

BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of Central Curry School)	FINDINGS OF FACT,
District 1)	CONCLUSIONS,
)	AND STIPULATED CORRECTIVE ACTION
)	Case No. 23-054-002

I. BACKGROUND

On February 2, 2023, the Oregon Department of Education (the Department) received a written request for a special education complaint investigation from the parents (the Parents) of a student (Student) residing in the Central Curry School District 1 (District). The Parents 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 Parents 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 February 10, 2023, 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 February 24, 2023.

The District submitted a *Response* on February 24, 2023, denying the allegations, providing an explanation, and submitting documents in support of the District's position. The District submitted the following relevant items:

1. District's Written *Response* to Complaint, 2/24/23
2. Educational Service District (ESD) Functional Assessment and Behavior Intervention Plan, 4/17/22
3. Safety Plan, 4/27/22
4. De-escalation Plan, 5/26/22
5. Screening for Physical and/or Occupational Therapy, 1/4/22
6. Student Schedule, 9/1/22
7. Statement of Eligibility (OHI), 3/18/22
8. Prior Notice and Consent for Initial Provision of Special Education Services, signed 3/18/22
9. Notice of Team Meeting on 3/18/22, 3/8/22
10. ESD Psychoeducational Evaluation Report, dated 1/13/22 (but includes information dated 3/7/22)
11. Functional Behavior Assessment (FBA) Observations and Student Interviews, 11/9/21
12. Notice of Team Meeting on 3/18/22, 3/3/22
13. Prior Notice of Special Education Action (PWN), 3/18/22
14. Parent Input Statement, 3/18/22
15. Notice of Team Meeting on 12/1/21, 11/17/21

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

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

16. Student Assessment Plan for Special Education, dated 1/4/21 (*incorrectly dated*)
17. Staffing Report, dated 1/4/21 (*incorrectly dated*)
18. Prior Notice about Evaluation/Consent for Evaluation, 1/11/22
19. Section 504 Eligibility Determination and Student Accommodation Plan, dated 11/12/21
20. Individualized Education Program (IEP), dated 3/18/22
21. Special Education Placement Determination (with handwritten edits), dated 3/18/22
22. Special Education Placement Determination – “Revision,” dated 3/18/22
23. Notice of Team Meeting on 9/1/22, dated 8/23/22
24. PWN, 3/18/22
25. PWN, 11/21/22
26. Private Neuropsychological Evaluation, 12/13/21
27. Social and Developmental History, 1/15/22
28. Staffing Report, 4/27/22
29. Prior Notice and Consent for Initial Provision of Special Education Services, dated 3/15/22 (*incorrectly dated*)
30. Handwritten Notes from the current District Special Education Director, 2/10/23
31. Major Behavior Concern Referral Forms, 9/13/22 – 1/12/23
32. Student Tracking Forms, 9/21/22 – 2/6/23
33. Student Attendance Profile 2022-2023, 2/17/23
34. Student’s Schedule, 10/28/22 - 2/15/23
35. ESD Special Education Director’s email history, 4/25/22 – 1/10/23
36. 2022-23 District Special Education Director’s email history, 8/24/22 - 1/18/23
37. School Principal’s email history, 10/20/21 - 2/2/23
38. 2022-23 Special Education Teacher’s email history, 8/31/22 - 2/2/23
39. Instructional Assistant’s email history, 11/15/22 - 2/14/23
40. 2021-22 Special Education Director’s email history, 3/15/22 – 4/1/22
41. Student Attendance Profile, 2021-22 school year
42. District Notes on Special Education Services, undated
43. Teacher Notes, undated
44. District Missing Bus Rider Data, undated
45. School Counselor Notes, 3/15/22
46. Occupational Therapy (OT) Emails and Notes, 9/2/21 – 11/11/21
47. District Staff Member Contact List
48. Email with District Meeting Notes from 9/1/22, 9/6/22

The District submitted additional documents on March 2, 2023:

1. Additional emails for 2021-22 Special Education Director, 3/15/22 – 5/24/22

The Parents submitted a *Reply* on March 6, 2023, providing an explanation and rebuttal, and documents in support of the Parents’ position, as well as additional documents submitted on March 3, 2022. The Parents submitted the following relevant documents on March 3, 2023:

1. IEP, labeled as “Initial IEP March 18, 2022”
2. IEP, identified as May IEP, May 2022
3. IEP, identified as draft IEP, 6/3/22
4. IEP, labeled as “IEP emailed from [the District Special Education Director] Sept 6, 2022”

The Parents submitted the following relevant items on March 6, 2023:

1. Parents’ *Reply* to the District’s *Response* to *RFR*, 3/6/23
2. Emails with the Special Education Teacher, 1/9/23
3. Parent Documentation of Absences of Adult Support on the Bus, 9/8/22 – 2/21/23

4. Email from the District's Special Education Director, 9/6/22
5. Emails with the School Psychologist, 3/8/22 – 6/3/22
6. Emails with the School Counselor, 10/20/21 - 1/10/23
7. Emails with the ESD Special Education Director, 4/19/22 - 12/16/22
8. Parents' Timeline of Events and Outcomes, 5/21/21 – 3/6/23
9. Shared Parent Input with the Team, 3/18/22
10. Recordings of IEP meetings, 3/18/22, 4/27/22, 5/11/22, 6/16/22, 9/1/22

The Complaint Investigator interviewed the Parent on March 8, 2023. From March 7 to March 17, 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 Parents' 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 February 3, 2022, to the filing of this Complaint on February 2, 2023.

Allegations	Conclusions
<p>When IEPs Must Be In Effect</p> <p>The Parents alleged that the District violated the IDEA by not providing special education and related services in accordance with the Student's IEP. This includes failing to provide one-on-one adult support and supervision on the school bus; failing to implement the Student's general education time; failing to implement the Student's IEP accommodations; and failing to provide Parents with IEP progress reports for the Student's IEP goals.</p> <p>(OAR 581-015-2220; 34 CFR §300.323)</p>	<p>Not Contested</p> <p>The District does not contest this allegation.</p>
<p>Placement of the Child</p> <p>The Parents alleged that the District violated the IDEA by unilaterally changing the Student's placement. This includes removing the Student from the general education environment and putting the Student in a more restrictive environment, inconsistent with the placement determined by the Student's IEP team.</p> <p>(OAR 581-015-2250; 34 CFR §300.116)</p>	<p>Not Contested</p> <p>The District does not contest this allegation.</p>
<p>Review and Revision of IEPs</p>	<p>Not Contested</p>

<p>The Parents alleged that the District violated the IDEA when it unilaterally made changes to the Student's IEP without an IEP meeting and without the Parents' written agreement.</p> <p>(OAR 581-015-2225; 34 CFR §300.324)</p>	<p>The District does not contest this allegation.</p>
<p>Parent Participation</p> <p>The Parents alleged that the District violated the IDEA by interfering with the Parents' ability to participate in decisions with respect to the identification, evaluation, IEP and educational placement of the Student, and the provision of a free appropriate public education to the Student.</p> <p>(OAR 581-015-2190; 34 CFR §300.322; 34 CFR §300.501)</p>	<p>Not Contested</p> <p>The District does not contest this allegation.</p>

REQUESTED CORRECTIVE ACTION
<ul style="list-style-type: none"> • Provide consistent adult support for the Student so that the Student can access transportation to school and access all of the Student's general education time. • Reimbursement for when the Student was unable to access the bus and the Parents had to drive the Student to school so the Student was able to go to school that day. • Provide training to the special education team and general education teachers to make sure they implement the Student's IEP. • Develop an inclusion plan for outlining how the Student will be supported in the general education classroom and supports that they need to access. • Provide compensatory education for the Student for failing to implement the Student's IEP and missed educational opportunities as a result of this. • Review the IEPs and schedules of 6th, 7th, and 8th grade students receiving special education services at the Student's school to determine: (a) whether each of the students are receiving their services and accommodations as required by their IEPs. If students are found not to be receiving their services and accommodations as required by their IEPs, the District will take immediate steps to correct the issues; and (b) whether each of the students' placement codes were changed outside of the IEP team process. If students are found not to be receiving their services and accommodations as required by their IEPs and had their placement codes changed in their IEPs as a result, the District will take immediate steps to correct the issues. • Change the Student's federal placement code to what was discussed at the last IEP meeting (code 31). • Provide training for district special education staff regarding: (a) IEP amendments and holding an IEP meeting to discuss changes to the IEP; (b) federal placement codes and determining the correct placement code to reflect services being provided to the Student; and (c) appropriate documentation of progress and progress reporting. • Provide baseline data and meaningful progress reports for the Student's IEP goals.

III. FINDINGS OF FACT

1. The Student is 12 years old and is currently enrolled in sixth grade at a district middle school.
2. The Student is currently eligible for special education services under the category of Other Health Impairment (OHI).
3. The District has not contested the allegations made in the Complaint and the Parent has been informed of the Stipulated Corrective Action, as set forth in the Corrective Action table, below.

IV. DISCUSSION

When IEPs Must Be In Effect

The Complaint alleges multiple IDEA violations with the District, which the District did not contest.

The Department does not make a substantive determination in the allegations of the Complaint.

Based on the District not contesting the allegations of this Complaint, the Department orders and the District stipulates to the following Corrective Action:

V. STIPULATED CORRECTIVE ACTION³

*In the Matter of Central Curry School District 1
Case No. 23-054-002*

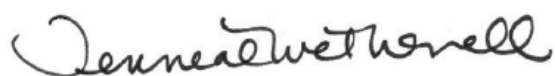
Based on the facts provided, the following corrective action is ordered:

Action Required	Submissions	Due Date
1. The District must offer the Student Compensatory Education to make up for SDI not provided pursuant to Student's IEP in the following amounts: <ul style="list-style-type: none"> • 35 hours of specially designed instruction in math; • 17 hours of specially designed instruction in writing; • 28 hours of specially designed instruction in reading; and • 72 hours of specially designed instruction in behavior. 	The District shall submit the following: Completed plan for delivery of Compensatory Education developed in IEP meeting with Parent; Evidence showing compensatory education was provided.	<p style="text-align: center;">May 1, 2023</p> <p style="text-align: center;">March 1, 2024</p>

³ 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)).

The District must hold an IEP meeting with the Parent to develop a plan to deliver this SDI. ⁴		
<p>2. 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:</p> <ul style="list-style-type: none"> • IEP Review/Revision; • IEP Content; • IEP Implementation; • Placement Determinations; and • Parent Participation 	<p>Training agenda/materials to Legal Specialist for review/approval.</p> <p>Sign-in sheet for training.</p>	<p>May 1, 2023</p> <p>June 15, 2023</p>

Dated: this 3rd Day of April 2023



Tenneal Wetherell
Assistant Superintendent
Office of Enhancing Student Opportunities

E-mailing Date: April 3rd, 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 resides. Judicial review is pursuant to the provisions of ORS § 183.484. (OAR 581-015-2030 (14).)

⁴ The Department provides IEP Facilitation services when it is mutually desired by parents and school districts and is available to support the Student's IEP team in this meeting. If a Facilitated IEP meeting is desired, please email ode.disputeresolution@ode.state.or.us.