BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of McKenzie School District 68	))))	FINDINGS OF FACT, CONCLUSIONS, AND FINAL ORDER Case No. 26-054-072

I. BACKGROUND

On June 1, 2026, the Oregon Department of Education (the Department) received a written request for a special education complaint investigation (Complaint) from the Parent (Parent 1) of a student (Student) residing in the McKenzie School District 68 (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 in order to engage in mediation or local resolution or for exceptional circumstances related to the complaint.[2]

On June 16, 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 26, 2026. The District requested an extension of the due date, and the Department revised the *Response* due date to June 30, 2026.

The District submitted a *Response* on June 30, 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, 1/28/26
2. Prior Notice and Consent for Initial Provision of Special Education Services, 2/5/26
3. Classroom Observation Notes, 2/17/26
4. Autism Rating Scale, undated
5. File Review and Assessment Summary, 2/20/26
6. Notice of Team Meeting, 2/26/26
7. Language and Speech Screening Report, 2/27/26
8. Statement of Eligibility, 3/4/26

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

9. Individualized Education Program (IEP), 3/17/26
10. Placement Determination, 3/18/26
11. Prior Written Notice (PWN), 3/17/26
12. Meeting Notes from District, 2/12/26 – 3/4/26
13. Emails among District Staff, 9/15/25, 11/6/25, 2/17/26
14. Emails between District Staff and the Parent 1 and/or the Parent 2, 9/15/25 – 5/27/26

The Complaint Investigator interviewed Parent 1 on June 26, 2026 and July 8, 2026. On July 13 and 13, 2026, the Complaint Investigator interviewed District personnel. Virtual interviews were conducted instead of on-site interviews. The Complaint Investigator reviewed and considered all of 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 Complainant's allegations and the Department's conclusions are set out in the chart below. The conclusions are based on the Findings of Fact in Section III and the Discussion in Section IV. This Complaint covers the one-year period from June 2, 2025, to the filing of this Complaint on June 1, 2026.

Allegations	Conclusions
Child Find The Complaint alleged that the District violated IDEA and its Child Find mandate when it failed to maintain the Student's eligibility for a free appropriate public education as a resident homeschooled student of the District during the relevant portion of the 2024-2025 school year. (OAR 581-015-2080; 34 CFR §300.302)	**Substantiated** The District's Child Find obligation was not triggered during the 2024-2025 school year. Upon review of all evidence submitted, the Department has made an additional finding that the District did not fulfill its Child Find obligation during the 2025-2026 school year.
Evaluation and Reevaluation Requirements The Complaint alleged that the District violated IDEA when it failed to timely initiate a reevaluation of the Student. (OAR 581-015-2105; 34 CFR §300.301; 34 CFR §300.303)	**Not contested** The District did not contest this allegation.

IEP Team Membership The Complaint alleged that the District violated the IDEA when it failed to include all required members of the Student's IEP team to attend an IEP team meeting. (OAR 581-015-2210; 34 CFR §300.321(a))	**Substantiated** The District did not include Parent 1 in all IEP team meeting discussions regarding development of the Student's IEP.
IEP Content The Complaint alleged that the District violated the IDEA by failing to include special education, related services, supplementary aids and services in the Student's IEP necessary to fully address the Student's needs that result from the Student's disabilities. (OAR 581-015-2200; 34 CFR §300.320)	**Substantiated** The District failed to develop an IEP that (1) accurately included current information regarding the Student's needs, (2) clearly specified the nature and type of SDI to be provided to the Student and (3) identified a clear projected date for initiation of service for the Student in a setting with peers.
Review and Revision of IEP The Complaint alleged that the District violated the IDEA when it failed to convene the IEP team to meet in response to the Parent's request to do so. (OAR 581-015-2225(1); 34 CFR §300.324)	**Not Contested** The District did not contest this allegation.
When IEPs Must Be in Effect? The Complaint alleged that the District violated the IDEA by not providing special education and related services in accordance with the Student's most recent IEP, including failing to implement an IEP for the Student at the beginning of the school year. (OAR 581-015-2220; 34 CFR §300.324)	**Not Substantiated** The District was not obligated to implement an IEP for the Student at the beginning of the school year as the Student did not have an IEP in effect at that time. The District did not contest that there was a delay in developing a new IEP for the Student.

Placement of the Child The Complaint alleged that the District violated the IDEA by not placing the Student in their least restrictive environment, specifically a placement based on the Student's current IEP. (OAR 581-015-2250; 34 CFR §300.327)	**Substantiated** The District failed to include Parent 1 in all IEP team discussions regarding the Student's placement and did not adequately describe the amount of time that the Student would spend in an educational setting with peers.
Prior Written Notice The Complaint alleged that the District violated the IDEA by not providing the Parent with prior written notice (PWN) within a reasonable period of time before the District proposed or refused to initiate or change the identification, evaluation, educational placement, of provision of a free appropriate public education to the Student. This included the failing to provide a PWN in response to the Parent's requests for the District to convene an IEP meeting. (OAR 581-015-2310; 34 CFR §300.503)	**Not Contested** The District did not contest this allegation.
The Parent Participation The Complaint alleged that the District violated the IDEA by interfering with the Parent's ability to participate in decisions with respect to the identification, evaluation (including evaluation planning meeting), IEP and educational placement of the Student, and the provision of a free appropriate public education (FAPE) to the Student. (OAR 581-015-2190; OAR 581-015-2115, OAR 581-015-2195; 34 CFR §300.322; 34 CFR §300.305; 34 CFR §300.501)	**Substantiated** The District failed to include Parent 1 in all IEP team discussions regarding the development of the Student's IEP.

REQUESTED CORRECTIVE ACTION

1. Enrollment in a brick and mortar school with special education, speech therapy, occupational therapy and a special education assistant.
2. An IEP meeting to review all of The Parent's requests with the IEP team, including transition from online learning environment, goals re-written to emphasize the Student's need, changes to quarterly reporting type and frequency as well as review of placement and location of program.

III. FINDINGS OF FACT

1. The Student is thirteen years old and recently completed sixth grade in a District online program.

2. The Student is currently eligible for special education services under the disability category of autism spectrum disorder (ASD).

3. In their interview, Parent 1[3] explained their understanding that the Student was removed from public school by Parent 2 during the 2020-2021 school year and, thereafter, the Student was not registered as a home-schooled student.

    a. Parent 1 recalls that they registered the Student as a home-schooled student with the local Education Service District (ESD) in June of 2025.

    b. To support this recollection, Parent 1 provided a letter dated July 15, 2025 from the ESD acknowledging the receipt of Parent 1's intent to homeschool the Student within another school district[4];

    c. The ESD letter does not reference the Student's eligibility for special education; and

    d. Subsequent correspondence with the ESD on July 15, 2025 documents Parent 1 asking about the impact of the Student's special education needs on state testing.

4. District internal email correspondence dated September 15, 2025 indicates that a web message was forwarded to the Special Education Director (Director) from Parent 2. In their email, Parent 2 indicated "just having moved to a new community within the geographic limits of the District" and they expressed interest in online school for the Student who was disclosed as having been on an IEP in a previous Oregon school district. Upon receipt of the web message, the Director forwarded the email to the District Online Teacher (Teacher).

[3] The Parents are divorced and shared custody and educational decision-making for the Student. In every email conversation shared by either Party, the facts will reference whether one or both the Parents were included in the correspondence. Parent 1 filed this complaint and Parent 2 references the co-Parent.

[4] Parent 1 resides in a different Oregon school district from Parent 2.

5. In their interview, the Teacher confirmed that this email was the first time they learned that the Student had "previously been found eligible for special education in another Oregon school district in 2021."

6. In an email conversation with Parent 2 spanning September 15 through 23, 2025, the Teacher offered to schedule a meeting to discuss the District Online Program (Program).

7. In an email conversation with Parent 2 spanning September 24 through 25, 2025, the Teacher discussed completion of the Student's registration, the Teacher's request for additional special education records, and scheduling a meeting with the Director.

8. In an email dated September 24, 2025 to the Director, the Teacher confirmed that Parent 2 was "working through the enrollment process" and that the Student "will be needing to receive Special Education services." In their interview, the Teacher indicated that this is when they shared the Student's prior special education history with other District staff.

9. In their interview, the Director indicated that the September 24 2025 email was their first knowledge of the Student's special education eligibility, and they recall having a conversation with Parent 2 about the need for an evaluation and IEP.

10. The District Registration form completed by Parent 2 is not dated but does include a school entry date of September 29, 2025. Parent 2 disclosed on this District form that the Student had medical diagnoses of ADHD and Autism and that they had an IEP at their last school. The form indicates it was accepted by the District on September 24, 2025.

11. In an email conversation with Parent 2 dated September 29, 2025, the Teacher again requested that the Parent 2 send "IEP Document/Documentation" and "any documentation you have for [the Student] from [two prior school districts] or your current process that can show what supports [they] needed/needs now, what supports [they were] given or what supports you anticipate [they] will need now." In response, Parent 2 confirmed the Student's last IEP meeting occurred in a prior district on April 30, 2021.

12. In an email conversation with Parent 2 dated September 30, 2025, the Teacher indicated that Parent 1 had phoned them and confirmed that Parents 1 and 2 "have split custody" of the Student. The Teacher then emailed Parent 2 a copy of the District contacts for the Student, documenting that Parent 1 had been added as a Student guardian.

13. In an email conversation with the Teacher dated September 30, 2025, Parent 1 explained the Parents had "shared legal custody and joint decision-making authority" for the Student. Parent 1 included a copy of the "Stipulated General Judgment of Dissolution" which confers joint legal custody to both Parents and "equal Parenting time" referencing the Parenting Plan. Parent 1 also provided a full copy of the December 19, 2017 Parenting Plan. In response to this email conversation, the District Registrar emailed Parent 2 to confirm that Parent 1 had been added to the Student's profile as a "custodial Parent."

14. In an email conversation with the Teacher dated October 1, 2025, Parent 2 requested the District schedule separate meetings regarding the Student, specifically that Parent 2 would not join Parent 1's meeting with District staff. On October 2, 2025, the Teacher responded to Parent 2 indicating they did not yet have a copy of the Student's IEP and confirmed that "meeting separately is fine, as long as [they are] sharing the same documentation."

15. In an email to the Teacher dated October 7, 2025, Parent 1 wrote that Parent 2 had enrolled Student in the Program after being served Parent 1's request for sole custody so that the Student could be enrolled in a local middle school and receive full services to support their disability, specifically with "hands on support from SPED professionals" instead of online asynchronous instruction. In their email, Parent 1 requested provision of "assessments about [the Student's] ability to be in class in person and provide thoughts about how traumatic it would be."

16. In their interview, Parent 1 confirmed the October 7, 2025 email was their first notice to the District that the Student had been eligible for special education services and to the Parent 1, this was intended to be an "assertion of [their] custodial rights and [their] concerns about the school being able to meet [the Student]'s special education needs".

17. In an email to Parent 2 dated October 8, 2025, the Teacher indicated that they had received the prior special education files and would provide a copy to Parent 1 and proceed with scheduling a meeting with the Director.

18. In a follow-up email later that day, the Teacher sent Parent 1 copies of the Student's April 30, 2021 IEP which described the Student's previous placement and special education and related services:

    a. The April 2021 IEP provided as an email attachment indicated that the Student was being served in the home setting due to a family member whose health may be impacted by COVID if the Student were attending a school environment;

    b. The IEP also indicated that the Student was to receive:

        I. Specially Designed Instruction (SDI): Social/Emotional/Behavioral Skills (100 minutes per week); Written Language (100 minutes per week); Mathematics (100 minutes per week) and Reading (150 minutes per week); and

        II. Related Services: Occupational Therapy (180 minutes per year) and Speech and Language Therapy (120 minutes per month).

19. In an email to Parent 1 dated October 8, 2025, the Teacher shared information about the Program.
    a. "[O]ur program does offer access to special education professionals, including speech-language pathologists and occupational therapist, depending on the services identified through the IEP process and once [the Student] begins that process, we will be able to

determine [their] eligibility and the specific supports [they] may receive. These may include virtual and/or in-person components, depending on what's appropriate and available. I'll be happy to share more details once assessments are underway.";

b. The Teacher also stated "I also hear your concern about the importance of in-person services, especially related to social-emotional development and hands-on support. These are valid points and will absolutely be considered as part of the evaluation process when determining placements and services."; and

c. At the end of the email, the Teacher indicated that there was no intention to leave Parent 1 out of the "process" and they would "continue to keep you updated as we move through the IEP process and next steps."

20. In an email to both the Parents dated October 8, 2025, the Teacher indicated that the results of the Student's i-Ready diagnostic math assessment placed them in mid-to-late 6th grade range and provided a copy of the report.

21. In an email to Parent 1 dated October 14, 2025, the Teacher provided Parent 1 information they can use to "log-in" for the Program curriculum and provided access to a "weekly update that helps students, the Parents and teacher track their student's progress in their courses." In a related email dated October 16, 2025, the Teacher provided both the Parents a "log in" code to view grades and progress.

22. In an email to the Director and ESD staff dated November 6, 2025, the Teacher checked in on the status of the Student's evaluation process and the ESD staff person indicated their intent to reach out to the Parent and begin the evaluation process as the most recent evaluation and IEP are "overdue".

23. In an email conversation with Parent 1 dated November 10-12, 2025, the Teacher offered to meet with Parent 1 on November 19, 2025 to discuss the Student's progress within the curriculum.

24. In a November 19, 2025 email to Parent 1, the Teacher provided Fall reading and math bench scores that had not been provided to Parent 1. The Teacher also stated that "you should be getting some communication from the [District] school psychologist to get permission in [their] work to update [the Student's] IEP." The reading benchmark indicated that the Student scored in the 63rd percentile in reading, the 58th percentile for passage reading, and the 89th percentile for vocabulary. The i-Ready diagnostic indicated that the Student scored in a late 6th grade placement for number and operations and mid-6th grade placement for the remaining mathematic skill areas (algebra and algebraic thinking, measurement, and data and geometry).

25. In an email conversation with Parent 1 dated December 8, 2025, the Teacher offered and both agreed to a date of December 16, 2025 to complete a monthly call regarding the Student's progress.

26. In an email conversation with Parent 1 dated January 7, 2026, the Teacher and Parent 1 agreed to meet on January 15, 2026 for a monthly call about the Student's progress.

27. In an email to the District Superintendent (Superintendent) dated January 14, 2026, Parent 1 shared that they had yet to hear anything from a special education evaluator to begin the evaluation, which was "well past the legal requirements for the IEP evaluation to have taken place and I just want to move forward as fast as possible and get the IEP working again."

28. A Prior Notice about Evaluation/Consent for Evaluation dated February 5, 2026 proposes to evaluate the Student for continued special education eligibility using the Vineland Adaptive Behavior Scale-Second Edition, Gilliam Asperger's Disorder Scale (GADS), a file review, and parent and teacher input. Parent 2 signed consent to the evaluation on February 5, 2026.

29. In an email to Parent 2 dated February 12, 2026, the Teacher provided details for Parent 2 to bring the Student to the District office to meet with the Speech and Language Pathologist (SLP) on February 18, 2026.

30. In an email to the School Psychologist dated February 17, 2026, the Teacher asked if separate special education meetings with the Parents would work explaining that Parent 2 is still not comfortable with meeting at the same time as Parent 1. The School Psychologist responded that they "can do short (30 min each) meetings to explain the results and go through eligibility" and referred the Teacher to the Director regarding having two separate meetings for the IEP.

31. In an email to the Teacher dated February 17, 2026, Parent 2 requested to reschedule the meeting with the SLP. Parent 2 suggested the same day and time the following week and the Teacher replied that option would work.

32. In an email to both the Parents dated February 17, 2026, the Teacher offered two meeting options (March 4 or March 5) for an "IEP eligibility meeting". Parent 1 responded they could attend March 4, 2026.

33. In an email to Parent 2 dated February 19, 2026, the Teacher requested Parent 2 notify them that the Student completed Winter benchmark and i-Ready diagnostic for the school psychologist to include in the review. In a response email of the same date, Parent 2 indicated the Student had refused to go on i-Ready but they would try again the following week.

34. On February 20, 2026, the School Psychologist (Psychologist) completed a file review and assessment summary including the following information:

    a. The Student had been referred for a special education evaluation due to prior eligibility in the "area of Autism Spectrum Disorder [and was] overdue" for a triennial reevaluation;

b. Student strengths were summarized as “very diligent academically, precise, works hard and has a positive and friendly attitude”;

c. A concern was noted with the Student’s “focus on school work – ability to start tasks and stay focused”;

d. The Student’s recent report card included A’s in science, math and physical education with B’s in language arts and social studies;

e. The summary included reference to fall progress monitoring and the Student’s performance was described as commensurate with grade level expectations;

f. Results of current evaluation data were summarized to include:

i. Standard scores on the Gilliam Aspergers Disorder Scale based on profiles completed by the Student’s Teacher and both Parents indicate that the Student has a borderline autism disorder quotient according to the Teacher and a high probability autism disorder quotient according to both Parents’ individually scored profiles; and

ii. Standard scores on the Vineland Adaptive Behavior Scales of less than the first percentile in all three adaptive behavior domains (communication, daily living skills and socialization) yielding an overall adaptive behavior composite ranging from 52-59, an overall score from both the Parents’ individually scored profiles of <1 percentile.

g. A psychological summary indicating that “the current file review and assessment results demonstrate that [the Student] is perceived to show significant characteristics in the school and home environment that compare with other students diagnosed with Autism Spectrum Disorder.”

35. In an email to Parent 2 dated February 24, 2026, the Teacher reminded Parent 2 that the math diagnostic would “time out” in 2 more days and “it looks like [they are only] 19% done”.

36. A language and speech screening report was completed by an SLP on February 27, 2026 and indicates:

a. The purpose of the screening was to “indicate possible speech and/or language struggles for [the Student] which would in turn support an ASD (Autism Spectrum Disorder) eligibility]”;

b. According to Parent 1’s interview with the Psychologist, the Student liked the alphabet “and that included not only the letters, but the design/topography associated with the written form… [and the Student likes] punctuation, spelling and reading.” Parent 1 also reported that the Student’s attention span “varied depending on the topic, but that it was generally short”, that the Student is sometimes distractible and that the Student “showed

communicative intent by requesting, and (sic) item/action, gaining attention and requesting assistance". Parent 1 also indicated that "if the topic was a 'preferred' topic, [the Student] would initiate a conversation";

c. According to Parent 2's interview with the Psychologist, the Student's attention span was described as "very poor but can vary a little depending on mood or activity [and that] it is extremely difficult to hold [their] attention unless I can incorporate [their] passion, the alphabet." Parent 2 also described the Student as "extremely distractible", uses pointing as their preferred method of communication and uses verbal communication about 30% of the time"; and

d. According to the screening, the Student's articulation, voice, and fluency did not present as areas of concern. The SLP noted that they were not able to obtain a language sample since the Student "did not consistently or coherently respond to direct questions presented by the clinician."

37. In an email conversation with the Teacher dated March 3 and 4, 2026, Parent 2 discussed concerns with getting the Student to complete assignments:

a. The Student is "having such a hard time wanting to do any of the assignments. I can get [them] to do the lessons and the guided notes but [they really are] just getting so overwhelmed by the assignments [that it is] making it harder to get [them] to do [their schoolwork]";

b. "I think if we are going to get anywhere this semester we are going to cut more of [the math assignments] out, maybe we can [add] the guided notes and I can work in videos to go along with the lessons. I'm not certain what to do.";

c. The Teacher offered to meet within the next two days, and Parent 2 said they were only available the following week; and

d. Parent 2 also reported that the Student was completing Spanish and typing activities with "no problem".

38. On March 4, 2026, both of the Parents, the Teacher, a Special Education Teacher (Special Education Teacher), the Director, the Psychologist and the SLP gathered to review data collected from the file review and new evaluations. The team determined that the Student was eligible for special education services under the category of Autism Spectrum Disorder based on a 2018 developmental history, information from both of the Parents gathered by the psychologist, observations of the Teacher, the SLP and a 2018 classroom observation, a 2026 functional communication screener and report, completion of the 2026 Gilliam Asperger's Disorder Scale and 2018 Asperger Rating Scale, and a medical diagnosis of autism spectrum disorder. The team, including both the Parents, agreed that the Student presented with deficits in social communication and interaction and the Student exhibited restricted, repetitive patterns of behavior interests or activities.

39. In an email to the Teacher dated March 9, 2026, Parent 2 requested alternative curriculum for math, science and P.E., specifically indicating that the Student is "so overwhelmed by the assignments."

40. On March 9, 2026, in an email to both the Parents, the Teacher provided a copy of the most recent i-Ready diagnostic report regarding the Student's math progress. Results of the report indicate that the Student scored in all mathematical domains at the early 6th grade level, a reduction in skills from the Fall diagnostic evaluation in which the Student had placed at the mid to late 6th grade level.

41. On March 10, 2026 in an email to Parent 2, the Teacher wrote about scheduling an IEP meeting for the following week and requested Parent 2's availability. The Teacher explained that "[s]ince we will be meeting with you and [Parent 1] separately, there is a possibility that we may need to hold off on finalizing goals or plans until everyone has had a chance to meet and reach agreement. Hopefully that won't be necessary, but I wanted to mention it in advance". A duplicate of the referenced email was also sent to Parent 1 on the same date.

42. Email calendar invitations including District personnel and Parent 1 indicate that March 17, 2026 was a date selected for the Student's IEP team to convene and develop their IEP.

43. In an email conversation with the Teacher dated March 10 2026, Parent 2 reported concerns that the Student is having "meltdowns" and refusing "IXL and the assignments" and will only work with paper books, i-Ready, Spanish language practice and typing. Parent 2 indicated the need to "try 6th grade physical workbooks and cutting more [curriculum] assignments some and if that helps [the Student], there is a chance we need to go back to 5th grade work to help them feel more comfortable". In conclusion, Parent 2 indicated that they would "rather try the books first and try to keep [the Student] at level (sic) as [their] peers". In response, the Teacher offered to meet with Parent 2.

44. On March 16, 2026 in an email to the Teacher, Parent 2 described continued "refusal behavior" exhibited by the Student, and requested the Teacher "remove the assignments that are past due so we can try to do some lessons until you and I can figure out what to do. I hate feeling like we are stuck at a standstill". In response to the Teacher's question of "which subjects?" Parent 2 answered "for now we need to do all the subjects because [they have] refused them all, even the math" and included a listing of paper workbooks Parent 2 had selected for the Student's use. In response, the Teacher requested a few daily schedules and suggested some adjustments to the Student's schedule and offered some new lessons with guided notes.

45. In their interview, Parent 1 explained their recollection of the IEP meeting discussion and events:

    a. They shared "I was excited for [the Student] to attend school in-person";

b. “The IEP attendees who had met [the Student] shared [they] had significant social needs which could cause integrating in school (sic) difficult”;

c. After the IEP meeting, Parent 1 explained that they emailed the Special Education Teacher with their concerns;

d. Parent 1 also explained that, in their opinion, the social pragmatics goal was appropriate, but “there are no significant supports to help [the Student] achieve this goal” despite the Student’s scores of >1% in adaptive, daily living skills and socialization, the IEP only provides “15 minutes/week conversations with a ‘consulting teacher’”;

e. Parent 1 indicated that the Student “needs much more help with [their communication skills in particular related to emotions so that [they] can function in society and be safe.”;

f. Parent 1 also disagreed that the Student no longer required speech and language services and occupational therapy services; and

g. Parent 1 also explained that the placement decision did not reflect their continual request for the Student to “be around peers and support staff” and Parent 1 views the March 2026 IEP as placing the Student “on a path to continue to not interact with peers into the next school year with no supports in place that help him bridge the gap.”

46. On March 17, 2026 in an email conversation, Parent 1 and the Special Education Teacher discussed Parent 1’s concerns from the IEP meeting. Parent 1 explained:

a. “[D]uring the discussion today…I spoke a lot about how [the Student] needs to work on [their] social skills by being around other students in-person, and when I mentioned that the goal is for [them] to be in-person full time by next year [the Director] said ‘we’ll see’”;

b. “[The Student] has successfully attended school in person before for several years, so I’m unsure the reasoning why we would be unable to do so now”;

c. “I’m not sure how the communication goals of the IEP we discussed today can be supported if there’s no recommendation for [the Student] to attend school around other students [and] if the only access to teacher and students is extracurricular with a goal of gaining comfort and stamina of being around these environments;”

d. “I’m afraid this IEP might be setup with good goals, but not mechanisms to really build the skills if there’s no expectation that [they] work on them with other students and teachers. It isn’t so much that I care if [they are] learning [their] basic math and writing skills online, but I want [them] to work on [their] communication skills which are most needed skills for life and independence if [they continue] to have very limited access to people to communicate with (sic)”;

e. In response the Special Education Teacher explained "[i]t is true that extra-curricular activities are often supported by those that are not teachers [but] here is a bit unique as we are such a small campus, most of our after school activities are facilitated by a teacher;" and

f. The teacher also stated that they "would like to offer social skills time on campus to begin to address the goals in the IEP" but did not indicate a schedule for doing so within the context of this email.

47. On April 9, 2026 in an email to Parent 2, the Special Education Teacher asked to meet and begin planning for the Student to visit campus, offering options for meeting at the campus library.

48. On April 14, 2026 in separate emails to the Parents, District personnel provided copies of the finalized IEP and "The Parent Rights for Special Education". The Student's March 17, 2026 IEP (March 2026 IEP) was attached to these emails and included the following information, in relevant part:

a. Strengths: The IEP team indicated that the Student "is a kind and curious 6th grade student who is engaged in [their] on-line curriculum." Noting that most of the information came from the Parents, the IEP indicates that the Student "exhibits a love of languages and books, and has strong understanding of grammar, inflection…enjoys math and picks up new concepts pretty quickly". The Student was also observed to be "a positive and happy individual and is willing to see new activities and places." The Student was also noted to "do best in 1:1 or smaller group settings that are structured and warms up to people once they are in [their] contact bubble for a bit…[and] does well in structured social activities for short periods of time."

b. The Parents' Concerns: Parent 1 indicated that they would "like an opportunity for [the Student] to learn more nuanced activities and social interactions in order to gain understanding of how communities interact and engage…[and would like the Student] to be afforded opportunities to practice these skills with same aged peers." Parent 2 explained that the Student attended public school "through covid (sic) but had difficulty engaging in work in a class-setting and that teachers reported [they] only did work when other students were out of the class". Parent 2 indicated that they like the Student's "current set up being in on line school and wants to slowly integrated [them] into the school setting at [their] pace [and Parent 2 reported concerns] about elopement and staying seated in the classroom setting".

c. Present Levels: The Student qualifies for social skills and pragmatic skills specially designed instruction (SDI). The Student did not require a related service.

Academic Achievement: The Student was described as "able to work at grade level in the general education curriculum". The Student was also noted to require "redirection and prompts to stay focused on a task."

Adaptive Skills: Based on an evaluation and file review completed on February 20, 2026, the Student was noted as performing "below the 1st percentile in the areas of social communication, socialization and daily living skills." The Student demonstrated needs of "redirection and prompts to stay focused on a task, [and] communication within social context (back and forth communication). While the Student was noted to "not engage in problematic behavior…[they] will remove [themselves] from situations when feeling overwhelmed or stressed depending on the trigger". The team also noted that the Student required support with personal space and boundaries, awareness of their surroundings while moving, difficulty holding a writing utensil, fine motor dexterity is a challenge with [their] hands and "organizational skills are also lacking".

d. How disability affects involvement and progress in the general education curriculum: "[The Student] does well with self-regulation in familiar settings but [they] may need to learn new routines in varying settings [and] would need support in understanding social cues and structures to participate and focus."

e. Special Factors: No special factors were identified by the IEP team for consideration in developing the IEP.

f. Annual Goals: Included a Social Pragmatics goal (engage with a speaking partner for three consecutive exchanges, communicating in a manner consistent with the setting and relevant to the communication topic); and a Social Skills goal (participate by demonstrating the Student can engage in a calming routine with 2 or fewer prompts in the school setting).

g. Progress reporting: Progress is to be reported through quarterly written progress notes.

h. Specially Designed Instruction (SDI): Social Skills instruction for 15 minutes per week beginning March 18, 2026 to be provided by a "consulting teacher" in "all school sites".

i. Accommodations: Student was to be provided a "break area as needed when participating in school activities on campus".

j. Supports for School Personnel: Staff support included 180 minutes annually of consultation with the ESD Autism Consultant.

k. Non-Participation Justification: The Student "is enrolled 100% of the time in general education coursework in the [District online] school program."

49. In the March 18, 2026 Special Education Placement Determination, the IEP team selected "30-80% or more of the day in regular class," from the three options listed. The team indicated this selection allowed for individual instruction, is a mainstream program, a broader choice of curricular topics, and is the preferred learning environment. The determination also included, "work on timeline/schedule that best suits student/family needs".

50. The Prior Written Notice issued March 17, 2026 indicates that the District proposed "in order for [the Student] to make adequate educational progress, we needed to continue [Student] (sic) specialized supports." The Notice also indicates that the Student "will also begin to attend activities at [a community school] in order to increase his opportunities to engage with same aged peers and practice social skills and pragmatics.

51. In their interview, the Special Education Teacher clarified that they had not worked with the Student prior to attending the IEP team meeting.

52. In their interview, the Director indicated that they fulfilled the role of "district representative" during the March 2026 IEP meetings. The Director recalled that the Teacher shared that Parent 2 "requested separate IEP meetings due to feeling uncomfortable or unsafe in a setting with [Parent 1]" and that the Teacher reported that "both the Parents were amenable" to separate IEP meetings.

53. In their interview, the Special Education Teacher indicated that baseline data for the Student's IEP goals in social pragmatics and social skills were taken from the "Language and Speech Screener, Parent Input, Teacher Input and the School Psychologist Report."

54. In their interviews, the Teacher, the Special Education Teacher and the Director all described the team's intention for the Student to complete a "gradual transition toward increased in-person support rather than an immediate transition to full time in-person programming".

    a. The Special Education Teacher explained that "a gradual approach would provide an opportunity to better understand what level of in-person support would be most beneficial";

    b. Both the Special Education Teacher and the Director explained the following terms used regarding the Student's special education services:

        i. The Social Skills service minutes are intendent to cover both "goals in social pragmatics and social skills";

        ii. The reference to "LEA" meant the District staff "responsible and able to provide the student with the IEP accommodation is not limited to one particular staff member, but instead available to all staff members who work with the [S]tudent; and

        iii. The reference to "all school sites" means "where the student engages in school activities (including but not limited to, online, library, classroom, gym, cafeteria, etc.)";

        iv. The Teacher and the Director indicated the gradual integration of Student into a general education setting with peers was reflected in the Placement Determination

when the team referenced “Mainstream program [w]ork on timeline/schedule that best suits student/family needs”.

55. In their interviews, the Teacher and the Special Education Teacher each stated that they believed the Student could make progress on their IEP goals if they remained “in the home instruction setting with supports included in the IEP”.

56. In their interview, Parent 1 stated that they “had no opportunity to see or discuss any drafts before it was finalized” and that they were told by the Special Education Teacher on the afternoon after the IEP meeting that “I think once we have the other IEP, things will be more clear how to process.” Parent 1 indicated the IEP was “finalized without my input” and they did not know the actual information included in the IEP until they were “sent a final copy a month later”.

57. In their interview, the Special Education Teacher described Parent 1 to have an “involved, receptive” IEP team participation who “contributed questions and accepted ideas and goals, followed up with questions that were answered and from [their] perspective, resolved.”

58. In their interview, the Director also recalled both the Parents’ opinions on the placement discussion:

    a. Parent 2 “wanted to have the [S]tudent enrolled in the online program with opportunities to engage in social skills at the school”; and

    b. Parent 1 “wanted this as well but wanted an accelerated transition with more frequent opportunities to practice social skills which we were/are amenable to. [Parent 2] seemed agreeable to adjusting service time going forward as more time was spent on site.”

59. In an email dated April 22, 2026, the Teacher wrote to Parent 2 suggesting they collaborate with the Special Education Teacher or the Director to implement “incorporating more hands on learning [as they had recommended a few weeks ago] to shift toward when [the Student] was feeling overwhelmed online”. The Teacher also indicated that once the Student began meeting with the Special Education Teacher, they “may have some helpful suggestions”.

60. In an email dated April 23, 2026, Parent 2 responded to the Special Education Teacher’s April 9, 2026 email in which the Special Education Teacher requested a time to meet and make plans for the Student to visit with them on campus. Parent 2 wrote “I’m so sorry it took so long for me to respond, we’ve all been pretty sick,” suggesting “Mondays at 3:30 for a meeting time”.

61. In an email conversation spanning April 22, and 23, 2026, Parent 1 requested a copy of the Student’s attendance as the online portal “appears that [they have] not logged into to do any work at all this month.” Parent 1 also requested a meeting to discuss their concern with work completion. In response, the Teacher provided a copy of the attendance record and indicated that the Student “has been completing work both in [their online courses] and through hands-

on learning and other hands-on curriculum this year." The attendance record indicated the Student was marked as present for 16 academic days in March of 2026 and 13 academic days between April 1 and April 22, 2026.

62. In an email dated April 27, 2026 to Parent 2, the Teacher asked if Parent 2 had been "able to connect with [the Special Education Teacher] about setting up an in-person meeting." The Teacher wrote the in-person meeting "could be really helpful as we work to recalibrate and make sure [the Student] has the right level of support in place." Parent 2 responded they had reached out to the Special Education Teacher "but haven't heard back".

63. In an email dated April 20, 2026 to Parent 2, the Special Education Teacher offered a meeting on May 4, 2026 at the campus library.

64. In an email dated May 4, 2026 to the Teacher, Parent 2 cancelled the meeting with the Special Education Teacher due to a medical issue.

65. In an email dated May 13, 2026 to both the Parents, the Teacher wrote that in response to Parent 1's request, the Teacher would implement a weekly email "in hopes that both the Parents and the school are receiving the same consistent picture of [the Student]'s progress", clarifying the email will include attendance and a "summary of [the Student's] recent progress in the curriculum and completed work."

66. In an email dated May 14, 2026 to the Teacher, Parent 2 wrote that they were "unable to accommodate additional demands" for communication. They noted deep "concern for [the Student]'s mental health…[s]ince starting the 6th grade curriculum, [they have] developed a severe aversion to schoolwork, a fear of being taken away". Parent 2 reported that "[t]his anxiety has escalated to physical aggression". Parent 2 also requested clarification on the Special Education Teacher's role with the Student.

67. In an email dated May 15, 2026 to the Teacher and the Director, Parent 1 expressed, in part, concern that Parent 2 was solely selecting curriculum for the Student and that Parent 2 "had final decision over the IEP and [Parent 1] wasn't consulted by either of you on the decisions [Parent 2] made that you enacted. If there was significant disagreement between [their] view and mine – I need to know".

68. In their interview, Parent 1 explained that they were not aware that the Student was struggling to complete online assignments until they met on May 15, 2026 with the Teacher and the Director. Parent 1 also indicated that the Teacher explained to them that use of different curricula was an accommodation of what the Teacher had referenced as "autistic burnout." Parent 1 explained that they "don't believe there is enough evidence that [the Student] did work, progressed, or even attended school regularly on days [they were] marked as present."

69. In their interview, the Teacher explained that their "typical role is to facilitate communication and ensure that a student's special education needs are provided to the appropriate [District]

special education personnel." With regard to email correspondence, they explained that "in general, [they] included both the Parents on routine program communications" and responded to one Parent when they sent a "specific question or request."

70. In an email dated May 18, 2026 to both the Parents, the Teacher provided "a weekly overview of the week of May 11, 2026".

    a. The Teacher noted that the Student "is struggling to do the online work" and the overview reflects "the workbooks and texts [they are] currently working through";

    b. The Special Education Teacher is available to meet, "please reach out to coordinate with [them] as soon as possible if your schedule allows"; and

    c. There was also a notation that no meeting had occurred with the Special Education Teacher during the week of May 11, 2026.

71. In an email dated May 20, 2026 to the District Special Programs Director (Director 2), Parent 1 asked if use of alternative curricula are "accommodations" since the Student's IEP did not include academic accommodations of this nature. On the same date, the Special Education Teacher followed up with more details and ways to support the Student in meeting at the school on June 1, 2026.

72. In an email dated May 21, 2026 to Parent 2, the Teacher offered additional options to meet with the Special Education Teacher and Director.

73. In an email dated May 27, 2026 to both the Parents, the Teacher provided a weekly overview of the Student's coursework in science, math, English/Language Arts, Social Studies and SEL (emotional awareness lesson) and confirming a meeting with the Special Education Teacher on June 1, 2026.

74. On June 1, 2026, Parent 1 filed this Complaint. In their interview, Parent 1 stated that according to information provided to them by Parent 2 and the Teacher, "the only SPED services that [the Student] received were the 15-minute meetings with the consulting teacher" and these sessions occurred on June 1 and 9, 2026.

IV. DISCUSSION

Child Find

The Complaint alleged that the District violated the IDEA, and its Child Find mandate when it failed to maintain the Student's eligibility for a free appropriate public education as a resident homeschooled student of the District during the relevant portion of the 2024-2025 school year.

School districts must identify, locate, and evaluate all children with disabilities for whom they are responsible who need special education, regardless of the severity of the disability.[5] This includes children who are suspected of having a disability even though they are advancing from grade to grade, or are homeschooled.[6] Children are eligible for special education when they have a disability as defined by the IDEA and state authorities and, by reason thereof, require special education.[7] Evaluations must be sufficiently comprehensive to identify all of the child's special education and related service needs, whether or not commonly linked to the disability category in which the disability is suspected.[8] Such an inquiry is not limited to academic performance.[9] School districts must also consider a child's "social and emotional needs that affect academic progress, school behavior, and socialization."[10] The threshold for suspecting that a child is or may be a child with a disability is relatively low, as "the inquiry is not whether or not [a student] actually *qualifie[s]* for services, but rather, [whether the student] should be *referred* for an evaluation."[11]

According to the District 2025-2026 School Year Calendar, the first day school for students was September 2, 2025. Here, Parent 1 registered the Student with the local ESD as a homeschooled student in July of 2025, and although the ESD's correspondence affirms the Student's registration, the letter itself does not reference the Student's prior special education eligibility. Thus, the District was not reasonably aware that the Student had a suspected disability at that time and its Child Find obligation was not triggered during the 2024-2025 school year as reflected in this allegation.

Based upon the evidence reviewed in this matter, however, the Department makes an additional finding as to the District's Child find obligation during the 2025-2026 school year. The District's Child Find obligation was clearly triggered when Parent 2 registered the Student for the District Online Program and specifically disclosed the Student's prior special education eligibility on September 15, 2025. This information was then passed to the Director through internal email correspondence on September 24, 2025.

As of September 15, 2025, the District had clearly located a Student with a record of special education eligibility. Thereafter, the District contacted the Student's prior school district and on October 8, 2025 had received the Student's special education records. Parent 1's October 2025 correspondence to the District about the Student's special education needs also would have triggered the District's Child Find obligation, had the District not already been placed on notice. While the 2021 IEP and eligibility had "lapsed", the District did not propose a new evaluation of the Student for special education eligibility until February 5, 2026, which was an unreasonable delay.

[5] OAR 581-15-2080(2); 34 CFR § 300.111(a)
[6] OAR 581-15-2080(2)(d); 34 CFR § 300.111(c)(1)
[7] OAR 581-015-2120; 34 CFR § 300.306
[8] OAR 581-015-2110; 34 CFR § 300.304
[9] Letter to Clarke, 48 IDELR 77 (3/8/07)
[10] *Cty. Of San Diego v. California Special Educ. Hearing Office*, 93 F.3d 1458, 1467 (9th Cir. 1996)
[11] *Dep't of Educ., State of Hawaii v. Cari Rae S.*, 158 F. Supp,2d, 1190, 1195 (D. Haw. 2001)

The Department does not substantiate this allegation as to the 2024-25 school year. The Department does make an additional finding that the District failed to satisfy its Child Find obligation during the 2025-26 school year.

Evaluation and Reevaluation Requirements

The Complaint alleged that the District violated the IDEA when it failed to timely initiate a reevaluation of the Student.

The District does not contest this allegation.

The Department does not make a substantive determination regarding this allegation.

IEP Team Membership

The Complaint alleged that the District violated the IDEA when it failed to include all required members of the Student's IEP team to attend an IEP team meeting.

Under the IDEA, the IEP team of a student with a disability must include the parents of the child, at least one general education teacher of the child, at least one special education teacher of the child or, where appropriate, at least one special education provider of the child, a district representative, an individual who can interpret the instructional implications of evaluation results, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate, and whenever appropriate, the child.[12]

Persons who have the right to make educational decisions for a child are "the parents" under the IDEA and are entitled to participate in the IEP process.[13] When the parents of a child with a disability are divorced, the parental rights under the IDEA apply to both the parents, unless a court order or other state law specifies otherwise.[14] Under Oregon law, "joint custody" means "an arrangement by which the parents share rights and responsibilities for major decisions concerning the child, including, but not limited to, the child's residence, education, health care and religious training. An order providing for joint custody may specify one home as the primary residence of the child and designate one parent to have sole power to make decisions about specific matters while both parents retain equal rights and responsibilities for other decisions."[15] When the parents of a student with a disability are divorced, and a school district is informed that the parents have joint legal custody, the district must give full IDEA parental rights to both parents. Absent information to the contrary, a District may assume that parents with joint legal custody share rights and responsibilities for educational decisions.[16] Thus, school districts with knowledge that parents have joint custody must invite both parents to IEP meetings, must send

[12] OAR 81-015-2210; 34 CFR § 300.321(a).
[13] *See* 34 CFR 300.30 (a); and 34 CFR 300.321 (a)(1);
[14] 71 Fed. Reg. 46,568 (2006).
[15] *Newberg SD,* 109 LRP 67525, OR 2006); ORS 107.169.
[16] OAR 581-021-0230 specifies that, for the purposes of the Parent rights related to student records, a district shall give full rights "to either the Parent, unless the agency or institution has been provided with evidence that there is a court order, state statute or legally binding document relating to such matters as divorce, separation, or custody that specifically revokes those rights." The definition of the Parent for the purposes of special education is less specific, stating that a Parent is a "natural or adoptive the Parent of the child; a person acting as a the Parent; a legal guardian, other than a state agency; a surrogate the Parent; or an adult student to whom rights have transferred." OAR 581-015-0005(18).

required notices to both parents, and must give both parents the opportunity to be included in the decision-making process.[17]

On September 30, 2025, the District was informed by Parent 2 that the parents had joint custody. Email correspondence provided by the District confirms that Parent 2 requested separate IEP meetings on October 1, 2025. On October 7, 2025, Parent 1 wrote to the District with the intention of asserting their "custodial rights and [their] concerns about the school being able to meet [the Student]'s special education needs". In an October 8, 2025 response, the Teacher informed Parent 1 that the District had no intention of leaving Parent 1 out of the evaluation process, the IEP process and next steps.

As the District prepared to convene an IEP team meeting in March of 2026, the Director and the Teacher granted Parent 2's request that the IEP development meeting would occur over two meetings, one with each parent. On March 10, 2026, the Teacher acknowledged that "meeting separately" may create the possibility that "we need to hold off on finalizing goals or plans until everyone has had a chance to meet and reach agreement." In essence, by holding two meetings, the District excluded one Parent from each meeting, instead of convening a meeting with both Parents present. Thus, the District failed to include Parent 1 in all of the IEP development discussions.

The Department substantiates this allegation.

IEP Content

The Complaint alleged that the District violated the IDEA when it failed to include specific special education and related services and supplementary aids and services in the Student's IEP necessary to fully address the Student's behavior related needs that result from the Student's disabilities.

An IEP must contain (1) a statement of the student's present levels of achievement and functional performance, including how the student's disability affects the student's involvement and progress in the general education curriculum; (2) measurable annual goals and a description of how the student's progress toward meeting the annual goals will be measured and reported; (3) a statement of the specific special education and related services and supplementary aids and services to be provided to the student; (4) the projected dates for initiation of services and the anticipated frequency, amount, location, and duration of the services; and (5) an explanation of the extent to which the student will not participate with children without disabilities in the regular class and activities.[18] The Present Level of the IEP operates as a foundation upon which the entire plan is built and is required to "contain sufficient detail to allow the IEP team to determine the extent of the [Student]'s abilities and special education needs."[19]

[17] *Newberg SD,* 109 LRP 67525, OR 2006);
[18] OAR 581-015-2200(1); 34 CFR §300.320(a).
[19] *S.W. v. Governing Board of Whittier City Sch. Dist.* 60 IDELR 124 (9th Cir. 2013).

A school district "must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances."[20] The specific special education and related services and supports to be provided must enable the student to (1) advance appropriately toward attaining annual goals, (2) be involved and progress in the general education curriculum, and (3) be educated and participate with other children with and without disabilities.[21]

"The adequacy of a given IEP turns on the unique circumstances of the child for whom it was created."[22] School districts are expected to "be able to offer a cogent and responsive explanation for their decisions that shows the IEP is reasonably calculated to enable a child to make progress appropriate in light of his circumstances."[23]

In mid-November of 2025, the Student's progress had been evaluated through District progress monitoring tools. The Student's reading benchmark indicated that they scored in the 63rd percentile in reading, the 58th percentile for passage reading, and the 89th percentile for vocabulary. The i-Ready math diagnostic indicated that the Student scored in a late-6th grade placement for number and operations and mid-6th grade placement for the remaining mathematic skill areas (algebra and algebraic thinking, measurement, and data and geometry).

Thereafter, email communication between Parent 2 and the Teacher discussed on-going parental concerns with the Student's academic engagement and progress. In December of 2025 and January of 2026, Parent 2 and the Teacher agreed to have monthly calls regarding the Student's progress but did not include Parent 1 in these calls. On February 20, 2026, the Student was described as "very diligent academically" with A's and B's on their report card. Email correspondence throughout March of 2026 document significant concerns with the Student's academic engagement. On March 3 and 4, 2026, Parent 2 reported the Student to be having a hard time wanting to do any assignments and that the Student was "getting so overwhelmed by the assignments" that it was getting difficult to get the Student to complete schoolwork. Parent 2 requested "cutting out more math assignments". The Teacher responded by offering to meet with Parent 2 to problem solve some options for the Student. In the following days, Parent 2 requested alternative curricula for the Student in math and the spring progress monitoring data showed regression in the Student's skills when compared to fall progress monitoring data. Shortly thereafter on March 10, 2026, Parent 2 reported that the Student was having "meltdowns" and "refusing IXL and other assignments" and that the Student would only work with paper. Parent 2 requested additional assignments be cut and there was a chance the Student would need to return to 5th grade work to feel more comfortable. On March 16, 2026, Parent 2 emailed reporting "continued refusal behavior of all subjects". Parent 1 was not included in any of these emails or meetings offered by the Teacher to discuss and problem-solve Parent 2's concerns.

During the 2025-2026 school year, the District developed one IEP for the Student on March 17, 2026. The IEP's Present Level indicates the Student is engaged in their on-line curriculum. The Parent Concerns section of the IEP does not reflect any of the concerns discussed via email and in progress meetings leading up to the IEP meeting. Rather the Student was reported as

[20] *Endrew F. v, Douglas Cty. Sch. Dist.*, 137 S.Ct. 988, 999 (2017).
[21] OAR 581-015-2200(1)(d); 34 CFR §300.320(a)(4)
[22] *Endrew F.*, 137 S.Ct. at 1001
[23] *Id.* at 1002.

academically at "grade level in the general education curriculum" requiring redirection and prompts to stay focused on a task. The accommodation selected by the IEP team was a "break area" and did not reference any academic accommodations or curricular modifications, including the reduction/elimination of assignments, as discussed by the Teacher and Parent 2. As Parent 1 was not included in the emails referenced or the progress calls, and the Special Education Teacher had not worked with the Student prior to attending the meeting, these team members were not provided the same information as the Teacher and Parent 2.

The Student's IEP provides that the Student is entitled to Social Skills SDI for 15 minutes per week beginning March 18, 2026 to be provided by a "consulting teacher" in "all school sites". In their interviews, District personnel explained that the Social Skills SDI would be intended to address both the Student's social skills and social pragmatic goals but did not, however, provide additional information about the nature of the instruction. In determining the Student's Placement, the team selected "30-80% or more the day in regular class," from the three options listed. The team indicated this selection allowed for individual instruction, a mainstream program, a broader choice of curricular topics, and is the preferred learning environment. The determination also included the phrase, "work on timeline/schedule that best suits student/family needs".

The description of the Student's placement is predicated upon a timeline yet to be developed that would suit family and student need; this description is too ambiguous for Parent 1 or an implementing service provider to determine what, when, and how much time the Student is anticipated to be included in a school program with peers.

The Department substantiates this allegation.

Review and Revision of IEP

The Complaint alleged that the District violated the IDEA when it failed to convene the IEP team to meet in response to the Parent's request to do so.

The District does not contest this allegation.

The Department does not make a substantive determination regarding this allegation.

When IEPs Must Be In Effect

The Complaint alleged that the District violated the IDEA by not providing special education and related services in accordance with the Student's most recent IEP, including failing to implement an IEP for the Student at the beginning of the school year.

School districts must provide special education and related services to a student with a disability in accordance with the student's IEP.[24] The school district must ensure that each staff member, including service providers, has access to a the Student's IEP and is informed of their specific

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

responsibilities for implementing the IEP.[25] "IEP Teams and other school personnel should be able to demonstrate that, consistent with the provisions in the a the Student's IEP, they are providing special education and related services and supplementary aids and services."[26]

If a student has an IEP in effect and moves to a new district in the same sate within the same school year, the new district must provide comparable services until it either: 1) adopts the previous IEP; or 2) develops, adopts, and implements a new IEP.[27]

In this case, the Student did not have "an IEP in effect" when they enrolled in the District. While they had an IEP that was developed on April 30, 2021, it had not been implemented for several years. As reflected in its Response, the District "did not find it appropriate to adopt the significantly out of date IEP." The District did not contest that there was a delay in creating a new IEP for the Student, which was addressed above in the discussion regarding Child Find. The evidence demonstrates that the District made reasonable and continuous efforts to implement the services in the Student's March 2026 IEP, but that Parent 2 often did not make the Student available for those services.

The Department does not substantiate this allegation.

Placement of the Child

The Complaint alleged that the District violated the IDEA by not placing the Student in their least restrictive environment, specifically a placement based on the Student's IEP.

School districts must ensure that the educational placement of a child with a disability is determined by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options.[28] Placement decisions should not be based solely on factors such as category of disability, severity of disability, configuration of delivery system, availability of educational or related services, availability of appropriate staff, or administrative convenience.[29] "Each student's placement must be individually-determined based on the individual student's abilities and needs... it is the program of specialized instruction and related services contained in the student's IEP that forms that basis of the placement decision."[30] The IDEA "requires that the placement be based on the IEP, and not vice versa."[31]

The parents are entitled to a "formal written offer" of the special education placement offered to their student.[32] This requirement for a "formal written offer" has been applied to special education services, as well as placement. Courts have invalidated IEPs that "were insufficiently clear and specific to permit the parents to make an intelligent decision whether to agree,

[25] OAR 581-015-2220; 34 CFR §300.323
[26] Questions and Answers on *U.S. Supreme Court Decision Endrew F. v. Douglas County Sch. Dist.* Re-1, 71 IDELR 68 (EDU 2017)
[27] OAR 581-015-2230(1); 34 CFR §300.323(e)
[28] OAR 581-015-2250(1); 34 CFR §300.116(a)(1).
[29] OSEP Memorandum 95-9 (OSEP 11/23/1994); Letter to Veazey (OSEP 11/26/2001).
[30] OSEP Memorandum 95-9.
[31] *K.D. ex rel. C.L. v. Dep't of Educ., Hawaii*, 665 F.3d 1110, 1123 (9th Cir. 2011).
[32] *Union v. Smith*, 15 F.3d 1519 (9th Cir. 1994)

disagree, or seek relief through a due process hearing."[33] Appendix A of the IDEA regulations states that "the amount of services to be provided must be stated in the IEP, so that the level of the agency's commitment of resources will be clear to the Parents and other team members."[34]

As noted above, Parent 1 was excluded from part of the IEP development and placement determination. In determining the Student's Placement, the IEP team selected "30-80% or more the day in regular class," from the three options listed. The team indicated this selection allowed for individual instruction, a mainstream program, a broader choice of curricular topics, and is the preferred learning environment. The determination also stated, "work on timeline/schedule that best suits student/family needs". In their interview, Parent 1 explained that they "had no opportunity to see or discuss any drafts before it was finalized" and that they were told by the Special Education Teacher on the afternoon after the IEP meeting that "I think once we have the other IEP, things will be more clear how to proceed." Parent 1 indicated the IEP was "finalized without my input" and they did not know the actual information included in the IEP until they were "sent a final copy a month later".

Upon receipt of the IEP in April of 2026, the description of the Student's placement is predicated upon a timeline yet to be developed that would suit family and student need; this description is too ambiguous for Parent 1 to determine what, when and how much time the Student is anticipated to be included in a school program with peers.

The Department substantiates this allegation.

Prior Written Notice

The Complaint alleged that the District violated the IDEA by not providing the Parent with prior written notice (PWN) within a reasonable period of time before the District proposed or refused to initiate or change the identification, evaluation, educational placement, of provision of a free appropriate public education to the Student. This included the failing to provide a PWN in response to the Parent's requests for the District to convene an IEP meeting.

The District does not contest this allegation.

The Department does not make a substantive determination regarding this allegation.

Parent Participation

The Complaint alleged that the District violated the IDEA by interfering with the Parent's ability to participate in decisions with respect to the identification, evaluation (including evaluation planning meeting), IEP and educational placement of the Student, and the provision of a free appropriate public education to the Student.

[33] *S.H.* v. Mt. Diablo Unif. Sch. Dist., 263 F.Supp.3d 746 (N.D. Cal. 2017).
[34] *Bend-Lapine Sch. Dist. v. K.H.,* 43 IDELR 191 (D. Or. 2005).

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.[35] 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.[36] "[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."[37] The IEP Team meeting serves as a communication vehicle between the parents and school personnel and enables them, as equal participants, to make joint informed decisions regarding the services that are necessary to meet the unique needs of the child.[38]

IEP teams are to work towards decision-making through attempting to reach a general agreement among all members, "a consensus"[39]. "When consensus is able to be achieved, the team is not permitted to "vote", the District Representative has the duty to formulate the plan to the best of its ability in accordance with information developed at the IEP.[40] "If the team cannot reach agreement, the public agency must determine the appropriate services and provide the parents with prior written notice of the agencies determinations regarding the child's educational program and of the parents' right to seek resolution of any disagreement by initiating an impartial due process hearing or filing a state complaint."[41]

As determined in response to the issues of IEP Team Membership and Placement, Parent 1 was excluded from part of the IEP development discussions. In their interview, the Director spoke to the differences in the Parents' thoughts on placement for the Student's March 2026 IEP. The Director concluded that:

> Parent 2 "wanted to have the [S]tudent enrolled in the online program with opportunities to engage in social skills at the school" and Parent 1 "wanted this as well but wanted an accelerated transition with more frequent opportunities to practice social skills which we were/are amenable to. [Parent 2] seemed agreeable to adjusting service time going forward as more time was spent on site".

It is clear from the issue, and other disagreements that Parent 1 has shared about the IEP content that further discussion was required with all Parties, including both Parents at the table so that Parent 1 had the opportunity to participate as a member of the team for the full discussion of the Student's needs and the services to be provided to meet those needs.

The Department substantiates this allegation.

V. CORRECTIVE ACTION

In the Matter of McKenzie School District 68

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

[36] OAR 581-015-2205(1)(b) and (d); 34 CFR §300.324(a)(1)
[37] Letter to Northrop (OSEP 5/21/13), citing 71 Fed. Reg. 46,678 (2006)
[38] Letter to Richards (OSEP 2010).
[39] *Ibid.*
[40] *Doe v. Maher*, 557 IDELR 353 (9th Cir. 1986).
[41] Letter to Richards (OSEP 2010).

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

Action Required	**Submissions**	**Due Date**
1. The District must ensure that all District and Program staff involved in the Student's special education and placement receive training in each of the following areas: a. Child Find; b. Reevaluation procedures; c. IEP content; d. Placement determination; e. Parent participation, specifically when divorced parents have joint custody and educational decision making; and f. Prior Written Notice.	Training agenda/materials to ODE for review/approval. Sign-in sheet for training.	**September 30, 2026** **December 15, 2026**
2. The District must convene an IEP meeting with both Parents, should both Parents wish to attend, to review the Student's IEP, including revising the IEP to ensure the IEP adequately describes the Student's disability-related needs and includes all services and supports necessary to address those needs.	Documentation of offer to hold IEP meeting made to the Parents. Documentation of PWN issued related to the amended IEP.	**September 30, 2026** **December 15, 2026**
3. The District is required to convene a meeting with both Parents to create a plan to provide compensatory services to the Student to make up for the delay in conducting an evaluation. These services shall include, at a minimum, 210 minutes of SDI in social skills.	Documentation and a PWN from the District of a plan agreed upon by the Parents and the District to provide compensatory services. Documentation that compensatory services have been completed.	**December 15, 2026** **March 15, 2027**

Dated: this 31st Day of July 2026



Ramonda Olaloye
Assistant Superintendent
Office of Enhancing Student Opportunities

E-mailing Date: July 31, 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).)