Fundamentals-Fifth Edition (CELF-5)
    - Language samples
    - Social communication checklist
    - Hearing screening

22. The classroom teacher (Teacher) completed the Social Difference Index of the CCC-2. The Student's score of -16 fell within the "autism spectrum disorder" range. The Student's General Communication Composite score of 95 fell within the "average" range when compared to same-age students.

    The CELF-5 indicated a percentile ranking of 13 in the area of receptive language and a percentile ranking of 1 in the area of expressive language.

    In completing the social communication checklist, the speech pathologist reported:

    "[The Student's] social communication skills varied day-to-day. Many social communication behaviors were not observed on 1/6/2026. [The Student] appeared tired and disengaged, and demonstrated limited facial affect. [The Student] showed low initiation and social engagement, but responded to questions and directions. [The Student] did not respond with follow-up questions or bids for social reciprocity. The Student did not share information about [themselves] or others. In contrast, [the Student] demonstrated significantly more social communication skills especially in the areas of social initiation, engagement and reciprocity on 1/26 and 1/27/2026. [The Student] was engaged in both 1:1 interactions with this examiner, and in a small peer group. [The Student] initiated asking initial and follow-up questions and provided answers to questions. [The Student] shared information about

[themself], friends and family. [The Student] demonstrated a wider range of facial expressions, but still demonstrated limited gestures. Overall, [the Student]'s social communication skills on 1/26 and 1/27/26 appeared typical when compared to same-age peer[s]"

The Student passed the hearing screening.

The speech pathologist summarized their findings as follows:

"There are significant concerns with the Student's expressive language skills, although receptive language skills appear intact. Analysis of the language samples show that the Student's story retell lacked adequate description, varied and specific vocabulary and sequencing of events. [The Student's] social communication skills vary from day-to-day."

23. The school psychologist completed an Initial Psychoeducational Evaluation Report on February 4, 2026 utilizing the following assessment tools:

- Medical Statement
- Developmental History and File Review
- Observations
- BASC-3
- Social Responsiveness Scale (SRS-2)
- ABAS-3
- Kaufman Assessment Battery for Children, Second Edition, Normative Updates (KABC-II NU)

24. The medical statement was completed by the Student's physician, and indicated the Student had "Sensory issues, emotional dysregulation, violent outbursts," but gave no formal diagnosis.

The results of the BASC-3 completed by the Teacher rated the following behaviors in the clinically significant range: Aggression, Conduct Problems, Anxiety, Depression, Somatization, Learning Problems, Atypicality, Adaptability, and Study Skills.

The Psychologist reported that overall scores on the SRS-2 fell within the severe range. Scores in this range indicate deficiencies in reciprocal social behavior that are clinically significant and lead to severe interference with everyday social interactions. Such scores are strongly associated with a clinical diagnosis of autism spectrum disorder. However, it is important to note that scores may be elevated for many reasons, including other developmental, cognitive, mental health (such as anxiety), environmental factors (e.g. trauma response), or underlying communication challenges outside of an autism-spectrum profile. As such, scores should always be considered within the context of the whole child and their unique history, as well as multiple sources of data.

Results of the ABAS-3 indicated the Student's general adaptive skills fall in the below average range.

The Psychologist reported that, when compared to same-aged individuals, the Student's scores on the KABC-II, NU indicate that they typically operate in a Below Average range of cognitive functioning across a varied range of cognitive abilities (FCI SS=73). This means that the Student likely experiences challenges in areas of cognition at a much higher rate than their peers of the same age.

The psychologist summarized their findings as follows:

"[The Student] is a sweet-natured and creative kid. [The Student] loves playing outside, art, music, and dancing. [The Student] is naturally curious about the world, loves animals, works well in small groups at school, and is especially close with [their] mother.

[The Student] has longstanding challenges related to school attendance, which [the Parent] reports is related to possible underlying anxiety with resultant school avoidance. Behavioral challenges have been present in the home setting for numerous years and have begun to emerge in the school setting as well. Academically, [the Student] is significantly below grade level expectations in all academic areas, typically performing within a kindergarten range. [They have] been in academic intervention groups in both reading and math at [the School], though growth has been limited and is impacted by school refusal. Cognitive testing both at school and through an outside provider demonstrated an impacted cognitive profile, though scores and testing presentation varied between settings and tests. In the school setting, significant concern was particularly noted in the cognitive areas related to memory (long term retrieval and short term memory). [The Student's] adaptive skills, as observed by [the Parent] and teacher, also varied significantly, with scores falling within a lower extreme range as rated in the home setting, and closer to an average range within the school environment. Behavioral scales show significant behaviors between both settings across a wide range of behavioral skills. Social anxiety scales, as rated by self-report in an outside evaluation, were also very elevated. Assessments related to autism spectrum disorder also varied significantly between setting and evaluators; in the school setting [the Student's] presentation across observations and assessments was very inconsistent: some days [the Student] presented with typical social-communication and behavioral skills and other days [the Student] did not. At this time, [the Student] does not carry any medical diagnoses, but [the Student] has been referred to pediatric psychiatry. Based on the combination of outside environmental factors, attendance challenges, variations in presentation, and complexity of needs, it is important to note that the overall cognitive, social-emotional, academic, and behavioral profile for [the Student] is still emerging. It appears the underlying cognition and anxiety challenges are significantly impacting [the Student] at this time, amongst other concerns, and the need for educational support, including specially designed instruction is recommended."

25. The District convened the meeting to discuss its evaluation results and consider eligibility for special education on February 4, 2026 as scheduled. The Parent did not attend the meeting. The Parent did not provide the District notice of their absence. The team proceeded in the absence of the Parent.

26. The team considered eligibility for special education under the categories of ASD, SLI, SLD, ID, and EBD. The team found the Student eligible under EBD. The team considered OHI to be an appropriate designation but decided it could not make such a determination without a formal medical diagnosis. The team believed ASD and SLI were not appropriate because of the varied and inconsistent nature of the Student's behavior. The team believed the Student's emotional disability better represented the source of the Student's academic, behavioral, and communication difficulties than any of the other categories considered.

27. The team completed disability statement forms addressing the requirements for each of the disabilities considered.

28. The District provided the Parent with prior written notice of its eligibility determination and requested consent for the provision of special education services. The Parent provided consent on February 9, 2026.

29. The psychologist also telephoned the Parent to explain the eligibility determination and offered to reconvene the meeting to address any of the Parent's concerns.

30. The District produced additional separate documentation of its consideration of the eligibility categories of SLD, EBD, ASD, and ID.

31. The District convened an IEP team meeting on March 3, 2026.

    At the meeting the team developed goals in the areas of Reading, Mathematics, Writing, Language, and Behavior.

    The team proposed accommodations to address the needs arising from the Student's disability.

    The team proposed consultation by the special education teacher and speech and language pathologist and specially designed instruction in the areas of Written Language, Behavior, Mathematics, Reading, and Language.

32. During the Spring of 2026, the Parent began to email the District with greater frequency, The emails and requests contained therein were voluminous and sent to multiple staff members at the District. The emails were also confusing at times, as staff members would be addressed in the body of the email, but the email would not be sent to them.

33. To ensure the Parent's concerns were properly addressed and staff time was not monopolized, the District created a communication plan for the Parent with specific instructions regarding who the Parent should contact to address various issues.

34. During April, District staff began providing Math SDI through a push-in, rather than pull-out model. Staff utilized both models in "the provider's space", which was the area designated by the IEP. The IEP does not specify whether services will be provided in a push-in or pull-out model. Staff Interviews.

35. On April 20, 2026, the Parent requested an Independent Educational Evaluation (IEE) during a phone call with District staff. On April 21 2026, the District responded to the Parent in writing, granting the request. The District also provided the Parent with a copy of its IEE policy and offered assistance with the process if the Parent needed it.

36. On April 27, 2026, the Parent emailed the District to request an IEP meeting and provided a list of topics the Parent wanted to cover. The District responded in part, "Of course, we can hold an IEP meeting - that's a great idea. We can definitely discuss everything you have provided in this email - my goal is to send out a meeting agenda to ensure we hit on all areas you are requesting for the IEP meeting."

    The District scheduled the meeting for May 12, 2026 after confirming the date and time with the Parent.

    The Parent requested to make an audio recording of the meeting as an accommodation for the Parent's disability, but the District denied the request because it had not provided notice to the team members of the Parent's request. The District offered to reschedule the meeting to allow the Parent to provide documentation of their need for the accommodation, which the Parent declined.

    At the meeting the team discussed the Parent request to reconsider eligibility under OHI. The District continued to maintain that it lacked the required medical statement to do so but indicated it would revisit the issue if such a statement was provided.

37. On May 29, 2026 the District convened another IEP team meeting at the request of the Parent. The meeting was recorded per the Parent's request.

    The Parent provided the District with a medical statement from a physician that included diagnoses of ASD, ADHD, and Generalized Anxiety Disorder.

    The team discussed a change in eligibility and determined that OHI would become the Student's primary eligibility category and EBD would remain as a secondary category.

    The team also added occupational therapy services to the IEP.

38. On May 18, 2026, the Parent filed this Complaint.

IV. DISCUSSION

Child Find

The Complainant alleges that the District violated the IDEA by failing to identify, locate, and evaluate the Student as a child in need of special education services.

Child Find is a foundational principle of the IDEA, placing responsibility on public school districts to identify, locate, and evaluate all children with disabilities who are in need of early intervention, early childhood special education, or special education services.[3]

The District claims it did not have sufficient information to suspect the Student had a disability until it held its evaluation planning meeting in December 2025. The District based its claim on the Student's limited access to instruction prior to entering the District and during the Student's enrollment in the District. However, lack of access to instruction is not a sufficient basis upon which to deny a request for evaluation. Rather, it is one of many considerations to be made *following* an evaluation to determine eligibility.[4][5]

At the beginning of the complaint period, the District had sufficient information to suspect the Student had a disability, triggering its responsibility to conduct an evaluation of the Student. First, the Parent had previously requested an evaluation. Second, the District was aware that both the Student's Teacher and the Student's therapist had concerns regarding the Student's attention. Third, the District had provided interventions to which the Student did not appear to be responding. Fourth, the District acknowledged the Student was provided accommodations through a Section 504 plan and still continued to struggle with attendance and academics. Fifth, the Student continued to have poor attendance, despite attempts by the District and the Parent to address their school avoidance. Finally, while it may have been possible that the Student's difficulties stemmed from the Student's lack of access to instruction, it was equally possible that the Student's lack of access to instruction was related to a disability. Each possibility should have been explored through the provision of a comprehensive evaluation.

The Department substantiates this allegation.

Evaluation and Reevaluation Procedures

The Complainant alleges that the District violated the IDEA by failing to complete a comprehensive evaluation of the Student to identify the Student's special education needs.

In conducting evaluations, the school district must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child. This assessment data should include information provided by the parent. The school district should not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate education program for the child. Assessment tools should be technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors. Districts must ensure that assessments and other evaluation materials

[3] OAR 581-015-2080; 34 CFR § 303.302

[4] OAR 581-015-2120(5); 34 CFR § 300.306(b)(1)

[5] While the evaluation planning meeting falls outside the complaint period, the information provided at the meeting provided the District with sufficient information to trigger its Child Find obligations at the beginning of the Complaint period.

used are appropriately selected and administered, administered by trained and knowledgeable personnel, and administered in accordance with any instructions provided by the producer of the assessments. Assessment and evaluation materials should include those tailored to assess specific areas of educational need. Children should be assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities. Districts must ensure that the evaluation is sufficiently comprehensive to identify all the child's special education and related service needs.[6]

Autism Spectrum Disorder

For students suspected of having ASD, an evaluation must include a developmental history, information from parents, observations, a social communication assessment, a Standardized Autism Identification Tool, and may include a medical examination or health assessment, among other sources of reference. Additional assessments may also be administered to determine a student's needs. A medical diagnosis of autism spectrum disorder is not required to determine eligibility.[7]

Intellectual Disability

For students suspected of having an intellectual disability, an evaluation must include an intelligence test, an adaptive behavior scale, a medical or health assessment statement indicating whether there are any sensory or physical factors that may be affecting the child's educational performance, the developmental history of the child, any additional assessments necessary to determine the impact of the suspected disability on the student's educational performance, and any additional assessments necessary to identify the student's educational needs.[8]

Specific Learning Disability

For students suspected of having a specific learning disability, an evaluation must include an academic assessment, a review of cumulative records, previous IEPs, and teacher collected work samples, observation of the student in the classroom setting before and after the referral for evaluation, data demonstrating that as part of the referral process the student received appropriate instruction documentation of repeated assessment of achievement at regular intervals.[9]

Speech and Language Impairment

[6] OAR 581-015-2110 (3)-(4)
[7] OAR 581-015-2130 (1)
[8] OAR 581-015-2155 (2)-(3)
[9] OAR 581-015-2170 (1)

For a student suspected of having a communication disorder, an evaluation must be administered by a speech and language pathologist and include a representative language sample and comprehensive standardized tests that assess expression and comprehension, a hearing evaluation or screening, and any additional assessments necessary to determine the impact of the suspected disability.

Other Health Impairment

For students suspected of having OHI, an evaluation must include: a medical statement or a health assessment statement, indicating a diagnosis of a health impairment or a description of the impairment, and a statement that the child's condition is permanent or is expected to last for more than 60 calendar days. Any additional assessments necessary to determine the impact of the suspected disability on the child's educational performance for a school-age child, or in the child's developmental progress for a preschool child, and any additional evaluations or assessments necessary to identify the child's educational needs. [10] A "medical statement" means a written statement issued by a physician.[11]

The District's evaluation met all of the legal requirements for assessment in each eligibility category considered and comprehensively addressed all areas of suspected disability. No evidence was provided to indicate the assessment was not conducted appropriately.

The Department does not substantiate this allegation.

Determination of Eligibility

The Complainant alleged that the District violated the IDEA when it failed to identify the Student as a student with a disability who needs special education and related services under the eligibility categories of Autism Spectrum Disorder, Intellectual Disability, Specific Learning Disability, Speech and Language Impairment, and Other Health Impairment.

Autism Spectrum Disorder

To be eligible as a child with ASD, the child must meet all of the minimum criteria: the team must have documented evidence the child demonstrates persistent deficits in social communication and social interaction across multiple contexts as evidenced by deficits in social-emotional reciprocity, deficits in nonverbal communicative behaviors used for social interaction, and deficits in developing, maintaining and understanding relationships. The child must also demonstrate restricted, repetitive patterns of behavior, interests or activities, as evidenced by at least two of the following four restricted patterns of behavior: stereotyped or repetitive motor movements use of objects or speech, insistence on sameness, inflexible adherence to routines, or ritualized patterns of behavior, highly restricted fixated interests that are abnormal in intensity or focus, or hyper- or hypo-reactivity to sensory input. A child may not

[10] OAR 581-015-2165 (1)
[11] OAR 581-015-2000 (20)

be eligible as a child with ASD if the child's primary disability category is an emotional behavior disability. For a child to be eligible for special education services as a child with ASD, the eligibility team must also determine that the child needs special education services as a result of the disability.[12]

Here, the team reasonably concluded that the Student's varied behaviors across settings did not tend to reflect ASD. In addition, the team reasonably concluded the Student's needs stemmed primarily from an emotional behavior disability, which eliminates ASD as a potential eligibility category.

The Department does not substantiate this allegation.

Intellectual Disability

To be eligible as a child with an intellectual disability, the student must meet all the minimum criteria: an intelligence test score two or more deviations below the mean, deficits in adaptive behavior coexistent with the impairment in intellectual functioning, developmental level or academic achievement significantly below age or grade norms. The student's developmental level must not be primarily the result of sensory disabilities or other physical factors. The eligibility team must also determine that the child needs special education services as a result of the disability.[13]

Here, the team reasonably determined the Student's lack of access to instruction and varied skills and abilities across domains was not consistent with eligibility under the category of ID.

The Department does not substantiate this allegation.

Specific Learning Disability

To be eligible as a child with a specific learning disability, the student must meet all the minimum criteria: the student does not achieve adequately for their age or grade level and exhibits a pattern of strengths and weaknesses in classroom performance, academic achievement, or both, relative to age, Oregon grade-level standards, or intellectual development, that is determined by the group to be relevant to the identification of a specific learning disability. The eligibility team must also determine that the child needs special education services as a result of the disability.[14]

Here, the team reasonably concluded that the Student's lack of academic achievement did not stem from a learning disability, but rather from an emotional disability.

The Department does not substantiate this allegation.

[12] OAR 581-015-2130 (2)-(3)
[13] OAR 581-015-2155 (2)-(3)
[14] OAR 581-015-2170 (3)-(4)

Speech and Language Impairment

To be eligible as a child with a syntax, morphology, pragmatic, or semantic disorder, the student must meet all the minimum criteria, the child's language in the area of syntax, morphology, semantics or pragmatics is significantly discrepant as measured by standardized test or other evaluation data, the disorder is substantiated by a language sample or other evaluation, and the disorder must not be the result of another disability. The eligibility team must also determine that the child needs special education services as a result of the disability.

Here, the team reasonably concluded that the Student's impairments in the area of communication stemmed from the Student's emotional disability.

The Department does not substantiate this allegation.

Other Health Impairment

To be eligible as a child with OHI, the child must meet all of the minimum criteria: the child exhibits limited strength, vitality or alertness, including a heightened alertness to environmental stimuli that results in limited alertness with respect to the educational environment; the child's limited strength, vitality or alertness is due to a chronic or acute health problem; and the child's condition is permanent or expected to last for more than 60 calendar days. For a child to be eligible for special education services as a child with OHI, the eligibility team must also determine that the child needs special education services as a result of the disability.[15]

Here, the District considered OHI to be an appropriate designation, but the medical statement provided by the Student's doctor did not include a formal diagnosis, but only a description of the Student's challenges. While the Mindsights evaluation provided by the Parent contained several diagnoses, a psychologist does not qualify as a "physician" for purposes of diagnosis when considering OHI eligibility[16]. The lack of diagnosis by a physician constrained the team from finding the Student eligible under OHI.

The Department does not substantiate this allegation.

Parent Participation

The Complaint alleges that the District violated the IDEA by interfering with the Parent's ability to participate in decisions with respect to the Student's IEP and the provision of a free appropriate public education to the Student. Specifically, the Complaint alleges the District failed to provide the Parent adequate notice of an IEP team meeting to be held on February 4,

[15] OAR 581-015-2165

[16] OAR 581-015-2000(13) & (20)

2026, predetermined the special education eligibility of the Student outside of the IEP process, withheld information from the Parent regarding the denial of special education eligibility following the February 4, 2026 IEP team meeting, failed to allow the Parent to make an audio recording of an IEP team meeting on March 3, 2026 as an accommodation for the Parent's disability, failed to convene an IEP team meeting to revise the IEP following the Parent's request, and unilaterally developed a "communication plan" that improperly restricted the Parent's communication with the District's staff.

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.[17] School districts must consider the concerns of the parents for enhancing the education of their child, among other indicators of the student's academic, developmental, and functional needs.[18] "[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."[19] Parents must be given the opportunity to participate in meetings, but meetings do not include "preparatory activities that public agency personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting."[20]

Providing a parent with an opportunity to participate in IEP meetings includes a duty to notify the parent about the meeting early enough to ensure they have an opportunity to attend.[21] The IEP meeting notice must, at a minimum, 1) indicate the purpose, time, and location of the meeting and who will be in attendance; 2) inform the parent about their right to invite individuals who have knowledge or special expertise about the student; 3) inform the parent that the IEP team may proceed with the meeting even if the parent is not in attendance; and 4) inform the parent of whom to contact before the meeting to provide information if they are unable to attend.[22] Additionally, school districts must schedule IEP team meetings at a mutually agreed upon time and place.[23]

February 4, 2026 Meeting

The evidence demonstrates that the meeting was scheduled for a mutually agreed-upon time and place. The Parent was provided notice of the meeting, which indicated the meeting may proceed in the absence of the Parent. The District confirmed the meeting with the Parent via telephone. The District did not receive any communication from the Parent indicating they would be absent from the meeting or any request to reschedule the meeting. Under the circumstances it was reasonable to proceed with the eligibility determination in the absence of

[17] OAR 581-015-2190(1); 34 CFR §300.501(b)

[18] OAR 581-015-2205(1)(b) and (d); 34 CFR §300.324(a)(1)

[19] Letter to Northrop (OSEP 5/21/13), citing 71 Fed. Reg. 46,678 (2006)

[20] OAR 581-015-2190(4); 34 CFR §300.501(b)(3)

[21] OAR 581-015-2190(2)(a); 34 CFR §300.321(a)(1)

[22] OAR 581-015-2190(2)

[23] OAR 581-015-2195(1)(b); 34 CFR §300.321(a)(2)

the Parent. Moreover, the decisions at the meeting were explained to the Parent and the Parent was provided with the opportunity to discuss the eligibility determinations with the team in a subsequent meeting.

Denial of request to audio record the May 12, 2026 IEP team meeting

Neither the Individuals with Disabilities Education Act nor state education regulations address the issue of a Parent's right to record an IEP team meeting. In Oregon, a meeting participant may record a meeting if the participant gives notice to all participants. However, participants are within their rights to decline to participate.[24]

Here, the District's refusal to allow a recording to be made of the May 12, 2026 IEP team meeting did not infringe on the Parent's ability to participate in the IEP process. First, the District offered to re-schedule the meeting to allow the Parent to provide documentation of their need to record the meeting as accommodation, which the Parent declined. Next, the District provided the Parent with summary notes of the IEP. Finally, Parent was not restricted from participating in the meeting in any manner and their input was considered by the IEP team.

Failed to convene an IEP team meeting to revise the IEP following the Parent's request

The District agreed to the Parent's request to convene an IEP meeting to further discuss eligibility under the category of OHI. The District provided notice of the meeting on May 19, 2026 and convened the meeting on May 29, 2026. Further, after receiving the required documentation of a medical diagnosis, the team agreed to change the Student's primary eligibility category to OHI.

Communication Plan

It is permissible for a district to implement a communication plan if the parent excessively communicates with school staff and the purpose of the plan is to reduce interruptions during the school day, prevent duplicative and inconsistent responses, and ensure timely responses to parent requests and concerns.[25]

Here, the communication plan developed by the District was in response to a pattern of communication from the Parent that could lead to confusion amongst school staff and prevent the Parent from receiving an appropriate response to their concerns. The District's plan was a reasonable measure to ensure the concerns of the Parent were appropriately addressed and time and attention of the school staff were appropriately protected.

The Department does not substantiate this allegation.

[24] OR Rev Stat § 165.540 (2025)
[25] *Forest Grove Sch. Dist. v. Student, 73 IDELR 115 (D. Ore 2018)*

Prior Written Notice

The Complaint alleges the District violated the IDEA by failing to provide the Parent with required prior written notice. Specifically, the Complaint alleges the District failed to provide prior written notice regarding the Parent's December 6, 2024 request for special education evaluation, the District's denial of special education evaluation eligibility on February 4, 2026, a change of service delivery method in mathematics on April 9, 2026, the reduction of reading intervention minutes on February 6, 2026, the determination not to conduct an occupational therapy evaluation, and assistive technology evaluation, and a functional behavior assessment, and the refusal to reconsider eligibility under the category of Other Health Impairment in the Spring of 2026, and the failure to address the Parent's request for an independent educational evaluation on April 28, 2026.

The Parent alleged that the District violated the IDEA by not providing PWN to the Parent regarding amendments to the Student's IEP. The IDEA requires school districts to give parents PWN "a reasonable time" before it proposes or refuses to initiate or change anything related to the identification, evaluation, educational placement, or the provision of FAPE to a child with a disability.[26] PWN must be both specific and explanatory, including:

a. A description of the action the school proposed or refused;
b. An explanation of why the school proposes or refuses to take the action;
c. A description of each evaluation procedure, assessment, record, or report the school used as a basis for the proposed or refused action;
d. A statement that the parents of a child with a disability have procedural safeguards under IDEA and how parents can obtain a copy of the procedural safeguards notice; e. Sources for parents to contact to obtain assistance in understanding the IDEA;
f. A description of other options considered and the reasons why those options were rejected; and
g. A description of other factors that are relevant to the school's proposal or refusal.

The PWN must be provided early enough that parents have time to fully consider any proposed change and respond to the action before it is implemented.[27]

Parent's December 6, 2024 request for special education evaluation

The Parent's request for evaluation falls outside of the Complaint period. Nonetheless, the District provided written notice of its refusal to conduct a special education evaluation of the Student on January 13, 2025, shortly after it made its determination.

The District's denial of special education evaluation eligibility on February 4, 2026

[26] 18 OAR 581-015-2310; 34 CFR §300.503(a).
[27] Letter to Chandler (OSEP 2012)

The District provided prior written notice to the Parent on the same day it made its eligibility determination. In addition, the District provided documentation of its consideration of each of the relevant eligibility categories.

The alleged reduction of reading intervention minutes on February 6, 2026 and change in provision of math SDI in April 2026.

The reading intervention minutes provided to the Student prior to February 6, 2026 were a general education intervention. The District did not reduce the amount of intervention being provided to the Student but rather changed the method of delivery of the intervention when it determined the Student qualified for special education. The District was not required to provide prior written notice of the decision to end the general education intervention.

While the District altered the provision of the Student's math SDI from a "pull-out" to a "push-in" model, this complied with the IEP as written and did not require the District to provide the Parent with PWN.

The alleged determination not to conduct an occupational therapy evaluation, an assistive technology evaluation, and a functional behavior assessment, and the alleged refusal to reconsider eligibility under the category of Other Health Impairment in the Spring of 2026

There is no record of a request by the Parent for assessments in the areas of occupational therapy, assistive technology or functional behavior. Thus, the District was not required to issue prior written notice regarding assessment in those areas.

Finally, the District did indeed agree to reconsider eligibility under the category of Other Health Impairment in the Spring of 2026, and in fact, did change the Student's eligibility category as requested by the Parent.

The alleged failure to address the Parent's request for an independent educational evaluation on April 28, 2026.

The District agreed to the Parent's request for an IEE and provided the Parent with timely and appropriate notice of its decision. The District provided the Parent with its IEE policy and offered to answer any remaining questions about the process.

The Department does not substantiate this allegation.

Educational Records

The Complaint alleges the District violated the IDEA by failing to provide the Parent with a complete set of educational records following the Parent's request on April 22, 2026.

The parent is entitled at any reasonable time to examine all of the records of the school district pertaining to the identification, evaluation and educational placement of the child and the provision of a free appropriate public education to the child. Records must be provided without undue delay, which may not exceed 10 business days.[28]

The District provided the Student's records to the Parent in a timely manner following the Parent's request.

The Department does not substantiate this allegation.

When IEPs Must Be in Effect

The Complaint alleges that the District violated the IDEA when it did not implement special education and related services in accordance with the Student's IEP. This includes the provision of specially designed instruction in the area of mathematics.

School districts must provide special education and related services to a student with a disability in accordance with the student's IEP.[29] The school district must ensure that each staff member, including service providers, has access to a student's IEP and is informed of their specific responsibilities for implementing the IEP.[30] "IEP Teams and other school personnel should be able to demonstrate that, consistent with the provisions in the child's IEP, they are providing special education and related services and supplementary aids and services."[31] A school district must provide parents with periodic reports of a student's progress toward their IEP goals following the schedule set forth in the student's IEP.[32]

Special education is defined as "specially designed instruction," that is provided at no cost to the parents and is intended to meet the unique needs of a child with a disability. "Specially Designed Instruction" means adapting, as appropriate to the needs of a child with a disability, the content, methodology, or delivery of instruction: 1) to address the child's unique needs resulting from the disability; and 2) ensuring the child's access to the general education curriculum.[33]

A district violates the IDEA when it materially fails to implement an IEP.[34] "A material failure occurs when there is more than a minor discrepancy between the services a school provides to a disabled child and the services required by the child's IEP."[35] As further explained by the court in *Van Duyn*:

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[28] ORS 343.173

[29] OAR 581-015-2220(1)(a); 34 CFR § 300.323(c)

[30] OAR 581-015-2220; 34 CFR § 300.323

[31] Questions and Answers on *U.S. Supreme Court Decision Endrew F. v. Douglas County Sch. Dist.* Re-1, 71 IDELR 68 (EDU 2017)

[32] OAR 581-015-2220(1)(c); 34 CFR § 300.320(a)(3)(ii)

[33] OAR 581-015-2000(37); 34 CFR § 300.39(b)(3)

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

[35] *Id.*

> "The materiality standard does not require that the child suffer demonstrable educational harm in order to prevail. However, the child's educational progress, or lack of it, may be probative of whether there has been a significant shortfall in the services provided. For instance, if the child is not provided the reading instruction called for and there is a shortfall in the child's reading achievement, that would certainly tend to show that the failure to implement the IEP was material. On the other hand, if the child performed at or above the anticipated level, that would tend to show that the shortfall in instruction was not material."[36]

There was no evidence provided that the District failed to provide the Student with the services in the Student's IEP.

The Department does not substantiate this allegation.

Content of IEP

The Complaint alleges that the District violated the IDEA when it failed to include information in the Student's IEP that is necessary to the Student's unique educational needs. Specifically, the Complaint alleges the IEP does not include goals to appropriately address the Student's needs in the areas of reading, math, and behavior and also does not include appropriate supports and services in the areas of reading, behavior, attendance, and occupational therapy.

There was no evidence provided to suggest that the Student's IEP failed to address the Student's disability-related needs.

The Department does not substantiate this allegation.

Free Appropriate Public Education (FAPE)

Due to the alleged IDEA violations detailed above, the Complaint alleged that the District failed to provide the Student with a FAPE.

Each school district is responsible for providing a free appropriate public education to school age children with disabilities for whom the school district is responsible.[37] In Oregon, the school district who is responsible for providing FAPE to a student is the student's district of residence.[38] The IDEA defines FAPE as special education and related services that: 1) Are provided at public expense, under public supervision and direction, and without charge; 2) Meet the standards of

[36] *Id.*

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

[38] OAR 581-015-2040

the state educational agency; 3) Include an appropriate preschool, elementary school, or secondary school education; and 4) Are provided in conformity with an IEP.[39]

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.[40] 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.[41]

As discussed above, the District failed to conduct a special education evaluation of the Student when it had ample information to suspect the Student had a disability. There is no evidence to suggest a different eligibility determination would have been made had the District conducted the evaluation at the beginning of the Complaint period. Thus, the Student was not provided special education services to which they were entitled from the beginning of the Complaint period until their initial IEP on March 3, 2026.

The Department substantiates this allegation.

V. CORRECTIVE ACTION

In the Matter of Parkrose School District 3
Case No. 026-054-066

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

Action Required	**Submissions**	**Due Date**
1. The District must ensure that all District staff involved in identifying students with disabilities who require special education receive training in the District's Child Find obligations.	Training agenda/materials to ODE for review/approval. Sign-in sheet for training.	**October 1, 2026** **December 15, 2026**

[39] OAR 581-015-2040; 34 CFR § 300.17

[40] *Endrew F.,* 137 S.Ct. at 999

[41] *W.G. v. Bd. of Trustees of Target Range Sch. Dist. No. 23,* 960 F.2d 1479, 1484 (9th Cir. 1992)

2. The District must convene a meeting with the Parent to determine appropriate compensatory education services owed to the Student for the loss of educational opportunity caused by the District's failure to find the Student eligible for special education and develop an IEP from May 19, 2025 to March 2, 2026. If the parties are unable to reach an agreement on the compensatory education to be offered to the Student, either party can request that a determination be made by the Department.	A written plan for delivery of compensatory education developed at a meeting with the Parent. Evidence showing that compensatory services were provided.	**October 15, 2026** **March 30, 2027**

Dated: this 17 Day of July, 2026



Ramonda Olaloye
Assistant Superintendent
Office of Enhancing Student Opportunities

E-mailing Date: July 17, 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).)