

BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of Hillsboro SD 1J

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**FINDINGS OF FACT,
CONCLUSIONS
AND FINAL ORDER
Case No. 14-054-006**

I. BACKGROUND

On February 7, 2014, the Oregon Department of Education (Department) received a written request for a special education complaint investigation from the parents (Parent(s)) of a student (Student) residing and attending school in the Hillsboro School District 1J (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 by email on February 7, 2013.

Under state and federal law, the Department must investigate written complaints that allege violations of the Individuals with Disabilities Education Act (IDEA) and issue an order within sixty days of receipt of the complaint.¹ This timeline may be extended if the parent and the school district agree to the extension in order to engage in mediation or local resolution or for exceptional circumstances related to the complaint.²

The District agreed to participate in a mediation session. However, when the mediator was unable to secure full Parent participation in the mediation process, the timeline continued. After the complaint investigator interviewed the Parents, the Parents decided not to participate in mediation until after the Final Order was issued. On March 21, 2014, the mediator dismissed the mediation and informed all parties that a new mediation could be scheduled after the Final Order was issued, if the Parents wished.

On February 13, 2014, the Department's complaint investigator sent a *Request for Response* to the District identifying the specific allegations in the complaint to be investigated and establishing a *Response* due date of February 27, 2014.

On February 27, 2014, the District submitted a timely *Response* indicating it disputed three of the allegations in the Parent's complaint; and did not dispute a fourth allegation. In total, the District submitted the following items:

- A. Copies of all of the Student's IEP's, in effect during the 2012-2013 and 2013-2014 school years;
- B. The most recent eligibility evaluation for the Student, to include all evaluation reports that document the Student's disability and current levels of academic achievement and functional performance;
- C. Any meeting notices, meeting minutes, and Prior Written Notices (PWN) relating to the Student for the 2012-2013 and 2013-2014 school years;
- D. Documentation of the type and amount of services the Student has received during the 2012-2013 and 2013-2014 school years;

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

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

- E. All documentation of the provision of special education and related services for the 2012-2013 and 2013-2014 school years, to include documentation of the progress the Student has made during these years;
- F. Copies of the Student's schedules for the 2012-2013 and 2013-2014 school years;
- G. Copies of all communications between the Parents and the District that are relevant to the allegations;
- H. Copies of all progress reports sent to the Parents during the 2012-2013 & 2013-2014 school years;
- I. Any other documentation related to the allegation that the District believes may be helpful in resolving this complaint; and,
- J. A list of staff or others who are knowledgeable about the circumstances in this complaint and their contact information.

The Parents did not submit any additional materials for consideration. The Department's complaint investigator determined that on-site interviews were needed. On March 12, 2014, the complaint investigator interviewed the Parents. On March 13-14, 2014, the complaint investigator interviewed the Special Education Case Manager, a Certified Occupational Therapy Assistant (COTA), an Occupational Therapist, a Counselor, the high school Registrar, and a Student Services Coordinator. In addition, the complaint investigator interviewed a Reading teacher, Language Arts (LA) teacher, Math teacher, Science teacher, two Art teachers and a PE teacher. The complaint investigator reviewed and considered all of these documents, interviews, and exhibits in reaching the findings of fact and conclusions of law contained in this order. This order is timely.

II. ALLEGATIONS AND CONCLUSIONS

The Department has jurisdiction to resolve this complaint under 34 CFR §§ 300.151-153 and OAR 581-015-2030. The Parent's allegations and the Department's conclusions are set out in the chart below. These 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 February 7, 2013 to the filing of this complaint on February 6, 2014.³

	Allegations:	Conclusions:
1.	<p><u>When IEP's Must Be In Effect</u></p> <p>The Parents allege that the District violated the IDEA when it did not provide the services outlined in the Student's IEP.</p> <p>(OAR 581-015-2220 (1) (3) & 34 CFR 300.323 & 300.324.</p>	<p><u>Not Substantiated</u></p> <p>Here, the District provided accommodations, modifications, and supplementary aids and services. Under the global structure of the high school, the Student did well; earning a 3.86 GPA at the end of the first semester. The Student also made improvement in reading, showing an increased Lexile score of 955 from 795. Although the District did not specifically provide an iPad, it did allow the Student to utilize technology in the classroom and is in process of conducting a comprehensive Assistive Technology (AT)</p>

³ However, the allegations are specific to the period of time the student has attended the District high school—September 3, 2013 to February 6, 2014.

		<p>assessment.</p> <p>Therefore, the Department does not substantiate this allegation and orders no Corrective Action.</p>
2.	<p><u>Prior Written Notice</u></p> <p>The Parents allege that the District violated the IDEA when it unilaterally changed the services the Student received without providing Prior Written Notice to the Parents.</p> <p>(OAR 581-015-2310 & 34 CFR 300.503)</p>	<p><u>Not Contested</u></p> <p>The District acknowledges that the special education teacher wrote no Prior Written Notice to document any proposed changes to the IEP or the delivery of FAPE during the summer meeting with the Parent. Therefore, the District does not contest this allegation and offers a corrective action plan.</p> <p>(See Corrective Action)</p>
3.	<p><u>Assistive Technology</u></p> <p>The Parents allege that the District violated the IDEA when it did not provide the Student with Assistive Technology as outlined in the Student's IEP.</p> <p>(OAR 581-015-2055 (1) & 34 CFR 300.105).</p>	<p><u>Not Substantiated</u></p> <p>Here, the District provided technology in several forms, but did not specifically provide an iPad. In fact, the District offered another type of tablet to the Student for use in the classroom. District conducted a comprehensive Assistive Technology assessment for the Student. Even though the District did not specifically provide an iPad, it honored the essence of the Student's previous IEP; even though the previous team had considered and rejected the need for AT.</p> <p>Therefore, the Department does not substantiate this allegation and orders no Corrective Action.</p>
4.	<p><u>Free Appropriate Public Education (FAPE)</u></p> <p>The Parents allege that, as a result of the combined allegations outlined above, the District failed to provide the eligible Student with FAPE.</p> <p>(OAR 581-015-2040 & 34 CFR 300.101).</p>	<p><u>Not Substantiated</u></p> <p>The Department has not substantiated the first and third allegations in this complaint. The District did not contest the second allegation, but the lack of one Prior Written Notice from the first summer meeting for this Student did not negatively affect the Student's program nor the parents' right to be involved. Therefore, the Department does not substantiate this allegation and orders no Corrective Action.</p>

<p><u>Proposed Corrective Action</u></p> <p>The Parents' requests:</p> <ol style="list-style-type: none"> 1) The District provide the Student with needed technology in classes. Technology (iPad) will help the Student take notes and learn content, stay organized, etc.; 2) The Student needs assistance to stay organized. If the Student has access to technology in classes, the Student can use it to take notes, take pictures of teacher outlines and study guides, and use the calendar application to stay organized; 3) The Student would still need the aid of an assistant to insure the Student is turning items in and staying on top of homework and assignments; and, 4) The use of an iPad in class last year was a great help and we want the Student to continue to be successful and independent. 	
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III. FINDINGS OF FACT

- 1) The Student is 14 years old, resides in the Hillsboro School District 1J, and is a 9th grader in a Hillsboro SD high school. The Student is eligible for special education as a student with a specific learning disability in reading skills and written expression as established in a reevaluation and subsequent team meeting dated February 24, 2014.
- 2) Although the Student has always resided in the District subject to this complaint, the Student attended school in a charter school in a neighboring district through grades K-8. While the Student was in grades K-6 in this charter school, the residential district (District) provided the Student's special education services. However, on July 1, 2011, Oregon law changed, and the neighboring district became responsible for, and subsequently provided the Student's special education services.⁴
- 3) In June, 2013 at the end of the Student's 8th grade year, the Parents decided to transfer the Student back to the residential District and to the neighborhood high school. On June 10, 2013, the Parents and the Student met with a counselor, and a special education teacher at the District high school. During that meeting, the Student and Parents filled out a "freshman forecasting worksheet" with the assistance of the counselor. The Parents stated they brought the Student's IEP to the meeting, but the District refused to accept a copy until the Student was formally enrolled in the District. The special education teacher who attended the meeting is no longer employed by the District and has relocated to another state. When the special education

⁴ OAR 581-015-2075, effective July 1, 2011.

coordinator contacted the teacher, the teacher expressed no memory of the meeting. The former special education teacher did not prepare any notes of the meeting, and did not send a Prior Written Notice to the Parents reporting on any decisions made or actions taken at the meeting. In its *Response*, the District noted that it does not have any record of either receiving or not receiving the IEP at this meeting.

- 4) Generally, in the District, student records from District middle schools are transferred directly to the appropriate high school at the end of the 8th grade year. When students who are new to the District register for high school, records requests are sent by the office of the new school to the previous out of district school. The records are then sent by the previous school to the new in District school. Parents may bring in their copy of an IEP, but most generally the cumulative file is transferred directly from one district to the other, sent by US mail or by courier if from another district in the Educational Service District region.
- 5) Because the District had been responsible for providing special education services to the Student through grade 6; the District had old special education records on file when the Student registered at the high school in August, 2013.⁵ Therefore, when the high school Registrar began to register the Student the Student's SSID number and other information was already in the District's computer system.
- 6) The Parent hand carried the cumulative file from the neighboring district's charter school to the residential District high school in late August of 2013.⁶
- 7) When the Student registered at the District high school, the Student was eligible in two areas for special education: Communication Disorder and Specific Learning Disability in the area of Reading and Written Language.
- 8) The Student's IEP in force on September 3, 2013, when the Student started the 9th grade, was written on February 15, 2013 when the Student was attending the charter school in the neighboring district.
- 9) This IEP contained the following provisions:

Consideration of Special Factors	<ul style="list-style-type: none"> • Student needs no AT; has no needs in areas of behavior, communication, English proficiency; is not blind or deaf.
PLAAPF: Present Level of Academic Achievement and Functional Performance	<ul style="list-style-type: none"> • Student has access to all core subjects and is able to complete school day without assistance; • Student's low (reading) comprehension and fluency rate inhibit Student's ability to fully access core curriculum at the 8th grade level; • Student is making progress in producing all speech sounds accurately; • Student is friendly, participates in many school activities, and loves drawing and other forms of art and is interested in working with animals; • Parents are concerned about Student's naiveté, and feel Student will need a daily check-in system in high school and possibly a

⁵ Actual registration date is unknown.

⁶ The parent teaches at the neighboring district charter school.

	<p>study skills class. Parents do not want student to be segregated in special education classes due to the need for SDI;</p> <ul style="list-style-type: none"> • Most recent OAKS test scores: Reading 221 (Benchmark is 234); Math 232 (Benchmark is 239); and, • Currently uses iPad as an organizational tool and uses Evernote for assignments.
Assessment	<ul style="list-style-type: none"> • Will take State and District assessments in a Standard format with approved accommodations.
Goals	<ul style="list-style-type: none"> • Student will keep an organized planner to turn in 90% of assignments on time; • Student will cite the textual evidence that most strongly supports an analysis of what the text says as well as inferences from the text; and • Student will write informative/explanatory texts to examine a topic and convey ideas, concepts, and information through the selection, organization, and analysis of relevant content.
SDI: Specially Designed Instruction	<ul style="list-style-type: none"> • Language Arts – 60 minutes; 3 times per week –general/special education; • Organization – 15 minutes daily a week [sic] – general education.
Related Services	None Specified
Supplementary Aids/Services; Modifications; Accommodations	<ul style="list-style-type: none"> • Providing study guides or teacher outlines; more time to complete tests/written tasks in class assignments; and, modify length of written assignments – core subjects daily – general education; • Provide adapted novels/texts when possible—LA class at least 3 times weekly—general education; • Check in for planner—daily—general education; and, • Access to iPad/technology for note taking, vocab, LA.
Supports for School Personnel	<ul style="list-style-type: none"> • Consult—1 time per semester for 20 minutes—general education; and, • IEP—at meeting—general education.
Non-Participation Justification	Student does not need to be removed from the general education setting.
ESY: Extended School Year	No ESY services needed
Placement Determination	Regular Classroom with special education support—Student can function in a regular classroom with in-class special education support for comprehension/writing.

10) The Student started the 9th grade on September 3, 2013 with the following class schedule: 3-D Art; Algebra 1; Language Arts Concepts E-M; Literacy E-M; Integrated Science; Dance; Art 1; and, Seminary.⁷

11) The two Language Arts classes (Concepts E-M and Literacy E-M) are part of the Language

⁷ As per District policy JEFB, and OAR 581-021-0046, the student is released to attend religious instruction for the last period of the school day.

Program;⁸ which provides multisensory, targeted intervention with an intensive literacy curriculum for grades 3-12. The publisher describes the program as one which integrates reading, writing, spelling, vocabulary, grammar, and spoken English.

- 12) The District reported progress on IEP goals in November, 2013. At that time, the District reported, at the Parent conference time in the Science class, that the Student was continuing to make progress on the organization goal with a few missing assignments. On the Reading goal, the District noted that the Student's Lexile⁹ score in September was 795 (Grade Equivalency (G.E. 4.9.)
- 13) On December 16, 2013, the Parent wrote an email to the Case Manager containing the following questions and opinions:
 - a) The Student received a 62% on a Science test, and the Parent wanted to know if someone had helped the Student read the test (the Student told the Parents no one had), and if anyone had helped the Student with the Scantron form;
 - b) The Parent asked about the status of getting the Student an iPad;
 - c) The Parent stated that a grade of "C" is not acceptable in the family even if other Students in the same class are failing (the teacher had given this information to the Parents in a meeting). The Parent expressed concern that the Student had been placed in a "low" science class with other students with behavior problems.
 - d) The Parent expressed concern that the Student was not able to get help in the Learning Resource Center (LRC) at the beginning and end of the school day.
- 14) The Case Manager replied by email the next day and told the Parent the Case Manager would speak to the science teacher about sending the Student to the LRC for tests and about the Scantron issue. In addition, the Case Manager noted that all general education teachers were sent a "Mainstream Learning Profile"¹⁰ for students with IEPs during the first week of the school year and that the general education teachers are expected to note and implement each student's accommodations in the classroom. Finally, the Case Manager offered to set up a meeting in the first week after the winter holidays so that the team could "all be on the same page." After another set of emails the two agreed to meet with other teachers and team members on January 10, 2014.
- 15) On January 7, 2014, the Case Manager again emailed the Parent. The Case Manager shared the following information with the Parent in this message:
 - a) The Case Manager had contacted all of the Student's teachers and had a longer conversation with the science teacher. The science teacher reported the Student had now earned a "B" in the class, and that the Scantron tests had been given 3 times during the first four months of the school year. The teacher had explained them and given reminders.
 - b) The Case Manager had contacted the Certified Occupational Therapy Assistant (COTA) to discuss the Student's "access to iPad/ technology for note taking vocabulary LA," as listed on the IEP. The COTA had suggested the use of two specific software programs: Dragon Speak Naturally, and Kurzweil, both of which are available to students in the Learning Resource Center and the counseling center.

⁸ <http://www.voyagerlearning.com/curriculum/literacy-solutions/language>

⁹ A Lexile text measure is based on the semantic and syntactic elements of a text. A Lexile measure is a piece of information about either an individual's reading ability or the difficulty of a text, like a book or magazine article. A student gets his or her Lexile reader measure from a reading test or program. <http://www.lexile.com/about-lexile/lexile-overview/>

¹⁰ The Mainstream Learning Profile contains an outline of the student's goals, accommodations, modifications, etc.

- c) The Case Manager also informed the Parent that a copy of the Student's IEP had been sent to the Occupational Therapist (OT), for review.
 - d) The Case Manager asked if the Student had had an AT assessment in the previous district.
 - e) The Case Manager informed the Parent that the Case Manager would meet with the Student and review tutoring options that were available in the high school.
- 16) Also on January 7, 2014, the Case Manager emailed the COTA a copy of the Student's IEP and asked the COTA to forward it to the OT.
- 17) On January 10, 2014, the Case Manager emailed all of the Student's teachers and informed them that the Student had specific permission to use the application "Evernote" on the Student's cell phone in class.
- 18) On January 10, 2014, the Parents met with the Dean of Students, the science teacher, and the Case Manager. The Parents told the team they wanted their Student to have an iPad in order to track assignments and stay organized. The science teacher informed the Parents that the Student's notes looked good in class and that the science teacher did not see any need for additional technology support.¹¹ The Parents expressed concern that the Student might lose or loan the phone to another person. The Case Manager then offered that the Student could take tests in the Learning Resource Center. The science teacher noted that students can re-take tests on which they have gained a low score. The group agreed that the next steps were for District staff to investigate what programs could be available on a "notebook", and that they would arrange for the Student to try taking a test in the LRC. The group agreed to meet again in two weeks.
- 19) On January 15, 2014, the Parent emailed the Case Manager and asked what progress the District had made in getting the Student an iPad. The Parent also stated that the Parents felt the District was not meeting the Student's IEP as written. The Parent asked the Case Manager to be proactive about getting an iPad for the Student and asked for a report on this as soon as possible. The Parent asked to meet with the Case Manager on January 24, 2014 to hear reports on the Student's progress and on the iPad situation. Finally, the Parent listed items from the Student's IEP that the Parents believed were not being met. Those were:
- a) Daily Check In for Planner and Organization (15 minutes daily)
 - b) Access to iPad/technology for note-taking, vocab, LA
 - c) Providing study guides or teacher outlines
- 20) The Case Manager replied on January 21, 2014, and informed the Parent that the Case Manager had forwarded the Parent's message of January 15th to District and building administrators. The Case Manager offered to meet with the Parent on Friday, January 25, 2014. The meeting was scheduled for January 29, 2014.
- 21) The District reported IEP goal progress again on January 20, 2014. At that time, the District reported that the Student had met the organization goal and had turned in 100% of all assignments in all classes. The District reported that the Student's most recent Lexile score in reading was 955 (G.E. 6.9). On the writing goal the District reported the Student scored a "2" in both ideas and organization in writing before teacher feedback.

¹¹ The student was permitted, as are other students in the District, to use an iPhone to take pictures of notes, worksheets, teacher's outlines and other materials, in order to aid in organization and assignment completion.

- 22) The IEP team met on January 29, 2014.¹² In November of 2013, a District school psychologist had conducted a thorough review of the Student's cumulative file in preparation for an upcoming eligibility consideration. (The Student's eligibility needed to be either re-established or not by February 24, 2014). At the January 29th meeting, the team first considered this file review and decided that no testing was required in order to re-establish the Student's eligibility as a student with a Specific Learning Disability in reading and written language; but that the team should reconsider this during the Student's senior year, in order to gain information for the Student to have going to college. Because the Student was also eligible as a student with a Communication Disorder, but had no goals or services for speech or language on the current IEP, the team decided to obtain an informal language sample and to test the Student's articulation. In addition, the team decided to conduct an assessment of the Student's need for Assistive Technology and to measure the Student's organizational skills by using the Behavior Rating Inventory of Executive Functioning (BRIEF).
- 23) As of February 11, 2014, the Student's attendance was 99.47% for the school year to date.
- 24) On February 14, 2014, the IEP team met again. The Parent signed consent for the evaluations agreed to in the January 29, 2014 meeting, in addition to signing consent for an Assistive Technology assessment.
- 25) At the end of the first semester (February 28, 2014), the Student had earned a 3.86 GPA, with semester grades of A in all subjects except for a B in the Integrated Science class.
- 26) The Student began the second semester on March 3, 2014. The Student's schedule for the second semester remained the same as the first semester.

IV. DISCUSSION

1. When IEP's must Be In Effect:

The Parents allege that the District violated the IDEA when it did not provide the services outlined in the Student's IEP. Specifically the Parents allege that the District did not provide the Accommodations, Supplementary Aids/Services, and Modifications listed on the Student's IEP written on February 15, 2013.

The rule in effect when we consider this allegation is OAR 581-015-2220 (1)(3). Under this rule, a District is responsible to ensure that a student's IEP is current (written within the last 365 days) and that the services outlined on the IEP are being provided to the student. A District must ensure that the student receives the services in the setting, amount and frequency and by the agency designated on the IEP. Further, under this rule, the District must ensure that all general education teachers and special education providers who serve the student have access to the IEP and are informed of their specific responsibilities in the implementation of the IEP. OAR 581-015-2220 (3)(b) denotes that this includes the specific accommodations, modifications and supports that must be provided for or on behalf of the student.

Another rule is a factor in this case, due to the fact that the Student transferred back into the District from the neighboring district, although the Parents did not specifically allege this as a violation in their complaint. Under OAR 581-015-2230 (1), a District is obligated to provide FAPE to a child who

¹² The District sent appropriate meeting notices for all IEP meetings referenced in this Final Order.

transfers into the District, including services comparable to those on the IEP from the previous district, until the new district either: adopts the child's IEP from the previous district; or develops, adopts, and implements a new IEP for the child.

Finally, a third rule applies here. On July 1, 2011, OAR 581-015-2075, Charter Schools, was changed to specifically assign to districts the residency responsibility for the Charter Schools located within their district. This includes the requirement of providing FAPE to students with disabilities who are enrolled in Charter Schools located within the district. Districts are responsible for the oversight of special education in all of their schools, including Charter Schools located within its boundaries, and for ensuring special education services are provided and administered according to state¹³ and federal law.¹⁴ Prior to this rule change the Student's residential district was responsible for overseeing the provision of FAPE to students with disabilities regardless of Charter School enrollment. Shortly after this rule became effective, the Student entered the 7th grade in the neighboring district Charter School, and that district became responsible for providing the Student's special education services. However, when the Student transferred back into the District, the District was again responsible for FAPE responsibilities, so the in-state student transfer rules noted above would apply in this case after the Student returned to the resident District from the Charter School.

In this case, the Student returned to a neighborhood school after attending a Charter School in a neighboring district for grades K-8. As soon as the District realized the Student had an active IEP, it appointed a special education Case Manager, reviewed the Student's record and placed the Student in a reading and a language arts class at the Student's ability level. When the teacher in the classes realized the Student was higher functioning than that particular class level, the teacher arranged for the Student to transfer to the higher level class. In addition, the Case Manager notified the general education teachers of the Student's academic levels and modifications and accommodations.

Analysis of the records and interviews with staff establish that many of the accommodations listed on this Student's IEP are already a part of the general education setting at this high school. For example, students are allowed to use technology devices to take pictures of worksheets, teachers' outlines or other classroom materials, as long as this procedure has been approved by a high school counselor or special education teacher. All teachers interviewed specified that all students in their classrooms have until two days before the end of a term to turn in all required work without penalty. This Student was offered the opportunity to take tests in the LRC. All students in the high school are given a planner at the beginning of the year, and teachers monitor the use of this planner in their individual classes.

The Student's February 15, 2013 IEP listed an accommodation of an "iPad/technology". The District uses a variety of tablets for students. It offered the Student and the Parents another brand of tablet, which the Parents rejected as it would not sync with the family's computer at home. However, the ability or necessity for the device to sync with a home device was not listed as a necessity on the Student's IEP.

Here, the District provided all of the needed accommodations, modifications, and supplementary aids and services to the Student. Under the global structure of the high school, the Student did well; earning a 3.86 GPA at the end of the first semester. The Student also made significant improvement in reading, showing an increased Lexile score of 955 from 795. Although the District did not specifically provide an iPad to the Student, it did allow the Student to use

¹³ <http://idea.ed.gov/explore/home>

¹⁴ http://arcweb.sos.state.or.us/pages/rules/oars_500/oar_581/581_015.html

technology in the classroom and is in process of conducting a comprehensive Assistive Technology assessment for the Student.

Therefore, the Department does not substantiate this allegation and orders no Corrective Action.

2. Prior Written Notice:

The Parents allege that the District violated the IDEA when it unilaterally changed the services the Student received without providing Prior Written Notice to the Parents.

The rule in effect when we consider this allegation is OAR 581-015-2310. Under this rule, a District is responsible to provide Prior Written Notice to Parents when the District proposes to initiate or change or refuses to initiate or change the identification, evaluation or educational placement of a student or the provision of FAPE to a child. This includes proposing to initiate or change or refusing to initiate or change the student's IEP.

In this case, after the Parents decided to transfer the Student to the residential district's neighborhood high school, they met in June, 2013 with a special education teacher and counselor at the school. The District did not have a copy of the IEP at this time and the Student was not enrolled in the District until August of 2013. However, the District acknowledges that the special education teacher wrote no Prior Written Notice to document any discussion of the current IEP¹⁵ or any proposed changes in the IEP. Therefore, the District does not contest this allegation and offers the following corrective action plan.

District Proposed Corrective Action Plan:

The District proposes to:

- A. Create a form to document that licensed teachers have reviewed the accommodations identified for student moving into the District with an existing IEP;
- B. Conduct mandatory training of high school staff regarding their responsibility to provide identified accommodations and making changes to IEP, as outlined in the District Special Education Handbook; and,
- C. Schedule an IEP team meeting prior to each semester to allow the team to share classroom expectations, review accommodations and make changes, if needed.

Due to the fact that the District did not contest this allegation, this proposed corrective action will be assigned with only minor modifications. See Corrective Action.

3. Assistive Technology:

The Parents allege that the District violated the IDEA when it did not provide the Student with Assistive Technology devices as outlined in the Student's IEP.

The rule in effect when we consider this allegation is OAR 581-015-2055. Under this rule, a District is responsible to ensure if the student's IEP specifies a need for Assistive Technology devices or

¹⁵ Note that due to the fact that the District did not contest this allegation, no investigation was completed for the allegation. However, the record as presented does not clearly indicate a PWN was necessary at this time. There is no evidence as to what exactly was discussed at the June 2013 meeting. Therefore it is unclear if the District even proposed to initiate or change or refused to initiate or change the identification, evaluation, provision of FAPE, or educational placement of a student at this time.

services (or both), these must be available to the student. The student's IEP team must consider whether or not the student needs Assistive Technology services or devices as part of the student's special education, related services, or supplementary aids and services in order for the student to receive FAPE.

In this case, the Student's February 15, 2013 IEP, which was written in the neighboring district's Charter School and put into effect when the Student transferred to the District, contains conflicting information. Under the Consideration of Special Factors portion of this IEP, the Charter School team noted that the Student did not need Assistive Technology Services or Devices.

However, under the Supplemental Aids and Services section of the IEP, the team wrote that the Student needed "iPad/technology for note taking, vocab and LA. In the PLAAFP, the Charter School team noted the Student had been "introduced to the iPad as an organizational tool, and used the Evernote app[lication] on a consistent basis for assignments."

There was no record that the Charter School had conducted a comprehensive Assistive Technology assessment in the Student's file.

In light of this IEP, the District allowed the Student to use a phone with the Evernote application in the classroom for the same purposes that an iPad would serve. The District also offered another type of tablet for the Student's use in class, which the Parents rejected. Additional technology options were available to the Student in both the counseling center and the LRC. The District also provided the Student with a planner at the beginning of the school year.

Here, the District provided comparable technology in several forms to the Student, but did not specifically provide an iPad to the Student. In fact, it offered another tablet to the Student for use in the classroom. It conducted a comprehensive Assistive Technology assessment. Even though it did not specifically provide an iPad to the Student, it honored the essence of the previous IEP and the Student's potential need for AT; despite the fact that the previous IEP team had considered and rejected the need for AT. Additionally, there is no clear evidence that the Student needed AT to receive a FAPE, particularly in light of the fact that Student is currently clearly receiving educational benefit as evidenced by the Student's grades and academic progress and the Student's progress toward the IEP goals.

Therefore, the Department does not substantiate this allegation and orders no Corrective Action.

4. Free Appropriate Public Education (FAPE):

The Parents allege that as a result of the combined allegations above, the District failed to provide the eligible Student with FAPE. Specifically, the Parents allege that the combined effect of violations in the first three allegations was enough to create an educational situation where the Student did not receive FAPE.

The rule in effect when we consider this allegation is OAR 581-015-2040. Under this rule, a District is responsible to ensure that all children with disabilities are provided with special education and related services. 34 CFR §300.17 defines FAPE as including, among other elements, special education and related services, provided at no cost to parents, in conformity with an individualized education program. The special education, as outlined in the IEP must enable the child to progress in the general education system.

In this case, the District implemented the Student's IEP and provided the services and instruction outlined on the IEP. It made some changes in the specific devices it provided the Student, but overall it honored the purpose and requirements of the previous IEP which was in effect for this Student. This included providing the Student with AT as needed. The District does not contest the Prior Written Notice allegation which arose after the first meeting was held at the high school. However, there is no evidence that this minor procedural error resulted in denying the Student of substantive instruction nor that it precluded Parents from participation in IDEA procedures. Furthermore, there is no evidence that PWN was even required from the District at this time.

None of these matters have negatively affected the Student's progress in the general education program. In fact, the Student earned a 3.86 GPA after the first semester, turned in all assignments, and made substantial progress in reading. There is no indication that Student is not receiving an educational benefit.

The Department has not substantiated allegations in this complaint. The District did not contest the second allegation, but the lack of one Prior Written Notice after the first meeting at the school did not negatively affect the Student's program nor the Parent's right to participate. Therefore, the Department does not substantiate this allegation and orders no Corrective Action.

Corrective Action¹⁶

In the Matter of Hillsboro School District
Case No. 14-054-006

Actions	Submission¹⁷	Due By
1. Create a form to document that licensed teachers who are working with a transfer student who is moving into the District with an IEP have reviewed the accommodations identified for the student and have been informed of their specific implementation responsibilities. This includes students who formerly attended Charter Schools located in other districts.	Submit a copy of the form or tracking system developed to the Department's Corrective Action Specialist via email or US mail.	May 16, 2014

Dated this 7th Day of April 2014



Sarah Drinkwater, Ph.D.
Assistant Superintendent
Office of Learning/Student Services

Mailing Date: April 7, 2014

¹⁶ 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)).

¹⁷ Corrective action submissions 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; fax number (503) 378-5156.