

BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of West Linn Wilsonville 3J)
School District)
)
)

FINDINGS OF FACT,
CONCLUSIONS,
AND FINAL ORDER
Case No. 23-054-007

I. BACKGROUND

On February 24, 2023, 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 West Linn Wilsonville 3J 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 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 March 1, 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 March 15, 2023.

The District submitted a *Response* on March 15, 2023. The District denied the allegations, provided an explanation, and submitted documents in support of the District's position. The District submitted the following relevant items:

1. District response, 3/15/23
2. IEP Meeting Minutes, re: Parent concerns about courses, 1/17/23
3. Team Meeting Notes, IEP intake, 2/23/22 (Other District)
4. Team Meeting Notes, IEP annual review, 5/11/22 (Other District)
5. Annual Academic and Functional Goals and Objectives, 5/11/22
6. Document letter, Prior Written Notice, 6/10/21
7. IEP, 5/18/21
8. IEP Meeting Minutes, annual IEP, 5/18/21
9. Extended School Year (ESY) Services, 5/18/21
10. Annual Academic and Functional Goals and Objectives, 5/28/20
11. Re-Evaluation Planning Form, no date
12. Prior Written Notice, statement of eligibility for special education, 5/18/21
13. SLD Form, final audit report, 6/10/21
14. Evaluation Meeting Minutes, 5/18/21
15. Notice of Team Meeting, annual IEP and eligibility, 4/30/21

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. Letter to Parent, re: Prior Written Notice, 10/27/22
17. Other Written Notice, adoption of IEP from Other District, 10/26/22
18. Signature Cover Page, 5/11/22
19. Special Education Placement Determination, 5/11/22
20. IEP, 5/11/22 (Other District)
21. Daily attendance report, 8/22/22-6/22/23
22. Email, re: WKOA student st on your ema st [sic], 1/4/22
23. Email, re: fwd: WKOA, 1/26/22
24. Email, re: Japanese c ass [sic], 9/20/22
25. Email, re: Student, 9/21/22
26. Email, re: Student, 9/21/22
27. Email, re: Student, 9/22/22
28. Email, re: Student, 9/22/22
29. Email, re: me aga n [sic], 9/22/22
30. Email, re: no Student today, 9/22/22
31. Email, re: me aga n [sic], 9/22/22
32. Email, re: tech support, 9/26/22
33. Email, re: Student, 9/27/22
34. Email, re: tech support, 9/27/22
35. Email, re: Student, course b o ogy (F), per od 4 [sic], 10/6/22
36. Email, re: submitted late: "Oregon f e d gu de: sea otters" [sic], 10/11/22
37. Email, re: Student, 10/13/22
38. Email, re: Student, 10/13/22
39. Email, re: Student, 10/17/22
40. Email, re: new student to case oad [sic], 10/18/22
41. Email, re: Student, 10/18/22
42. Email, re: Student, 10/19/22
43. Email, re: new student to case oad [sic], 10/19/22
44. Email, re: new student to case oad [sic], 10/19/22
45. Email, re: new student to case oad [sic], 10/20/22
46. Email, re: new student to case oad [sic], 10/20/22
47. Email, re: Student - panorama survey, 10/24/22
48. Email, re: not f cat on about student n IEP [sic], 10/25/22
49. Email, re: meet, 10/25/22
50. Email, re: not f cat on about student n IEP [sic], 10/25/22
51. Email, re: can we meet, 10/25/22
52. Email, re: can we meet, 10/25/22
53. Email, re: meet, 10/25/22
54. Email, re: can we meet, 10/25/22
55. Email, re: accept ng [sic] an IEP, 10/25/22
56. Email, re: fo ow ng up [sic], 10/25/22
57. Email, re: accept ng [sic] an IEP, 10/25/22
58. Email, re: meet, 10/26/22
59. Email, re: fwd: accept ng [sic] an IEP, 10/26/22
60. Email, re: fo ow ng [sic] up, 10/26/22
61. Email, re: accept ng [sic] an IEP, 10/26/22
62. Email, re: meet, 10/26/22
63. Email, re: accept ng [sic] an IEP, 10/26/22
64. Email, re: accept ng [sic] an IEP, 10/26/22
65. Email, re: presentat on shared w th you: "morph ne" [sic], 10/27/22
66. Email, re: fo ow ng [sic] up, 10/28/22
67. Email, re: fwd: Student, 10/28/22

68. Email, re: Student, 10/28/22
69. Email, re: Student, 10/28/22
70. Email, re: Student, 10/31/22
71. Email, re: fo ow ng [sic] up, 10/31/22
72. Email, re: fo ow ng [sic] up, 10/31/22
73. Email, re: test retake, 11/1/22
74. Email, re: fo ow ng [sic] up, 11/1/22
75. Email, re: fo ow ng [sic] up, 11/1/22
76. Email, re: fo ow ng [sic] up, 11/1/22
77. Email, re: fo ow ng [sic] up, 11/1/22
78. Email, re: th s Fr day [sic] 11/2/22
79. Email, re: tomorrow, 11/3/22
80. Email, re: th s Fr day [sic], 11/3/22
81. Email, re: th s Fr day [sic], 11/3/22
82. Email, re: note tak ng and grad ng [sic], 11/4/22
83. Email, re: check ng n [sic], 11/4/22
84. Email, re: check ng n [sic], 11/6/22
85. Email, re: check ng n [sic], 11/7/22
86. Email, re: fwd: note tak ng and grad ng [sic], 11/7/22
87. Email, re: fwd: note tak ng and grad ng [sic], 11/7/22
88. Email, re: are you back, 11/8/22
89. Email, re: check ng n [sic], 11/8/22
90. Email, re: check ng n [sic], 11/9/22
91. Email, re: check ng n [sic], 11/9/22
92. Email, re: are you back, 11/9/22
93. Email, re: check ng n [sic], 11/9/22
94. Email, re: h ragana [sic] test, 11/16/22
95. Email, re: A gebra [sic] 1 ch 4.5 worksheet, 11/16/22
96. Email, re: returned note, 11/16/22
97. Email, re: h ragana [sic] test, 11/17/22
98. Email, re: fo ow ng [sic] up, 11/18/22
99. Email, re: support ng [sic] a student, 11/29/22
100. Email, re: fo ow ng [sic] up, 11/29/22
101. Email, re: fo ow ng [sic] up, 11/29/22
102. Email, re: fo ow ng [sic] up, 11/29/22
103. Email, re: owed extra support, 12/7/22
104. Email, re: support ng [sic] a student, 12/8/22
105. Email, re: rev s on [sic], 12/8/22
106. Email, re: rev s on [sic], 12/8/22
107. Email, re: Student, 12/12/22
108. Email, re: Student, 12/12/22
109. Email, re: owed extra support, 12/12/22
110. Email, re: owed extra support, 12/12/22
111. Email, re: Student added a pr vate comment on "F rst A d/CPR research/notes" [sic], 12/12/22
112. Email, re: owed extra support, 12/12/22
113. Email, re: Student, 12/13/22
114. Email, re: Student, 12/13/22
115. Email, re: fwd: owed extra support, 12/13/22
116. Email, re: owed extra support, 12/13/22
117. Email, re: Student, 12/13/22
118. Email, re: fwd: (no subject), 12/15/22

119. Email, re: (no subject), 12/15/22
120. Email, re: fwd: owed extra support, 12/15/22
121. Email, re: owed extra support, 12/15/22
122. Email, re: vo cema [sic], 12/15/22
123. Email, re: owed extra support, 12/16/22
124. Email, re: owed extra support, 1/3/23
125. Email, re: Student and seat ng [sic], 1/5/23
126. Email, re: owed extra support, 1/5/23
127. Email, re: owed extra support, 1/6/23
128. Email, re: Student test rev s on [sic], 1/9/23
129. Email, re: Student test rev s on [sic], 1/10/23
130. Email, re: fwd: owed extra support, 1/10/23
131. Email, re: owed extra support, 1/10/23
132. Email, re: owed extra support, 1/10/23
133. Email, re: Student test rev s on [sic], 1/10/23
134. Email, re: owed extra support, 1/11/23
135. Email, re: fwd: owed extra support, 1/11/23
136. Email, re: owed extra support, 1/12/23
137. Email, re: owed extra support, 1/12/23
138. Email, re: owed extra support, 1/12/23
139. Email, re: owed extra support, 1/12/23
140. Email, re: owed extra support, 1/13/23
141. Email, re: test rev s [sic] on for (Other Student), 1/13/23
142. Email, re: owed extra support, 1/13/23
143. Email, re: can we check n, 1/18/23
144. Email, re: Student and Japanese, 1/23/23
145. Email, re: Student and Japanese, 1/23/23
146. Email, re: schedu e [sic] for next term, 1/24/23
147. Email, re: Student, 1/24/23
148. Email, re: schedu e [sic] for next term, 1/24/23
149. Email, re: subm tted [sic] late: "cancer treatments," 1/24/23
150. Email, re: schedu e [sic] for next term, 1/24/23
151. Email, re: schedu e [sic] for next term, 1/25/23
152. Email, re: schedu e [sic] for next term, 1/25/23
153. Email, re: cou d [sic] you, 1/27/23
154. Email, re: cou d [sic] you, 1/27/23
155. Email, re: cou d [sic] you, 1/27/23
156. Email, re: important!, 1/30/23
157. Email, re: fwd: important!, 1/31/23
158. Email, re: important!, 1/31/23
159. Email, re: important!, 1/31/23
160. Email, re: important!, 2/1/23
161. Email, re: schedu e [sic] change, 2/1/23
162. Email, re: schedu e [sic] change, 2/1/23
163. Email, re: schedu e [sic] change, 2/1/23
164. Email, re: schedu e [sic] change, 2/1/23
165. Email, re: schedu e [sic] change, 2/1/23
166. Email, re: important!, 2/1/23
167. Email, re: new student, 2/2/23
168. Email, re: charger for computer, 2/6/23
169. Email, re: Student, 2/6/23
170. Email, re: charger for computer, 2/6/23

171. Email, re: tek mee: #36283 need f at [sic] charger, 2/6/23
172. Email, re: new student on IEP, 2/7/23
173. Email, re: student Student, 2/7/23
174. Email, re: Student, 2/7/23
175. Email, re: student Student, 2/7/23
176. Email, re: student Student, 2/7/23
177. Email, re: student Student, 2/7/23
178. Email, re: Student, 2/7/23
179. Email, re: student Student, 2/8/23
180. Email, re: important!, 2/8/23
181. Email, re: student Student, 2/8/23
182. Email, re: important!, 2/8/23
183. Email, re: important!, 2/9/23
184. Email, re: student Student, 2/10/23
185. Email, re: student Student, 2/10/23
186. Email, re: one more check, 2/16/23
187. Email, re: Student, 2/17/23
188. Email, re: subm tted late: "7.2 desmos act v ty - rac ng cars" [sic], 2/17/23
189. Email, re: Student, 2/17/23
190. Email, re: progress notes, 2/20/23
191. Email, re: b o ogy test tomorro [sic], 2/21/23
192. Email, re: tomorrow, 2/21/23
193. Email, re: tomorrow, 2/21/23
194. Email, re: b o ogy test tomorro [sic], 2/21/23
195. Email, re: Student, 2/22/23
196. Email, re: Student, 2/22/23
197. Email, re: check ng n [sic], 2/22/23
198. Email, re: tomorrow, 2/22/23
199. Email, re: check ng n [sic], 2/22/23
200. Email, re: Student, 2/22/23
201. Email, re: Student, 2/24/23
202. Email, re: Student, 2/27/23
203. Email, re: Student, 2/27/23
204. Synergy message, re: missing assignments, not date
205. Synergy message, re: message confirmation, not date
206. Email, re: 4100-L242 - wor d h story (Student) - m ss ng ass gnments n wor d h story [sic], 2/28/23
207. Email, re: 4100-L242 - wor d h story (Student) - m ss ng ass gnments n wor d h story [sic], 3/1/23
208. Email, re: 4100-L242 - wor d h story (Student) - m ss ng ass gnments n wor d h story [sic], 3/1/23
209. Email, re: one more check, 3/2/23
210. Email, re: tomorrow s p ans [sic], 3/2/23
211. Email, re: sold a story podcast, 11/29/22
212. Email, re: important!, 2/17/23
213. Email, re: Student follow-up, 2/24/23
214. Email, re: Student dispute resolution opportunities, 3/2/23
215. District High School, student schedule, 2022-2023
216. Request for Response, re: Case No. 23-054-007, 3/1/23
217. ParentVUE, Student demographics, 9/14/22
218. Request for Student Records, 9/16/22
219. Cumulative File Information, cover pg., no date (Other District)

- 220. Request for Student Records, 10/12/22
- 221. Documents Provided, records request catalog, no date
- 222. District High School, student transcript, 3/8/23

The Parent submitted a Reply on March 22, 2023, rebutting the District's position, and supporting the Parent's position. The Parent submitted the following relevant items:

1. Parent Response, Case No. 23-054-007, 3/22/23
2. Email, re: Student, 9/21/22, duplicate of District email
3. Email, re: my freshman son, 9/7/22
4. Email, re: Student course biology (F) period 4, 10/6/22
5. Email, re: Student, 10/18/22, duplicate of District email
6. Email, re: Student's 2nd grade year, 5/6/15
7. Special Education Placement Determination, 5/11/22 (Other District)

The Complaint Investigator interviewed the Student and the Parent on March 20, 2023. On March 23, 2023, the Complaint Investigator interviewed District personnel. The Assistant Principal and the Biology Teacher—who had knowledge of this matter—were not available for interviews. The Complaint Investigator reviewed and considered all 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 authority 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 February 25, 2022 to the filing of this Complaint on February 24, 2023.

Allegations	Conclusions
<p>When IEPs Must Be in Effect</p> <p>The Complaint alleges that the District violated the IDEA when the supports and accommodations in the Student's IEP were not followed. The Complaint further alleges the Student's IEP was not implemented for over a month, and that the Student was graded with no supports in place.</p> <p>(OAR 581-015-2220; 34 CFR § 300.323)</p>	<p>Substantiated</p> <p>The District did not implement special education services for the Student until October 26, 2022. The Student's accommodations also were not implemented consistently.</p>
<p>Placement of a Child</p> <p>The Complaint alleges that the District violated the IDEA when the Student was inappropriately placed in classes and did not consistently receive full lunch breaks or elective classes.</p> <p>(OAR 581-015-2250; 34 CFR §§ 300.116, 300.327)</p>	<p>Not Substantiated</p> <p>The District implemented the special education placement as described in the Student's IEP.</p>

REQUESTED CORRECTIVE ACTION

- Change the Student's grade for Biology semester 1
- All teachers held accountable to honor the Student's IEP
- A specific teacher required to take special education courses to develop their craft to include all students' equal access to education
- Set district level goals to create true equity and then implement it
- Require all teachers to undergo more training for inclusion
- Hire more special education teachers and special education support staff to meet the needs of students with IEPs and 504 Plans
- Preferential teacher choice until the Student graduates from high school
- Outside testing to make sure all the Student's educational needs are being met

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 from February 25, 2022 through February 24, 2023. 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. The Student is 15 years old and in the ninth grade.
2. The Student's 2022-23 first semester courses included: algebra, language arts, biology, weight training, and health. The Student's second semester courses were: algebra, language arts, world history, weight training, and biology.
3. The Student's 2022-23 first semester grades were:
 - a. Language arts-B;
 - b. Algebra-C;
 - c. Biology-D-;
 - d. Japanese-C;
 - e. Health-C; and
 - f. Weight training-B.
4. On May 18, 2021, the Student was found eligible for special education as a child with Specific Learning Disabilities for basic reading, reading fluency and comprehension, and written expression. The Student's annual IEP was also developed on this date.
5. On January 28, 2022, the Student withdrew from the District and enrolled in another Oregon school district.
6. The May 11, 2022 IEP from the Other District described the Student as: "polite, cooperative, on time and is willing and able to discuss many interesting topics...enjoys reading. [Student] has solid comprehension...math continues to be a struggle. Having a visual of a finished product is helpful for [Student]...[Student] does better when [they] can volunteer answers rather than being called on..." The IEP included the following annual IEP goals:
 - a. "By May of 2023, [Student] will correctly define 9/10 new vocabulary on 4/5 occasions";

- b. “[Student] will write an informational essay with a score of 3 or higher in all six traits of writing by May of 2023”; and
- c. “Given instruction, practice, and feedback, [Student] will solve 75% of algebra-based word problems on 4/5 occasions.”

The specially designed instruction (SDI) was to be provided by learning specialists in the general and special education classrooms; services included 45 minutes per week for reading, 45 minutes per week for written language, 45 minutes per week for mathematics, and 60 minutes per year of consultation services provided to general education classroom staff.

The IEP included the following accommodations:

- a. Extended time or reduction of assignments while addressing the same learning targets as negotiated with teacher;
- b. Note taking (i.e., copy of teacher notes, teacher notes available on blog, skeleton of notes for student to fill in, take photos, etc.);
- c. Reduced length of writing assignments and projects;
- d. Strategic seating/close to instruction and away from potential distractions, near strong peers;
- e. Encourage elaboration of ideas on writing assignments;
- f. Break down assignments/projects into smaller, more manageable steps;
- g. Access to text-to-speech/audio text;
- h. Frequent check-ins to aid attention, work, initiation, and stamina; and
- i. Allow [Student] to volunteer answers rather than being “called on” in class. **(D79)**

The nonparticipation justification statement describes the extent of removal from the general education classroom as 135 minutes per week. The special education placement determined to most appropriately meet the Student’s needs was “general education with push-in services.”

7. On September 7, 2022, the Parent emailed an Assistant Principal at the School: “[Student] is a freshman this year, however, [Student] attends a charter school that better met [their] needs during covid/middle school. [They] now would like to try going to a traditional high school. [Student] has been on an IEP since second grade (no support in middle school). Is there a time we can meet? I have several questions on how [Student’s] needs will be met if we return to [District] schools. [Student’s] name is..., [they] began...school district in the first grade.”
8. On September 9, 2022, the Parent: “...met and toured with the freshman AP, a hard copy of the Student’s IEP was provided to the AP at the meeting.”
9. On September 14, 2022, the Parent submitted school enrollment information. The enrollment information provided by the Parent included that the Student had previously attended a District middle school and that the Student had participated in special education programs at the previous school. The Assistant Principal, with whom the Parent previously met and exchanged emails, resigned from the District on this date.
10. On September 16, 2022, the Parent completed a Request for Student Records for the District to request records from the previous district. The Parent also: “...met with [School Counselor] to schedule freshman classes, notified [School Counselor] [Student] was on an IEP, [they] said [they] would run the schedule by the [special education] team. Informed [School Counselor] AP [Assistant Principal] had a copy of [Student’s] IEP, [they] said [they]

would connect with the AP to receive the copy.” During interviews, the School Counselor confirmed that they met with the Parent on September 16, 2022. However, the Counselor was not able to recall any details about the meeting.

11. On September 19, 2022, the Student re-enrolled and started attending the District’s high school.
12. On September 21, 2022, the Parent emailed the Student’s World Studies Teacher: “...[Student] just returned to [District] schools. [Student] is on an IEP...is dyslexic, please do not take offense if/when [they] advocate for [themselves]...”
13. On September 22, 2022, the Parent emailed the School Counselor: “[Student] just started this week so I’m not sure [they] should be held to the same standards. [They] should have some trial time as [their] peers so all have the equal opportunity.”
14. On September 27, 2022, the Student was issued a Chromebook.
15. On September 30, 2022, the school sent the records request to the previous district.
16. On October 6, 2022, the Parent emailed the Student’s Biology Teacher: "My [Student] is in your 4th-period biology class. [They're] really enjoying the class. [Student] is on an IEP, and as the traditional [District] way [*sic*], they are dragging their feet in implementing [their] IEP at the high school. Something that needs to happen...right away that will help [their] learning in class is no 'cold calling'. I am reaching out to all [their] teachers explaining how dyslexic students need time to process verbal information when called upon; often cold calling in front of peers only leads to negative results. This is written in [their] IEP which is a federal legal document/contract. Thank you for understanding [their] learning style."
17. On October 7, 2022, the school received a shipment of records for the Student from the previous district. These materials did not include any special education records.
18. On October 12, 2022, the District received a second shipment of records for the Student from the previous district. These materials included previous special education paperwork from when the Student attended the current District. The school submitted a second request to the previous district requesting current special education records.
19. On October 13, 2022, the School Counselor indicated to District Staff that they: “Just got an email from [Student’s] [Parent] about [them] being on an IEP.” District Staff indicated: “...file came in two shipments from [previous district]. The second part arrived yesterday with [expired] IEP paperwork from [current district], and an insert that said that [they] have [current special education] paperwork on file with [previous district]. I requested the [special education] file from [previous district] yesterday afternoon, and I have the hard copy of [Student’s expired paperwork created when they were formerly enrolled in the current district] here for you.”
20. On October 17, 2022, the Parent emailed the Foreign Language Teacher: “[Student] is on an IEP but [School] has not contacted me or initiated any action on it yet. So [Student’s] been doing all of this work without [their] typical supports, [they are] dyslexic, so languages are very hard for [them]. Although, [Student] really, really loves your class and [they think] you are just the greatest. Is there anything [they] can do extra to make up for points lost on quizzes? [They’re] supposed to have some modifications and accommodations in place but

[they are] totally OK with doing extra work because [Student] really wants to learn the language.”

21. On October 18, 2022, the Lead Special Education Teacher contacted the School Registrar: “We’ve had a student who was previously in our district re-enroll. Could you please place [Student] on [Learning Specialist’s] caseload? ...can you forward anything new...when I look in [System] it looks like the last IEP is from when [they] were in 7th grade.” The School Registrar responded: “I’ve attached here what [previous district] sent me, it looks like a lot of our own paperwork. I also requested [Student’s special education] file from [previous district] on October 12th, I’ll send it along when it arrives.” On October 18, 2022, the District also determined: “Looks like [Student’s] eligibility is up to date, we just need a current IEP!”
22. On October 18, 2022, the Parent emailed the Biology Teacher: “[Student] is in your 4th-period biology class. We just transferred back into the school district in late September. ... [Student] is on an IEP but [District] has not yet contacted me or initiated any action. So [they’ve] been doing all of this work without [their] typical support, [they are] dyslexic, so often the pace of lectures is too fast for [Student] to take adequate notes. What can [they] do to help supplement/review the day’s class topic? Is there any online access to your notes or textbooks? Or a good site that [they] can use? [Student] is totally willing to do the work, [they] just need[] to know where to look.”
23. On October 20, 2022, the school received a current copy of the Student’s IEP from the previous district.
24. On October 25, 2022, the Learning Specialist contacted the district office: “We have a student, [Student], who was enrolled at [District] previously, except [they] transferred to [previous district] and then came back this year. [They] had an IEP meeting in May with [previous district]. On my end, do I need to do something to accept [their] transfer IEP from [previous district]? I don’t know how to accept a transfer IEP. Also, we received a faxed copy of the IEP but I don’t see an IEP from [previous district] that was actually uploaded...Do you know if we have an official copy...?”
25. On October 25, 2022 at 1:03 p.m., the Learning Specialist emailed the Student’s classroom teachers: “I wanted to reach out and let you all know that [Student] is on an IEP. We did not realize this until a couple of weeks ago, so you may not have been aware of this until now. [Student] is on an IEP with reading, writing, and math support. Please be sure to provide [Student] with the following accommodations:
 - a. Extended time or reduction of assignments while addressing the same learning targets as negotiated with teacher;
 - b. Note taking accommodations (i.e. copy of teacher notes, teacher notes available on blog, skeleton of notes for student to fill in, take photos, etc.);
 - c. Reduced length of writing assignments to encourage quality over quantity
 - d. Provide models of finished product on assignments and projects;
 - e. Strategic seating/close to instruction and away from potential distractions, near strong peers;
 - f. Encourage elaboration of ideas on writing assignments;
 - g. Break down assignments/projects into smaller, more manageable steps;
 - h. Access to text-to-speech/audio text;
 - i. Frequent check-ins to aid attention, work initiation, and stamina; and
 - j. Allow [Student] to volunteer answers rather than being ‘called on’ in class.”

26. On October 25, 2022, the Learning Specialist contacted a few of the classroom teachers to schedule individual meetings to discuss supports for the Student in their classes. The email to the Biology Teacher: "I have a student, [Student] in your fourth period biology class who may need some additional support. [They are] on an IEP (we just found this out about a week ago), and [they] are really struggling in your class. I know that [Student] has some labs that [they] needs to finish up and turn in. [They] told me [they] had reached out to you about finding time to make up the work during lunch or before or after school. Could you try to connect with [Student] to find a time that [they] can make up this work? Also, let me know how I can support [them] in biology, too."
27. On October 26, 2022, implementation of the Student's IEP began.
28. On October 26, 2022, the Learning Specialist emailed the Parent: "I just had the chance to check in with [Student's] biology and Japanese teachers this afternoon. It does sound like biology is a struggle—and that [Student] is struggling quite a bit in there not just with the content but also with maintaining focus, taking notes, and staying on task. It sounds like the class [they are] in has quite a few 'squirrely' boys, so that is also a factor. [Student] just took an assessment in there and did not pass it. [Biology Teacher] gave me a copy of the assessment and a test corrections page. I will work with [Student] to do test corrections ([they] can do this to raise [their] grade up to 90% on the test). I will make time for this tomorrow or Friday. In Japanese, [Student] has brought [their] grade up to a D. [They] can retake major assessments as many times as needed, so that is helpful, but [they] can't retake the weekly quizzes. [Student] has a major test tomorrow on hiragana alphabet. If you could encourage [them] to study for that today, it should help. [They] will be able to retake it if needed. It sounds like missing the first three weeks of Japanese class didn't help [them] get off to the best start in there, but [their] teacher is trying to provide support and opportunities for retakes, which should help. I will continue to monitor [Student's] grades in Japanese and can try to help when possible." The Parent replied: "Do you think the after-school tutoring can help with these 2 subjects?" The Learning Specialist responded: "Definitely for biology! For Japanese it depends on if there are students in the tutoring center who have studied it. [Student] is welcome to get help from me with Japanese either during lunch, or before or after school. [They] just need[] to ask!"
29. On October 26, 2022, the District issued a Prior Written Notice to the Parent that stated: "[District] has accepted a transfer IEP from [previous district] for [Student]." This action was proposed because: "[Student] was previously enrolled in [previous district], where [they] were] on an IEP that was put in place in May 2022. [Student] reenrolled in [District] in September 2022. [Student's] IEP from [previous district] has been accepted by [District] and will remain in place until the annual review in May 2023." Other factors considered by the team included: "[Student] was previously in the [District]. [They have] a current eligibility in place through [District]."
30. On October 31, 2022, the Learning Specialist emailed the Parent: "I was not able to work with [Student] for [their] biology test retake on Friday, but I will do that with [them] next week. [Their] teacher said [they] will still allow test retakes from Quarter 1 next week. Hopefully the retake will help [their] biology grade to go up. Quarter 1 grades don't go on students' transcripts -- they only are progress grades, so I will keep working with [Student] to help bring up [their] Japanese and biology grades. I would definitely encourage [them] to stay after school whenever possible to get help in the tutoring center for biology and other subjects [they] needs help in. Monday through Thursday in the library from 3:30 to 5:00 pm is when tutoring is available."

The Parent responded: "We will work on the afterschool tutoring, however, that's a lot to add to [their] day on a regular basis when [they] should be getting support during the school day. We need to remember [they are] a child and we adults can't expect [them] to put in a longer work day than most adults do. [Student] should not be receiving a grade lower than a C since [they] did this entire quarter with no support. Can you communicate this to [their] teachers, [Student] will utilize the after-school tutoring but the tutoring is done by students and [their] IEP specifies specialized instruction by a qualified licensed teacher. Thank you for communicating with me."

31. The Parent left four phone messages for the Biology Teacher from October 25, 2022- November 14, 2022. The Parent reported they did not receive a return call or acknowledgement of the messages.
32. On November 1, 2022, the Parent emailed the Learning Specialist: "We need a meeting as the school was notified, I had an in-depth conversation with the freshman assistant principal regarding this. [They were] supposed to let you guys know so somebody could reach out to me. Again, dyslexia affects everything and it is a language processing disorder so if [Student] is having trouble in any language classes, [they] should have support for those. A student that is on an IEP and is going unserved is not our responsibility it is the schools [sic] responsibility according to the child find, it is not our job to find you, it is your job to find us."

The Learning Specialist replied: "Unfortunately I am not able to request that [Student's] teachers not give [them] a grade lower than a C for Quarter 1. There are a number of factors impacting [Student's] current grades here at school, and not all of them are in my control.

1. [Student] enrolled in school three weeks into the quarter. This is a factor that was not in our control. [Student's] teachers did excuse [them] from work during the first three weeks of school, but having missed the first three weeks [they] missed some fundamental learnings that are hard to catch up right away (especially in [their] Japanese class).
2. The school was not immediately alerted to the fact that [Student] was on an IEP when you reenrolled [them] in the district. I am not sure if that was caused by you not checking the box on the enrollment forms saying that [Student] was on an IEP or if perhaps you did check the form but the secretaries missed it; but that is a factor that was not in my control. But it did have a big impact on how quickly we were able to begin providing services to [Student]. Again, I am not sure who was at fault for this miscommunication.
3. [Student] is on an IEP with support for math, reading, and writing. [They are] earning B's in language arts and math classes. We have a learning specialist in [their] math class providing specially designed instruction. I am coordinating with the language arts teacher to provide support/specially designed instruction in that class for [them] as needed. That specially designed instruction in reading, writing, and math is not specifically designated as support in [their] biology and Japanese classes where [they are] struggling the most.
4. The quarter grades do not go on student's transcripts. While it looks like [Student] has an F in Japanese and a D+ in biology, those are not permanent grades. [They] can still do the biology test retake with me this week to earn up to a 90% on that test, which should boost [their] grade in there a lot. [They] can also work on studying more for [their] Japanese test retake and can retake that up until the end of the semester (which is in January). We have plenty of time to help [them] bring those grades up without any of [their] Quarter 1 grades going on [their] transcript.

I hope that we can work as a team to support [Student] this school year. I think if we can communicate regularly so I know what your concerns are and you know what my concerns are, we can help [them] turn this around and work as a team. We also need to help [Student], first and foremost, to work on advocating for [their] needs and to feel comfortable asking for help both in the classroom with me as [their] case manager. I would be more than happy to set up a time that you and I and [Student] can meet and talk about a plan for helping [them] be successful this school year. Let me know if you would like to do this and, if so, when you are available."

33. On November 1, 2022, the Learning Specialist emailed the Parent: "Just to follow up, I checked with our secretary and it looks like you alerted the district about [Student's IEP] IEP when you enrolled [them], but it looks like it took several weeks for [previous district] to provide the IEP to us. It sounds like that was the holdup [sic]. We still only have a faxed copy-- not a hard copy with original signatures."
34. On November 4, 2022, the Learning Specialist emailed the Biology Teacher: "... one of the things [Student] and I talked about to help [them] be successful in your class was notetaking. [Student] seems to struggle with this, and [they] told me that [they] feel[] like [they] can't keep up with taking all the notes -- it goes too fast when you are speaking or when there is a video. [They] asked if it was possible for [them] to have a copy of your notes to look at as [Student] attempts to write [their] own notes. That way if [Student] misses something or gets behind, [they] can use that to help [them] catch up on [their] notes. I was curious what options you could provide for [Student] to make note taking [sic] a little easier. Do you have teacher notes you could provide [them] with? Do you write notes on the board or provide a form where students fill in the missing blanks? What could we do to support [them] in this? I also suggested that perhaps [they] could sit next to a student who seems to be a good note taker [sic] and that we could arrange with that student that if [Student] needs to copy from their notes, they would be willing to do that. Let me know what you think and how we can support [Student] in this."
35. The Biology Teacher replied: "I don't do a lot of notes, per se. We do, but not tons. And when I do, I generally do guided notes. I have a running Google slide deck for each unit. I have it posted for students on Google Classroom. And when it's a note taking [sic] day, they get a note sheet from me that is basically "pay attention, follow along and fill in the blanks". And if they miss a thing, they can always circle back to look at the slides again on Google Classroom at their leisure. I am making a new seating chart for bio [sic] this weekend. I will see what I can do about sitting [them] next to a 'good note taker'. [sic] I thought [their] current table mate was a good choice, but I'll see if I can't improve the situation? Again, notes are always available on GC as needed. Let's talk more next week when I'm back at school. I'd like to work together to help [them] out the best we can." This information was forwarded to the Student and the Parent on November 8, 2022.
36. On November 4, 2022, the Learning Specialist emailed the Japanese Teacher: "I met with [Student's] mom this morning and we talked about how we can help support [them] so [they are] more successful in Japanese this school year. [Their Parent] said that one thing that helped [them] in school was that [they were] given the option of submitting portfolio work to show proficiency in place of test scores. [They] asked if this was possibly an option in your class for [Student]. I don't exactly know how it would work, but if you were open to this idea, we could brainstorm together what a portfolio project might look like as an alternative to [them] having to pass tests in your class. Let me know what you think and if this is even possible."

Also, do you have suggestions for really good apps that [Student] could use to work on learning hiragana? Could you share with me a copy of the test so I know what [Student] needs to be able to do? I am happy to try and work with [them] on learning hiragana if that would be helpful. We just need to coordinate good times for me to do that." The Japanese Teacher replied that this type of grading was "more or less" already taking place and it could be discussed further.

37. On November 18, 2022, the Learning Specialist emailed the Parent: "I checked in with [Student] this week about [their] grades. [Their] biology grade is now at a 67% thanks to [them] doing revisions on the test, which brought [their] grade up on the test to a C. I am hearing from [their] biology teacher that [they are] doing better with notetaking in there and is using the google slides to fill in notes [they] may have missed in class. One thing [their] teacher mentioned is that [Student] is often a little bit late to class after coming back from lunch . . . Maybe you could talk with [them] about this. For Japanese, the teacher shared some resources [they] can work on to learning hiragana with. Below are some resources. Also, in the google classroom under the reference section is 'hiragana study resources.' These could also help [them]. Maybe during Thanksgiving break [they] could work on this. I am trying to find a time 2-3 times a week when I can work with [Student] to help [them] in Japanese so [they] can get the hiragana down and retake the test. [They] said before school is tough because [Student] doesn't like to wake up early. I think at lunch [Student] wants to be with [their] friends. I am here until 3:30 daily, so after school would be an option for me if [Student] wants to come work with me in the ERC a couple days a week then. Let me know what you think and see what time [Student] would be willing to come get help in Japanese. If [Student] has success studio next semester, then it will be easier to make time to support them without having to pull them from another class or do it outside of regular school hours."

38. On November 29, 2022, the Learning Specialist emailed the Parent: "I would love to make time to work with [Student] on hiragana practice. I haven't heard back from you about whether this might work after school some days. Could you check with [Student] and see? Maybe we could do this after school a couple of days a week." The Parent replied: "After school is tough because my afternoons are-booked [*sic*] with students so I won't be able to pick [Student] up and there's too much time until the activity bus leaves. I'm thinking we may need to change [their] foreign language requirement because [Student's] dyslexia is in the way of learning a second oral language."

The Learning Specialist responded: "Another option could possibly be that I help [Student] during the first part of weight training class a couple of days a week. I just reached out to the teacher and will let you know what [they] say. Could you talk with [Student] and see if [they'd] would be okay with this? I would like to at least get [Student] through this first semester of Japanese and if at that point it just isn't working, we can look at other options..."

39. On December 7, 2022, the Parent emailed the Special Education Director and the Learning Specialist: "...This year [Student] decided [they] shouldn't be kept from [their] social setting just because District isn't doing its job ([their] words). [They] returned to [District] during the 4th week of school. [Student], again, is a struggling student at [District] because support is insufficient and teachers are not properly trained in dyslexia and refuse to get adequately trained (this is an admin problem, not a teacher problem!) [Biology Teacher] is making [Student's] life miserable. [Biology Teacher] continues to ignore [Student's] IEP and will not return my emails. [Student] is failing [their] language class. No student on an IEP should ever be failing a class, the class is failing [them]...Is the support going to come from the school or will you be contracting out to meet [their] IEP goals? I would like to meet in January to discuss how the district will provide [Student] FAPE. [Student] is not lazy, dumb, or simply not worth

it. [Student] is a wonderful young [person] who continues to make us proud. [Student] works hard, is caring, and is extremely intelligent."

40. On December 8, 2022, the Learning Specialist arranged to provide two, 30-minute Japanese tutoring sessions weekly to the Student during a weight class.
41. On December 12, 2022, the Learning Specialist emailed the Parent: "I have been chatting with [Student] about different options for Japanese support for several weeks now. I have also been talking with the Japanese teacher about suggestions for how to help [Student]. I shared with [them] the list of suggested online activities and websites that [they] can use for further review of learning the Japanese alphabet. The best option we came up with to provide [Student] with additional support from me is to pull [them] from weight training class for the first 30 minutes every Tuesday and Thursday to work on helping [them] get caught up. [Their] weight training teacher said [they were] fine with this. [Student] said [they] would think about it and talk with you. Please let me know if this would work. I am more than happy to support [Student] with Japanese, but that requires a commitment from [Student] to come and get that help. [Their] Japanese teacher has also shared that [they are] happy to work with [them] after school if [Student] is able to stay then. I am also happy to provide support at lunch or before school. For biology class, I will continue to work with [their] teacher to ensure [they] provide [Student] with accommodations and support. [Student] took a test today on biochemistry. I offered to have [them] take the test in the ERC but [they] said [they] wanted to take it in [their] classroom. In biology, [Student] can do test revisions for up to a 90%, so if [Student] needs to revise this next test, I am happy to sit with them while [Student] does that. If you have any other specific concerns about biology, please let me know. [Student] is being provided with teacher notes via the teacher slides that are posted in google classroom."

The Parent replied: "I don't think [Student] should miss weight training...that is a successful class for [Student]. [They] can stay after-school but my concern about [them] being unsupervised after school is some of the other freshman boys who stay after are not the influence I want [Student] around. My workday [sic] doesn't allow me to pick [them] up but I'll look up the city bus schedule. The activity bus allows for too much unstructured time after school. Thank you again for coming up with options. Perhaps the expectation should be adjusted. [Student] loves Japanese but again [they] ha[ve] a language disadvantage in all oral languages. ...Are there not any other assignments/extra credit to pull up [their] grade?"

42. On December 12, 2022, the Special Education Director responded to the Parent: "...Thank you for reaching out to us and sharing your concerns... You are raising some important issues and I would like to invite our team to come together for an IEP meeting...as I look at [Student's] progress notes and MAP scores... Prior to the pandemic in January of 2020, [Student] was in the 24th percentile in reading. [They] progressed throughout the pandemic. In the spring of 2021 [they] were in the 42nd percentile and in the fall of 2021 was in the 48th. Similarly, [Student] has grown in math. Prior to the pandemic [Student] was in the 17th percentile on the MAP assessment. In the fall of 2021 [Student] was in the 30th and in 2022 he was in the 46th percentile. [They] demonstrated strong persistent improvement. This is also represented in [their] current grades. During quarter 1, [Student] received an A in both Language Arts and Algebra. It sounds like this may be more difficult for [Student] in biology. This will be an important conversation for the IEP team to think together about how we can support [Student] and identify what the challenges are for [them]... [Student's] case manager will support coordinating an IEP meeting in the new year. We can discuss [Student's] present levels and impact from the global pandemic. Are there times that generally work best for you to schedule an IEP meeting?"

43. On December 13, 2022, the Instructional Coordinator emailed the Special Education Administration: "Here is the latest email stream to keep you up to date. I have one other message to share. [Learning Specialist] and I just talked. [Learning Specialist] has made many offers at different times to support [Student] in Japanese (the only class [Student] is failing). [Student] has not attended any of the times for support. Also, it is important to know that [Student] missed the first 4 weeks of class because of when [they] enrolled. As you can see from the above email, [Parent] has not supported the efforts offered either. The Japanese teacher has invited [Student] to come in both mornings and after school to get additional support. [Learning Specialist] said teachers are following the IEP, but [Learning Specialist] is not sure about the SDI minutes and knows [Parent] will question that. We talked about how in inclusive practices it is difficult to say exact minutes because it doesn't fit the model for the way IEPs are written. But, it is not [Learning Specialist's] responsibility to push in for those "exact minutes". [Learning Specialist] will reach out to set up a meeting for the middle of January."
44. The January 2023 IEP progress report for the Student reading goal indicated:
- a. "[Student] continues working on goal to build vocabulary and comprehension for what [they are] reading. Biology has been especially difficult for [Student] this school year as [they have] had to work to build understanding of new vocabulary and to apply this understanding to help on projects and assessments. In February 2023 given a 9th grade IRI (informal reading inventory), [Student] read the passage with 99% accuracy and with a fluency of 142 correct words per minute. After reading the passage, [they] answered comprehension questions about the passage with 95% accuracy. In February 2023, given a 9th grade IRI (informal reading inventory), [Student] read the passage with 99% accuracy and with a fluency of 142 correct words per minute. After reading the passage, [they] answered comprehension questions about the passage with 95% accuracy."
 - b. "[Student] scored 84% on creative writing assignment in November for Language Arts. [They] scored 77% on final poetry portfolio. [Student's] Language Arts class will begin working on writing informational essays this month, so more information on how [Student] is doing at meeting this goal will come soon. Given one minute to think and three minutes to write on an Aimsweb Quickwrite assessment, [Student] wrote a total of 74 words, with 71 words spelled correctly and 61 correct writing sequences. [Student's] score for total words written falls in the 82nd percentile, scores for words spelled correctly falls in the 74th percentile, and the score for correct writing sequences falls in the 60th percentile."
 - c. "[Student] earned a grade of C for algebra for Semester 1. [Student's] test scores ranged from 52% to 93% depending on the test and the concepts covered. [Their] class is currently working on solving more algebra-based word problems in their current unit, so additional reporting on [Student's] progress towards this goal will be forthcoming.
45. On January 17, 2023, the District held an IEP meeting where the Parent, Learning Specialist, Special Education Director, and Instructional Coordinator attended. The Student's progress in a Japanese class was discussed; due to the Student starting Japanese three weeks late, they missed foundational instruction. The Learning Specialist—who is fluent in Japanese—suggested that the Student could build the foundational skills by working with the Learning Specialist before or after school or during weight class. The Parent shared that they did not want the Student to work during their lunch time, and that the Student did not want to forfeit the weight class or personal time: "Why should [they] have to put in the work on [their] own time or during another class because of [their] learning style?" The Parent was also

concerned about the Student earning a D in the course and requested a portfolio option. This request was deferred to a future meeting.

46. On January 24, 2023, the Parent emailed the Learning Specialist and school team: "A couple of requests for [Student] and the second term. [Student] would like [their] seat to be moved in class. There is a student close to [them] that tends to interrupt [their] learning. I am unsure if you are aware [Student] is on an IEP and [they have their] own learning goals that need to be considered when assigning seats. [Student] would also like to continue with weight training in the 5th period for the second term, but that may be [their] support class. Can the support class be moved to a different period? I understand if this may be too difficult [Learning Specialist] and you've done so much for [Student], I want to consider your own scheduling challenges. Not sure if [Student] can meet during the same period as Japanese since [they] will be dropping that class."
47. On January 30, 2023, the Parent emailed the Learning Specialist and school team: "Since [Biology Teacher] refuses to look at [Student's] IEP, neither responds to my messages nor attempts to teach [them] and enjoys bullying children, let's make plans to remove [Student] from the class."
48. On January 31, 2023, the Learning Specialist responded to the Parent: "I have talked with [Biology Teacher] about your request and we would like to talk further with [them] about your concerns and then discuss this further with you when we meet with you in person. At that point I think we will be ready to make an informed decision about whether [Student] should move into a different biology class. With that in mind, can we try to nail down a day and time towards the end of next week that we could meet with you? We will discuss biology, decisions about recovery services, and any other pressing issues. We will invite a general education teacher to the meeting so that if we need to amend the IEP, we can do so at that time." The Parent replied, "To be quite honest, I need some time to cool down after seeing [Student's] grades yesterday. [Student] will not be attending [Biology Teacher's] class any further. I'd like [Student] to take an online biology course so I can take the lead with this course to make sure [they] ha[ve] the correct supports so [they] actually learn[] the material. Next, I want a resource list from the district for an IEE for [Student] at the district's expense. Lastly, I need to seek council [sic], as al [sic] not convinced [Student] is receiving an [sic] FAPE at the moment."
49. On February 1, 2023, the Learning Specialist emailed the Parent: "We would like to change [Student] into a new biology class...We would like to make this change today if possible so [Student] doesn't get behind in the new classes. I discussed these changes with [Student] and [they] said [they] would be fine with them as well. Please confirm that you are okay with us making this change in [Student] schedule." The Parent replied: "Yes, let's give it a try."
50. On February 6, 2023, the Parent emailed the Student's new biology teacher: "[Student] is on an IEP, [Student] has dyslexia, dysgraphia and possible attention issues. [Student's] more than capable of excelling at school with the right supports in place. Something that really helps [Student] is having preprinted notes for the class, [they] cannot keep the pace with note taking [sic]. It's very difficult for a dyslexic person to process information then write it down quickly. [Student] learns best if [they] can focus on the auditory lecture then have good notes/textbooks [they] can read on [their] own. The notes could be in the form of outline [they] can fill-in quickly during the lecture, teacher notes or handouts [they] can highlight as [Student] follows lecture, peer note taker etc. [sic]"

51. On February 7, 2023, the Learning Specialist emailed the Student's new biology and history teachers: "Sorry for not sending this sooner! [Student] is a student in your fourth period class. [Student] has a transfer IEP so I can't pull up [their] usual IEP summary, but I am attaching a copy of [their] accommodation pages from that IEP. I am also copying and pasting them below: [Student] is on an IEP with reading, writing, and math support. Please be sure to provide [Student] with the following accommodations:
- Extended time or reduction of assignments while addressing the same learning targets as negotiated with teacher;
 - Note taking accommodations (i.e., copy of teacher notes, teacher notes available on blog, skeleton of notes for student to fill in, take photos, etc.);
 - Reduced length of writing assignments to encourage quality over quantity;
 - Provide models of finished product on assignments and projects;
 - Strategic seating/close to instruction and away from potential distractions, near strong peers;
 - Encourage elaboration of ideas on writing assignments;
 - Break down assignments/projects into smaller, more manageable steps;
 - Access to text-to-speech/audio text;
 - Frequent check-ins to aid attention, work initiation, and stamina; and
 - Allow [Student] to volunteer answers rather than being "called on" in class.

Let me know if you want to further discuss ways we can best support [Student] this school year. Also, please reach out to me if you have any concerns!"

52. On February 8, 2023, the Special Education Director responded to the Parent request for a new biology class and an independent educational evaluation (IEE): "I understand that our team was already able to adjust [Student's] classes following your request. You had requested an Independent Educational Evaluation. An IEE is intended to be requested when a parent has a disagreement with an evaluation that the district has conducted. [Student's] most recent evaluation was almost 2 years ago. We would like to offer that we come together for an evaluation planning meeting and consider [Student's] eligibility in the area of Specific Learning Disability and hear from you about what areas you are concerned about. Are there times that work best for you to schedule a time with our school psychologist and team to consider evaluation planning?"

The Parent responded: "An IEE is not only for a disagreement, it's for more information. I will be seeking an IEE at the school district's expense. Please send me a list of evaluators. I want an outside evaluation because I do not trust the school district to properly provide a FAPE for [Student] with just the district's [special education] determination. [District] is far too outdated with research, teaching knowledge, and best teaching practices to teach [Student] properly. We need an outside resource to determine what's best for [Student] as the district continues to prove to be inadequate with [special education] services and dyslexia. There still is the case of [Biology Teacher] grading [Student] with the same expectations as [their] non [*sic*] [special education] peers. If [Biology Teacher] provided the legally obligated support and modification from [Student's] legally binding IEP document, I can understand grading [Student] the same as [their] peers, but [Biology Teacher] did not follow protocol. [Biology Teacher] has lied about [Student] being tardy to [their] class, [Biology Teacher] embarrassed [Student] in front of [their] peers by poking fun at [Student's] learning differences. We have proof [Student] was in class on time when [Biology Teacher] marked [them] late (Apps track EVERYTHING). I know of 4 tardies, but [Biology Teacher] marked 11, however, the dates [they] marked, we have evidence [Student] was in class and on time. If the high school makes it a practice to fail IEP/504 students and the IEP doesn't change to provide what is required for the student to pass, then that is denial of FAPE. Plus we ALL know [Biology Teacher] has a reputation of

being poor [sic] teacher, [they've] been on multiple plans to better [their] teaching, lots of issues with many students, and [they're] breaking the law by not following IEP's [sic], if the district continues to employ this type of teacher then the district is liable to [sic] for [their] actions or lack of action. Students' civil rights are not relinquished at the schoolhouse gate."

53. On February 9, 2023, the Special Education Director responded: "I think we may have a bit of a misunderstanding about independent education evaluations. The purpose under the Oregon law for these evaluations is in the event that a parent is in disagreement about an evaluation that the school district has already conducted. The law states, "A parent of a child with a disability or suspected disability has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the school district." [Student's] most recent evaluation was in 2021 and it looks like all were in agreement of [sic] the results. Do you have concerns with the evaluation that was conducted in 2021 or questions about if [Student] qualifies for special education under the eligibility category of specific learning disability? We understand that if you are looking for further evaluation that we can come together as a team and consider further evaluation. Currently [Student] qualifies for special education under the categories of specific learning disability. We can discuss as an evaluation planning team if there is further evaluation in any additional areas that we should be considering. Your input will be greatly vital in this discussion. Following this evaluation, if there are specific areas that you have disagreement about or do not believe that we assessed appropriately to determine educational eligibility, you will have the right to request an independent educational evaluation at the public's expense. We would invite you to share with us what you are looking for out of the evaluation so that we can consider assessments that may support the team in the process of gathering information for [Student]. Are there times that work best for you to come together with us to engage in an evaluation planning meeting? I am hearing your concerns about situations that occurred in [Biology Teacher's] class. I would like to invite you to connect with [Biology Teacher] or I am happy to connect you with our building leadership to consider these concerns."

The Parent replied: "Sorry, I did not answer your question, no I do not agree with the evaluation from 2021 as that was distance learning and everything tanked for [Student] 6-8th grade. Plus, we changed districts for a semester, not [sic] I do not believe the evaluation was adequate nor the supports. [The other district] had much more supports in place which [District] continues to ignore or acknowledge. If the district would like to come to me for a meeting we can schedule that. Time is money and I'm [sic] tired of wasting both with [District]. Let's start the process for an adequate evaluation... [Biology Teacher] refuses to respond to my messages. I will be [sic] filing a complaint as [Student's] IEP is not being followed by classroom teachers. And [Student] was pulled out of class and interrogated without me there about happenings in [Biology Teacher's] class. They're [sic] absolutely is a misunderstanding, but it's not my end. I will check with my advocacy group to see what to do next."

54. On February 10, 2023, the Special Education Director emailed the Parent: "Thank you for continuing to share [Student's] journey and experience at school with us. I would like to invite you to join [Assistant Principal] ... and I for a discussion about [Student's] experience and grade in [Biology Teacher's] biology class. We are both available to meet in person or via zoom [sic] at the following times... Additionally, we would like to schedule an evaluation planning meeting where we can consider conducting a comprehensive evaluation for special education."
55. On February 16, 2023, the Assistant Principal emailed the Parent: "I have had the opportunity to follow up and have further discussions with [Biology Teacher] in regards to [Student's] biology grade. I am hoping to also meet with you during one of the above-mentioned times so

we can discuss some further thinking into ways to assess [Student's] learning in that class that would potentially reflect in [their] grade. Please let us know when you could meet with us."

56. On February 16, 2023, the Special Education Director emailed the Parent: "I just wanted to follow up to see if you would like to meet with myself and [Assistant Principal] . . . for a discussion about [Student's] experience and grade in [Biology Teacher's] biology class. We have held some additional dates next week if you were open to meeting with us." The Parent replied: "Thank you [Special Education Director], but when I asked for intervention last term with [Biology Teacher] and [Student], I was ignored. Under Title IX, the private right to education, [Biology Teacher] violated several laws by not adhering to [Student's] IEP. [Student] was graded inappropriately because [they were] not given to [sic] proper supports or modifications in [Biology Teacher's] class. [School] and [District] School Board acted with deliberate indifference while [Biology Teacher] harassed my [Student]. [Biology Teacher] actions were severe enough to keep [Student] from enjoying [their] educational opportunities. Title IX guidelines that congress [sic] attach to its school funding, obligate [sic] all recipients [sic] schools comply or face the pain of legal action. [School] has obvious prejudice for [Gender] non-athletic students. I believe the school wants to push any struggling student out so [District] looks better in [sic] paper. Shame on [District]!"
57. On February 20, 2023, the Learning Specialist emailed the Parent: "I am attaching a PDF copy of [Student's] progress notes to this email. These progress notes are reported twice a year to document a student's progress towards meeting their IEP goals. If you prefer a paper copy, please let me know and I can print them and send them home later this week."
58. On February 21, 2023, the Learning Specialist emailed the Parent: "[Student] has a biology test tomorrow on Gene [sic] expression. [Student] has a review sheet entitled "Gene Expression Practice Problems: Test Review." [They] told me just now that [they have] not completed this test review yet. If [Student] completes this review, then [they] can use it to help [themselves] on the test. I reminded [Student] of this today, but if you could follow up tonight that would also help. When [they] took [their] final exam for biology last term, [they] forgot to bring [their] notes to help [them], which did not help [their] grade at all on that test. If [they] can be in the habit of completing [their] study guides and having [their] notes in order for each biology test this semester, [they] will probably earn a much higher grade on tests and won't need to do retakes."
59. On February 21, 2023, the Learning Specialist emailed the new [Biology Teacher] "[Student] usually takes [their] biology tests in a separate setting. Could you take [their] [sic] test for your class here in the ERC tomorrow during sixth period? I can be here when [they] take[] it."
60. On February 22, 2023, the History Teacher emailed the Learning Specialist: "I would love to work with you to modify assessments for [Student]. Can we talk briefly either after school or in the morning?"
61. On February 22, 2023, the Parent emailed the new history teacher: "[Student], is in your world history class. I'm sure you're aware that [they are] on an IEP. [Student] is dyslexic so memorizing is not the best way to show [their] knowledge, as [Student] is more of a discussion-based kid. The charter school last year, instead of giving [them] multiple choice questions, [Student] was able to write an essay to show [their] knowledge of the topic. I would like to support [them] more with this class but not exactly sure where to start. If there's a place in parentvue [sic], or your website please point me in the right direction. Just knowing the topic of discussion is basically all we need. Thank you, [Student] loves history, I'm hoping [their]

grade will reflect that soon.” The History Teacher replied to the Parent: "I appreciate you reaching out. It's been fun getting to know [Student] in our first few weeks of the semester! [Their] case manager shared [their] IEP with me when the class started and I have been working with [Student] to provide as much support as I can for [them] in class. Regarding the assessments that have been posted in the gradebook, I plan to work individually with [Student] and provide alternative retake opportunities for [them]. Moving forward, I will have these opportunities available for the initial assessments, and I will work closely with [their] case manager to offer [Student] the choice of completing these in a separate, smaller setting (my classroom connects to the ERC and several of my students prefer to complete assessments/work there). I will also continue to check in with [them] throughout lessons and during independent work time. Today, as students were asked to read and answer questions about a specific topic in the textbook, I sat with [Student] and we reviewed the material together *sic*. Then, [Student] was able to verbally answer the questions (as opposed to writing them) which showed [their] understanding. [They've] been working hard and I appreciate [their] effort! Moving forward, please stay in touch with me about any concerns as they arise."

62. On February 22, 2023, the Learning Specialist emailed the Parent: "I was about to do a grade check with [Student] this morning, but it looks like [Student] is not in school today. I wanted to share what I am seeing currently in Student Vue. If you have the chance to share this with [Student] today if you could. I also emailed [them]. [Student] has an A in Success Studio...a C in algebra. No grades yet for Language Arts, No grade for weight training class, Biology A- . I know [Student] was supposed to have a test in there today, but since [Student] is not in school [they] will need to retake the test later this week. Hopefully [Student] is back tomorrow. World History: D. It looks like [they] did quite poorly on the tests [they have] taken in there so far...I believe [they] can retake all of these tests if [Student] chooses to, but [they] will need to study for them and then make time to retake them. [They] could retake them during Success Studio class first period... World History is a challenging class for many of my freshmen. It requires them to spend a lot of time studying and learning the world maps and learning the names of all the countries in the world. If [Student] can put in consistent effort to study and learn the country names, [they] will have an easier time when it gets to the end of the term. Let me know if I can help [them] with this task. There are a lot of online tutorial apps that [their] teacher posts in the google classroom to support [their] learning of these maps. I will check in with [Student] as well once [they are] back in school."

The Parent replied: "All I can say if most students struggle in World History then another approach should be used to meet the needs of all students. It's not hard, I've done it over 30 years now and have supervised teachers doing it in neighboring school districts for 15 years now. I will connect with the teacher to see how I can support [Student] at home. [Student] and I do go over [their] grades at the start of each week to set goals for troublesome areas. [They're] feeling overwhelmed with both of us on [them], so you and I connecting is best as addressing it daily with [Student] is not necessarily motivating [them]. All of the supports should not rely on just you. The entire teaching staff needs to be held accountable for providing a FAPE to all students. Maintaining class assessment that rely *sic* on rote memory is pretty dated and does not include all."

63. On February 24, 2023, the Parent filed this Complaint.

64. On March 23, 2023, the District confirmed that a Prior Written Notice was not issued to the Parent about the District's refusal to provide alternate assessments in the form of a student work portfolio for the Student's Japanese class. In addition, the District confirmed that a Prior

Written Notice was not issued to the Parent about the District's refusal to provide an independent educational evaluation at the request of the Parent.

65. During interviews, the Student reported that they had been asked a couple of times to stay after school or were pulled out of health or language arts classes for tutoring. The Student also reported they went into classes during a couple of lunch periods to catch up on assignments or retake a test. The Student reported their biology and Japanese teachers called on them unexpectedly during class. They also reported they did not receive notes or reduced written assignments in their language arts class, and did not receive notes for their biology class. The Student reported not knowing how to use the text-to-speech feature on their Chromebook and they had not received instruction on how to use this accommodation.
66. During interviews, the Learning Specialist confirmed that the Student had not received instruction on how to use the text-to-speech feature of the Chromebook and it had been assumed the Student had received prior instruction. The Learning Specialist described how they had verified that class notes were available to students in Google Classroom for the Student's biology and Japanese classes. The Learning Specialist also consulted with the Student's classroom teachers about reducing the length of written assignments; a few were shortened, and most did not need to be adjusted "because the Student's writing skills were high."
67. During interviews, the Language Arts Teacher was able to describe in detail how they provided the Student access to audio books and read-alouds, vocabulary instruction and individual help with the Student's writing. The Language Arts Teacher also explained that the Student did not receive penalties for late work, that class notes were posted at the front of the class and in Google Classroom, and that the Language Arts Teacher did not call on the Student unexpectedly.
68. During interviews, the Japanese Teacher described the accommodations provided to the Student, including: extra time, retaking assignment, practicing notetaking (not required), class materials posted in Google Classroom daily, no required length for written assignments, and not calling on the Student without a warning.
69. During interviews, the Special Education Director described a lack of communication between the District's student information system and the electronic system utilized for special education information. Even though the District had data and knowledge that the Student was a previous student in the District with an IEP, the two data systems did not work together to notify appropriate district staff that the Student had re-enrolled. During interviews, it was also confirmed that District Staff did not make attempts to contact the Other District via phone or email to obtain the Student's special education records.

IV. DISCUSSION

When IEPs Must Be in Effect

The Parent alleged that the District violated the IDEA when the supports and accommodations in the Student's IEP were not followed. The Parent further alleged the Student's IEP was not implemented for over a month and the Student was graded with no supports in place.

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. A school district must conduct a meeting to develop an initial IEP within 30 calendar days of a determination that the child needs special education. As soon as possible following development of the IEP, special education and related services must be made available to the child in accordance with the child's IEP. Each school district must ensure that the IEP is accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation; and inform each teacher and provider of their specific responsibilities for implementing the child's IEP and the specific accommodations, modifications and supports that must be provided for or on behalf of the child in accordance with the IEP.³

On September 7, 2022, the Parent emailed the Assistant Principal at the High School and informed them that the Student was returning to the District, and that the Student had an IEP. The Parent also requested a meeting. On September 9, 2022, the Parent met with the Assistant Principal and provided them with a copy of the Student's IEP. On September 14, 2022, the Parent registered the Student at the District High School and informed the District that the Student was a previously enrolled student, and that the Student had participated in special education services at the previous school. On September 16, 2022, the Parent went to the high school to complete a Request for Student Records and met with the School Counselor to schedule the Student for their freshman classes. The Parent provided the School Counselor with a copy of the Student's IEP. On September 19, 2022, the Student started attending the District High School.

On September 30, 2022, the District submitted the Request for Records to the previous district. The Parent emailed the Student's teachers and counselor at least five times once the Student was enrolled in school to inform them that the Student was on an IEP. The District received records from the previous district on October 7, 2022; October 12, 2022; and October 20, 2022; the Student's classroom teachers were notified by the Learning Specialist about the specific IEP accommodations that were to be implemented for the Student. On October 26, 2022, the District issued a Prior Written Notice accepting the IEP from the Other District.

The Parent made four attempts to speak to the Student's biology teacher about concerns: the Student was not receiving notes and the Biology Teacher called on the Student unexpectedly. The Parent reports the Biology Teacher never returned the calls and the Biology Teacher was not available for an interview. There are District records that indicate guided notes were provided in the Student's biology class, and the Learning Specialist verified that notes were provided in the Student's courses. During interviews, the Language Arts and the Japanese Teachers were able to describe in detail the accommodations provided to the Student in the classes, and reasons to explain why some of the accommodations may not have been provided—such as when accommodations would not be needed for the Student to meet course or teacher expectations.

During interviews, the Student described not consistently having access to notes, being called on unexpectedly in their biology and Japanese classes, and not knowing how to use the text-to-speech accommodation available on the Chromebook as they had not been provided instruction. Based on the information available, the accommodations described in the Student's May 11, 2022 IEP were not consistently implemented in all settings; specifically, the Student was not to be unexpectedly called upon during class and the Student could access text-to-speech technology.

³ OAR 581-015-2220

The District asserted that the delay in providing the Student with special education services was due to the previous district not submitting records in a timely manner. The District was notified multiple times by the Parent that the Student had an IEP, the Parent provided the District a copy of the Student's IEP, and the District had data within its records system that the Student had previously received special education services while attending the District. The District did not implement the IEP provided by the Parent during the registration process, took twelve school days before contacting the previous district for special education records, and took seventeen school days before providing special education.

The Department substantiates this allegation.

Placement of a Child

The Parent alleged that the District violated the IDEA when the Student was inappropriately placed in classes and did not consistently receive full lunch breaks or elective classes.

School districts must ensure that the educational placement of a child with a disability is determined by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options. The educational placement must be made in conformity with the Least Restrictive Environment (LRE) provisions of the IDEA. The educational placement must also be based on the child's current IEP, be determined at least once every 365 days, and be as close as possible to the child's home. A continuum of alternative placements must be available to the extent necessary to implement the IEP for each child with a disability. Unless the child's IEP requires some other arrangement, the child is educated in the school that they would attend if not disabled. In selecting the LRE, consideration is to be given to any potential harmful effect on the child or on the quality of services which they need; and a child with a disability is not to be removed from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum.⁴

The nonparticipation justification statement in the Student's May 11, 2022 IEP indicated that the Student was to be removed from the general education classroom for 135 minutes per week and that the special education placement determination was general education with push-in services. During interviews, the Learning Specialist and the Student both described the Student staying after school or missing classes a couple of times for tutoring in content area subjects, and the Student used a couple of their lunch periods for catching up on assignments or retaking tests as the extent of changes to the Student's schedule for the implementation of the Student's IEP. These activities are consistent with the special education placement as described in the Student's IEP.

The Department does not substantiate this allegation.

Additional Finding

Prior Written Notice

Prior written notice must be given to the parent of a child within a reasonable period before a school district proposes or refuses to initiate or change, the identification, evaluation, or

⁴ OAR 581-015-2250

educational placement of the child, or the provision of a free appropriate public education to the child. The content of the prior written notice must include a description of the action proposed or refused by the school district; an explanation of why the district proposes or refuses to take the action; a description of each evaluation procedure, assessment, test, record, or report the school district used as a basis for the proposed or refused action; and a statement that the parents of a child with a disability have protection under the procedural safeguards. If this notice is not an initial referral for evaluation, how a copy of the Notice of Procedural Safeguards may be obtained and sources for parents to contact to obtain assistance in understanding their procedural safeguards are required to be provided. Further required is a description of other options that the IEP Team considered and the reasons why those options were rejected, and a description of and other factors that are relevant to the agency's proposal or refusal.⁵

On November 4, 2022, the Parent requested that the Student be given the option of submitting a portfolio of work samples to show proficiency in place of test scores. There was communication between District staff and there is nothing in the record to indicate the District responded to the Parent request. At the January 17, 2023 IEP meeting, the Parent made this request a second time. The District deferred the Parent request to a future meeting. There is no record this matter was discussed further with the Parent. During interviews, the Learning Specialist confirmed that at the time, the decision had been to not implement the portfolio option. The District confirmed that a PWN was not issued to the Parent with the decision to refuse adding a portfolio assessment option to the Student's IEP.

On January 31, 2023, the Parent made a written request an IEE for the Student at District expense. On February 8 and 9, 2023, the Special Education Director communicated to the Parent, via e-mail, the District's refusal to provide the IEE requested by the Parent as the District would first consider conducting a comprehensive evaluation of the Student for special education services. The materials provided by the District did not contain a PWN that indicated the District's refusal. During interviews, the Special Education Director confirmed that the District did not issue a PWN with its refusal to provide an IEE at District expense.

V. CORRECTIVE ACTION⁶
In the Matter of West Linn Wilsonville 3J
Case No. 023-054-007

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

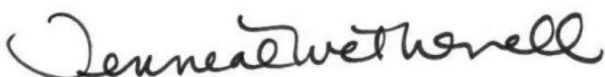
Action Required	Submissions	Due Date
1. The District must provide the Student with compensatory education to make up for SDI not provided pursuant to Student's IEP. The compensatory education to be offered to the Parent shall include at least: <ul style="list-style-type: none"> • 4.5 hours of instruction in reading skills; 	The District shall submit the following: Completed plan for delivery of compensatory education developed in IEP meeting with Parent;	May 15, 2023

⁵ OAR 581-015-2310(1)(2)(3)

⁶ 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)).

<ul style="list-style-type: none"> • 4.5 hours of instruction in written language; • 4.5 hours of instruction in mathematics; and • <p>The District must provide the Student with the opportunity to retake Biology and Japanese, if desired.</p> <p>The District must hold an IEP meeting with the Parent to develop a plan to deliver this compensatory education and, if desired, general education coursework.⁷</p>	<p>Evidence showing compensatory education was provided.</p>	<p>April 5, 2024</p>
<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"> • Enrollment of Students with IEPs; • When IEPs Must Be in Effect; and • Prior Written Notices. • Drafting and Implementation of Accommodations. 	<p>Training agenda/materials to Legal Specialist for review/approval.</p> <p>Sign-in sheet for training.</p>	<p>June 15, 2023</p> <p>September 15, 2023</p>

Dated: this 25th Day of April 2023



Tenneal Wetherell
Assistant Superintendent
Office of Enhancing Student Opportunities

E-mailing Date: April 25, 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).)

⁷ 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.