

**BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION**

In the Matter of )  
Brookings-Harbor School District 17C ) STIPULATED FINDINGS OF FACT,  
) CONCLUSIONS, FINAL ORDER  
) AND  
) CORRECTIVE ACTION  
) Case No. 12-054-006

**I. BACKGROUND**

On March 22, 2012, the Oregon Department of Education (Department) received a letter of complaint from an individual that requested that the Department conduct a special education investigation under OAR 581-015-2030 into special education practices and procedures by the Brookings-Harbor School District (District).

Under federal and state law, the Department must investigate written complaints that allege violations of the Individuals with Disabilities Education Act (IDEA) and issue a final order within 60 days of receiving the complaint, unless exceptional circumstances require an extension. This order is timely.

The Department's complaint investigator determined that on site interviews were necessary to resolve the issues in the complaint. The Department's investigator conducted interviews with District staff on March 22, 2012. The Department's complaint investigator interviewed the following District staff: the Superintendent and Special Education Director. The Department's complaint investigator interviewed the complainant on March 22, 2012. The Department's complaint investigator considered all of the interviews, documents and submissions provided to the Department by the parties.

**II. ALLEGATIONS AND CONCLUSIONS**

The Department has jurisdiction to resolve this complaint under 34 CFR 300.151-300.153 and OAR 581-015-2030. The allegations and the Department's conclusions are set out in the chart below. The Department based its conclusions on the Findings of Fact (Section III) and the Discussion (Section IV).

The written complaint alleges that the District violated the IDEA in the following ways:

#	Allegations	Conclusions
(1)	<u>IEP Implementation:</u> Not providing speech and language pathology services to various students	Not Contested

#	Allegations	Conclusions
	within the District pursuant to the students' IEPs. <sup>1</sup>	

### III. FINDINGS OF FACT

#### **Background**

1. The U.S. Department of Education, Office for Civil Rights (OCR) received two complaints (Reference Numbers 10121018 & 101210017) from parents whose children reside within the District. The OCR complaints alleged that the District was in violation of Section 504 of the Rehabilitation Act of 1973. OCR and the District resolved the complaints by a Voluntary Resolution Agreement (VRA) dated March 12, 2012.
2. The factual basis for the OCR complaints and the present complaint overlap, however the present complaint is brought under the Individuals with Disabilities Education Act (IDEA).

#### **Present complaint**

3. The present complaint was filed on behalf of all students residing within the District, whose IEPs included speech-language services, and who did not receive speech-language services during the 2011-12 school year. This systemic complaint does not supersede the existing state IDEA complaints filed to date for several students in the District.
4. The District does not contest that it did not provide direct Speech and Language Pathology (SLP) services to any District students from September 6, 2011 to March 2, 2012. The Department calculates this was for a period of 23 weeks and the District accounted for 21 weeks of missed services, which included two weeks for initial scheduling and administrative matters which are customary in this district (not counting the week of November 21, 2011-Thanksgiving holiday).
5. The District began providing direct SLP services to students with SLP services listed in their IEPs beginning March 2, 2012.
6. The District made efforts throughout the June 2011 to February 2012 period to hire a licensed speech-language therapist, including listing with national job placement companies, attendance and staffing of a hiring booth at a national speech-language providers' convention, and registration with a number of

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<sup>1</sup> This impacted class of students does not include the students who had existing IDEA complaints filed with the state to date.

contract therapy companies to try and identify potential candidates. Efforts to hire a licensed, competent speech-language provider were not successful.

The District has identified seventy-seven students with speech-language services specified in their IEPs. The students will be identified and accounted for by the District on the attached Appendix A.

#### IV. DISCUSSION

The District does not dispute any of the allegations in the present complaint.

Based on the admissions by the District, the Department orders, and the District stipulates to, the following Corrective Action.

#### V. STIPULATED CORRECTIVE ACTION<sup>2</sup>

*In the Matter of Brookings-Harbor School District*  
Case No. 12-054-006

#	Action Required	Submissions <sup>3</sup>	Due Date
1.	<p><u>Identification and Notification of Students</u></p> <p>By May 9, 2012, with ODE assistance, the District will identify each student who was to receive speech-language services as part of his or her IEP during the 2011-12 school year, and who did not receive such services at the beginning of the 2011-12 school year.</p> <p>Following the identification of the students, the District, with ODE assistance, must notify, in</p>	<p>a. Using the included format, submit to ODE via secure file transfer, a list of the students identified to receive speech-language services during this time. For each student, identify the SSID, grade level for the 2011-2012 school year, the date of the IEP in effect at the beginning of the school</p>	<p><b>May 11, 2012</b></p>

<sup>2</sup> The Department's order shall include any necessary corrective action as well as documentation to ensure that the corrective action has been completed (OAR 581-015-2030 (13)). The Department expects and requires the timely completion of corrective action and will verify that the corrective action has been completed as specified in any final order (OAR 581-015-2030 (15)). The Department may initiate remedies against a party who refuses to voluntarily comply with a plan of correction (OAR 581-015-2030 (17 & 18)).

<sup>3</sup> Corrective action plans and related documentation as well as any questions about this corrective action should be directed to Rae Ann Ray, Oregon Department of Education, 255 Capitol St. NE, Salem, Oregon 97310-0203; telephone – (503) 947-5722; e-mail: [raeann.ray@state.or.us](mailto:raeann.ray@state.or.us); fax number (503) 378-5156.

#	Action Required	Submissions <sup>3</sup>	Due Date
	<p>writing, the parents or guardians of each student to inform them of the amount of compensatory speech-language services their child should have received based on the student's IEP. The notification will include a statement that affirms the District's obligation under IDEA to provide services specified in the student's IEP.</p>	<p>year, the amount of speech-language services on the IEP, and the amount of compensatory education services to be provided.<sup>4</sup></p> <p>b. Submit a dated copy of each letter provided to the parents and the date/method of providing the letter.</p>	<p><b>May 15, 2012</b></p>
<p>2.</p>	<p><b>By May 22, 2012</b>, the District will provide the Department with a schedule for the provision of the compensatory education service time.</p> <p>The plan shall identify how the services will be provided, the schedule for services (including when services begin and end), how any missed sessions will be rescheduled or alternate offerings will be provided, and the contact person for the District for oversight of these services.</p> <p>Compensatory education services must be provided by qualified staff which should be noted in the plan.</p> <p>The District shall maintain a log of services provided, identifying: date, type of service, provider, amount of time scheduled by</p>	<p>For each identified parent and student, the District shall submit a copy of the compensatory services provision plan signed by the parent and a District official.<sup>5</sup></p>	<p><b>May 22, 2012</b></p>

<sup>4</sup> See Appendix A for required content of submission and sample template.

<sup>5</sup> See Appendix B for required content of submission and sample template.

#	Action Required	Submissions <sup>3</sup>	Due Date
	<p>date, amount of actual session time, and reason for any missed sessions.</p> <p>The District shall ensure the provision of any transportation necessary for the student to access these services.</p> <p>The District and parent may agree in writing to modify any of the provisions of the compensatory services plan except the qualifications of providers and the responsibility for transportation.</p>		
3.	<p><u>Provision of Compensatory Services</u></p> <p>By December 15, 2012, the District will complete its implementation of compensatory services determined necessary for each student identified in Corrective Action Item # 1.</p>	<p>The District will provide a report to the Department with the following information regarding the provision of compensatory services using a completed log for each student.<sup>6</sup></p> <ol style="list-style-type: none"> <li>1. A description of the compensatory services provided to each student;</li> <li>2. The dates and amount of time scheduled for services and the amount of SLP service actually provided the student;</li> <li>3. An explanation of any missed sessions and any applicable</li> </ol>	<p><b>December 28, 2012 for the report regarding the provision of compensatory services.</b></p>

<sup>6</sup> See Appendix C for the information required in this submission and a template form for this submission.

#	Action Required	Submissions <sup>3</sup>	Due Date
	<p>In addition, within fifteen days of completing the compensatory education services for the individual services, the District will notify the parents or guardian of the student to inform them that the District has completed the compensatory education.</p>	<p>rescheduling;</p> <p>4. The name and title of the person providing the compensatory education.</p> <p>The District will provide each parent a copy of their student's compensatory education services log.</p>	<p><b>January 15, 2013</b>  <b>for copies of the notification letters to the parents related to completion of the compensatory education.</b></p>

Dated: 2nd day of May, 2012



\_\_\_\_\_  
Nancy J. Latini, Ph.D.  
Assistant Superintendent  
Office of Student Learning & Partnerships

Mailing Date: May 2, 2012

APPEAL RIGHTS: You are entitled to judicial review of this order. Judicial review may be obtained by filing a petition for review within 60 days from the service of this Order with the Marion County Circuit Court or with the Circuit Court for the County in which you reside. Judicial review is pursuant to the provisions of ORS 183.484.

Additionally, the Department of Education will not reconsider complaints after the Final Order has been issued pursuant to OAR 581-015-2030 (14) (b).

**Appendix A- Students Affected by the Unavailability of Speech Language Pathologist<sup>7</sup>**

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Student \_\_\_\_\_ SSID \_\_\_\_\_  
                   Last                                  First                  MI

A.	B.	C.	D.
Grade Level (2011-2012) and Date of IEP in Effect at the Beginning of the School Year	Total number of SLP minutes identified on IEP in Column D.	<input type="checkbox"/> Direct Instruction <input type="checkbox"/> Related Service	Total Compensatory Education Time Scheduled
		<input type="checkbox"/> Direct Instruction <input type="checkbox"/> Related Service	
		<input type="checkbox"/> Direct Instruction <input type="checkbox"/> Related Service	

<sup>7</sup> All substantive items in this chart are required in your submission but the format may be adjusted as needed.

(COPY TO DISTRICT LETTERHEAD)

**Appendix B Compensatory Education Services Plan**

**Case No. 12-054-006**

Student name: \_\_\_\_\_

SSID \_\_\_\_\_

Student will receive \_\_\_\_\_ hours of compensatory education speech and language services.

- Student will receive instruction from (name/licensure) \_\_\_\_\_, a qualified speech pathologist.
- SLP will maintain an instructional log, see attached Appendix C.
- SLP will complete assessment/progress reporting related to student performance.
- Schedule of sessions:

• Directions for rescheduling missed sessions:

• Location:

• Transportation:

The District and Parent may agree to modify any of the provisions of the compensatory service plan except for the qualifications of the provider and the responsibility for transportation. Any modifications to this plan must be in writing and agreed to by both District and Parent.

\_\_\_\_\_ is responsible for oversight of this plan.  
(name/position)



**Appendix C- Compensatory Services Log Template (Add Rows As Needed)**  
**SLP INSTRUCTIONAL LOG<sup>8</sup>**

Student \_\_\_\_\_  
Last First MI      DOB \_\_\_\_\_      SSID \_\_\_\_\_      Grade \_\_\_\_\_  
2011-2012

School \_\_\_\_\_ Case Manager \_\_\_\_\_

Provider \_\_\_\_\_

Scheduled date	Scheduled time period (beginning-ending time)	Actual service time provide (beginning-ending time)	Total time of services provided	Notes

Make up sessions				

<sup>8</sup> All substantive items in this chart are needed in your submission but the formatting may be adjusted as needed.