

BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of
Coquille School District 8

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FINDINGS OF FACT,
CONCLUSIONS,
AND FINAL ORDER
Case No. 23-054-009

I. BACKGROUND

On March 7, 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 Coquille 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 13, 2023, the Department’s Complaint Investigator sent a *Request for Response* (RFR) to the District identifying specific allegations in the Complaint to be investigated and establishing a *Response* due date of March 28, 2023.

On April 1, 2023, the District submitted documents requested in the March 13, 2023 Request for Response. The District submitted the following relevant items:

- 1) Meeting Minutes, 03/22/2023
- 2) Chat box from meeting
- 3) IEP Team Meeting Minutes
- 4) Student Chromebook Checkout Agreement
- 5) Letter from Parent Re: IEP Meeting, 3/14/2023
- 6) Email: Restraint and Seclusion from ODE complaint
- 7) Email: Emails for IEP, 01/18/2023
- 8) Coos County School Notice, 12/06/2023
- 9) Coos County School Notice, 12/06/2023
- 10) Meeting Notes, 01/23/2023
- 11) Meeting Notes, 01/20/2023
- 12) Text of OAR 581-015-2425, Removal to an Interim Alternative Educational

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

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

- Setting by School District
- 13) Proposed Discipline Form, 01/01/2023
 - 14) Email: [SECURE] [Student] Release, 01/04/2023
 - 15) Consent to Release Confidential Information, 11/23/2022
 - 16) School Notification (DHS)
 - 17) Student Schedule
 - 18) Email: Re: [SECURE] [Student] Reintegration, 01/18/2023
 - 19) Student IEP, 02/08/2023
 - 20) Prior Notice of Special Education Action, 02/08/2023
 - 21) Notice of Team Meeting, 02/07/2023
 - 22) Special Services IEP Abstract, 02/08/2023
 - 23) Student IEP, 02/15/2022
 - 24) Prior Notice of Special Education Action, 08/31/2022
 - 25) Notice of Team Meeting, 02/01/2022
 - 26) Special Services IEP Abstract, 02/15/2022
 - 27) Written Agreements between the Parent and the District, 08/31/2022
 - 28) Meeting Notes, 01/20/2023
 - 29) Meeting Notes, 02/08/2023
 - 30) Meeting Notes, 01/23/2023
 - 31) Email: [Student] Evaluation, 01/23/2023
 - 32) Email: Re: [Student]
 - 33) Evaluation Form, 02/07/2023
 - 34) Written Agreements between the Parent and the District, 02/08/2023
 - 35) Prior Notice of Special Education Action, 02/08/2023
 - 36) Statement of Eligibility for Special Education (Other Health Impairment 80), 02/08/2023
 - 37) Communication Log
 - 38) Letter from Parent Re: IEP Meeting, 3/14/2023
 - 39) Student Chromebook Checkout Agreement
 - 40) Email; [Student], 01/13/2023
 - 41) Email: Re: [SECURE] [Student] Reintegration, 01/18/2023
 - 42) Email: [SECURE] [Student] Meeting, 01/18/2023
 - 43) Email: Emails for IEP, 01/18/2023
 - 44) Email: Re: Meeting today, 01/20/2023
 - 45) Email: [Student] Evaluation, 01/23/2023
 - 46) Email: [Student], 02/06/2023
 - 47) Email: Re: [Student], 02/06/2023
 - 48) Email: [SECURE] IEP Meeting, 02/07/2023
 - 49) Email: [Student], 02/07/2023
 - 50) Email: [Student], 02/08/2023
 - 51) Email: Re: [Student] Meeting, 02/14/2023
 - 52) Email: Re: [SECURE] [Student] Support, 02/14/2023
 - 53) Email: School Absences [Student] 2/15/23, 02/15/2023
 - 54) Email: Re: [Student] Meeting, 02/15/2023
 - 55) Email: Re: 45 school days. There's no mention of less time in [Student's] meeting notes, 03/13/2023
 - 56) Email: IEP meeting, including placement decision for [Student], 03/14/2023
 - 57) Email: IEP meeting, including placement decision for [Student], 03/16/2023

- 58) Email: Written concerns about [Student's] placement or least restrictive environment, 03/20/2023
- 59) Email: FW: [Student] Placement Meeting, 03/14/2023
- 60) Email: RE: Written concerns about [Student's] placement or least restrictive environment, 03/20/2023
- 61) Log of Student movement
- 62) Student Notes
- 63) List of Relevant Staff and Contact Information
- 64) Student IEP, 02/08/2023

On April 14, 2023, the Department Complaint Investigator interviewed District personnel relevant to the issues in this matter. Virtual interviews were conducted instead of on-site interviews. On April 14, 2023, the Department Complaint Investigator interviewed the Student's Juvenile Justice Counselor regarding these issues. On April 14, 2023, and April 18, 2023, the District provided additional documents relevant to the issues. The Complaint Investigator reviewed and considered all 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 20, 2022, to the filing of this Complaint on February 19, 2023.

Allegations	Conclusions
<p>Requirement for Least Restrictive Environment</p> <p>It is alleged that the District violated the IDEA when it removed the Student from the regular educational environment, in favor of separate schooling, for reasons other than those required by their disability.</p> <p>(OAR 581-015-2240; 34 CFR 300.114)</p>	<p>Substantiated</p> <p>The record does not support that the Student required a more restrictive placement, or that the Student's IEP team considered the Student's disability as the reason for the change in placement.</p>
<p>Placement of the Child</p> <p>It is alleged that the District violated the IDEA when it failed to ensure that the Student's placement determination was made: (a) by a group of persons, including the parent, and others knowledgeable about the child, evaluation data, and placement options; (b) in conformity with least restrictive environment provisions; and (c) based on the Student's IEP. It is</p>	<p>Substantiated</p> <p>The record demonstrates that the District steered the Student's IEP team to adopt an educational placement not supported by the Student's IEP or special education eligibility category.</p>

<p>further alleged that the District violated the IDEA by selecting an educational placement that is not the school that the Student would attend if not disabled, and that the Student’s disability does not require the current placement. Finally, it alleged that the District did not consider the harmful effects on the Student of this educational placement.</p> <p>(OAR 581-015-2250; 34 CFR 300.116, 300.327)</p>	
<p>When IEPs Must Be In Effect</p> <p>It is alleged that the District violated the IDEA when it failed to educate the Student in conformity with the Student’s IEP. Specifically, it is alleged that the Student does not have access to the regular education environment to the degree required by the Student’s IEP.</p> <p>(OAR 581-015-2220; 34 CFR 300.323 & 303.324)</p>	<p>Substantiated</p> <p>The Student’s IEP indicated an educational placement of 40-79% in the regular education environment, with pull-out for the delivery of specially designed instruction. However, for most of February and March, the Student’s educational placement was an abbreviated school day, separated from peers, with online education.</p>

<p>REQUESTED CORRECTIVE ACTION</p>
<ul style="list-style-type: none"> • The Complainant suggested that the District return the Student to their previous placement.

III. FINDINGS OF FACT

IDEA regulations limit complaint investigation to alleged violations occurring no more than one year before the Department’s receipt of the special education complaint. This Complaint Investigation did not consider any IDEA violations alleged to have occurred before February 19, 2022. 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 in this matter is in the eighth grade and attends school in the District. The Student is eligible for special education under the eligibility category of Other Health Impairment (80).
- 2) The Student excels at art, hands-on activities, and sports such as basketball. They enjoy displaying their knowledge. The Student is motivated by helping others in and

out of the classroom. The Student prefers to work independently , and working with existing concepts over new concepts. The Student benefits from accommodations and modifications of text to speech, speech to text, frequent checks for understanding, the use of a calculator, shortened assignments, and a quiet break space.

- 3) The Student made slow progress in reading and math during the 2021-22 school year. The Student's disability impacts their access to the general education curriculum because they lack executive functioning skills to start and complete different tasks. The Student's reading and math skills are approximately two grade levels below expectation.
- 4) The Student struggles with attendance and frustration regarding falling behind in school work. The Student's difficulties with executive functioning skills impact the Student's academic work. The Student prefers to work independently, but can become easily distracted if left to work on their own. When redirected the Student often becomes angry, defensive, and/or irritable, which further complicates their access to the educational environment. The Student's frustration with their academic progress often manifests in ways that further hinder their learning.
- 5) The Student receives special designed instruction in the areas of reading/writing, mathematics, and speech. The Student also receives such supplementary aids and services as support for behavior concerns, check-ins from trusted staff, seating away from distractions, access to guided notes, simplified and explicit directions, decreases in text, grading based on work completion, and other supports to avoid overwhelming the Student with school work.
- 6) On February 15, 2022, the Student's IEP team determined that the Student's educational placement should be 40-79% of the school day in the regular education classroom. The Team determined that participation in a variety of academic and non-academic classes with peers would benefit the Student. The team noted especially that the Student would benefit from instruction from highly qualified instructors in social studies and science.
- 7) On December 6, 2022, the District received a notice, pursuant to ORS 419A.015, from the county regarding the Student's appearance before the juvenile court for petitions filed alleging the Student's involvement in illegal conduct.
- 8) On January 13, 2023, the Student's Juvenile Court Counselor communicated with the District regarding making a plan for the Student's reintegration.
- 9) On January 20, 2023, the District held an IEP team meeting regarding the Student's return to the District. The documented purpose of the meeting was "IEP Placement."

Present for the meeting were the Student, the Parent, the Student's Juvenile Justice Counselor, representatives from the Student's Community Counselor's office, Case Manager 1, Administrator 2, and other relevant staff. Notes from the January 20, 2023, IEP team meeting indicated that the District had done an involuntary transfer

of the Student from High School 1 to High School 2. As part of the transfer to High School 2, the Student would not be allowed to transit within the school alone.

The Student's Community Counselor Coordinator 1 voiced objection to the Student moving to a school that utilized online education. Case Manager 1 indicated that the Student was previously not successful with online education.

Other members of the Student's Community Counseling organization voiced support for the Student remaining at High School 1. Community Counselor 2 noted that the Student had social connections at High School 1, and was threatened with violence should they attend High School 2.

The Student's Juvenile Justice Counselor discussed the issue involving the Student that occurred in the community. The Student's Juvenile Justice Counselor voiced support for the Student remaining at High School 1, citing the Student's August 22, 2022, IEP that stated that the Student performed better when among familiar peers. The Juvenile Justice Counselor also voiced concern that the District's proposed transfer appeared to contradict the Student's IEP that stated the Student did not do well on their own. The Student's Juvenile Justice Counselor further questioned whether the District had conducted a Threat Assessment.

The Parent voiced support for the Student remaining at High School 1, observing that the Student does not respond well to change, and will shut down. The Parent also voiced concerns with the District's proposed schedule change to a half day of school for the Student.

The meeting notes also documented, "threat assessment done prior to placement decision."

- 10) On January 23, 2023, the District held an IEP team meeting. The meeting notes document that the purpose of the meeting was "placement-school." The meeting notes document that the "District wants [Student] to attend [High School 2]...Coquille District will move [Student] to structured morning program at [High School 2]." The notes indicate that the District would provide transportation to High School 2. There, the Student would "have access to evidence based online programs in a structured program. [Student] will be in SLC full time." The notes indicated that this plan would be implemented following the Student's return to school on January 25, 2023. The Student's Juvenile Justice Counselor, and members of the Student's Community Counseling group voiced concerns whether the Student could understand why these changes were made to their education program, and the potential negative repercussions for the Student. The meeting notes document that the "[Student] will be in the SLC program at [High School 2] in the mornings for 45 days."
- 11) On February 1, 2023, the District documented a discipline incident involving the Student. The District documented that the Student disrupted the online school environment with profanity.
- 12) On February 6, 2023, the District documented that the Parent had agreed to forgo

the Student's triennial reevaluation, agreeing instead to "rolling over [Student's] eligibility."

- 13) On February 7, 2023, the District sent the Parent a notice of team meeting to develop and review the Student's IEP. The meeting was scheduled for February 9, 2023. The Parent agreed to meeting with less than 10 days' notice.
- 14) On February 8, 2023, Case Manager 2 sent an email to Administrator 2 writing, "Previously [Student] had the options of 100% gen ed [sic], 40-79% gen ed [sic], and then <40% gen ed [sic]. 40-79 was selected, but I'm assuming that we are going to be putting <40% for this one?"
- 15) On February 8, 2023, the District held an IEP team meeting for the Student. The purpose of the meeting was noted as "eligibility rollover/annual IEP." The Student was present for the meeting in addition to the required IEP team members. Members from the Student's Community Counselor group also attended. The team engaged in a discussion of the Student's academic strengths, weaknesses, and how to support the Student academically and socially. The team also discussed the Student's future career goals and likely direction following graduation. The IEP team determined that the Student's educational placement of 40-79% of the time in the general education environment was appropriate for the Student.
- 16) As part of the February 8, 2023, meeting, the District and the Parent agreed that they would not conduct a three-year reevaluation of the Student which was due February 8, 2023. The District documented this decision in a prior written notice dated February 8, 2023.

As part of the decision to not conduct a reevaluation, the Prior Written Notice documented that the Student had only just begun school at High School 2, giving staff there little time to get to know the Student. The District documented instead an intent to reevaluate the Student in 2026.

- 17) On February 8, 2023, the District formulated a new IEP for the Student. The IEP noted that staff at High School 2 hadn't "had much time to get to know [Student], so the majority of this information is coming from [their] previous IEP." The IEP noted that the Student would be removed from the general education classes for 3/3 periods daily. The IEP documented the Student's educational placement as 40-79% of the school day in the regular class, with "specially designed instruction in Structured Learning Center classroom."
- 18) On March 7, 2023, the Parent filed this Complaint.
- 19) On March 9, 2023, Administrator 2 sent an email to District staff providing links to Department resources regarding restraint and seclusion in reference to this Complaint.
- 20) On March 13, 2023, Administrator 2, sent an email to Administrator 3 and Case Manager 2, writing in relevant part, "[Staff Member] made no mention of a 45-day

meeting in [their] notes. The law clearly states that district had school days for Alternate Placement.” Administrator 2 then cited to OAR 581-015-2425 (Removal to an Interim Alternative Educational Setting by School District).

On March 13, 2023, Case Manager 2, responding to the email sent by Administrator 3, wrote in part, “As for the ODE complaint, I looked through the notes on [Student’s] IEP and it specifically states that the parents agreed to the placement decision. The placement is for 40-79% of the day and that’s the placement at [High School 1], if that helps. Prior to that [Student] had <40% of the day in regular class.”

- 21) On March 14, 2023, Administrator 2 sent an email to Case Manager 2, and others documenting that the Administrator 1 had requested that an IEP team meeting be held for the Student, where the team should make a placement decision for the Student.
- 22) On March 22, 2023, the District held an IEP team meeting for the Student. Present for the meeting was the Student, the Parent, the teachers from High School 2, Administrator 2, the Juvenile Justice Coordinator, and representatives from the Student’s Community Counselor group. During the meeting the Parent expressed hope that the District would transfer the Student back to High School 1. During the meeting, in response to the Parent request, Administrator 2 explained the “45 day alternate placement law.” Community Counselor Coordinator 1 and 2 expressed concerns about the impact of the placement at High School 2, and that the placement at [High School 2] “was not working.”

The District documented that during the meeting the Student appeared withdrawn. The team further discussed the development of a safety plan, and the Student’s transfer to High School 1. The meeting notes document that the District anticipated that the Student would transfer back to High School 1 by April 10.

The District documented that Administrator 2 “explained that 45 day alternate placement law” to the team during the meeting. Administrator 2 and Case Manager 2 discussed the potential of peers having knowledge of the incident involving the Student, and the concerns of classmates.

- 23) On April 11, 2023, the Department’s Complaint Investigator interviewed the Student’s Juvenile Justice Counselor regarding the issues in this case. The Juvenile Justice Counselor provided background on the Parent’s concerns in this matter, and clarifies information in the handwritten IEP team meeting notes provided by the District.
- 24) The Parent was unavailable to contribute to the investigation following the filing of this Complaint, due to health problems.
- 25) On April 14, 2023, the Department’s Complaint Investigator interviewed Administrator 2. Administrator 2 reported the belief that, based on the event precipitating the Student’s involvement with the Juvenile Justice system, the District had cause to remove the Student to High School 2 under OAR 581-015-2425.

Administrator 2 reported that the District proceeded with removing the Student to an interim alternative educational setting based on what was believed at the time of the underlying incident, and rumors within the community.

Administrator 2 indicated that the Student had a history of behavior incidents, with the one precipitating the move to High School 2 being the most noteworthy. Administrator 2 reported their understanding that the Student and another individual had engaged in activities in the community that were reported to the District as safety concerns. The District also had concerns regarding the Student's conduct.

Administrator 2 reported to the Department's Complaint Investigator that the District did not have definitive information regarding whether the Student had engaged in conduct described in OAR 581-015-2425(2)(a) & (2)(b) until the March 23, 2023, IEP team meeting when the Student's Juvenile Justice Counselor provided the District with additional information.

Administrator 2 reported that the Student was moved to High School 2, where they were assigned to the SLC classroom for three periods per day in the morning. In this placement the Student received online instruction under supervision. The Student had limited access to peers in passing and during structured time for lunch. Administrator 2 indicated that there were significant rumors in the community regarding the Student's off-campus behavior that motivated this change in school location.

The Department's Complaint Investigator asked Administrator 2 about their March 14, 2023, email where they report to Case Manager 1, Case Manager 2, and Administrator 3, that at the request of Administrator 1 that they hold an IEP meeting to determine placement for the Student. In discussion whether the Student's placement was determined by the Student's needs or the District's preferences, Administrator 2 reported that the email should have read, "location" rather than placement.

Administrator 2 clarified that the reference to a "threat assessment" in the January 20, 2023, IEP team meeting minutes was not a threat assessment conducted by the District either about the Student or regarding threats made to the Student. Administrator 2 reported the assumption that the Juvenile Justice System would have completed a threat assessment in advance of their return to school. Administrator 2 also reported that the Student displayed a high degree of work avoidance, often refusing to engage in work.

The Department's Complaint Investigator discussed IEP team minutes describing the Student pulling their hooded sweatshirt up, and cinching the drawstrings such that their face was hidden, with Administrator 2. Administrator 2 agreed that this was a behavior often observed in the Student as a work avoidance strategy. Administrator 2 noted that the Student had a right to refuse to engage with their academics.

At the end of the interview, Administrator 2 agreed to provide the Department with

documentation regarding the behavior related to the District's decision to remove the Student to an Interim Alternative Placement and a copy of the safety plan then in place for the Student.

- 26) On April 14, 2023, the District provided additional documentation in this matter. The District provided typed copies of the Student's IEP meeting minutes to supplement the handwritten versions previously submitted. Those notes provided additional detail not legible in the handwritten notes. Specifically:

The typed version of the District's January 20, 2023, IEP team meeting minutes document that the Student did not engage in conduct described in OAR 581-015-2425(2)(a) & (2)(b). The notes also document that the Student's Juvenile Justice Coordinator and members of the Student's Community Counselor Group voiced concern that the Student was threatened with physical harm should they attend High School 2. Case Manager 2 observed that the Student was not previously successful with learning through online programs.

The typed version of the January 20, 2023, meeting notes also indicate that the District was told that "nothing supports [the Student] being apart [*sic*] of a credible threat to [the District]." The District went on to document the Student's Juvenile Justice Counselor reporting that the Student was not engaged in conduct described in OAR 581-015-2425(2)(a) or (2)(b).

The typed version of the District's January 23, 2023, IEP team meeting minutes indicate that the District "want[ed the Student] to attend [High School 2], and that the District intended to "move [the Student] to structured morning program at [High School 2]." At this new educational placement, the notes indicate that the Student would "have access to evidence based online program in a structured program." The meeting minutes do not document the input of any District staff. The Student's Juvenile Justice Coordinator, Community Counselor Group, and Parent voiced opposition to the District's plan and expressed concerns regarding the potential negative impact to the Student of this change in placement and concerns whether the Student would understand the reason for the changes.

The typed version of the District's March 22, 2023, IEP team meeting minutes documented that the Parent requested that the Student return to High School 1. In response, Administrator 2 cited OAR 581-015-2425 (Removal to an Interim Alternative Educational Setting by School District) in support of the District's decision. Case Manager 1 observed that the Student displayed a high degree of work refusal, currently and historically. Learning Specialist 1 noted that the Student required social and emotional support to assist the Student in understanding the various changes occurring with their education.

- 27) On April 14, 2023, the Department's Complaint Investigator interviewed the Student's Juvenile Justice Counselor. The Student's Juvenile Justice Counselor reported that they had informed the District that none of the elements of OAR 581-015-2425 (Removal to an Interim Alternative Educational Setting by School District) applied to the Student. The Juvenile Justice Counselor further reported that the

specifics of the incident were available to the District ahead of the Student's return to school. The Juvenile Justice Counselor also reported that the matters related to the Student's involvement with Juvenile Justice occurred off campus and outside of school hours. The Juvenile Justice Counselor did confirm that another individual associated with the Student had made threats to the District, that law enforcement had informed the District of this, and that the District had taken appropriate safety measures as a result of that information.

- 28) On April 18, 2023, the District provided additional information relevant to the district's knowledge of the Student's involvement in conduct described in OAR 581-015-2425(2)(a) & (2)(b). That information indicated that the District had knowledge of the Student's involvement in conduct occurring off school grounds. The information provided by the District did not indicate that conduct described OAR 581-015-2425(2)(a) or (2)(b) occurred on school grounds. The District also provided dates of events occurring after the complaint period when classmates made allegations regarding the Student.

The District also provide a copy of the safety plan drafted for the Student that was in effect as of April 18, 2023.

IV. DISCUSSION

Requirement for Least Restrictive Environment

The Parent alleged that the District violated the IDEA when it removed the Student from the regular educational environment, in favor of separate schooling, for reasons other than those required by their disability.

School districts must ensure that, to the maximum extent appropriate, children with disabilities are educated with children who do not have a disability. Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment should occur only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be satisfactorily achieved.³

On January 23, 2023, the District held an IEP team meeting for the Student. Meeting notes indicate that the purpose of the meeting was "placement-school" and that the District was then planning for the Student's return to in-person schooling following a period of absence. Meeting notes indicate that the District wanted to remove the Student from High School 1 to High School 2. The change from High School 1 to High School 2 resulted in the Student's assignment to a classroom in High School 2, where they would engage in online learning.

During conversations with the District's Complaint Investigator, the District described that the Student was largely engaged in online learning in this classroom without

³ OAR 581-015-2240(1) & (2)

contact with other students. A staff member from the District was assigned to monitor the Student in this classroom. The District indicated that, from time to time, other students at High School 2 may have entered the classroom to utilize computers for their online learning as well. The District cites in the meeting notes concerns about behavior displayed off campus. During interviews with the District's Complaint Investigator, the District indicated it had concerns regarding classmates' perceptions of the Student and rumors in the community.

There is no indication in the record that the Student's disability required a more restrictive placement or that the Student's IEP team considered the Student's disability as the reason for the change in placement.

The Department substantiates this allegation.

Placement of the Child

The Parent alleged that the District violated the IDEA when it failed to ensure that the Student's placement determination was made by a group of persons, including the Parent, and others knowledgeable about the child, evaluation data, and placement options. It is alleged that the placement was not made in conformity with least restrictive environment provisions or based on the Student's IEP. It is further alleged that the District violated the IDEA by selecting an educational placement that was not the school that the Student would attend if not disabled, and that the Student's disability did not require the current placement. Finally, the Parent alleged that the District did not consider the harmful effects on the Student of this educational placement.

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 available placement options. Placement determinations are to be made in conformity with Least Restrictive Environment (LRE) provisions. Placement must be based on the child's current IEP. Unless the child's IEP requires some other arrangement, the child is to be educated in the school that they would attend if not disabled. The placement team must consider any potential harmful effect on the child or the quality of services the child needs.⁴ "Predetermination occurs when an educational agency has made a determination prior to the IEP meeting, including when it presents one educational placement option at the meeting and is unwilling to consider other alternatives..."⁵ "A school district violates the IDEA if it predetermines placement for a student before the IEP is developed or steers the IEP to the predetermined placement."⁶ Predetermination violates the IDEA because the Act requires that the placement be based on the IEP, and not vice versa."⁷

The District held two meetings ahead of the Student attending classes at High School 2. The District convened an IEP team meeting on January 20, 2023 to discuss the

⁴ OAR 581-015-2250(1)—(4)

⁵ *H.B. v. L.V. Unified*, 239 F.App'x 342 (9th Cir. 2007)

⁶ *K.D. ex rel. C.L. v. Dept. of Educ., Hawaii*, 665 F.3d 1110, 1123 (9th Cir 2011).

⁷*Id.*

District's decision to reassign the Student from High School 1 to High School 2. The team discussed that the move to High School 2 would mean a change from in-person learning with peers to monitored online learning largely separated from classmates. During this meeting, Case Manager 1 indicated that the Student was not previously successful with learning via online platforms. Multiple members of the Student's IEP team voiced concerns about the harmful effects of such a placement on the Student. The January 20, 2023 meeting notes do not indicate that the team reviewed data relevant to the Student's need for the change in placement. Rather, the District proposed the change and team members discussed the potential impact on the Student.

Meeting notes for the January 23, 2023, IEP team meeting, indicate that the "...District will move [the Student] to [*sic*] structured learning program at [High School 2]." The meeting notes indicate that District staff offered no input regarding the possible impact of the change in placement to the Student, while the Student's Juvenile Justice Counselor, Community Counselor group, and Parent voiced opposition to the plan and concerns regarding the negative impact of the plan on the Student. The meeting notes also indicate that members of the Student's IEP team voiced concerns about potential physical harm and threats of violence made toward the Student should they attend High School 2. At the conclusion of the meeting, the District justified the change of placement to the more restrictive setting by citing OAR 581-015-2425, despite knowledge that the Student had not committed an offense that would make that OAR applicable. Meeting notes indicate that the District decided to move the Student to High School 2 for 45 days.

The Department substantiates this allegation.

When IEPs Must Be In Effect

The Parent alleged that the District violated the IDEA when it failed to educate the Student in conformity with the Student's IEP. Specifically, it is alleged that the Student does not have access to the regular education environment to the degree required by the Student's IEP.

At the beginning of each school year, a school district must have in effect an IEP for each child with a disability. School Districts must provide special education and related services to a child with a disability in accordance with an IEP.⁸

The Student's February 15, 2022, IEP indicates that the Student's educational placement was 40-79% of the school day in regular classes with specially designed instruction delivered in a special education room. During this time the Student attended for a full day at High School 1. The Student's February 8, 2023, IEP indicated that the Student's educational placement was unchanged from the February 15, 2022, IEP. However, as a result of the District transferring the Student from High School 1 to High School 2, the Student was placed in a single classroom for the entire academic day where they accessed their education online, largely without contact with peers.

⁸ OAR 581-015-2220(1)(a) & (1)(b)

Furthermore, this placement was for half days, with the Student attending during mornings only. The Student's IEP was not updated to reflect this change.

The Department substantiates this allegation.

Additional Findings

Removal to an Interim Alternative Educational Setting by School District

The District convened IEP team meetings for the Student on January 20, 2023, and January 23, 2023, to consider changes to the Student's educational placement and the location where the Student would receive instruction. Members of the Student's IEP team voiced concern with the change in placement and the move to online education at High School 2. In response, the District reported to the Student's IEP team members that the District could remove the Student to an alternative educational setting pursuant to OAR 581-015-2425.

School districts may remove a child with disabilities from their current educational placement to an appropriate interim alternative educational setting for the same amount of time that a child without a disability would be subject to discipline. Such a removal cannot last longer than 45 school day in a school year, notwithstanding whether the behavior is determined to be a manifestation of the child's disability. Such a removal may be in response to a drug or weapon violation occurring at school or a school function. A removal may be considered for carrying a weapon to school, or to a school function or acquiring a weapon at school. A removal may also be considered in response to the infliction of serious bodily injury upon another while at school, on school premises, or at a school function under the jurisdiction of the Department or a school district.⁹

The District asserted that the Student's actions in fall of 2022, triggered the provisions of OAR 581-015-2425. However, at the January 20, 2023, and January 23, 2023, IEP team meetings, the Student Juvenile Justice Counselor reported to the District the specifics of the concerns underlying the December 6, 2022, notice received by the District. The District documented in the IEP team meeting notes that the Student had not engaged in the conduct described in OAR 581-015-2425(2)(a) or (2)(b). During interviews with the District, Administrator 2 stated that the District thought the provisions of OAR 581-015-2425 were triggered based on what the District knew prior to the fall of 2022, and rumors within the community. Finally, the District did not provide documentation of student discipline relevant to OAR 581-015-2425(2)(a) or (2)(b) as part of this complaint investigation. There is no evidence that the Student brought a weapon to school or to a school function.

The District's use of OAR 581-015-2425 to justify the Student's move to High School 2 as a removal to an interim alternative placement was improper as it was not based on the requirements specified in OAR 581-015-2425(2)(a) or (2)(b).

⁹ OAR 581-015-2425(1)—(6)

IEP Development

The Department also notes multiple errors in the Student's IEP development process that were noncompliant with the requirements of the IDEA. Specifically, the District did not ensure that the IEP Team:

- Adequately considered required special factors and reevaluation needs for the Student;
- Reviewed and revised the Student's IEP based on information known about the Student; and
- Developed an IEP that contained all required content.

During the Department's review of the record in this matter, IEP team members discussed their concerns with the Student's work avoidance and the psychological impact of the District's transfer of the Student from High School 1 to High School 2. The District's IEP team meeting minutes document that the Student would withdraw from conversation or engagement with District staff by pulling up their hooded sweatshirt and cinching the drawstring around their face. During the interviews with the Department's Complaint Investigator, Administrator 2 described that the Student routinely engaged in such behavior and typically refused to engage in work. Administrator 2 also shared details of behaviors, occurring after the complaint period, similar to those that precipitated the District moving the Student from High School 1 to High School 2.

In developing, reviewing, and revising the child's IEP, the IEP team must consider, the strengths of the child, and the concerns of the parent for enhancing the education of the child. In developing, reviewing, or revising a child's IEP, the IEP team must consider additional factors such as behavior that impedes the child's learning or the learning of others. The IEP team should also consider the initial or most recent reevaluation of the Student. District should implement positive behavioral interventions, supports, and strategies to address such concerns.¹⁰ A child's IEP should include a statement of measurable annual goals, including academic and functional goals designed to meet the child's needs that result from their disability to enable the child to be involved in and make progress in the general education curriculum. Such academic and functional goals should meet the child's other educational needs resulting from the child's disability. The IEP should contain specific special education, related services, supplementary aids and services, and program modifications or supports required for the child to advance appropriately toward attaining the annual goals, be involved in and progress in the general education curriculum, and to participate in extracurricular and other nonacademic activities.¹¹

The Student's triennial reevaluation was due during the complaint period. Despite the various changes in behavior displayed by the Student, concerns regarding work avoidance, and the Student's IEP team voicing concern about the Student adjusting to a variety of changes in their personal and academic environments, the District suggested that a reevaluation was not necessary. During interviews with the Department's Complaint Investigator and during IEP team meetings, the District expressed reservations about concerning behaviors manifested by the Student. As

¹⁰ OAR 581-015-2205(1)—(3)

¹¹ OAR 581-015-2200—(1)(a)—(1)(d)

reflected in meeting minutes and, in conversation with the Department's Complaint Investigator, the Student's learning was impeded due to consistent work avoidance behaviors. Despite these concerns, the Student's February 8, 2023, IEP did not contain specially designed instruction to address behavior, strategies to engage the Student, nor the input of the specialists within the District in addressing the causes of such behavior.

Despite the District's observations regarding the Student's work avoidance, and other concerning behaviors underlying the Student's engagement with the District, the District suggested that a reevaluation was not needed. Although IEP team members discussed the concerns, the Student's IEP does not address the Student's work avoidance behaviors, or other concerning behaviors. The District also failed to revise the Student's IEP to reflect the change in placement to partial day online schooling.

VII. CORRECTIVE ACTION
In the Coquille School District 8
Case No. 23-054-009

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

Action Required	Submissions	Due Date
1. The District shall convene an IEP meeting to consider evaluation planning for an evaluation of the Student to consider the Student's documented work avoidance behaviors, and other concerning behaviors the District has documented or expressed concern regarding since November 2022. The District shall specifically ensure that the IEP Team considers the need for a functional behavioral assessment (FBA) due to behavior(s) of concern.	The District shall submit the following to the ODE Legal Specialist: <ul style="list-style-type: none"> • Meeting Notice. • Completed IEP. 	May 15, 2023 June 15, 2023
2. The District must ensure that all District staff responsible for reviewing, revising, developing, and implementing IEPs for the student receive training in each of the following areas: <ul style="list-style-type: none"> • Parent participation requirements; • Review and Revision of IEPs; • IEP content requirements • Educational placement and least restrictive environment requirements; • Identifying behavior instances that may require the District to conduct a functional behavioral 	Training agenda/materials to ODE Legal Specialist for review/approval. Sign-in sheet for training.	June 15, 2023 September 15, 2023

<p>assessment;</p> <ul style="list-style-type: none"> Identifying situations that may require the District to conduct manifestation determinations; Identifying concerning behaviors manifested on school grounds, or at school sponsored events that trigger the provisions of 581-054-2425. 		
<p>3. Offer to the Parent to provide 157 hours of compensatory education to the Student to address the shortened school day experienced by the Student from January 25, 2023 through April 10, 2023.</p>	<p>Documentation of agreement with Parent.</p> <p>Evidence that compensatory education has been delivered.</p>	<p>May 15, 2023</p> <p>April 15, 2024</p>
<p>4. Following the completion of any required reevaluations, the IEP team shall fully consider the Student's circumstances and develop an IEP that is reasonably calculated to enable progress appropriate in light of their circumstances.</p>	<p>Any and all reevaluation and IEP paperwork created in relation to this corrective action.</p>	<p>October 15, 2023</p>

Dated: this 5th Day of May 2023



Eric Wells
 Director of IDEA Programs
 Office of Enhancing Student Opportunities

E-mailing Date: May 5, 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).)