

9/16/16	Meeting Notice
1/8/18	Prior Written Notice
12/8/17	Prior Written Notice
9/19/17	Prior Written Notice
4/13/17	Prior Written Notice
9/20/16	Prior Written Notice
2/3/16	Prior Written Notice
4/18/18	Odyssey Course Lists
4/18/18	Transcripts and Other Grading Documents
2016-2017 & 2017-2018 school years	IEP Goal Progress Reports
2017-2018 school year	Parent Contact Record

The Investigator determined that on-site interviews were necessary. On May 14, 2018, the Investigator interviewed the Parent, the Student, and three members of the Parent's support teams from other local agencies.² On the same day, the Investigator interviewed the District Special Education Coordinator, the Special Education Director, the Case Manager, the Director of Alternative Programs and the Title VII Specialist for the District.

The Investigator reviewed and considered the previously described documents, interviews, and exhibits in reaching the Findings of Fact and Conclusions of Law contained in this Order.

II. ALLEGATIONS AND CONCLUSIONS

The Department has jurisdiction to resolve this Complaint.³ 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 on the Discussion in Section IV.

1.	<p>When IEPs Must Be in Effect</p> <p>The Parent alleges:</p> <p>a. The District violated the IDEA when it did not send progress reports to the Parent as specified in the Student's IEP; and,</p> <p>b. The District did not modify an Odyssey class in a timely manner so that the Student could complete the class. The District agreed to modify the class in the January 8, 2018 IEP meeting, but the class was not modified until March 15, 2018. Consequently, the Student</p>	<p>Not Substantiated</p> <p>The District provided the Parent with progress reports on a monthly basis and appropriately modified the Student's online Odyssey classes. The Department does not substantiate this allegation.</p>
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² The Parent and the Student have a team of advocates and mentors from several community organizations, each of which provide support to families in the community.

³ 34 CFR §§ 300.151-153; OAR 581-015-2030.

	<p>was only able to complete 2% of the coursework.</p> <p>(34 CFR § 300.323; OAR 581-015-2220(1)(b))</p>	
<p>2.</p>	<p>Parent Participation - General & Prior Written Notice</p> <p>The Parent alleges that the District violated the IDEA when it refused to hold an IEP meeting after the Parent requested the meeting and did not provide the Parent Prior Written Notice about its reasons for the refusal.</p> <p>(34 CFR §§ 300.503, 300.322, 300.323, 300.324; OAR 581-015-2190(1), 581-015-2310)</p>	<p>Not Substantiated</p> <p>The District responded to the Parent's request in a timely manner and convened a meeting within a reasonable amount of time. The Department does not substantiate this allegation.</p>

<p>Requested Corrective Action</p>
<p>The Parent requests the following actions be implemented as resolutions to the Complaint:</p> <ol style="list-style-type: none"> 1. Odyssey be modified as needed in a very timely manner; 2. To have team meetings scheduled every month to go over progress of Student and follow through of staff and teachers; 3. I need monthly progress reports sent to my house every month; and 4. Have a plan that works well with staff to show how follow through is going to be achieved. Then meeting with Parent often to go over progress.

Issues Outside The Scope of The Investigation

The Parent alleges that District staff does not follow through on agreements or plans made at meetings. The Parent stated that it takes a long time for anything to happen and things happen only when the Parent calls and visits the school. Such issues outside of alleged IDEA violations do not fall within the scope of the Department's complaint investigation processes under OAR 581-015-2030, and are not addressed in this Order. The Parent may address this issue by pursuing District complaint procedures.

III. FINDINGS OF FACT

1. The Student is seventeen years old and is eligible for special education services as a student with a Specific Learning Disability. The Student lives in the District and is in the eleventh grade at one of the District's high schools (HS 2). The Student is working toward a earning a modified diploma and currently has completed 13 of 24 credits.

2. The Student attended a different high school (HS 1) in the District during ninth and tenth grades. The Student struggled at HS 1 and earned a minimal number of credits toward graduation. At the start of the 2017-2018 school year, the District and the Parent worked together to clarify the credits the Student had earned in an effort to accurately update the Student's transcript. While at HS 1, the Student started an Odyssey⁴ class in Keyboarding, but did not finish it.
3. The Student and the Parent have a support team that includes four advocates from community agencies that provide mentor services to local families. One of these advocates is also a District employee.
4. The Student's Individualized Education Program (IEP) Team met on January 8, 2018. The IEP Team reviewed the Student's credits and the Parent and the Student both expressed that the Student dislikes technology and becomes easily frustrated working on a computer. The Parent asked the District to modify the Odyssey classes so that the Student could work at an independent level—equal to the Student's ability—and be successful in completing the Odyssey classes.⁵ One of the Student's advocates questioned why the Odyssey material was at the eleventh grade level, when the Student is not performing at that level.⁶
5. At the January 8, 2018 IEP Team Meeting, the Parent requested that the District send monthly progress reports so that the Parent would be informed of the Student's grades and assignment completion rate. In the meeting minutes, the District noted that the Parent had made this request. The Parent, the Student and one of the Student's advocates recall that at the IEP Team Meeting the District agreed to provide monthly progress reports in writing and suggested that the update be provided by the fifth day of each month. Another one of the Student's advocates recalls that the District agreed to send monthly progress reports, but did not remember an established delivery date.
6. The January 8, 2018 IEP Team Meeting Notes state that the Team "agreed to follow up on the following items," which include "Mom wants monthly reports regarding what might not be going right and on track."
7. Each of the Student's IEP goals include a note that progress will be reported through "[w]ritten reports during regular grading periods."
8. The District sent written IEP Goal Progress Reports to the Parent and Student on April 6, 2017, November 3, 2017, January 30, 2018, and April 9, 2018. On February 15, 2018, the Case Manager and the Title VII Specialist met with the Parent during the regularly scheduled District conference time to discuss the Student's progress. On March 8, 2018, the Case Manager called the Parent and discussed the Student's progress.

⁴ The Odyssey software platform allows students to work independently in a small environment to recover school credits needed for graduation. Students work in conjunction with a teacher for support and advancement. The Odyssey software offers a wide variety of classes for students. (<http://www.kfalls.k12.or.us/kuhs/files/currGuide.pdf>)

⁵ Teachers and administrators can choose the Odysseyware default course setting or set custom settings such as lesson and quiz pass thresholds, maximum numbers of lesson attempts, individual lesson weighting, and lesson and unit completion dates. This can be done at the individual student level, so educators can align course content to a variety of student needs. (<https://www.odysseyware.com/curriculum/customization>)

⁶ The Parent originally requested that the District administrator who supervises the Odyssey Program attend the IEP meeting. Before the meeting, the Parent then requested that individual not attend the meeting. No one else at the meeting had the same depth of knowledge of the Odyssey Program as this District administrator.

9. The District staff member who is also one of the Student's advocates obtained a list of possible Odyssey courses for the Parent and the Student to review. On January 12, 2018, the District Case Manager emailed the Director of Alternative Programs and listed seven Odyssey courses the Student and the Parent had selected. On January 16, 2018, the Director emailed the Case Manager and asked the Case Manager to review the courses and determine whether the Student could complete them. The Director noted that the first course listed, "Food Products and Processing Systems, required research, but that the course could be modified. On January 17, 2018, the Case Manager emailed the Director and asked if the Odyssey classes could be modified within the online system. The Director replied that the courses could be modified and asked the Case Manager to assist in making the modifications.
10. On January 17, 2018, the Student started the Food Processing Odyssey class. The District modified the course in the following ways: (1) Adjusted the pass percentage to 50% for lessons, tests, and quizzes; (2) Allowed additional time; (3) Allowed unlimited number of opportunities to redo or re-attempt assignments; (4) Provided an opportunity to have the assignments read to the Student; (5) Reduced the number of course units; (6) Allowed for course units to be modified; and (7) Permitted access to 1:1 support and a quieter alternative environment.
11. The District Case Manager states that at a February 15, 2018 conference, the Parent requested that information regarding the Student be communicated by phone and not in writing.
12. On March 8, 2018 the Parent called the District Director of Special Education and told the Director that the Food Processing class was too difficult for the Student. As a result, the Director of Alternative Programs reassigned the Student to the Odyssey Keyboarding class—which the Student had begun at the previous high school.⁷ The District modified the Keyboarding class as follows: (1) Adjusted the pass percentage to 60% for lessons, quizzes and tests; (2) Reduced the number of course units from seven to five; and (3) Eliminated projects in the remaining five units.
13. The District uses a semester system at HS 2 with each semester divided into two quarters. The District sends out grades and IEP Goal Progress Reports at the end of each quarter and each semester.
14. The Parent met with the Director of Alternative Programs on March 15, 2018. They discussed the Odyssey program. The Parent told the Director that the Parent would like to schedule an IEP Team Meeting to review the decisions they had made about the Student's Odyssey classes. The Case Manager called the Parent on March 22, 2018 to schedule an IEP Team Meeting but did not reach the Parent.
15. The Parent filed the complaint on March 29, 2018.

⁷ The Student had already completed four lessons and one quiz to earn a "C" average in the class. The Student earned this grade before the class was modified.

II. DISCUSSION

A. When IEPs Must Be in Effect

1. Progress Reports

The Parent alleges the District violated the IDEA when it did not send progress reports to the Parent as specified in the Student's IEP. A student's IEP must describe "when periodic reports on the progress the child is making toward meeting annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided" by the District.⁸ A quarterly report is offered as an example. There is no prohibition against a school district from providing a parent with more frequent progress reports.

At the January 8, 2018 IEP Team Meeting, the Team agreed that the District would provide the Parent with monthly progress reports. The IEP does not specify that monthly progress reports had to be delivered to the Parent in writing. District staff understood that the information could be provided verbally in a phone call or a meeting. This understanding was supported by the District Case Manager's recollection that the Parent requested information regarding the Student be communicated by phone and not in writing.

After the January 8, 2018 IEP Team Meeting, the District provided the Parent with either written or verbal progress reports on a monthly basis. The District sent IEP Goal Progress Reports to the Parent and the Student on January 30, 2018. On February 15, 2018, the District Case Manager and the Title VII Specialist met with the Parent during the regularly scheduled District conference time to discuss the Student's progress. On March 8, 2018, the District Case Manager called the Parent and discussed the Student's progress. On March 15, 2018, the Parent met with the District Director of Alternative Programs and discussed the Student's participation in the Odyssey program.

After the January 8, 2018 IEP Team Meeting, the District communicated progress reports to the Parent on a monthly basis. Some progress reports were in writing and some were delivered through telephone conferences or in-person meetings. The District met the progress report commitment it set forth for itself at the January 8, 2018 IEP Team Meeting. The Department does not substantiate this allegation.

2. Modification of the Odyssey Class

The Parent also alleges that the District did not modify an Odyssey class in a timely manner so that the Student could complete the class. Specifically, the Parent alleges that the District agreed to modify the class in the January 8, 2018 IEP Meeting, but did not actually modify the class until March 15, 2018, which resulted in the Student only being able to complete 2% of the coursework.

Each student's IEP must include a "statement of the program modifications or supports for school personnel that will be provided to enable the child . . . to advance appropriately toward attaining the annual goals."⁹

The District adequately modified the Student's Odyssey program to enable the Student advance toward attaining the Student's annual goals. On January 12, 2018, four days after the January 8,

⁸ 34 C.F.R. § 300.320(a)(3)(ii); OAR 581-015-2200(1)(B)(c).

⁹ 34 C.F.R. § 300.320(a)(4); OAR 581-015-2200(1)(B)(d).

2018 IEP Team Meeting—the District Case Manager emailed the Director of Alternative Programs and listed seven Odyssey courses the Student and the Parent had selected. On January 16, 2018, the Director emailed the Case Manager and asked the Case Manager to review the courses and determine whether the Student could complete them. The Director noted that the first course listed, “Food Products and Processing Systems, required research, but that the course could be modified. On January 17, 2018, the Case Manager emailed the Director and asked if the Odyssey classes could be modified within the online system. The Director replied that the courses could be modified and asked the Case Manager to assist in making the modifications. On January 17, 2018, the Student started the Food Processing Odyssey class with modifications tailored to the Student’s needs. Approximately seven weeks later, on March 8, 2018 the Parent told the District that the Food Processing class was too difficult for the Student. As a result, the Director of Alternative Programs reassigned the Student to the Odyssey Keyboarding class with modifications tailored to the Student’s needs. The District appropriately modified the Student’s Odyssey classes. The Department does not substantiate this allegation.

B. Parent Participation - General & Prior Written Notice

The Parent alleges that the District violated the IDEA when it refused to hold an IEP Team Meeting after the Parent requested one and then did not provide the Parent with a prior written notice about its alleged refusal to convene one.

A school district must take steps to ensure that parents of a child with a disability are present at each IEP team meeting and are afforded the opportunity to participate, including notifying parents early enough to ensure they have an opportunity to attend, and scheduling the meeting at a mutually agreed on time and place.¹⁰ A district must provide parents with prior written notice within a reasonable amount of time before the district proposes or refuses to initiate or change the student’s identification, evaluation, educational placement or provision of a free appropriate public education (FAPE).¹¹

The District complied with the IDEA in its response to the Parent’s request for an IEP Team Meeting. On March 15, 2018, the Parent requested an IEP Team Meeting to review some decisions that had been made about the Student’s Odyssey classes. The Student’s IEP Team consists of between 12 and 15 members. On March 22, 2018, the District Case Manager called the Parent to schedule the IEP Team Meeting, but the Parent did not answer the telephone. The Parent filed this Complaint on March 29, 2018. In one week, the District reached out to the Parent to coordinate an IEP Team Meeting the Parent had requested. Only two weeks had elapsed between the Parent’s request for an IEP Team Meeting and the Parent’s filing of this Complaint. The District had already initiated efforts to convene an IEP Team Meeting at a mutually agreed upon time and place. The Department does not substantiate this allegation.¹²

¹⁰ 34 C.F.R. § 300.322(a); OAR 581-015-2195(1).

¹¹ 34 C.F.R. § 300.503; OAR 581-015-2310.


¹² Because the District did not refuse to convene an IEP team meeting, and the District had not proposed or refused to initiate or change the Student’s identification, evaluation, educational placement or provision of FAPE, the District was not obligated to provide the Parent with a prior written notice.

CORRECTIVE ACTION¹³

In the Matter of Klamath Falls City Schools
Case No. 18-054-023

The Department does not order any corrective action in this matter.

Dated: this 8th Day of June 2018



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

Mailing Date: June 8, 2018

Appeal Rights: Parties may seek judicial review of this Order. Judicial review may be obtained by filing a petition for review within sixty days from the service of this Order with the Marion County Circuit Court or with the Circuit Court for the County in which the party seeking judicial review resides. Judicial review is pursuant to the provisions of ORS § 183.484. (OAR 581-015-2030 (14).)

¹³ 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)).