BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of Portland Public School District 1J	))))	FINDINGS OF FACT, CONCLUSIONS, AND AMENDED FINAL ORDER[1] Case No. 26-054-077

I. BACKGROUND

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

Under state and federal law, the Department must investigate written complaints that allege violations of the Individuals with Disabilities Education Act (IDEA) and issue an order within sixty days of receipt of the complaint.[2] This timeline may be extended if the Parent and the District agree to the extension to engage in mediation or local resolution or for exceptional circumstances related to the complaint.[3]

On June 18, 2026, the Department's Complaint Investigator sent a *Request for Response (RFR)* to the District identifying specific allegations in the Complaint to be investigated and establishing a *Response* due date of July 3, 2026. On June 25, 2026, the District submitted the documents requested in the June 18, 2026, RFR. On the same date the District explained that its written response would follow shortly after the established deadline due to staff absences. On July 7, 2026, the District submitted a *Response*, disputing the allegations described in the Complaint. The District submitted the following relevant items:

1. District Exhibit List
2. District Response
3. Student IEP, 5/16/2025
4. Notice of Team Meeting, 5/11/2025
5. Student IEP, 5/11/2026
6. Special Education Placement Determination, 5/11/2026
7. Prior Written Notice, 5/11/2026
8. IEP Team Meeting Minutes, 5/27/2026

[1] On August 7, 2026 the Department issued a Final Order in this matter. On August 10, 2026, the District requested clarification of the corrective actions. After communicating with the Complaint Investigator, the Department discovered an error in Corrective Action #2. Accordingly, the Department issues this Amended Final Order.
[2] OAR 581-015-2030(12) and 34 CFR § 300.152(a)
[3] OAR 581-015-2030(12) and 34 CFR § 300.152(b)

9. Prior Written Notice, 5/27/26
10. IEP Team Meeting Minutes, 2/28/2025
11. Psychoeducational Assessment Report, 5/15/2025
12. Disability Statement, Specific Learning Disability (90), 5/16/2025
13. Eligibility Summary Statement, 5/16/2025
14. Prior Written Notice, 5/16/2025
15. Prior Notice and Consent for Initial Provision of SpEd Services, 5/19/2025
16. Consent for placement in special education services, 5/30/2025
17. IEP Team Meeting Minutes, 5/16/2025
18. IEP Progress Report, 11/7/2025
19. IEP Progress Report, 4/10/2026
20. IEP Progress Report, 6/4/2026
21. Email: Re: Seizure logs?, 5/6/2025
22. Email: Parent Permission for [Student], 5/7/2025
23. Email: Re: Library books, 5/7/2025
24. Email: Invitation to respond to the form “Evaluation for Special Education Service Eligibility: Teacher Input”, 5/12/2025
25. Email: upcoming filed trips: health protocols, 5/13/2025
26. Email: Re: EL paperwork, 5/14/2025
27. Email: KTEA, 5/14/2025
28. Email: DRAFT Evaluation Report, 5/16/2025
29. Email: Document shared with you: “[Student], [School], Initial evaluation 5/13/2025”, 5/16/2025
30. Email: Re: 5/23 FT: Medication pick up reminder, 5/22/2025
31. Email: Re: last small group today, 5/28/2025
32. Email: Re: Not a seizure?, 5/29/2025
33. Email: Re: Requester for [Teacher]: Special Education Process Document Completion Form, 5/30/2025
34. Email: Re: 6/3 FT: medication pick up reminder, 6/2/2025
35. Email: Special Education Paperwork [Student], 6/2/2025
36. Email: Re: Requester for [Teacher]: Special Education Process Document Completion Form, 6/2/2025
37. Email: Document shared with you: “narrative-[Student]”, 6/10/2025
38. Email: Better late than never: Vision referral follow-up, 6/11/2025
39. Email: Confidential: Student in your class with 504 and Support Plans, 8/20/2025
40. Email: Extra health notification: [Student], 8/22/2025
41. Email: Health Notification: All Students, 8/22/2025
42. Email: [Teacher]: Health Notifications/Responding to Student Health Conditions, 8/23/2025
43. Email: Re: 4th grade updates, 8/29/2025
44. Email: MAP Growth make up Testing, 9/22/2025
45. Email: MAP Growth make up, 9/22/2025
46. Email: Re: MAP Growth make up, 9/22/2025
47. Email: Fwd: MAP growth make up, 9/22/2025

48. Email: Document shared with you: “healthy heart”, 10/6/2025
49. Email: Re: check in about [Student], 10/9/2025
50. Email: Re: 504 Termination, 10/13/2025
51. Email: Tutoring, 10/13/2025
52. Email: [Student] 504 Termination between Portland Public School District and [Parent] is Signed and Filed!, 10/14/2025
53. Email: Thanks for filling out this form: Request for 504 Plan Finalization/Termination, 10/14/2025
54. Email: Re: [Student] Medication Plan for next week, 10/14/2025
55. Email: [Student] off seizure medication, 10/15/2025
56. Email: Re: [Student], 10/15/2025
57. Email: Re: Tutoring, 10/16/2025
58. Email: Document shared with you: “great hear essay”, 10/29/2025
59. Email: Document shared with you: “Poetry”, 11/19/2025
60. Email: Re: WIN data, 11/21/2025
61. Email: Document shared with you “ship wreck”, 11/21/2025
62. Email: Document shared with you: “Untitled document”, 11/21/2025
63. Email: Document shared with you: “Dome mountains”, 12/8/2025
64. Email: Re: [Student’s] helmet, 12/8/2025
65. Email: scores from easyCBM, 12/11/2025
66. Email: Re” [Student], 12/16/2025
67. Email: Document shared with you: “extreme mountains”, 12/19/2025
68. Email: Re: Tutoring Starts this weekend!, 1/9/2026
69. Email: Document shared with you: “Survival Story”, 2/11/2026
70. Email: Mid-Year Health Notifications/Responding to Student Health Conditions, 2/11/2026
71. Email: Re: Health protocols: Review?, 2/11/2026
72. Email: Mid-Year Health Notifications/Responding to Student Health Conditions, 2/12/2026
73. Email: Re: Tomorrow’s Medication pick up reminder, 2/24/2026
74. Email: 3/4/: Medication pick up reminder, 3/3/2026
75. Email: Re: Sick?, 3/12/2026
76. Email: Invitation from an unknown sender: hold for [Student] @ Mon May 11, 2026…
77. Email: Invitation hold for [Student] @ Mon May 11, 2026…
78. Email: Invitation hold for [Student] @ Mon May 11, 2026…
79. Email: Accepted: hold for [Student] @Mon May 11, 2026…
80. Email: Document shared with you: “World Domination”, 4/28/2026
81. Email: 4/30 FT: Medication pick up reminder, 4/29/2026
82. Email: upcoming meetings next week, 5/8/2026
83. Email: Meeting Request [Student]…, 5/11/2026…
84. Email: Re: upcoming meetings next week, 5/11/2026
85. Email: IEP follow up questions, 5/11/2026
86. Email: Re: IEP follow up questions, 5/12/2026

87. Email: email draft, 5/14/2026
88. Email: Re: email draft, 5/14/2026
89. Email: Re: IEP follow up questions, 5/14/2026
90. Email: Formal Request: IEP Non-Compliance and Request for Compensatory Education for [Student], 5/18/2026
91. Email: Re: OSAS kiddos, 5/19/2026
92. Email: Fwd: Formal Request: IEP Non-Compliance and Request for Compensatory Education for [Student], 5/21/2026
93. Email: …, 5/22/2026
94. Email: Invitation: [Student] review @ Wed May 27, 2026…
95. Email: Document shared with you: "I think 4th graders should learn all perspectives", 5/26/2026
96. Email: Meeting records: "[Student] IEP review" May 27, 2026, 5/27/2026
97. Email: Request for Documentation, 5/27/2026
98. Email: Re: Formal Request: IEP Non-Compliance and Request for Compensatory Education for [Student], 5/27/2026
99. Email: Re: Request for Documentation, 5/27/2026
100. Email: Fwd: Formal Request: IEP Non-Compliance and Request for Compensatory Education for [Student], 5/27/2026
101. Email: Quick follow up question, 5/27/2026
102. Email: Re: Request for Documentation, 5/29/2026
103. Email: Formal Special Education State Complaint – [Student], 6/5/2026
104. 504 Accommodation Plan, 10/24/2024
105. Notification of Student Health Status, 8/22/2025
106. Student Report Card 2024-2025
107. Student Report Card 2025-2026
108. DIBEL Oral Reading Fluency Progress Monitoring
109. Read Two-Syllable Words with Mixed Syllable Types
110. List of Knowledgeable Staff

On July 10, 2026, the Parent provided a written *Reply* to the District's *Response*. Included with the Parent's *Reply* were additional documents in support of the Parent's position. On July 15, 2026, the Department's Complaint Investigator interviewed the Parent regarding the allegations in this matter. On July 28, 2026, the Department's Complaint Investigator interviewed the Principal regarding the issues in this matter. The Complaint Investigator reviewed and considered all these documents, interviews, and exhibits in reaching the findings of fact and conclusions of law contained in this order. This order is timely.

II. ALLEGATIONS AND CONCLUSIONS

The Department has jurisdiction to resolve this Complaint under 34 CFR §§ 300.151-153 and OAR 581-015-2030. The Parent's allegations and the Department's conclusions are set out in the chart below. The conclusions are based on the Findings of Fact in Section III and the Discussion in

Section IV. This Complaint covers the one-year period from June 9, 2025, to the filing of this Complaint on June 8, 2026.

Allegations	Conclusions
When IEPs Must Be In Effect It was alleged that the District violated the IDEA: when it failed to provide the Student with specially designed instruction (SDI) and IEP goals in reading fluency and phonics/decoding. The Parent alleges that the District's failure to provide the Student with their required SDI is evidenced by a lack of documentation supporting that the District provided said SDI to the Student; when it failed to provide "direct one-on-one instruction" to the Student, as the result of a lack of resources in the District and/or prioritizing the District schedule to the detriment of the services indicated in the Student's IEP; when the District did not provide SDI to the Student as outlined in their IEP. It is alleged that the SDI was provided by general education staff, rather than special education staff, and therefore was not appropriately adapted to the needs of the Student; when the District did not implement pull-out support for the Student as indicated in their IEP, instead keeping the Student in the general education environment; when the District did not provide the Student the service time in reading as outlined in the Student's IEP. It is alleged that the District calculated the delivery of service time by reference to the number of sessions and students in a group, rather than provide individualized services to the Student; when the District failed to provide SDI in reading, by not providing individualized materials nor focusing on the Student's needs in decoding and phonics, but instead providing repetitive work in a group setting; and, when the District did not implement changes to the Student's SDI in math following its review and revision by the Student's IEP team. (OAR 581-015-2220; 34 CFR § 300.323 & 343.055)	**Not Substantiated** The record supports that the District provided SDI to the Student. The Student's IEP included 30 minutes per week of SDI but did not specify direct 1:1 instruction. The services summary of the Student's IEP conformed to the IDEA's requirement that it include the frequency, amount, location, and duration of the service and modifications provided to the Student. The record supports that the Student received more than the required number of SDI minutes. The Student's IEP indicates that the general education staff, supervised by special education staff, would provide the Student's SDI. The IEP is silent on the specific curriculum used to fulfill the Student's goals. The record supports that in May 2025, the Student's IEP team determined that the Student did not then require SDI in math.

IEP Team Considerations and Special Factors It was alleged that the District violated the IDEA when the Student's SDI in reading was not developed by the Student's IEP team, in consideration of the Student's strengths, the concerns of the Parent, results of evaluations, or academic need, but rather was created by general education staff. (OAR 581-015-2205; 34 CFR § 300.344, 300.321, 300.324(a)(3) & (b)(3))	**Not Substantiated** The Student's IEP indicates that the Student's SDI would be delivered by the General Education Teacher supervised by special education staff. The record supports that the General Education Teacher, in consultation with the Special Education Teacher, created and provided the Student's SDI.
Placement of the Child It was alleged that the District violated the IDEA when it did not adhere to the educational placement selected by the Student's IEP team. The Parent alleges that the Student's IEP indicated that the Student should be removed from the general education environment to receive special education, and that the Student's IEP services will occur in the general education environment under the supervision of a special education teacher. (OAR 581-015-2250; 34 CFR § 300.116 & 300.327)	**Not Substantiated** The Student's IEP included information about educational placement in the service summary and nonparticipation justification statement that did not match. The District reported to the Parent that the nonparticipation justification section contained errors. The record supports that the Student received SDI in accordance with the IEP service summary.
Content of the IEP It is alleged that the District violated the IDEA when it did not formulate an IEP that included a description of how the Student's progress toward meeting annual goals would be measured and when periodic reports on the progress the child is making toward meeting the annual goals would be provided. It is also alleged that the Student's IEP included contradictory information regarding the extent to which the Student would not participate with children without disabilities in the regular classroom. (OAR 581-015-2200; 34 CFR § 300.320)	**Not Substantiated** The Student's IEP described how progress would be monitored and reported to the Parent. The record supports that the District conducted progress monitoring and reported that progress to the Parent.

Access to Student Education Records It was alleged that the District violated the IDEA when, following request to produce educational records, specifically data tracking logs of SDI delivered to the Student, the District did not provide the requested records. (OAR 581-015-2300; 34 CFR § 300	**Not Substantiated** The Parent requested a variety of records from the District. The District responded, providing those records that met the definition of an education record. The District also communicated to the Parent that some records sought were not education records or were not maintained by the District.
(Additional Finding) Review and Revision of IEPs As part of the investigation the Parent reported that during the fall semester, they sought tutoring for the Student to address the Student's difficulties in math. The Parent requested advice from the Student's General Education Teacher who recommended an outside tutor. The Parent noted that the Student's IEP team later added SDI in math in the spring semester, to address the Student's math needs. (OAR 581-015-2225; 34 CFR § 300.323 & 300.324)	**Substantiated** District staff observed that the Student struggled with their math curriculum but did not revise the Student's IEP to address the lack of expected progress.
Free Appropriate Public Education (Denial of FAPE) It was alleged that the District violated the IDEA when, it failed to implement the Student's IEP as described in the complaint; it did not educate the Student in the placement selected by their IEP team; it did not formulate an IEP with progress monitoring parameters or clearly state the extent to which the Student would participate with children without disabilities; and, it did not provide the Parent with access to Student education records. It is alleged that these actions denied the Student a FAPE. <u>Additional Issue</u>	**Substantiated in Part** The record supports that the District implemented the Student's IEP and provided the requisite SDI. The District acknowledged that the IEP include internal errors, however the Student's IEP was appropriately implemented. The Student's IEP team was in agreement on the placement in

As part of the investigation the Department observed that the Parent requested from the District opinions on the benefits of tutoring to address the Student's processing speed in math. The District agreed that the Student required assistance in math and suggested a tutor. Once hired by the Parent, the District provided instruction to the Parent to assist the tutor's work with the Student. (OAR 581-015-2040; 34 CFR § 300.101)	the general educational environment. The Student's IEP included progress monitoring and reporting. The Student was assessed in conformity with their IEP. The District provided the Parent with the requested education records. The District did not revise the Student's IEP to address their lack of progress in mathematics when that lack of progress was discussed by the Parent and General Education Teacher in the Fall of 2025. It was not until the Spring of 2026 that the Student's IEP team addressed the Student's needs in mathematics.

REQUESTED CORRECTIVE ACTION

The Parent requests that the District:

- Provide compensatory education for Reading to compensate the Student for missed SDI minutes. The Parent requests that this time address SDI minutes missed, untracked, or improperly delivered where general education materials were delivered to the Student in place of SDI;
- Provide compensatory education for Math for missed SDI minutes. The Parent requests compensatory education to address the total number of SDI minutes completely missed between the date of the Student's annual review and the end of the Student's 4th grade school year;
- Acknowledge their correction of the Student's educational placement;
- Implement daily or weekly tracking forms for all the Student's SDI moving forward. Such forms should include the date, specific minutes provided, teacher signature, and exact intervention targeted;
- Training to staff around the provision of specially designed instruction as compared with general education instruction, and the meaning of education records including

what documents count as education records under FERPA.

III. FINDINGS OF FACT

1. The Student in this matter is 10 years old and attended the fourth grade in a District elementary school during the 2025-26 school year.

2. The Student is eligible for special education under the category of Specific Learning Disability.

3. The Student enjoys audio books, learns well from listening, is good at soccer, and has an active imagination. The Student is empathetic, curious, and works hard. The Parent expressed concerns for the Student's decoding, reading, spelling, and handwriting. The Parent also expressed to the Student's IEP team concerns for the Student's medical conditions and their impact on the Student's education.

4. The Student's IEP team, observing the results of various tests and assessments, concluded that the Student's slow processing speed and specific learning disability in decoding and reading fluency make it difficult for the Student to keep up with the pace of the general education curriculum without supports.

5. On February 8, 2025, the District convened an evaluation planning meeting. During the meeting the team addressed the Student's medical needs and proposed relevant testing.

6. On May 15, 2025, the District completed a Psychoeducational Report for the Student. The Student performed in the average range overall in Reading Comprehension, Math, and Written expression. The Student's Academic Fluency, Orthographic Processing, Letter and Word Recognition, and Decoding scores were in the Below Average Range. Their Spelling was in the Low range. On cognitive testing, the Student scored in the High Average Range in Verbal Comprehension and Working Memory. They scored in the Average range in Visual Spatial and Fluid Reasoning. The Student's Processing Speed score was in the Extremely Low range. The evaluation recommended specific accommodations and instructional supports for the Student.

7. The Student's May 16, 2025, IEP noted that the Student took two math assessments, the iReady and MAP math assessments in September and January of the 2024-25 school year. The iReady assessment placed the Student at the second-grade level, and the MAP assessment scores indicated that the Student was then in the "high average" category. The assessment noted that the Student displayed some strengths in math, but some weaknesses in computation when timed. The Student's IEP team did not then add Specially Designed Instruction (SDI) in math.

8. On May 16, 2025, the Student's IEP team met to formulate the Student's IEP. The Student's May 15, 2025, psychoeducational assessment noted that the Student's academic fluency, orthographic processing, letter and word recognition and decoding scores were below average, and their processing speed was extremely low. The team discussed that given time constraints the Student's performance decreased, but that the Student's performance increased when there were no time limits to complete academic tasks. As part of the meeting the team agreed on Reading goals for the Student.

9. The Student's May 16, 2025, IEP included 30 minutes per week of SDI in Reading. The IEP indicated that SDI would be delivered by general education staff, supervised by special education staff in the general education environment. The Student's Reading goals described that by "the end of IEP cycle when asked to read an unfamiliar instructional level literary or information test for (1) minutes, [the Student] will read the text aloud at a rate of between 95-112 WCPM (words correct per minute) and with 96% accuracy, on (3 out of 4) progress monitoring assessments." The goals noted that, at the time of the formulation of the IEP, the Student's reading fluency on unfamiliar text averaged 50-60 cwpm over the previous two months. The Reading goals also envisioned that by "the end of the IEP cycle, given a word list of (20) regularly spelled, two-syllable words that include combinations of six different syllable types (e.g., closed, open, r-controlled, vowel diagraph, vowel-consonant-e, and consonant-le syllables) and a syllable type anchor chart, [the Student] will decode and then read (18 out of 20) words aloud, without sounding out the word aloud, on (3 out of 4) progressing monitoring assessments."

10. The Student's May 16, 2025, IEP indicated that the Student's progress toward their goals would be reported quarterly, in the form of a written progress note.

11. The Student's May 16, 2025, IEP included the following supplementary aides and services: a reduction of numbers in questions on in-class assignments and homework; teacher check-ins for understanding; use of consistent graphic organizers and sentence frames with teacher guidance; access to text-to-speech and speech-to-text software as well as word processing software with word prediction for writing assignments; use of proximity to gain attention or redirect; and, allowance for extra time to complete assignments and assessments. The Student's IEP noted these supports were intended to apply throughout the day, during instruction in the case of graphic organizers, and during relevant testing times. The anticipated location of these supplementary aides and services was noted to include the general education and special education environments.

12. The Student's May 16, 2025, IEP included the following additional supplementary aides and services: allowance of extra time to answer verbal questions in class; instruction in small group setting whenever possible; and the use of visual aids.

13. The Student's May 16, 2025, IEP included a statement of nonparticipation justification. This section indicated that the District would remove the Student from general education for 30 minutes, or 2% of the school week, to SDI in Reading.

14. On May 30, 2025, the Parent provided consent for the initial provision of special education services.

15. On October 13, 2025, the Parent sent an email to the District asking for feedback on the usefulness of tutoring for the Student. The Parent noted that they were considering outside tutoring in reading, writing and math to help the Student avoid falling behind in school.

16. On October 14, 2025, the Student's General Education Teacher, responding to the Parent, agreed that tutoring might be helpful for the Student, and recommended an older student in the District that could perform tutoring functions. As part of the Teacher's email, they observed that "in math [the Student] is only able to solve 1-2 problems when other kids get a chance to practice 6-8 problems." The Teacher reported the same concern for processing time for the Student's writing. The teacher noted that the Student required more time to organize their thoughts. The Teacher further recommended a high school student in the District who was a math tutor, to the Parent.

17. On November 7, 2025, the District produced an IEP Progress Report for the Student. The report indicated that the Student was then making progress toward their IEP goal. The Student's reading fluency on unfamiliar text averaged 50-60 cwpm over the preceding two months. As part of a decoding assessment performed with the Student, they scored in the 8th percentile and struggled to read words with more than one syllable. The Student was then able to read 14 of 20, two syllable words on the first assessment of this skill.

18. On January 1, 2026, the District produced an IEP Progress Report for the Student. The Report indicated that the Student was then making progress toward their IEP goal. The Report indicated that the Student was reading 76 correct words per minute on a fluency assessment with 97% accuracy. The Report indicated that the Student could then read 15 of 20 words correctly on their most recent assessment. The Student was very close to meeting the bottom range of this goal. The Report noted that at times the Student added an "s" at the end that wasn't there but otherwise read the word correctly.

19. On January 9, 2026, the Parent sent an email to the District announcing the start of the Student's tutoring. The Parent also asked the Student's teacher for some guidance about what topics in math to work on with the Student. On the same date, the Student's teacher provided math concepts for which tutoring would benefit the Student.

20. On April 10, 2026, the District produced an IEP Progress Report for the Student. The Report indicated that the Student made progress toward their IEP goal, but may not meet the goal, and that instructional strategies may need to change to address the Student's progress. At that time the Student could read 67 correct words per minute with 94% accuracy. The District noted that this was the first observed decrease in progress. At the same time, the District noted that the Student could read 17 of 20 words on their latest assessment. That performance placed the Student at the bottom end of the goal, observing that their score

had improved in all prior measures.

21. On May 11, 2026, the District sent the Parent a Notice of Team Meeting for an IEP meeting scheduled for May 11, 2026.

22. On May 11, 2026, the Student's IEP team formulated a revised IEP for the Student. The Student's IEP included 30 minutes of SDI in Writing, provided by the general education teacher, in the general education environment. The Student's IEP included 30 minutes per week of SDI in Mathematics, provided by a special education teacher/provider in the special education environment; and, 30 minutes per week of SDI in Reading provided by a special education teacher/provider in the special education environment.

23. The Student's May 11, 2026, IEP included a statement of nonparticipation justification. This section indicated that the District would remove the Student from general education for 60 minutes, or 3% of the school week, to provide SDI in Reading and Math.

24. On May 11, 2026, the District sent the Parent a Special Education Placement Determination, indicating that the Student would spend 80% or more of the day in regular classes.

25. During the May 11, 2026, IEP team meeting the Parent raised concerns that the Student "did not receive instruction in decoding." During the meeting the Parent stated that "'general education supervised by special education' means [to them] that the special education teacher gives the special instruction to the general education teacher [and] the materials to teach." The District noted that the IEP indicated 30 minutes of removal from general education, and that the District utilized a consultation model. During the meeting the Parent disputed whether the Student received the appropriate amount of SDI. As part of the discussion the District noted that the Student did make progress toward their IEP goals.

26. On May 11, 2026, following the Student's IEP team meeting, the Parent sent an email to the District. In the email the Parent wrote in part, "I am still not clear what specialized instruction/supervision [the Student] is receiving to meet the goals laid out in [their] IEP." The Parent also inquired about the delivery of SDI, writing in part,

> "For 2025 [the Student] has listed the 30 minutes of specially designed instruction per week in Gen Ed but supervised by Special Ed. I envision that to mean Special Ed is providing resources for [the Student] to advance in [their] goals, which [the Student] completes while in the regular classroom. From our conversation today, I understood that [the Student] gets time during the [What I Need] WIN block for help with assignments/other tasks, but it's not specialized to the needs outlined in [their] IEP. Can you let me know what curriculum or skill practice have been used to help [them] meet [their] goals this year?"
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> "Additionally, I am not sure how long the WIN block is, but would you say that [the

Student] is getting 30 min of dedicated time per week of designed instruction? Are we tracking this time at all to make sure [the Student is] getting the full 30 minutes/week? This was one of the reasons I asked if keeping [them] in the classroom is the best way forward. There are a lot of kids in [the Teacher's] class and it's an unrealistic expectation that [the Teacher] would be able to commit 30 min a week just to [the Student] for the SDI outlined in [their] IEP. I expect the situation will be similar in 5th grade."

27. On May 14, 2026, the Special Education Teacher responding to the Parent's May 11, 2026, email wrote in part,

> "While I wish that we had the resources to provide [the Student] with direct one-on-one instruction, I know [they are] receiving specially designed instruction in the general education classroom and through the WIN block, where many students receive their literacy Specially Designed Instruction. We set up WIN groups and instruction as a school-wide team, and how to meet the needs of students with IEPs is a major part of that work and our discussion. I spoke to [the Teacher] yesterday, and we are providing [the Student] with 30 minutes weekly towards [their] reading goals. So for example, this past year and next year [the Student] had a goal in reading fluency. In WIN groups, they will often do repeated reads of the same text. This is a key strategy for recognizing words more quickly. Any extra time spent and attention on reading will help increase fluency in the long run. Another major focus of the WIN groups in 4th and 5th grade is answering comprehension questions by looking back at the text for evidence. This is a goal for [their] new IEP. [The Student] gets 45 minutes per day of WIN small group time 4 days a week for a total of 180 minutes. In a group of 7 students, [they are] getting 30 minutes per week of dedicated instruction within that 180 minutes weekly."
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> "[The Teacher] did express that [they do] not think [they] can provide the specially designed instruction in math since there is no small group set up like WIN in our math schedule. Now that we have added math goals and SDI to [the Student's] new IEP, I will have to find a way to get [the Student their] SDI in math. For the remaining few weeks, I can add [them] to my 4th grade math small group, and [they] will be a part of my scheduling considerations for math support when I make my schedule next year."

28. On May 18, 2026, the Parent sent an email to the District requesting an IEP team meeting to address:

> "a documented failure to implement the Individualized Education Program (IEP) for [the Student]…Consequently I am requesting Compensatory Education…It has recently come to my attention via the yearly IEP meeting, as well as in follow-up written communication, with [the Student's] special education teacher…that [the Student] did not receive [their] legally mandated 30 minutes per week of Specially Designed Instruction (SDI) targeting [their] specific reading goals (oral reading fluency and systematic decoding of the 6 syllable types).

> "Instead, I have been told that [the Student] participated in a general WIN block consisting of seven other students throughout the year. [The Special Education Teacher] is advising me that [they think] this WIN block qualifies as meeting [the Student's] 30 minutes of SDI as outlined in [their] IEP. Additionally, [The Special Education Teacher] has attempted to calculate [the Student's] SDI by mathematically dividing the block's total time by the number of students. Furthermore, it was explicitly noted in the attached email that this block focused heavily on *reading comprehension and text evidence* - skills for which [the Student] does not currently have active IEP goals- while neglecting [their] actual, mandated decoding and phonics goals. [The Special Education Teacher] also explicitly stated that the school "wished they had the resources to provide [the Student] with one-to-one instruction", which is a clear admission of service denial based on a lack of district resources. Under IDEA, a lack of staffing or resources is not a legal justification to deny a student their mandated services."

29. On May 18, 2026, the District responded that they would work with staff to find a time to set up a meeting to address the Parent's concerns.

30. On May 27, 2026, the District convened an IEP team meeting to address the concerns raised by the Parent in their May 18, 2026, email to the District. As part of that meeting the IEP team meeting minutes document that, "the non-justification [sic] statement from the last IEP was made in error and that it was never intended for [the Student] to be removed from class 30 minutes a week, that was the SDI minutes but not removal."

31. On May 27, 2026, following the IEP team meeting the Parent sent an email to the District requesting the following documentation:

> "Consultation logs: All the documented dates, times and notes from when you met with [the Teacher] to discuss [the Student's] IEP goal progress. SDI methodology: The specific, specialized reading programs or instructional modifications designed by the Spec. Ed to help [the Student's] work towards [their] goals during WIN time in Gen Ed. Progress monitoring data: the actual data tracking [their] progress toward [their] specific IEP reading goals (separate from [their] attendance or group minutes spent in WIN)."

32. On May 27, 2026, the District sent the Parent a Prior Written Notice (PWN), documenting the Parent's request, and the District's refusal to provide compensatory services. The PWN further indicated that the Student's IEP in effect for much of the 2025-26 school year,

> "…specified that specially designed instruction (SDI) in reading would be delivered within the general education classroom by the general education teacher under the supervision and/or consultation of Special Education staff for 30 minutes per week. Documentation reviewed by the district indicated that the service model outlined in the IEP was implemented consistent with the IEP as written."

The PWN indicated that second quarter progress monitoring reflected that the Student was making reasonable progress toward both annual IEP goals. No concerns were raised by the staff or the Parent at that time. The Student's third quarter progress report reflected a reduction in the Student's rate of performance as compared to prior reporting periods. The PWN noted that the Students IEP review was scheduled within weeks of the third quarter reporting period, allowing the Student's IEP team to review and revise the IEP to address the observed decrease in progress. The District determined that there was insufficient evidence to demonstrate the Student was denied a FAPE or that compensatory services were required.

33. On May 27, 2026, the District communicated internally regarding the Parent's email, that the Special Education Teacher was not required to keep consultation logs, that working documents or notes taken during consultation meetings were not education records, that the Special Education Teacher was not required to provide SDI methodology to families, and that the use of general education curriculum was "reasonable, common, and encouraged most of the time."

34. On May 27, 2026, the Parent sent an email to the Teacher asking whether any specific, specialized reading materials or curriculum was provided to them by the Special Education Teacher to use with the Student throughout the year, or if the Teacher used their own classroom materials.

35. On May 28, 2026, the Teacher, responding to the Parent's inquiry about the specific materials delivered to the Student during the WIN groups, wrote in part,

> "The materials I used for WIN groups this year were all materials I already had or sought out myself. The first two cycles I used a set of texts that I got a year or two ago from our Instructional Coach.... For the third cycle, I used articles that I pulled myself from a district curriculum called Common Lit."

36. On May 28, 2026, the Parent responded writing,

> "1. Were the materials and articles that [the Student] worked on different from what the other students in the WIN group were receiving, or did the whole group receive the same materials/articles?
> 2. During WIN group, is the main focus on decoding mechanics and phonics rules, or is it more focused on general reading and comprehension?
> 3. Do you know if [the Student] was placed in a specific WIN group because of [their] IEP goals, or was [the Student] grouped based on general classroom reading levels and benchmarking?
> 4. Did Special Ed ever provide a specific tracking log or data sheet to track progress towards [the Student's] IEP goals?"

37. On May 29, 2026, the District responding to the Parent's May 27, 2026, email wrote in part,

"Because [the Teacher] was providing [the Student's] specially designed instruction during WIN time, [they] designed [their] own instruction. It is not a requirement that special educators design instruction for all students on their caseloads, and this is not the expectation at [the School] either. [The Teacher] is the best person to reach out to about what that instruction looked like (and [they] can also talk about how [the Student] responded to it in real time), not [the Special Education Teacher]."

38. On May 29, 2026, the Parent wrote in part,

"I should have clarified that my request is to receive all the records that were reviewed by the district to issue the denial of my request for compensatory services for [the Student]. Below is the list of items listed in the Prior Written Notice that I am requesting copies of:
Current IEP and service summary
Parent Concerns Input
Progress monitoring data related to annual reading goals
Quarter 2 and Quarter 3 progress reports
Teacher input and instructional data
Service delivery documentation
Team discussion during the meeting"

39. On May 29, 2026, the Special Education Teacher, responding to the Parent's request for information stated the following:

"As we mentioned in the meeting, I checked in with [the Teacher] about [the Student] during our "data days" meetings (Oct 10, Dec 16, and Mar 11), halfway through our WIN cycles (Nov 6, Feb 12, and Apr 23), and during progress notes writing (Oct 30, Jan 26, and Apr 3). I've attached the progress monitoring data from the first three quarters of this school year."

40. On May 29, 2026, the Parent, responding to the District wrote,

"I meant to add that I am emailing with [the Teacher] about the instruction that was provided to [the Student] this year in WIN…I would still like to receive the Teacher input and instructional data and Service delivery documentation that was reviewed when making the decision."

Later that same day the Parent sent an email clarifying,

"I am, however, looking for some additional, more specific, information. Can you please send over the meeting notes, consultation logs or summary records from the specific check in dates you mentioned (Oct 10th, Oct 30th, Nov 6th, Dec 16th, Jan 26th, Feb 12th, Mar 11th, April 3rd and Apr 23)?"

41. On May 29, 2026, the Teacher, responding to the Parent's May 28, 2026, email wrote:

> "1. Were the materials and articles that [the Student] worked on different from what the other students in the WIN group were receiving, or did the whole group receive the same materials/articles?
>
> *The whole WIN group was working on the same articles, although individual supports were given to students as needed. In other words, materials were the same for everyone in the group but delivery of instruction may have varied.*
>
> 2. During WIN group, is the main focus on decoding mechanics and phonics rules, or is it more focused on general reading and comprehension?
>
> *The main focus on this group was comprehension, finding evidence in the text, and elaborating on ideas.*
>
> 3. Do you know if [the Student] was placed in a specific WIN group because of [their] IEP goals, or was [the Student] grouped based on general classroom reading levels and benchmarking?
>
> *There are many factors we consider when forming WIN groups. All of the things you listed are considered, so I can't really pinpoint one thing that placed [the Student] with me.*
>
> 4. Did Special Ed ever provide a specific tracking log or data sheet to track progress towards [the Student's] IEP goals?
>
> *No."*

42. On June 1, 2026, the District responding to the Parent's request for education records, explained that the District is afforded ten days to respond. The District also sent a list of records requested by the Parent to clarify the request. As part of that response the District noted:

> "Some of your requests for notes during consultation sessions are not considered educational records and are not required to be kept by IDEA, OARs, or the district. Working notes or files are just that; a working record for the educator and not kept within a student's educational records. Working notes often have information related to other students, and sharing their confidential information is prohibited."

43. On June 1, 2026, the District provided the Parent with records in response to their request for education records.

44. On June 1, 2026, the Parent, responding to the District's email regarding education records wrote in part:

> "Regarding your response to my request for consultation notes, my understanding of student records is that because a consultation session usually involves communication and the sharing of educational directives between multiple staff members to track a student's IEP services, these notes are considered part of that service delivery tracking and would be considered educational records. If a file happens to contain information regarding multiple students, I know the standard practice is just to redact the identifying information of other students so the relevant portions can be shared (like how the attached WIN documents were redacted). To ensure our records match, can you please confirm that the only written records of service delivery documentation for [the Student's] required special education supervision are the attached general education WIN group files and the text from the quarterly progress reports? If no separate tracking logs exist, a brief confirmation is all I need so I can align my notes accordingly."

45. On June 1, 2026, the Parent sent an email to the Special Education Teacher inquiring about the removal, from the Student's IEP, of their decoding/phonics goals.

46. On June 1, 2026, the Special Education Teacher sent an email to the Parent discussing the Student's progress. The Special Education Teacher observed:

> "[The Student] read 17 of 20 words correctly on [their] last progress check for that goal on two-syllable words, so [they] met the requirement once and almost got it another time when [they] read 15 correctly (16 was the target). I don't want to make the goal too hard but that one might not be challenging enough for a year from now. Maybe a goal on 3-syllable words or words with roots and affixes would be more appropriate. What are your thoughts?"

47. On June 4, 2026, the Parent responding to the Special Education Teacher's June 1, 2026, email, responded

> "[I] would like to keep the decoding goal since [the Student] did not meet the goal from the 2025- 2026 year. It makes sense to adjust the goal slightly, but I do not feel qualified to offer feedback on what that new goal should be. I will leave that up to you since you did the progress assessments this last year with [them]."

48. On June 4, 2026, the District produced an IEP Progress Report for the Student. The Report indicated that since the Student's recent IEP meeting there was insufficient data to measure progress toward their Reading goal, and the additional goal in writing and mathematics.

49. On June 5, 2026, the District, responding to the Parent regarding their question about attendance records for the Student, stated that the District does not keep attendance for WIN groups. The Student was assigned to the WIN group for the entire 2025-26 school year,

which met Monday through Thursday, and would have attended each day that the Student was in school.

50. On June 8, 2026, the Department received this *Complaint*.

51. On July 7, 2026, the District submitted its *Response* to the allegations in the Parent's *Complaint*. The District denied the allegations.

52. On July 15, 2026, the Department's Complaint Investigator interviewed the Parent. The Parent explained their concerns with the composition and formation of the WIN group and whether the group allowed for the faithful implementation of the Student's SDI time. The Parent was specifically concerned with whether the District could individualize instruction in a group setting. The Parent explained that the explanations provided by the District were not clear to them to that point. The Parent also expressed concern following the Student's General Education Teacher reporting that they designed the Student's SDI. The Parent questioned whether it was appropriate for the General Education Teacher to design that instruction, and whether the Special Education teacher should have designed the instruction instead. The Parent specifically questioned whether the design of the instruction met the intention of the goals, specifically how the Student worked on phonics or decoding through additional reading, or whether additional reading was provided which would have only focused on fluency.

    The Parent also questioned the Student's IEP placement determination. The Parent reported that the Student was not pulled out, as indicated in their IEP. The Parent expressed concern that this placement determination was included in the Student's IEP, that the District had explained this as being maintained in the IEP "just in case" but that the Student was not pulled out of class for instruction. The Parent questioned the District's implementation of the Student's placement determination. The Parent also questioned whether the District appropriately assessed the Student, observing that the District reported that the Student met their IEP goal, while also reporting that the Student did not show progress on three out of four assessments.

    The Parent explained that their questions regarding the Student's progress toward IEP goals, and the District implementation of those goals, led them to request education records. The Parent requested more information on relevant records, and the consultation model used between the Special Education Teacher and General Education Teacher. Specifically, the Parent requested evidence from the District that the Special Education Teacher and General Education Teacher met to consult regarding the Student. The Parent noted that they were hoping to determine whether, if and when a decrease in performance was observed, the General Education and Special Education Teacher consulted and made appropriate adjustments to the Student's education.

    The Parent noted that the Student displayed difficulty with math. Observing this, the Parent reached out to the General Education Teacher to discuss assistance for the Student such as

tutoring. In response, the General Education Teacher recommended a tutor for the Student and agreed the Student could benefit from tutoring. The Parent reported that the General Education Teacher indicated that the Student's processing of math problems was significantly behind peers. The Parent also reported that the General Education Teacher indicated that tutoring would be beneficial, suggested a tutor, and provided the Parent with a list of skills the tutor could work on with the Student.

53. On July 28, 2026, the Department's Complaint Investigator interviewed the Student's Principal and the District's Legal Counsel regarding these issues. The Principal explained that the District WIN time was an established 45-minute block of time in the school schedule that was for all students in the elementary school. During this time all students worked on material at their skill level. For students with an IEP, they could receive their SDI during this time, if that time and setting were suitable for the instruction that they required.

    The Principal explained that fourth and fifth grade students had their WIN blocks at the same time. Students were divided into groups based on their working level. In this case, students working at the same reading level would be grouped together. Teachers delivering instruction to students during these blocks would create and deliver more individualized instruction to the students as needed.

    The Principal noted that while the Student's IEP did not include 1:1 instruction, teachers are available in the group setting to work with students. General education and special education staff work together throughout the course of the school year to review student progress toward IEP goals and instructional delivery. This collaboration is accomplished through WINs cycles, six-to-eight-week blocks, wherein teachers and instructional coaches work together. Teachers and instructional coaches meet during scheduled half-day in-service to review data and progress of the WIN groups. Teachers and special education staff also meet for check-ins, and Professional Learning Community (PLC) times. These times allow staff to work together to monitor student progress.

    The Principal explained that the Student's Special Education Teacher also had one day per week in their schedule available to consult with teachers regarding service delivery. The Principal explained that the WIN blocks provided more than the required SDI service minutes outlined in the Student's IEP. As such the Student would receive more SDI minutes than their IEP required.

    The Principal noted that the Student's IEP team did discuss with the Parent the Student's placement determination, and the service delivery model used with the Student. The Principal offered that the IEP team did discuss with the Parent that the placement determination was not a statement that the Student would receive 1:1 instruction.

    The Principal reported that they were not aware of the Student's General Education Teacher communicating with the Parent regarding tutoring, or concerns about the Student's progress in math.

The Student's progress toward their IEP goals was measured by the Special Education Teacher. The Special Education Teacher would assess the Student's progress toward reading multisyllabic words on a quarterly basis. The Special Education Teacher provided individualized progress monitoring to assess progress toward that goal.

As part of the interviews, the District confirmed that it had provided documents responsive to the Parent's request for educational records. The District noted that some records requested by the Parent did not exist as independent documents but were tasks the general education and special education teacher engaged in.

IV. DISCUSSION

When IEPs Must Be In Effect

It was alleged that the District violated the IDEA, (1) when it failed to provide the Student with specially designed instruction (SDI) and IEP goals in reading fluency and phonics/decoding. The Parent alleges that the District's failure to provide the Student with their required SDI is evidenced by a lack of documentation supporting that the District provided said SDI to the Student; (2) when it failed to provide "direct one-on-one instruction" to the Student, as the result of a lack of resources in the District and/or prioritizing the District schedule to the detriment of the services indicated in the Student's IEP; (3) when the District did not provide SDI to the Student as outlined in their IEP. It is alleged that the SDI was provided by general education staff, rather than special education staff, and therefor was not appropriately adapted to the needs of the Student; (4) when the District did not implement pull-out support for the Student as indicated in their IEP, instead keeping the Student in the general education environment; (5) when the District did not provide the Student the service time in reading as outlined in the Student's IEP. It is alleged that the District calculated the delivery of service time by reference to the number of sessions and students in a group, rather than provide individualized services to the Student; (6) when the District failed to provide SDI in reading, by not providing individualized materials nor focusing on the Student's needs in decoding and phonics, but instead providing repetitive work in a group setting; and, (7) when the District did not implement changes to the Student's SDI in math following its review and revision by the Student's IEP team.

At the beginning of each school year, a district must have in effect an IEP for each child with a disability within their jurisdiction. Districts must provide special education and related services to a child with a disability in accordance with an IEP. Districts must ensure that each IEP is accessible to each regular education teacher, special education teacher, related service providers and other service providers responsible for its implementation. Districts must also inform each teacher and provider of their specific responsibilities for implementing the child's IEP and specific accommodations.[4]

[4] OAR 581-015-2220(1)—(3)

The Parent alleged that the District did not provide the Student with specially designed instruction (SDI) in reading fluency and phonics/decoding. The District reported that the Student was provided with said SDI, delivered by the General Education Teacher and overseen by the Special Education Teacher. The record includes the Student's IEP progress reports. Those IEP progress reports indicate that on November 7, 2025, January 26, 2026, and April 10, 2026, the Special Education Teacher assessed the Student's fluency and decoding through reading accuracy. The District also reported that the Student attended the What I Need (WIN) periods each day they attended school because it is part of the established school schedule. The Student received their SDI during the WIN period.

The Student's IEP includes 30 minutes per week of SDI in Reading delivered by general education staff and supervised by special education staff. The Student's IEP does not specify that the Student has a 1:1 aide, or that they require 1:1 instruction for the delivery of the SDI in support of their IEP goals.

The District incorporates an instructional period into its elementary school schedule where teachers can provide targeted academic intervention, remediation, or enrichment based on a student's individual learning needs. The District reported that this period, the WIN period, can also be utilized to deliver specially designed instruct (SDI). The District reported that teachers generally group students with similar needs into groups and deliver individual SDI during the WIN period within that small group setting. The District reported that the Student's SDI was delivered during this period. The Student's IEP indicates that General Education staff would deliver the Student's SDI, which is the service delivery model for the WIN period.

A student's IEP should include the anticipated frequency, amount, location, and duration of the service and modifications provide to the student as part of their specific special education plan.[5] The Parent observed that the Student's IEP included seemingly contradictory information with the Student's SDI service summary indicating that the Student would receive their SDI in Reading in the general education environment by the general education staff. The Parent observed that the Student's IEP also included a statement of nonparticipation justification indicating that the Student would need to be removed from participating with nondisabled students for 30 minutes of the school week for the delivery of their SDI. The record supports that the Student's SDI was delivered in the general education WIN period by the Student's General Education Teacher, in accordance with the SDI service summary, as required by the IDEA.

It was alleged that the District did not provide the Student's SDI given that the District did not track individual service delivery, but rather attendance for the period during the school day when SDI was scheduled for delivery. The District reported that while the Student's IEP called for 30 minutes per week of SDI, the Student was scheduled for daily 45 minute WIN periods. As

[5] OAR 581-015-2200(1)(e) and (1)(d)

the result of this schedule the Student would have received more than the required amount of SDI weekly.

It was alleged that the District did not provide individualized instructional materials to the Student in support of their IEP goals. The Parent questioned whether the instruction provided to the Student in a group setting was individualized and adapted to meet their decoding and phonics needs. Specially designed instruction means adapting, as appropriate to the needs of the child the content, methodology, or delivery of instruction to address the unique needs of the child resulting from their disability and ensuring access to the general curriculum.[6] On May 28, 2026, in response to the Parent's email, the District responded that the Student was largely provided with general education curriculum selected by the General Education Teacher from existing District curricular materials. On May 29, 2026, the District explained that while everyone in the Student's WIN group may have worked on the same reading material, the "delivery of instruction may have varied."

The Parent alleged that the District did not initially include SDI in Math in the Student's IEP when it was formulated. The Parent alleged that the Student showed a need for SDI in Math as early as their initial assessment on May 16, 2025. The Student was administered two assessments in the 2024-25 school year. One assessment showed that the Student was behind grade level in math, while the other placed them in the "high average" level. As a result of these assessments the Student's IEP team did not initially include SDI in math.

The Department does not substantiate this allegation.

IEP Team Considerations and Special Factors

It was alleged that the District violated the IDEA when the Student's SDI in reading was not developed by the Student's IEP team, in consideration of the Student's strengths, the concerns of the parent, and results of evaluations or academics needs, but rather was created by general education staff.

In developing, reviewing, and revising a child's IEP, the IEP team must consider the strengths of the child, the concerns of the parents for enhancing the education of their child, the results of the initial or more recent evaluation. Additionally, the district must consider the academic, developmental, and functional, needs of the child. The team should also consider special factors such as the child's communication needs, whether they require assistive technology devices and services, and whether the child's behavior impedes their learning or that of others.[7]

The Parent raised the concern that the District did not fulfill its requirements to provide SDI to the Student that addressed the Student's needs. It was specifically alleged that the District did not address the Student's needs given that the curriculum provided to the Student was

[6] OAR 581-015-2000(37)(a)—(37)(b)
[7] OAR 581-015-2205(1)—(3)

developed by the Student's General Education Teacher and not the Student's Special Education Teacher. The Student's May 16, 2025, IEP includes two goals in reading. These goals focus on increasing the number of words correctly read aloud and increasing the Student's ability to read multi-syllabic words. These goals track the weaknesses observed by the Student's May 15, 2025, psychoeducational assessment. Meeting minutes from the Student's May 16, 2025, IEP team meeting document that team members agreed with the goals formulated for the Student. The Student's IEP indicated that the Student would receive their SDI in Reading in the general education environment, provided by the general education teacher and supervised by the special education teacher. The Student largely made progress toward their IEP goals, until shortly prior to their May 11, 2026, IEP team meeting, when the team revised the Student's Reading goals.

The Department does not substantiate this allegation.

Placement of the Child

It was alleged that the District violated the IDEA when it did not adhere to the educational placement selected by the Student's IEP team. The Parent alleges that the Student's IEP indicated that the Student should be removed from the general education environment to receive special education, and that the Student's IEP services will occur in the general education environment under the supervision of a special education teacher.

The educational placement of a child with a disability is determined by a group of persons, including the parent, and others knowledgeable about the meaning of evaluation data, and placement options. The educational placement of a child with a disability should be made in conformity with Least Restrictive Environment (LRE) provisions. The placement should be based on the Student's current IEP, determined at least once every 365 days, and be as close as possible to the child's home.[8]

On May 16, 2025, the Student's IEP team developed the Student's initial IEP. The IEP noted that the Student's slow processing speed and specific learning disability in decoding and reading fluency made it difficult for the Student to keep pace in the general education curriculum without supports. The Student's IEP indicated that they would receive SDI in read in the general education environment. The Student's supplementary aids and services would also be provided in the general education environment and special education environment. The IEP envisioned the Student being removed for 30 minutes or approximately 2% of the school week for the provision of specially designed instruction.

On May 27, 2026, the District convened an IEP team meeting to address the Parent's concerns about placement. In that meeting the IEP team meeting minutes document that, "the non-justification [sic] statement from the last IEP was made in error and that it was never intended for [the Student] to be removed from class 30 minutes a week, that was the SDI minutes but

[8] OAR 581-015-2250(1)(a)—(1)(e)

not removal." The record reflects that the Student received their SDI in the general education environment, from their General Education Teacher, supervised by their Special Education Teacher, as outlined in the service summary portion of their IEP.

The Department does not substantiate this allegation.

Content of the IEP

It is alleged that the District violated the IDEA when it did not formulate an IEP that included a description of how the Student's progress toward meeting annual goals would be measured and when periodic reports on the progress the child is making toward meeting the annual goals would be provided. It is also alleged that the Student's IEP included contradictory information regarding the extent to which the Student would not participate with children without disabilities in the regular classroom.

A student's IEP must include a statement of the child's present levels of academic achievement and functional performance, including how the disability affects their involvement and progress in the general education curriculum. The IEP should also include a statement of measurable annual goals, including academic and functional goals designed to meet the child's needs that result from their disability. These goals should enable them to be involved in and make progress in the general education curriculum. The IEP should include a description of how the child's progress toward meeting the annual goals will be measured and when periodic reports of the progress the child is making toward meeting the annual goals will be provided. Additionally, the IEP should include a statement of the specific special education and related services and supplementary aids and services to be provided to the child, and a statement of the program modification or support to school personnel that will be provided for the child. These specific special education and related services should be provided to assist the child in advancing appropriately toward attaining the annual goals, be involved and progress in the general education curriculum, and be educated with and participate with other children. The IEP should also include an explanation of the extent, if any, to which the child will not patriciate with children without disabilities in the regular class.[9]

The Student's May 16, 2025, IEP outlined progress reporting quarterly in written progress notes. The record supports that the District provided these progress reports on November 7, 2025, January 1, 2026, and April 10, 2026. The Student's IEP team convened on May 11, 2026, to review and revise the Student's IEP. As observed above, the Students May 16, 2025, IEP anticipated delivery of SDI in the general education environment, while the nonparticipation justification noted that the Student may be removed from the general education environment for up to 30 minutes per week. On May 27, 2026, the District communicated to the Parent, in and IEP team meeting, that the nonparticipation justification statement in the May 16, 2025, IEP was made an error. The record supports that the Student received their SDI in the general education environment during the WIN period.

[9] OAR 581-015-2200(1)(a)—(1)(f)

The Department does not substantiate this allegation.

Access to Student Education Records

It was alleged that the District violated the IDEA when, following requests to produce educational records, specifically data tracking logs of SDI delivered to the Student, the District did not provide the requested records.

To ensure the safeguards required for education records of children with disabilities, including early intervention and early childhood special education records, the Department adopts the provisions of FERPA (Family Educational Rights and Privacy Act) and the IDEA. This provision includes all education records with respect to the identification, evaluation, and educational placement of the child and the provision of a FAPE to the child. The program, district, agency, or contractor must comply with a parent's request to inspect and review records without unnecessary delay and before any meeting regarding an IEP, or any due process hearing, or resolution session related to a due process hearing, and in no case more than 45 days after the request has been made.[10] OAR 581-015-2205 adopts the provisions of FERPA, "education records" are defined as those records that are (1) directly related to a student; and (2) maintained by an educational agency. This does not include records that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record.[11] The term "maintain" is interpreted as covering records that are "kept in a filing cabinet in a records room at the school or on a permanent secure database."[12]

On May 27, 2026, the Parent made a request to the District for specific records. The Parent requested consultation logs, SDI methodology, and progress monitoring data. On May 29, 2026, the Parent sent an email to the District clarifying their May 27, 2026, request to include all records reviewed by the District leading to the District's decision to deny the Parent's request for compensatory services. The Parent requested copies of the Student's current IEP and service summary, parent concerns input, progress monitoring data related to annal reading goals, second and third quarter progress reports, teacher input and instructional data, service delivery documentation, and records related to team discussions during meetings. On May 29, 2026, the District provided the Parent with the requested progress monitoring data. On May 29, 2026, the Parent requested additional information including, "Teacher input and instructional data and Service delivery documentation" and "meeting notes, consultation logs or summary records from the specific check in dates" that the Teacher mentioned in their email to the Parent. On June 1, 2026, the District, responding to the Parent's request for records observed that some of the documentation requested such as "notes during consultation sessions" are not considered education records and are not required to be kept by IDEA, OARs,

[10] OAR 581-015-2300
[11] OAR 581-015-2300(1); 34 CFR § 99.3
[12] *Owasso Indep. Sch. Dist. No. 1-011 v. Falvo*, 536 U.S. 426 (2002)

or the district." The District went on to explain that staff's working notes are not made part of a student's education record. During interviews with the District, staff explained that consultation between the general education and special education staff was largely scheduled into the school year. The General Education Teacher and Special Education Teacher confirmed that they did meet to consult regarding the Student. The District produced emails documenting the scheduling of such meetings. The District also reported that the Special Education Teacher had one day per week where they could meet as needed with the General Education Teacher The consultation between general education and special education staff did not result in a stand-alone log added to the Student file, nor did the Student's IEP require that such consultation be documented or provided to the Parent.

The Department does not substantiate this allegation.

Additional Finding: Review and Revision of IEPs

On October 13, 2025, the Parent sent an email to the District asking about the usefulness of tutoring for the Student. The Parent reported that they were then considering outside tutoring in reading, writing, and math to help the Student avoid falling behind in school. On October 14, 2025, the Student's General Education Teacher agreed that tutoring may be helpful, observing that the Student was could only solve 1-2 questions due to their need for additional processing time, where other classmates had an opportunity to practice 6-8 problems. The Teacher recommended a high school student in the District who provided tutoring services. On January 9, 2026, the Parent sent an email to the District announcing the commencement of tutoring services with the tutor recommended by the Teacher. In the same message the Parent requested information on areas where the Student could "use the most help." The Teacher responded with a list of math concepts where the Student could use additional practice. Thereafter the Parent utilized the services of the tutor recommended by the General Education Teacher. As part of the Student's May 11, 2026, IEP team, the team revised the Student's IEP, adding goals in math in recognition of the Student's

Each school district must ensure that the IEP team reviews the child's IEP periodically, but at least once every 365 days, to determine whether the annual goals for the child are being achieved. In addition, each school district must revise the IEP, as appropriate, to address any lack of expected progress toward the annual goals described in the IEP and in the general education curriculum, as well as consider the results of any reevaluation that had been conducted. Furthermore, the school district needs to consider information provided by the parents about the child, as well as the child's anticipated needs, in addition to other matters concerning the child.[13]

The District reported that the General Education Teacher's communications with the Parent regarding the Student's struggles in math, and referral for outside tutoring was not known to other staff members or members of the Student's IEP team. There is no evidence in the

[13] OAR 581-015-2225(1) and 34 CFR § 300.324

records that the General Education Teacher's observations about the Student's comparatively slow processing time and needs for additional support in math, were communicated to the Student's IEP team to address the Student's needs ahead of the yearly IEP review date. Following the Student's May 11, 2026, IEP team meeting, the team determined that the Student required SDI in math. The team added a math goal to the Student's May 11, 2026, IEP.

The Department substantiates this allegation.

Free Appropriate Public Education (Denial of FAPE)

It was alleged that the District violated the IDEA when, it failed to implement the Student's IEP as described in the complaint; it did not educate the Student in the placement selected by their IEP team; it did not formulated an IEP with progress monitoring parameters or clearly state the extent to which the Student would patriciate with children without disabilities; and, it did not provide the Parent with access to Student education records. It is alleged that these actions denied the Student a FAPE.

School districts must provide FAPE to all school-age children with disabilities for whom the district is responsible.[14] Procedural violations may only lead to finding that a child did not receive a FAPE if they: "(I) impeded the child's right to a free appropriate public education; (II) significantly impeded the parents' opportunity to participate in the decision making process regarding the provision of a free appropriate public education to the parents' child, or (III) caused a deprivation of educational benefits."[15] In determining whether a student was denied a FAPE, courts review a district's compliance with both the procedural and substantive components of the Student's education. Reviewing courts must inquire whether the school district complied with the procedural requirements of the IEP, and whether the school district met the substantive requirements to develop an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances.[16]

The record supports that the District did implement the Student's IEP, providing them with SDI in the general education environment, specifically during the WIN period. As observed above, the District provided the Student's SDI in the general education environment as outlined in the IEP service summary. The District acknowledged, ahead of the filing of this complaint, that the nonparticipation justification page contained errors. The Student's educational placement in the general education environment was supported by IEP team meeting minutes and the Student's psychoeducational assessment. The Student's IEP did include that the District would monitor progress quarterly and provide reports to the Parent. The record supports that the Student was assessed quarterly and that these reports were produced. The record supports that the District did provide the Parent with copies of education records. Some of the records

[14] OAR 581-015-2040
[15] 20 USD § 1415(f)(3)(E)(ii)
[16] *Endrew F.*, 137 S.Ct. at 999.

requested by the Parent were not education records or may not have existed nor was the District required to keep such records.

Regarding the above concerns, the Department does not substantiate this allegation.

The District's failure to review and revise the Student's IEP as the result of an observed need in math resulted in a delay of most of the 2025-26 school year before the Student's IEP addressed the Student's needs, thereby denying the Student a FAPE.

VII. CORRECTIVE ACTION

In the Portland Public School District
Case No. 26-054-077

The Department orders the following corrective action in this matter:

Action Required	**Submissions**	**As Soon As Possible But No Later Than Due Date**
1. The District must reconvene an IEP team meeting to determine whether the District's failure to provide SDI in math sooner, resulted in the Student's lack of expected progress. The IEP team should then determine whether and what compensatory education is required considering the lack of expected progress, and work with the Parent to develop a plan to deliver the required compensatory education.	Evidence of IEP meeting, to be provided to the Department, along with the team's determination. If compensatory education is determined necessary, a copy of the compensatory education plan. If compensatory education is determined necessary, evidence that compensatory education was provided as required.	October 15, 2026 October 15, 2026 July 1, 2027
2. The District must ensure that all staff at the Student's school who are responsible for reviewing and revising IEPs receive training in IEP Content, and review and revision of IEPs, in light of a student's lack of a expected progress or additional needs.	Training agenda/materials, to ODE for review/approval. Sign-in sheet for training.	November 15, 2026 January 15, 2027

Dated: this 14th Day of September 2026



Ramonda Olaloye
Assistant Superintendent
Office of Enhancing Student Opportunities

Emailing Date: September 14, 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 provision of ORS § 183.484. (OAR 581-015-2030 (14).)