

BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of Reynolds School District 7

FINDINGS OF FACT,
CONCLUSIONS,
AND FINAL ORDER
Case No. 22-054-037

I. BACKGROUND

On November 8, 2022, the Oregon Department of Education (the Department) received a written request for a special education complaint investigation from the parent (Parent) of a student (Student) residing in the Reynolds 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.¹ This timeline may be extended if the Parent and the District agree to the extension in order to engage in mediation or local resolution or for exceptional circumstances related to the complaint.²

On November 14, 2022, the Department's Complaint Investigator sent a *Request for Response (RFR)* to the District identifying the specific allegations in the Complaint to be investigated and establishing a *Response* due date of November 30, 2022.

The District submitted a *Response* on November 30, 2022, denying two of the three allegations and partially denying the third allegation, providing an explanation, and submitting documents in support of the District's position. The District submitted the following relevant items:

1. Document, Table of Contents, no date
2. Document, District Response, no date
3. Document, List of Relevant Staff Members, no date
4. Document, Notice of Team Meeting, 4/22/21
5. Document, Notice of Team Meeting, 6/2/21
6. Document, Statement of Eligibility for Special Education Autism, 6/11/21
7. Document, Multnomah Early Childhood Program, 6/11/21
8. Document, Individualized Education Program, 6/15/21
9. Document, Prior Written Notice, 6/15/21
10. Document, Meeting Minutes, 5/4/22
11. Document, Prior Written Notice, 5/4/22
12. Document, Notice of Team Meeting, 5/20/22
13. Document, Prior Written Notice, 6/9/22
14. Document, Meeting Minutes, 6/9/22
15. Document, Special Education Placement Determination, 6/9/22
16. Document, Written Agreements Between the Parent and District, 6/9/22

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

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

17. Document, Individualized Education Program, 6/9/22
18. Document, IEP Progress Report-Measurable Annual Goals, 6/13/22
19. Document, Individual Student Safety Plan, 9/15/22
20. Document, Notice of Team Meeting, 10/11/22
21. Document, Meeting Minutes, 10/12/22
22. Document, Prior Written Notice, 10/12/22
23. Document, Notice of Team Meeting, 10/20/22
24. Document, Meeting Minutes, 10/25/22
25. Document, Prior Written Notice, 10/25/22
26. Document, Student Step-up Plan, 10/25/22
27. Document, Individualized Education Program Amendment, 6/9/22
28. Document, DKing added Attachment Student, A. Attendance, 11/21/22
29. Document, Elementary Schools, 10/24/22
30. Document, Elementary School, 9/12/22
31. Document, Troutdale Elementary School, 9/6/22
32. Email, re: Student at Davis, 11/10/22
33. Email, re: Parental concerns about special ed program at Davis Elementary, 6/22/22
34. Email, re: Elementary summer information, 6/16/22
35. Email, re: Elementary summer information, 6/16/22
36. Email, re: Fwd: Celebration, 7/6/22
37. Email, re: Fwd: Parental concerns about special ed program at Davis Elementary, 7/11/22
38. Email, re: Students moving from Davis to Troutdale, 8/2/22
39. Email, re: Re-creating kinder graduation, 8/5/22
40. Email, re: Kinder summer celebration, 8/5/22
41. Email, re: Meeting with staff member, 9/2/22
42. Email, re: RE: updated phone numbers, 8/31/22
43. Email, re: Student, 9/1/22
44. Email, re: Student, 9/13/22
45. Email, re: Transportation for 767447, 9/14/22
46. Email, re: Bus Schedule, 9/14/22
47. Email, re: AP, 9/15/22
48. Email, re: Safety Planning Meeting Link, 9/16/22
49. Email, re: Bus Schedule, 9/14/22
50. Email, re: Fw: Safety Planning Draft, 9/16/22
51. Email, re: Transportation for Parent, 9/20/22
52. Email, re: Bus Schedule, 9/14/22
53. Email, re: AP, 9/15/22
54. Email, re: Safety Planning Meeting Link, 9/16/22
55. Email, re: Bus Schedule, 9/14/22
56. Email, re: Safety Planning Draft, 9/16/22
57. Email, re: Transportation for Parent, 9/20/22
58. Email, re: Student eloping/safety issue, 9/22/22
51. Email, re: Student eloping/safety issue-Meeting Request, 9/22/22
52. Email, re: Student eloping/safety issue, 9/26/22
53. Email, re: Student eloping/safety issue-questions, 10/17/22
54. Email, re: Student eloping/safety issue-Phone discussion, 10/5/22
55. Email, re: Student eloping/safety issue-Awaiting Response, 9/26/22
56. Email, re: Student eloping/safety issue-Awaiting Response, 9/29/22
57. Email, re: Student eloping/safety issue, 9/25/22
58. Email, re: Student, 9/28/22
59. Email, re: Follow up from meeting, 9/28/22
60. Email, re: Documents in the mail, 9/28/22
61. Email, re: Fw Re:, 9/30/22

- 62. Email, re: AP email, 9/29/22
- 63. Email, re: Re:, 10/3/22
- 64. Email, re: Student Schedule, 11/1/22
- 65. Email, re: Student Schedule, 10/31/22
- 66. Email, re: SPED student concern, 10/25/22
- 67. Email, re: School placement, 9/30/22
- 68. Email, re: Concerns, 9/28/22
- 69. Email, re: IEP Meeting, 10/14/22
- 70. Email, re: Update, 10/10/22
- 71. Email, re: Plan for return, 10/7/22
- 72. Email, re: Deadline approaching, 10/5/22
- 73. Email, re: Student eloping/safety issue-Phone discussion, 10/4/22
- 74. Document, Notified Date, no date
- 75. Messaging history for [student], 11/30/22

The Complaint Investigator interviewed the Parent on December 12, 2022. On December 15, 2022, the Complaint Investigator interviewed District personnel. Virtual interviews were conducted instead of on-site interviews. 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. 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 November 9, 2021 to the filing of this Complaint on November 8, 2022.

Allegations	Conclusions
<p>When IEPs Must Be In Effect</p> <p>The Complaint alleges that the District violated the IDEA by not providing transportation as a related service and accommodations in accordance with the Student’s IEP.</p> <p>(OAR 581-015-2220; 34 CFR §300.323)</p>	<p>Substantiated</p> <p>The District failed to provide transportation, as a related service, on at least one day the Student was enrolled in school.</p>
<p>Least Restrictive Environment</p> <p>The Complaint alleges that the District violated the IDEA by not providing the Student with the least restrictive environment.</p> <p>(OAR 581-01502240: 34 CFR §300.114)</p>	<p>Not Substantiated</p> <p>The Student’s IEP provided the least restrictive environment.</p>
<p>Free Appropriate Public Education (FAPE)</p>	<p>Not Substantiated</p>

<p>The Complaint alleges that the District violated the IDEA by not providing the Student with a FAPE.</p> <p>(OAR 581-015-2040; 34 CFR § 300.101)</p>	<p>The District had in place an IEP that offered a FAPE and the Parent declined to return the Student to school.</p>
--	--

REQUESTED CORRECTIVE ACTION
<ul style="list-style-type: none"> • Change the Student’s placement to the least restrictive environment/classroom that does not have an exit door leading out to the community or possess immediate safety concerns for elopement. • Provide compensatory services. • Provide faculty training to understand special education students and the unique challenges associated with their disabilities. • Provide autism awareness and discrimination training.

III. FINDINGS OF FACT

IDEA regulations limit complaint investigation to alleged violations occurring no more than one year before the Department’s receipt of the special education complaint. This Complaint Investigation did not consider any IDEA violations alleged to have occurred before November 9, 2021. Any facts listed below relating to circumstances or incidents earlier than that date are included solely to provide context necessary to understand the Student’s disability and special education history.

1. On June 11, 2021, the Student was found eligible for special education services due to Autism Spectrum Disorder.
2. The Student was 6 years old and in the first grade at the time the Complaint was filed. At the beginning of the 2022-23 school year, the Student attended a specialized self-contained program that had just moved to a new elementary school.
3. The Student’s June 9, 2022 IEP describes the Student’s present level of functional performance as, “[Student] needs an adult within immediate proximity... [They] will run into open doors...or push open doors that lead outside...[Student] attempts to leave the group run out of the room, out of the courtyard up to 15 times per days. To prevent this, [Student] needs an adult to be standing near the exit or the exit needs to be blocked. [They] do not yet respond to safety commands.”
4. The starting and ending dates for services and accommodations were June 9, 2022- June 8, 2023. The anticipated location for the accommodations varied between the special education classroom and schoolwide implementation.
5. The statement of non-participation justification was written as follows: “[Student] would benefit from 1:1 and small group 80% of the school day instruction in order to work on academic readiness, communication, social skills, academics, and functional skills. Services will be provided and follow the official school calendar with the exception of assemblies, field trips, school testing, student absence, parent teacher conferences, in-services, shelter in place, district trainings and the first and last two weeks of the school year.”

6. During the 2022-23 school year, the Student was enrolled in the School from September 6, 2022 - October 5, 2022:
 - a. From September 6, 2022 - September 20, 2022, the Student attended school on four days - September 6, 12, 14 and 20, 2022. The Parent provided the Student with transportation on September 6, 2022 as the school bus did not arrive. The school bus did provide transportation on the other three days;
 - b. During interviews, the Parent reported the other days the Student did not attend school, they were waiting outside for the bus and the bus did not arrive;
 - c. The District's transportation notes indicate the bus driver arrived at the Student's residence on these occasions and there was "no Student present to pickup"; and
 - d. The Student stopped attending school on September 21, 2022 and was withdrawn from the School, due to 10 consecutive absences, on October 5, 2022.
7. On September 14, 2022, the Student exited out of the classroom door, eloped into the street, and left the School campus. The classroom aide followed the Student and was able to take their hand and go back to the classroom.
8. The Individual Student Safety Plan, dated September 15, 2022, described the specific unsafe behaviors that required a safety plan as "eloping and leaving classroom and school." The staff response to the eloping behavior was to have "line of sight at all times, follow [Student] (on foot and in car), use phrases from songs and shows that show emotion and how serious something is." Behavior supports included in the safety plan included, in part:
 - a. Shutting the courtyard gates...remind staff and students to shut the gates;
 - b. Routine for when we get to school that indicates it is time to stay in the classroom;
 - c. Stop sign and picture of the Parent saying "no open" at both school doors and home doors; and,
 - d. The Principal sent an email (9/15/22) to all staff with a picture of the Student so anyone that sees them out of the classroom knows to support them coming back to the classroom.
9. On September 20, 2022, the Student was completing an art project in class, exited out the back door of the classroom, and left the School campus. According to staff the safety plan was implemented. The Student was followed in a car and the Principal was able to get the Student into the car and drove them back to school. This was the last day the Student attended school.
10. On September 28, 2022, the Parent emailed the School Principal, "I been [*sic*] thinking a lot about everything. And I want to be very, very genuine and honest. I know you guys are trying your best. But let's be real with ourselves. This isn't what's best for everyone. I'm basically asking you guys to change everything you guys have in place for one student. I understand how unreasonable that is. I feel it, we can all feel it. You guys have went above and beyond since day one. But the way the general Ed [*sic*] system is set up, it just isn't working for [Student] and isn't made for someone like [Student] with you and staff in mind as well. I'm having a hard time knowing what to say and how to say it knowing what I can ask for and not ask for... understanding everyone's limits. I need your help...Can you help me get [Student] into a school molded around kids with high needs like [theirs]? I just desperately want the best for [Student]. And I know you guys do too. How can we get [Student] into a place like that?"
11. The School Principal replied, "It was wonderful to meet with you and your brother today.

It was also great seeing [Student]. I have attached [Student's] IEP. I will also mail a copy home. I was [sic] also include an FBA permission slip in the mail. We will need this returned to start the FBA process. Here is more information about Outside Placement. Please let me know if you would like us to make a referral."

12. On September 28, 2022, the Parent emailed the District's Special Education Director: "[Student] really needs to be in a program designed around children like [them] with autism needing extensive one on one support and extra resources to keep [them] safe. I understand the pressure and load having [Student] in Gen Ed school has placed on everyone who has worked with [Student] and myself. You guys have went to great lengths to meet [Student's] needs. How can we move forward to get a referral started to get [Student] into a specialized school so that they can be safe and supported?"
13. On September 29, 2022, the Parent emailed the School Principal: "[Student] can't be back in that classroom without that back door secured properly. Unless there is an alternative space. What do you think we should do in the mean time [sic]?". The School Principal replied: "We will do everything that we can to keep [Student] safe. We will have an adult assigned specifically that will sit between [Student] and the door. They can also sit away from the door. As we talked about on the phone earlier this week, I'm concerned that we have [Student] in a separate space away from peers and that isn't setup [sic] to be an engaging classroom with sensory supports then [Student] will run. I want to get [Student] to school so we can complete the FBA which will help us in considering all options for [Student]. We will be ready for [Student] tomorrow. Please let me know if [Student] will be at school!"
14. On September 30, 2022, the Parent emailed the School Principal, "It has been proven that even with extensive one on one supervision [Student] can still get out of the classroom through that back door. The teacher said they were sitting right there with [Student] coloring when they got out last time...If [Student] gets out again and gets hit by a car and killed, then what?...There has to be an option that doesn't involve risking [Student's] life or being completely secluded."
15. The District's Special Education Director replied: "The social communication classroom at the School is designed to serve students who experience autism. We are working to add additional staff and to get more training to the new staff in the classroom. Please continue working with Staff. when [sic] I checked in with them, they both believe we can meet [Student's] needs at the School if we can extinguish the eloping behavior. We are still working with our facilities folks to find out if there is anything more we can do to bar the doors or make other facility accommodations."
16. "We do partner with two special schools for students with disabilities... Unfortunately, neither of these schools are currently accepting new students because they are struggling to hire staff. And there are still steps we would try at the School before we would go to a special school option."
17. The Parent responded, "I appreciate you understanding the situation and being involved. [Student] really needs to be in a program designed around children like [them] with autism needing extensive one on one support and extra resources to keep [them] safe. I understand the pressure and load having the Student in Gen Ed school has placed on everyone who has worked with my Student and myself. You guys have went to great lengths to meet [their] needs. How can we move forward to get a referral started to get [Student] into a specialized school so that they can be safe and supported?"

18. The District's Special Education Director replied to the Parent, "Thank you for reaching out. I am very aware of the concerns... with [Student]. Everyone is working hard to come up with solutions that keep [Student] safe, and I know that you even came in and helped the team which we all appreciate. Our program administrator for elementary school special education programs and I have been in frequent conversation about what we can do to keep [Student] safe... [the program administrator] is working with the facilities department to find out what additional safety measures we can put in place in the building. Hopefully we can find some good solutions because we are all super worried about [Student's] safety. We agree that [Student] needs to be in school."
19. On October 3, 2022, the District's Facilities Director communicated with the School Principal and a District Special Education Administrator, "...we can look into annunciators [sic] for the doors but cannot change the hardware. Not much opportunity with the doors. Can personnel, training or location help address this?"
20. On October 3, 2022, the School Principal emailed the Parent: "I hear your concerns, and we want [Student] to be safe as well. When [Student] comes to school, they will have an adult assigned specifically to them that will sit between them and the door. This is something we have not tried yet. We also need [Student] to be at school to complete the FBA (functional [sic] Behavior Assessment) that we discussed at the last meeting [sic] You should have received a copy of the permission slip [sic] in the mail along with the IEP. We will need permission slip back to start the assessment. Please let me know when [Student] will be back at school so we can be ready. Tomorrow is the tenth day of school that [Student] has missed. Wednesday [Student] will be dropped in our system, but we can get them reenrolled as soon as we hear back from you. We will also need to restart transportation after tomorrow as well."
21. The Parent emailed the School Principal, the Special Education Director, the Assistant Superintendent and the Superintendent, "I am aware tomorrow is the 10th day of absence, resulting in [Student] being taken off registration. I wanted to know if there are any updates on hearing back from the Fire Marshal and or securing the back door to the classroom. If there is no update on that, I would like to discuss different placement options to absolutely ensure my child's safety that does not include seclusion and isolation. Without the back door properly secured, that classroom is no longer an appropriate placement for [Student], due to the eloping behaviors as noted and understood at the bottom of page 8 and 9 of [Student's] IEP. If you will not change [Student] location I would like that on a prior written notice... I wanted to make sure the Superintendent was included and aware of a problem that nobody in the district has provided a solution for, including the Special Education Director. Because no solution has been provided, tomorrow will be the 10th day of absence before [Student] gets dropped from registration. The district has failed to comply and implement [Student's] IEP, resulting in [Student] attending a mere 3 school days this school year."

The District's Special Education Director replied, "Thanks for emailing us...I have been consulting with our attorney about our possible next steps for [Student]...will be reaching out to you soon."

22. On October 7, 2022, a Special Education Administrator emailed the Parent, "I wanted to reach out with some updates and our next steps. Our Director of Facilities met with the Deputy Fire Marshall to review the door situation. There is no alternative hardware available for the door if it changes the motions to exit. We have an alarm on the door that will sound when the door is opened. Unfortunately, we cannot place any other

hardware that would create additional steps to exit. They also discussed the fence gates outside the classroom. Those are part of the fire egress to a public pathway and are treated like the fire doors noted above. Now that we have this update from the Fire Marshall, I would like us to schedule an IEP meeting where we can discuss the additional supports we plan to implement when [Student] is at school. In our previous meeting, we mentioned having one-on-one adult support and conducting a Functional Behavioral Assessment once we receive your written consent.”

“When teams consider a more restrictive placement, there needs to be data indicating the need for that restrictive placement. Currently, we do not have enough data demonstrating that [Student] requires a more restrictive placement. We can look into a diagnostic placement, which would be a space within the school building that does not have an exterior door where we can start working on specific skills relating to [Student’s] elopement. This can be a temporary change of placement as we gather more data and transition [Student] back to the SCC classroom. However, we do not believe the diagnostic placement is a good idea since [Student] is removed from peers. We can discuss this option as a team in our IEP meeting.”

The Parent asked, “Has it been considered moving the classroom to a safer location?”

The District representative replied, “We can discuss as a team a different classroom within the building when we meet.”

23. On October 12, 2022, the District and the Parent met for an IEP meeting to “discuss a Functional Behavior Assessment and safety plan.” The meeting minutes indicated the following topics were discussed and considered, in part, by the IEP team:

- a. The Parent requested school materials while the Student was not attending school and the District explained that because “...[Student] is not currently enrolled, the parent needs to re-enroll the Student...the school is ready to serve [Student].”;
- b. A diagnostic placement in a different location within the same school, such as the speech room;
- c. An abbreviated day, one-on-one adult support, and complete an FBA with outside resources from a BCBA and gather data;
- d. Per the fire marshal, the classroom door to the outside cannot be locked or blocked and the outside gate cannot be locked or blocked;
- e. “The Parent does not want [Student] in the current classroom due to safety issues (there is a door that goes outside) and does not want [Student] secluded/isolated, but otherwise willing to work with team to have [Student] come to school and complete FBA. Parent willing to consider diagnostic placement if it’s safe and other students are included”; and
- f. “The Parent has FBA consent form but does not want to sign until team is able to hold a follow up meeting.”

24. On October 12, 2022, the District created a Prior Written Notice (PWN) for the Student’s provision of FAPE and described the actions proposed or refused by the District as, “The current offer for placement is the Social Communication Classroom (SCC) with a one-to-one adult support on an abbreviated day for four weeks while a functional behavioral assessment is conducted. The team is open to meeting again to explore the open of a diagnostic placement and discuss any changes in supports in this setting while a functional behavior assessment is conducted. The parent was provided a Functional Behavioral Assessment consent form in September and the district has not received the form from

the parent. The parent is not sending the student to school and has reached the 10-day drop period. The district is ready to serve the student when they reenroll.”

25. Other options considered included “...continued placement in the SCC-there have been safety concerns with [Student] eloping from the classroom and the campus and we are not allowed to lock the exterior door.”
26. On October 24, 2022, the Parent emailed the Student’s IEP team, “I don’t believe meeting via zoom is an effective form of communication to discuss these topics and get the clear answers to move forward. What are our other options?... I don’t feel like these meetings get anything accomplished to solve this problem. It’s just arguing around in a circle for an hour. Every single time. This isn’t the starting point, this is the end point. Between me and you, I don’t see any point to do the meeting tomorrow, because I know how these meetings go. Just an opportunity to try to manipulate language to somehow put the responsibility on me. So that the district doesn’t have to take accountability for their mistake. Im [sic] fed up with this. Not directing that towards you, but this whole process. While my Student gets left behind day after day after day.”
27. The Special Education Case Manager replied, “I totally understand your frustration. The Special Education Director will be there tomorrow. I think they need to hear your frustration. I support you in whatever you choose. And I do absolutely think you should pursue getting a parent advocate...Please don’t give up. My hands are tied in many ways but please keep advocating for what [Student] needs. You know way better than we do. I really do think you should come to the meeting tomorrow. If you want to start a dialogue via email just start an email with all the team members.”
28. On October 25, 2022, the Student’s IEP met as a continuation of the meeting held on October 12, 2022. The Student’s IEP service summary reflects that “1:1 adult support throughout school day to support safety and a modified school day with Step-up Plan” was added. The PWN that was issued the same date described the actions proposed or refused by the District: “The current offer for placement is the Social Communications Classroom with a one-to-one adult support on an abbreviated day from 9:05 am - 11:20 am while a functional behavioral assessment is conducted. A step-up plan is in place to increase the day. The parent was provided a Functional Behavioral Assessment consent form in September and the district has not received the form from the parent. The parent is not sending the student to school and has reached the 10-day drop period. The district is ready to serve the student when they reenroll.”
29. A description of other options the District considered included: “The team considered a diagnostic placement and out-of-district placement - there have been safety concerns with [Student] eloping from the classroom and the campus and we are not allowed to lock the exterior door. The team rejected those two options because they did not feel that any of those options would be an appropriate placement. The team considered continuing placement in the SCC. The team feels that this is the appropriate placement for the student to have access to same age peers.”
30. The Student’s “Step-up Plan”, dated October 25, 2022, described the problem behavior as follows: “[Student] has attended school 3 days. [Student] will run into open doors or push open doors that lead outside. [Student] attempts to leave the group up to 15 times per days [sic]. To prevent this, [Student] needs an adult to help [Student] engage in an activity and an adult needs to be standing near the exit. When [Student] runs, [they] often turn to look at the adult and [say], ‘run, play’. It seems that [they] want to play and be chased. [They] do not yet respond to safety commands and [do] not stop until the

adult reaches [them] and grabs [their] hand. This school year [Student] has ran out the school building and went multiple blocks away from the school in two different incidents. The incidents occurred in the afternoon.” The Step-up Plan indicated “...the team will conduct an FBA and create a BIP after parent provides consent for FBA.” Besides abbreviating the Student’s school day, the team considered the following supports: “assigned a 1:1 educational assistant, the Parent has visited school for 1 hour on a scheduled day to provide suggestions on strategies they have seen work with [Student], and adding visual supports used at home to generalize expectations in different settings.” The Step-up Plan was to be reviewed two weeks after the Student resumed school.

31. On October 25, 2022, the Department emailed the District’s Special Education Director, “ODE has been contacted by a parent with a child, 1st grader...The parent contacted us regarding a concern for the child’s safety in the classroom. They state the classroom has unlocked doors and the child runs out of the class and was ‘running around downtown’.”
32. On October 26, 2022, the Principal emailed the Parent: “Here is the schedule we put together for [Student]. We are proposing that [Student] attends school from 9:05am - 11:20am. Our intention with the schedule was to have highly engaging structured time to limit the desire to run. After discussion we feel the specials time is too much opportunity for [Student] to run, so we thought starting with this schedule would allow for greatest success. The Case Manager will be rearranging the room to move circle away from the outside door as well. [Student] will also have a 1:1 adult assigned to them at school. I have also included a copy of the step-up plan. Please let us know when you plan to send [Student] back to school so transportation can be restarted.”
33. On October 31, 2022, the Parent emailed the Principal, “thank you for sending that information over to me. In the IEP attachment, I see a prior written notice that was dated October 12, 2023. I seem to have trouble finding it in my records. Can you provide me with confirmation of when that notice was delivered to me and who delivered it? It may have gone to my spam folder accidentally.” The Principal responded that the Case Manager had that information.
34. During interviews, the District stated that home instruction was not considered because the Student’s IEP team was looking at having the Student’s access their peers and home instruction was a more restrictive placement.
35. On November 8, 2022, the Parent filed this Complaint.

IV. DISCUSSION

When IEPs Must Be In Effect

The Parent alleges that the District violated the IDEA by not providing transportation as a related service and accommodations in accordance with the IEP.

At the beginning of each school year, a school district must have in effect an IEP for each child with a disability within the district’s jurisdiction. School districts must provide special education and related services to a child with a disability in accordance of the IEP. As soon as possible following the development of the IEP, special education and related services must be

made available to the child in accordance with the child's IEP.³

The Student's IEP included transportation as a related service beginning June 9, 2022. The Parent contends that while the Student was enrolled at the School at the beginning of the 2022-23 school year, the District did not provide transportation on five school days. The District contends that the school bus arrived at the Student's residence three out of the five days the Parent is alleging the District did not provide transportation. While the Parent and the District are not in agreement of all the total number of days the District did not provide transportation, there is evidence that the Student did not receive transportation on all of the school days for which they were enrolled in the School.

The Department substantiates the allegation.

Least Restrictive Environment

The Parent alleges that the District violated the IDEA by not providing the Student with the least restrictive environment.

School districts must ensure that to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who do not have a disability. Special classes, separate schooling or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.⁴

On September 14, 2022, the Student eloped from the School campus; on September 15, 2022 the District developed a safety plan. The Student eloped a second time on September 20, 2022, stopped attending school and was subsequently unenrolled from school due to non-attendance. The Parent contacted the District on September 28, 2022, stating they felt the steps the District was taking to work with the Student and the general education system was not working for the Student. The District replied by providing the Parent with a consent for a Functional Behavior Assessment (FBA). The Parent contacted the District and contended that the Student needed to be in a program designed around children with autism and needed extensive one-on-one support.

On October 12, 2022, the Student's IEP team met and discussed placement options, including the self-contained classroom and a diagnostic placement in an office space that did not have an exterior door within the school, and also considered the impact of the Student's access to peers and an abbreviated school day. The District's final offer, as described in the October 12, 2022 PWN, included the self-contained classroom, an abbreviated school day, and one-to-one adult support for four weeks while the FBA was being completed. The Parent declined to provide consent for the District to conduct the FBA and did not return the Student to school. The Student's amended IEP and special education placement was the least restrictive environment for the Student while the District attempted to gather additional information.

The Department does not substantiate this allegation.

³ OAR 581-015-2220(1)(2b); 34 CFR §300.323

⁴ OAR 581-015-2240; 34 CFR § 300.114

Free Appropriate Public Education (FAPE)

The Parent alleges that the District violated the IDEA by not providing the Student with a FAPE.

School districts must provide special education and related services to all resident school-age children with disabilities, except as provided in OAR 581015-2045. "School-age children" who have reached five years of age but have not reached 21 years of age on or before September 1 of the current school year. The requirements of this rule also apply to children with disabilities who have been suspended or expelled from school in accordance with OAR 581-015-2410 to 581-015-2440.⁵

The District's failure to provide transportation to the Student at the beginning of the 2022-23 school year did not result in a denial of a FAPE given the very short period of time that transportation was not provided. The Student's amended IEP, dated October 12, 2022, offered the Student a FAPE.

The Department does not substantiate this allegation.

Additional Finding: Content of IEP

During the investigation, the Investigator discovered that the Student's June 9, 2022 IEP did not meet legal requirements under the IDEA or Oregon Administrative Rules due to the IEP not providing special education services at certain times of the school day and school year.

The individualized education program (IEP) must include a statement of the specific special education, related services, and supplementary aids and services provided to the child for the child to advance appropriately toward attaining the annual goals; to be involved and progress in the general education curriculum, to participate in extracurricular and other nonacademic activities; and to be educated and participate with other children with disabilities and children without disabilities. Also required are the projected dates for initiation of services and modifications, the anticipated frequency, amount, location and duration of the services and modifications, and an explanation of the extent, if any, to which the child will not participate with children without disabilities in the regular class and activities.⁶ At the beginning of each school year, a school district must have in effect an IEP for each child with a disability within the district's jurisdiction. School districts must provide special education and related services to a child with a disability in accordance with an IEP.⁷

The statement of non-participation justification in the Student's June 9, 2022 IEP was written as, "... Services will be provided and follow the official school calendar with the exception of assemblies, field trips, school testing, student absence, parent teacher conferences, in-services, shelter in place, district trainings and the first and last two weeks of the school year."

During interviews, the Special Education Director confirmed that the Student had received their special education services at the beginning of the 2022-23 school year and this statement was copied from something else that did not pertain to the Student. This explanation of how the District planned to implement the Student's IEP services was not in accordance with the dates

⁵ OAR 581-015-2040; 34 CFR § 300.101

⁶ OAR 581-015-2200(1d)(1e)(1f)

⁷ OAR 581-015-2220(1)

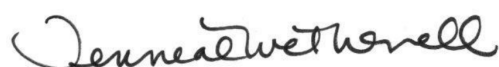
the services were to start and end, and the District was required to have an IEP in effect at the beginning of the school year and throughout the entire school year.

V. CORRECTIVE ACTION⁸
In the Matter of Reynolds School District 7
Case No. 022-054-037

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

Action Required	Submissions	Due Date
1. The District must ensure that all District staff responsible for reviewing, revising, developing, and implementing IEPs for this student receive training in each of the following areas: <ul style="list-style-type: none"> a. Content of the IEP; and b. When IEPs Must Be in Effect. 	Training agenda/materials to County Contact for review/approval. Sign-in sheet for training.	March 15, 2023 May 15, 2023
2. The District must review and revise, as appropriate, policy and procedures in each of the following areas: <ul style="list-style-type: none"> a. Provision of transportation as a related service; b. Statements explaining the extent of non-participation in general education; and c. When IEPs Must Be in Effect 	Provide revised procedures to District Support Specialist	September 15, 2023

Dated: this 6 Day of January 2023



Tenneal Wetherell
 Assistant Superintendent
 Office of Enhancing Student Opportunities

E-mailing Date: January 6, 2023

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

⁸ 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)).

resides. Judicial review is pursuant to the provisions of ORS § 183.484. (OAR 581-015-2030(14).)