```BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

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| In the Matter of<br>Baker School District 5J and Harney<br>Union High School District 1J | )<br>)<br>)<br>) | FINDINGS OF FACT,<br>CONCLUSIONS,<br>AND FINAL ORDER<br>Case No. 26-054-074 |

## I. Background

On June 3, 2026, the Oregon Department of Education (Department) received a written request for a special education complaint investigation from the parent (Parent) of a student (Student) who attends a public charter school (School) sponsored by Harney Union High School District 1J (District 1) and served by Baker School District 5J (District 2). 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 Districts.

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 Districts agree to the extension in order to engage in mediation or local resolution or for exceptional circumstances related to the complaint.[2]

On June 3, 2026, the Parent submitted relevant documents in conjunction with their filing of this Complaint:

1. Prior Notice about Evaluation/Consent for Evaluation, 4/23/2026
2. School Student Application, dated 8/17/2025
3. Emails regarding Student data collection, 9/16/2025-5/14/2026
4. 2024-2025 SST Form and Guiding Questions, initiation date 9/2/2025
5. Screen shot of staff on SST, undated
6. Emails regarding IEP meeting, 12/10/2025
7. Emails regarding meeting summary, 12/12/2025-5/14/2026
8. Emails regarding evaluation planning meeting, 12/16/2025-12/21/2025
9. Parent/Student Rights/Section 504 Notice & Eligibility/504 Accommodation Plan, 3/4/2025-10/14/2025
10. Email regarding phone call, 1/12/2026
11. Parent Input Statement & Concerns, 4/21/2026
12. Student Eligibility Determination-Transcript, 4/16/2026
13. Student IEP (Initial) Transcript, 4/22/2026

[1] OAR 581-015-2030(12) and 34 CFR § 300.152(a).
[2] OAR 581-015-2030(12) and 34 CFR § 300.152(b).
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14. Emails regarding initial IEP, 4/21/2026-4/30/2026
15. Prior Notice of Special Education Action, 4/28/2026
16. Emails regarding compensatory education, 5/8/2026-5/11/2026
17. Emails regarding IEP, 5/5/2026-5/7/2026
18. Email regarding service and placement page of IEP, 5/12/2026
19. Prior Notice/Consent for Initial Special Education Services, 4/22/2026
20. Emails regarding Consent to Initial Provisions, 5/13/2026
21. Student's Oregon Standard IEP, 4/27/2026
22. Curriculum ideas for Student, 5/14/2026
23. Student Curriculum Discussion-Transcript, 5/14/2026
24. Emails regarding Student's IEP, 5/21/2026- 5/27/2026

On June 24, 2026, the Department's Complaint investigator sent a *Request for Response* (RFR) to Districts 1 and 2, identifying the specific allegations in the Complaint to be investigated and establishing a *Response* due date of July 8, 2026. On June 30, 2026, District 2 requested a 14-day extension (July 22, 2026) to respond to the Complaint and the extension request was denied due to the final report deadline.

District 2 submitted the following documents on July 13, 2026:

1. Minutes of Evaluation/Reevaluation Planning Meeting, 3/4/2025
2. Prior Notice of Special Education Action, 3/4/2025
3. Letter from doctor, 3/21/2025
4. Evaluation Report-Incomplete Draft, circa 5/27/2025
5. [School] Education Plan, 8/25/2025
6. 504 Plan, 9/25/2025
7. 2024-2025 SST Form, from Fall 2025 (Incomplete)
8. Section 504 Conference/Student Accommodation Plan/Meeting Notes, 9/25/2025 -10/15/2025 and signed by Parent 11/17/2025
9. Student 3rd Grade Report Card, 11/3/2025
10. Easy CBM Student Progress Report, 12/10/2025
11. Email thread, 12/10/2025-12/15/2025
12. Evaluation Planning Information, 1/6/2026
13. Prior Notice about Evaluation/Consent for Evaluation, 1/13/2026
14. File Review of Existing Information/Student Referral, 1/13/2026
15. Authorization to Use/Disclose Health Information (medical), 1/14/2026
16. Authorization to Use/Disclose Health Information (mental health), 1/14/2026
17. Medical statement, transmitted 1/22/2026
18. Confidential Report, 4/15/2026
19. Statement of Eligibility, 4/16/2026
20. Parent Input Statement and Concerns, 4/21/2026
21. Prior Notice/Consent for Initial Provision of Special Education, 4/22/2026
22. Special Education Placement Determination, 4/22/2026
23. Student's Oregon IEP, 4/27/2026
24. Prior Notice of Special Education Action, 4/28/2026

25. Email regarding Parent concerns (consent), 5/12/2026
26. Easy CBM Student Progress Report, 5/13/2026
27. Prior Notice of Special Education Action, 6/30/2026
28. Excel spreadsheet email communication log, 2025-2026 school year

The Complaint Investigator interviewed the Parent on June 23, 2026, and on July 23, 2026, the Complaint Investigator interviewed the Special Education Director of District 2 and the Special Education Case Manager of District 2. District 2 submitted the following documents on July 23, 2026:

1. Curriculum Discussion, dated 5/14/2026
2. Compensatory Education Services Agreement, circa school year 2025-2026

The Complaint Investigator reviewed and considered all documents, interviews, and interview 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 4, 2025, to the filing on this Complaint on June 3, 2026.

Allegations	Conclusions
Evaluation and Reevaluation Procedures The Complainant alleged that District 1 and District 2 violated the IDEA when they failed to complete an initial evaluation of the Student and meet to determine eligibility within sixty (60) days of written parent consent. (OAR 581-015-2110; 34 CFR §300.301)	**Substantiated** The Districts 1 and 2 failed to complete an initial special education evaluation initiated, though not completed, in the Student's previous Oregon district. Upon enrollment in the School, the Parents provided information regarding the Student's involvement in the special education process.

Child Find The Complainant alleged that District 1 and District 2 violated the IDEA when they failed to timely identify and evaluate the Student to determine if they have a disability requiring special education and related services. Specifically, when the Districts required a general education tracking process prior to evaluating the Student, although their previous district had previously initiated an evaluation for special education, prior to the Student's enrollment in the School. (OAR 581-015-2080; 34 CFR § 300.111)	**Substantiated** The Districts 1 and 2, even with information regarding the Student's involvement in a special education process at their previous district, failed to timely identify and evaluate the Student for special education eligibility. They required a general education intervention over 6 weeks prior to initiating a referral for special education evaluation.
Parent Participation The Complainant alleged that District 1 and District 2 violated the IDEA by interfering with the ability of the Parent to participate in decisions with respect to the IEPs, educational placements, and the provision of a free appropriate public education (FAPE) to the Student. (OAR 581-015-2190 & 2195; 34 CFR §300.501)	**Not Substantiated** The records show that the Parents were provided meeting invitations, with prior notice, for the Student's 504 Plan meeting, SST meeting, evaluation planning meeting, evaluation review/eligibility meeting, IEP meeting. In addition, District 2 responded to Parent requests for additional meetings to discuss Parent concerns.
Content of IEP The Complainant alleged that District 1 and District 2 violated the IDEA when they failed to develop an Individualized Education Program (IEP) that was reasonably calculated to provide the Student a FAPE and that was based on the individual needs of the Student and included adequate direct services. Additionally, the Student's IEP does not clearly specify the nature of the specially designed instruction (SDI) and related services that will be provided to the Student such that the Parent can understand what is being offered.	**Not substantiated** The Student's IEP, developed in conjunction with the Parent, includes 4 goal areas, with SDI associated with each goal to be provided and monitored by District 2. Additional discussions occurred between the Parents and IEP team members regarding the service delivery model and materials to meet the Student's needs, and address Parent concerns.

(OAR 581-015-2200; OAR 581-015-2205; 34 CFR 300.17; 34 CFR §300.320; 34 CFR §300.324)	
Free Appropriate Public Education (FAPE) The Complainant alleged that District 1 and District 2 violated the IDEA and denied the Student a FAPE, when they required the Parent, to pay for the disability-specific curricular materials that were needed to implement the Student's IEP goals through the Student's general education stipend. (OAR 581-015-2040; 34 CFR §300.17; CFR §300.101)	**Not Substantiated** The record shows that following the IEP meeting and continued discussion regarding curricular materials, the Parent was offered the Barton reading program, with individual tutoring.

REQUESTED CORRECTIVE ACTION
The Complainant requested corrective action as follows: 1. Provide compensatory services to remedy the delay in evaluating the Student from October 2025 to May 2026. 2. Amend the IEP to appropriately document the frequency and duration of SDI. 3. Fund the specialized curriculum materials required to implement the Student's IEP. 4. Require District-level corrective action to ensure Baker complies with: a) evaluation timelines, and b) funding of curriculum obligations for special education students, and c) does not alter IEP services without formal Prior Written Notice (PWN) and parental consent because they conflict with the present program model.

III. FINDINGS OF FACT

IDEA regulations limit complaint investigation 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 June 4, 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 9 years old and was in the 3rd grade at the time of the filing of the Complaint.

2. The Student enrolled in the School, a virtual public charter school sponsored by District 1, in August 2025. The first day of the 2025-2026 school year was September 2, 2025.

3. At the time of the Student's enrollment at the School, they had not been identified as a student with a disability in need of special education services or a 504 Accommodation Plan. However, on April 25, 2025, the Parents provided signed consent for the Student's previous Oregon school district to conduct an initial special education evaluation to determine if the Student was eligible for special education services. The evaluation was initiated, but not completed by the end of the 2024-2025 school year, and no IEP or 504 Plan was developed.

4. On the enrollment form, in response to the question, "Has this student, to your knowledge, ever been provided any of the support services listed" the Parents indicated "Special Education (IEP)" and "504 Plan." Also, in the "Other Information" section, the Parents stated that the Student "has been having significant school avoidance issues and [the School] seems like a good option for [the Student]."

5. On August 25, 2026, the School sent the Parent an Education Plan for the Student that had been co-developed by the Student's teacher (Teacher), the Parent, and the Student, and included information regarding the core curriculum and supplemental curriculum for the 2025-2026 school year with the goal of "students learning grade level standards and completing their curriculum within the school year."

6. By email on September 16, 2025, the Teacher informed the Parent that they had started the data collection process to get the Student "moving towards establishing an IEP" and attached a "Student Services Team Form (SST Form)." The Teacher stated that they "have to work on this document for 6 weeks starting from the date of signature" and requested that the Parent sign the document right away so they can "officially start the clock." The Teacher also requested the Parent note the "interventions" section, which they would go over to determine how the supports are working or not working during an October meeting and make any needed adjustments. The Teacher stated that this form would be the "way of demonstrating to the SPED team which supports and accommodations have been tried and are working or not working. This then will help them determine where to focus the IEP goals and strategies." The Parent signed the form on September 19, 2025.

7. A review of the Form identified the primary concern for the Student as "difficulty maintaining focus," which included "frequent fidgeting" and "rushes off to other rooms", and "highly resistant to completing academic work." It also indicated that the Student "exhibits high anxiety in a social setting" if the Student does not know the other students or the routine.

8. On September 25, 2025, the Parent was invited to a Section 504 conference to "discuss the educational needs of your child" that was scheduled for October 15, 2025.

9. The 504 team, including the Parent, met on October 15, 2025, and determined that the Student had a "physical or mental impairment" that substantially limited their ability to think, concentrate, learn, read, communicate and interact with others." The Parents signed the 504 Accommodation Plan on November 17, 2025.

10. The 504 Accommodation Plan information also indicated that the Student's initial 504 Plan was developed on April 2, 2025, at the previous school district. Information reviewed included documentation from the previous school district and intervention the Student received.

11. The 504 Accommodation Plan included instructional supports such as, 1) providing clear, concise and repeated directions, 2) providing extra time for work completion, 3) chunking larger assignments into smaller parts, 4) offering choices of assignments, 5) providing written and visual instructions. Testing and assessment supports were also included that allowed for extended time, frequent prompts, quiet environment, and shorter sessions. The behavioral and emotional supports for the Student included collaboration with the Parents to establish consistent daily routines, implementing a calm-down plan, encourage self-regulation strategies, immediate feedback and praise, and the development of a behavior support plan, if necessary. The plan also states that a "SST" plan was initiated for collection of additional data "for a special education referral."

12. In an email to School staff on December 10, 2025, the Parent inquired about an IEP evaluation planning meeting for the Student that they thought "someone was supposed to follow up with me regarding doing..." That same afternoon, the Teacher confirmed that they had submitted the referral to District 2 and was waiting for the "SPED Team to set a meeting date."

13. On December 12, 2025, the Teacher emailed the Parent regarding a meeting they had the same day. The Teacher provided a summary of the discussion and topics covered, including the Student's current supports and accommodations. Support that was automatically provided in "our school model" included reading data options, and attention/behavior/anxiety supports. The Teacher concluded with some questions for consideration regarding the Student's current accommodations or "choosing to have us continue to advocate for an IEP." The Teacher shared their support for "whatever route you want to pursue."

14. On December 16, 2025, a Special Education Case Manager emailed the Parent that they had received their request for testing for [the Student] and indicated they had scheduled an evaluation planning meeting for January 13, 2026. The Case Manager

included a copy of the Meeting Notice and Parents Rights. The Parent responded that the date "works for us" and asked, "why we have to start this process over." The Case Manager responded that they had "received the referral yesterday but from what I can tell, [the Teacher] was following our Response to Intervention process, which is a requirement before students are referred for special education testing."

15. On January 6, 2026, the Student's Teacher completed an Evaluation Planning Form in preparation for the evaluation planning meeting scheduled for January 13, 2026, including information regarding the Student's strengths (i.e., friendly, easy to communicate with, excellent at sports) and areas of need (i.e., needs repeated instructions, frequent prompting to stay on task). Other areas the Teacher commented on were: 1) how the Student is doing this year, 2) concerns about academic performance, 3) grades/test scores, 4) communication/language, 5) behavior, 6) use of low/high technology devices.

16. On January 12, 2026, the Parent emailed the Case Manager, indicating the they appreciated the call "today" and looked forward to the planning meeting the next day. The Parent summarized the phone call discussion, stating that 1) the School did not send the SPED referral/info/request to District 2 when the Student enrolled, 2) that when a student un-enrolls in one district with an in-process evaluation (not completed), District 2 "starts the 60-day timeline again," and 3) the Case Manager "felt in looking at my parent statement that I'm not clear on what the School will offer as far as IEP/sped services."

17. On January 13, 2026, the team, including the Parent, reviewed the SST data, intervention strategies already implemented, Parent concerns, and Teacher input regarding the Student's performance, and determined to initiate an initial special education eligibility evaluation.

18. Following the evaluation planning meeting on January 13, 2026, District 2 provided the Parents with a Prior Written Notice, dated January 13, 2026, proposing to evaluate the Student to determine if they qualify for special education services. The proposed areas of assessment were academic achievement, cognitive ability, behavior/social-emotional, an anxiety scale, observation of the Student, and medical/health assessment statement. The Parent provided consent for the evaluation on January 14, 2026.

19. District 2 began to compile information, with Parent written consent, for the initial special education evaluation and received medical information from the Student's medical provider, as well as information from the Student's mental health provider.

20. On April 15, 2026, District 2's School Psychologist completed a confidential report of the Student's initial Special Education evaluation results. The School Psychologist provided conclusions for the evaluation team to consider when determining the Student's

eligibility for Special Education services, specifically reviewing the Emotional Behavior Disability, Other Health Impairment, and Specific Learning Disability eligibility categories.

21. On April 16, 2026, the evaluation team, including the Parent met and reviewed all the evaluation results and determined the Student was eligible for Special Education services under the Emotional Behavior Disability and Other Health Impairment categories, but not under the Specific Learning Disability category. All team members agreed with the three separate determinations.

22. On April 21, 2026, the Parents provided the IEP team with a Parent Input Statement and Concerns, and requested that the team consider goals and services in 1) executive functioning and behavior (task initiation and self-regulation goals), and 2) academics (reading and written expression).

23. The IEP team met on April 22, 2026, to develop an IEP for the Student. Following the meeting, District 2 provided a Prior Notice for Provision of Special Education Services, as well as documentation of the IEP team's Special Education Placement Determination decision. The IEP team selected "full inclusion with Special Education services embedded into the online curriculum (30-80% or more of day in regular class).

24. The Student initial IEP of April 22, 2026, indicated they needed assistive technology/services (i.e., speech-to-text, audiobooks, sensory fidgets) , as well as specialized formats of educational materials. The IEP included goals in reading, writing, behavior-study skills, and self-management. Progress is to be reported at the end of each semester. The specially designed instructional (SDI) was as follows:
    a. Reading: 30 minutes monthly, provided/monitored by the LEA
    b. Written Language: 30 minutes monthly, provided/monitored by the LEA
    c. Behavior-study skills: 30 minutes monthly, provided/monitored by the LEA
    d. Self-management: 30 minutes monthly, provided/monitored by the LEA

    In addition, the IEP included accommodations for:
    a. shortened assignments to demonstrate mastery of material
    b. graphic organizers
    c. reteach/pre-teach content
    d. allow for processing time
    e. warning for changes/transitions
    f. extra time for completion
    g. visual prompts
    h. set goals with Student
    i. needs breaks
    j. alternate methods to show mastery of material
    k. frequent check-ins

l. audiobooks
m. text-to-speech/speech-to-text
n. sensory fidgets
o. read directions, materials and tests aloud
p. test setting accommodations

Consultation for teaching staff is to be provided 15 minutes per semester by the Case Manager to the staff at the School regarding services on the IEP.

25. District 2 provided the Parents with a Prior Notice of Special Education Action on April 28, 2026, proposing to implement the newly developed IEP. The Notice also detailed that District 2 considered the Parent's requests for an evidenced-based reading intervention program, a school specialist to provide reading instruction separate from the general education curriculum, and funding for such programming outside of the general parent curriculum allotment. District 2 stated they "are not denying reading instruction or counseling supports, but is not proposing to implement these services in the specific manner requested (a separate program, a dedicated specialist, or an alternative funding structure)."

26. On May 8, 2026, the Parent emailed the IEP team, reviewing the steps that had occurred related to the Student's initial evaluation that was started in the previous district, and indicating that the evaluation and eligibility "should have been wrapped up in October 2025." The Parent stated they "would like to meet soon to figure out a plan for those make-up services and minutes," and requested a Notice of Team Meeting "with some dates that work for you."

27. On May 12, 2026, the Parent emailed the Teacher regarding providing partial consent to the Student's IEP. The Parent stated "We are providing our signature today to grant partial consent for the initial provision of special education services for [the Student]. We are doing so to ensure that support begins immediately; however, we formally disagree with the limited scope of the IEP developed on April 22, 2026, and the subsequent refusals in the PWN dated April 28, 2026." Their disagreement was regarding that SDI would be delivered solely through a "consultation-based model;" that District 2 "will not consider parent requests because they conflict with [the School's] service delivery model; that District 2 "refuses to write a dedicated specialist for reading instruction and/or a general description of a reading program similar to Barton into the IEP; and that the Barton program must be funded through our general student/family curriculum funds."

28. The Parent provided partial written consent (gave permission for initial provision of Special Education services) on May 13, 2026.

29. On May 14, 2026, members of the Student's IEP team, including District 2 Special Education Administrators, met with the Parent to discuss the Student's curricular needs.

The team explored options for self-regulation, writing engagement and executive functioning using recommended workbooks, software and creative programs. The School confirmed at this meeting that certified staff "now provide the Barton program eliminating previous cost concerns for the family. This ensures the Student receives one-on-one tutoring without requiring independent curriculum purchases." Attendance for sessions was also discussed and is tracked automatically while families submit work samples for ongoing evaluation. Read and Write software was demonstrated for the Parents to support student independence. The Parents requested additional time to consider the Barton reading proposal, and the Parents and team agreed to the Read and Write software and confirmation was provided that "no additional tracking or reporting is required from the family."

30. On May 21, 2026, the Parent emailed the IEP team regarding "a few loose ends" including, 1) placement meeting, 2) compensatory services, 3) the Read & Write toolbar, 4) "finalized PWN", and 5) a chart/Google sheets for the Student's self-management goal.

31. District 2 responded to the Parent's email of May 21, 2026, on May 26, 2026. The Special Education Director stated, "Regarding the compensatory services, we do plan to move forward with them…currently finalizing a plan and will send it later this week for your review and approval."

32. The Case Manager responded on May 27, 2026, regarding the instructions for the Read & Write toolbar, and stated that the finalized PWN "is embedded within the IEP", and they requested staff to assist the Parent "regarding a tracking Google Sheet for the self-Management goal." Lastly, the Case Manager stated, in regard to "Comp Ed," that a contract would be sent out by the next day.

33. District 2 provided the Parents a Prior Notice of Special Education Action, dated June 30, 2026, stated that mediation was offered to the Parents on June 29, 2026, as a voluntary method of resolving disagreements regarding the Student's special education program and services. The Parents declined to participate in mediation.

34. District 2 offered compensatory services to the Parents to remedy missed or delayed services, to begin on the first day of school for the 2026-2027 school year and conclude on January 13, 2027. The proposed compensatory services will be delivered on a weekly basis for 3 hours per week and provided by School staff.

IV. DISCUSSION

Evaluation and Reevaluation Procedures

The Complaint alleged that District 1 and District 2 violated the IDEA when they failed to complete an initial evaluation of the Student and determine eligibility within sixty (60) days of written parent consent.

Both OAR 581-015-2110 and 34 CFR §300.301[3] state that a school district must conduct a full and individual initial evaluation, which must be conducted within 60 days of receiving parental consent, except if a child enrolls in a school of another public agency after the relevant evaluation timeframe, and prior to a determination by the child's previous public agency as to whether the child is a child with a disability. The exception to the regulation and federal law only applies if the subsequent public agency is making sufficient progress to ensure a prompt completion of the evaluation, and the parent and subsequent public agency agree to a specific time when the evaluation will be completed.

In this case, the Parents had provided consent to the Student's previous Oregon school district for an initial special education eligibility evaluation in April 2025. When the Parents applied for their Student's enrollment in the School in August 2025, they indicated on the application form that they had knowledge that the Student had been provided special education services at the previous public school and named the school. In December 2025, the Parent emailed School staff inquiring about the IEP evaluation planning meeting, and on December 16, 2026, a Special Education Case Manager emailed the Parents inviting them to an evaluation planning meeting in January 2026. Subsequently, the initial special education evaluation was completed in April 2026, and the team determined the Student was eligible for special education services under the Other Health Impairment and Emotional Behavior Disability categories.

The Student was not provided a timely initial special education evaluation, which impacted the development of an IEP and the provision of specially designed instruction. The School and District 2 had information provided by the Parent regarding the initiation of an initial evaluation in the Student's previous district, as well as regular inquiries from the Parent as to the reason for the delay in the evaluation. The School implemented an unnecessary data collection period to gather additional information regarding the Student's difficulties before moving forward with the evaluation.

The Department substantiates this allegation.

Child Find

The Complaint alleged that District 1 and District 2 violated the IDEA when they failed to timely identify and evaluate the Student to determine if they have a disability requiring special education and related services. Specifically, when the Districts required a general education tracking process prior to evaluating the Student, although their previous district had previously initiated an evaluation for special education, prior to the Student's enrollment in the School.

[3] OAR 581-015-2040(1); 34 CFR §300.301

Oregon Administrative Rule 581-015-2080 requires school districts identify, locate and evaluated all children with disabilities for whom they are responsible, and specifically, children enrolled in public charter schools. Federal regulation 34 CFR § 300.111 requires states to have "in effect" policies and procedures to ensure that all children with disabilities, who are in need of special education/related services, are identified, located, and evaluated.

In this case, the Student, previously enrolled in an Oregon school district, was in the process of an initial special education eligibility evaluation, though evaluation was not completed prior to the Student transferring to the School, which is sponsored and served by two Oregon districts (District 1 and District 2). When the Parents applied for the Student to be enrolled in the School, they identified that the Student was engaged in a special education process, and had a 504 Plan for accommodations. The School and District 2 required a general education data tracking process prior to initiating an initial special education evaluation. This delay impacted the initiation of required specially designed instruction for the Student.

The Department substantiates this allegation.

Parent Participation

The Complaint alleged that District 1 and District 2 violated the IDEA by interfering with the ability of the Parent to participate in decisions with respect to the IEPs, educational placements, and the provision of a free appropriate public education (FAPE) to the Student.

Federal regulation (34 CFR § 300.501) and Oregon Administrative Rules (581-015-2190, 581-015-2195) require that parents are afforded an opportunity to participate in meetings regarding the identification, evaluation, and educational placement of the child, and the provision of FAPE. Parents must be given written notice, sufficiently in advance of a meeting, to ensure that one or both parents have the opportunity to attend. The meeting should be scheduled at a mutually agreed on time and place.[4]

In this case, the Parents participated in several meetings regarding the Student with the School and District 2 staff during the 2025-2026 school year. In September 2025, the Parents were invited, by written notice, to a Section 504 Plan meeting that was scheduled for October 15, 2025, and the Parents agreed to attend. The Student's 504 Plan was reviewed and updated. In December 2025, the Special Education case manager provided the Parents written notice, inviting them to an evaluation planning meeting scheduled for January 13, 2026. The Parents attended the meeting and provided input during that meeting, which resulted in the team determining to move forward with an initial special education evaluation of the Student. The Parents were invited, and attended, the eligibility determination meeting scheduled for April 16, 2026, to review the evaluation information. The team, including the Parents, was in agreement regarding the eligibility categories of Other Health Impairment and Emotional

[4] 34 CFR § 300.501; 581-015-2190; 581-015-2195

Behavior Disability. The Parent was invited to, and attended, the IEP meeting scheduled for April 22, 2026, having provided the team with a document regarding their concerns the day prior to the meeting. The written notice for the meeting was provided on April 16, 2026.

The Parents were afforded the opportunity to participate, and did attend, 1) the Section 504 meeting, 2) the evaluation planning meeting, 3) the evaluation review and special education eligibility meeting, and 4) the IEP development meeting.

The Department does not substantiate this allegation.

Content of IEP

The Complaint alleged that District 1 and District 2 violated the IDEA when they failed to develop an Individualized Education Program (IEP) that was reasonably calculated to provide the Student a FAPE and that was based on the individual needs of the Student and included adequate direct services. Additionally, the Student's IEP does not clearly specify the nature of the specially designed instruction (SDI) and related services that will be provided to the Student such that the Parent can understand what is being offered.

A school district "must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances."[5] "An IEP is not a form document. It is constructed only after careful consideration of the child's present levels of achievement, disability, and potential for growth."[6] "The instruction offered must be '*specially* designed' to meet a child's '*unique* needs' through an '[*i*]*ndividualized* education program.'"[7]

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.[8]

The Parents participated in the development of the IEP on April 22, 2026, and provided the team with a "Parent Input Statement and Concerns" prior to the meeting. The Student's April 22nd IEP includes: 1) Special Factors, 2)Present Levels of Academic

[5] *Endrew F.*, v. *Douglas Cty. Sch. Dist.*, 137 S.Ct. 988,999(2017).
[6] *Id.*
[7] *Id.*
[8] OAR 581-015-2200(1); 34 CFR § 300.320

Achievement/Functional Performance, including Parent concerns, 3) Statewide Assessment Participation, 4) Districtwide Assessment Participation, 5) Annual Academic and Functional Goals (Reading, Writing, Study Skills, Self-Management), 6) Services (Specially Designed Instruction), 7) Supplementary Services; Accommodations, 8) Program Modifications, 9) Nonparticipation Justification, 10) Extended School Year, 11) Placement Determination, 12) Notice of IEP Meeting, 13) Prior Notice/Consent for Initial Provision of Special Education Services, 13) Notice of Action, and 14) Meeting Notes.

Each goal area includes a measurable goal, and the Specially Designed Instruction includes, amount, frequency, location, start/end dates, provider and monitoring responsibility. The Accommodations section included accommodations for shortened assignment, instructional materials, teaching mode, instructional materials, Student behavior, School setting, alternate methods to demonstrate mastery, and support tools.

Following the Parents "partial written consent for initial provision of special education services," provided on May 12, 2026, the team met with the Parents the following day to discuss their concerns regarding curricular materials and offer solution/options. The Parents requested time to review and consider the Barton reading proposal, and the Parents and team agreed to the Read and Write software, after discussing several options for writing supports. They also questioned the SDI proposal in each goal area delivered by the general education teacher, with support through a "consultation-based model", with additional support provided by the Parents in a virtual environment.

The IEP states that SDI will be provided to the Student 30 minutes monthly by District 2 for each of the four (4) goal areas. In addition, the IEP includes consultation services from District 2 (Case Manager) to the Student's teaching staff. The IEP also includes an extensive list of accommodations to be provided by School staff to help support the Student access the curriculum. At the IEP meeting, the Special Education Coordinator and Case Manager clarified that special education staff work with the general education teacher to provide the SDI minutes, in collaboration with the Parents. The Parents decided to move forward with the IEP and services minutes/special education placement, and the Case Manager noted this decision and informed the Parents that the IEP would be updated and sent to the Parents for review.

The Department does not substantiate this allegation.

Free Appropriate Public Education (FAPE)

The Complaint alleged that District 1 and District 2 violated the IDEA and denied the Student a FAPE, when they required the Parent, to pay for the disability-specific curricular materials that were needed to implement the Student's IEP goals through the Student's general education stipend.

Both Oregon Administrative Rule 581-015-2040, and federal regulations 34 CFR §300.101(a)

and 34 CFR §300.17, require school districts to ensure that a free appropriate public education is provided to any individual child with a disability who needs special education and related services.

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.[9] In order to determine whether a student has been denied a FAPE, the courts review a district's compliance with the procedural and substantive components of the student's education. Reviewing courts must inquire whether the school district complied with the procedural requirements of the 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.[10]

Not every procedural error is sufficient to rise to a denial of FAPE.[11] The procedural test consists of three pivotal procedural errors: (1) whether the student suffers a loss of educational opportunity;[12] (2) whether the parent's right to participate in the IEP process was infringed;[13] or (3) whether the procedural error caused a "deprivation of educational benefit."[14] Procedural errors rise to the level of a denial of FAPE where, absent the errors, there is a "strong likelihood" that alternative educational possibilities for the student "would have been better considered."[15]

In this case regarding the Barton reading program, School/District 2 staff met with Parents to discuss their concern about the cost, and staff confirmed at the May 14th meeting that certified staff "now provide the Barton program, eliminating previous cost concerns for the family. This ensures the Student receives one-on-one tutoring without requiring independent curriculum purchases." Upon learning this, the Parents agreed to this service.

The Department does not substantiate this allegation.

V. CORRECTIVE ACTION

In the Matter of Baker School District 5J and Harney Union High School District 1J
Case No. 26-054-074

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[9] OAR 581-015-2040(1); 34 CFR §300.101; 34 CFR §300.17.

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

[11] A*manda J. v. Clark Co. Sch. Dist.*, 267 F.3d 877, 892 (9th Cir. 2001) (citing *Roland M. v. Concord 13684 Sch. Comm.*, 910 F.2d 983, 994 (1st Cir. 1990)).

[12] *Target* Range, 960 F.2d at 1484.

[13] *Id.*

[14] *Amanda J*., 267 F.3d at 892 (citing *Roland M.,* F.2d at 994).

[15] *M.L. v. Federal Way Sch. Dist*., 394 F.3d 634, 657 (9th Cir. 2005).

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

Action Required	Submissions	Due Date
1. Districts 1and 2 must ensure that all District/School staff who are responsible for the transfer of new students to the School are knowledgeable regarding initial evaluation and reevaluation procedures, especially the procedure regarding transfer students who have been involved in a special education evaluation process in a previous school district.	1. Training agenda/materials to ODE for review/approval. 2.Sign-in sheet after training is complete.	**September 18, 2026** **December 15, 2026**
2. District 1 and District 2 will review their Special Education procedures regarding transfer students who have been involved in a special education evaluation in a previous school district, and revise if necessary.	1. Copies of District 1 and District 2 Special Education procedures related to special education evaluations and reevaluations, noting any revisions or changes that were required.	**December 15, 2026**

Dated: this 31st Day of July 2026



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Ramonda Olaleye
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).)