

**BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION**

In the Matter of Lebanon Community )  
School District 9 )  
)

FINDINGS OF FACT,  
CONCLUSIONS OF LAW, AND  
STIPULATED CORRECTIVE ACTION  
Case No. 23-054-014

**I. BACKGROUND**

On May 11, 2023, the Oregon Department of Education (Department) received a written special education complaint (Complaint) from a Personal Care Assistant who works with the District (Complainant). The Complainant alleged a systemic violation of the Individuals with Disabilities Act (IDEA) affecting students in the life skills classroom at a particular District elementary school (Students) and requested that the Department conduct a special education investigation under Oregon Administrative Rule (OAR) 581-015-2030. The Department confirmed receipt of the Complaint and forwarded the request to the District on May 11, 2023.

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.<sup>1</sup> This timeline may be extended if the Parent and District agree to the extension in order to engage in mediation or local resolution, or for exceptional circumstances related to the complaint.<sup>2</sup> A complaint must allege a violation that occurred not more than one year before the date the Department received the complaint.<sup>3</sup> Based on the date the Department received the Complaint, the relevant period for this Complaint is May 12, 2022 through May 11, 2023.

On May 17, 2023, the Department’s Complaint Investigator (Complaint Investigator) sent to the District a *Request for Response (RFR)* specifying five allegations of IDEA violations and establishing a *Response* due date of May 31, 2023. At the request of the District, the Department extended the *Response* due date to June 7, 2023.

The District submitted a *Response* on June 7, 2023 and an amended *Response* on June 13, 2023. The *Response* did not dispute any of the five allegations. The District submitted 1,522 pages of documents, including:

1. Copies of the IEPs (including placement determinations), meeting notices, Prior Written Notices and behavior plans of all students who received services in the particular District life skills classroom involved in this matter, issued or relied upon during the 2022-23 school year;
2. Any materials and communications regarding the timelines of the initial completion or updating of IEPs of students who received services in the particular District life skills classroom involved in this matter;
3. A list of Students who were placed in the particular District life skills classroom involved in this matter who received services in this particular life skills classroom with

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<sup>1</sup> OAR 581-015-2030(12) and 34 CFR § 300.152(a)  
<sup>2</sup> OAR 581-015-2030(12) and 34 CFR § 300.152(b)  
<sup>3</sup> OAR 581-015-2030(5), 34 CFR § 300.153(c)

- no regular education services; and a list of Students who were on IEPs and received some services in this particular life skills classroom, during the 2022-23 school year;
4. The initial eligibility determination, and any written evaluations relied upon during the 2022-23 school year in determining the placement of students who received any services in the particular District life skills classroom involved in this matter; and,
  5. A list of staff or others who are knowledgeable about the circumstances in this complaint and their contact information.

The Complaint Investigator reviewed all of the documents and submissions provided by the parties.

The Complaint Investigator discussed the nature and content of a Stipulated Corrective Action with both parties, and the parties agreed to that resolution of the Complaint.

This order is timely.

## II. ALLEGATIONS AND CONCLUSIONS

The Department has jurisdiction to resolve this Complaint under 34 CFR §§ 300.151-300.153 and OAR 581-015-2030. The allegations and the Department’s conclusions are set out in the chart below.

<b>Allegation</b>	<b>Conclusion</b>
<p><b>Least Restrictive Environment</b></p> <p>The Complaint alleges that the District systemically violated the IDEA by failing to educate many of the students in a particular District life skills classroom with children who do not have a disability. For example, the Complaint alleges the District violated the IDEA by failing to allow education with regular education classrooms with the assistance of a 1:1 aide.</p> <p>(OAR 581-015-2240; 34 CFR § 300.114)</p>	<p><b>Not Contested</b></p> <p>The District does not contest this allegation due to a staffing shortage.</p>
<p><b>Placement</b></p> <p>The Complaint alleges that the District systemically violated the IDEA by failing to provide appropriate placement for many of the students in a particular District life skills classroom. Specifically, the Complaint alleges the District violated the IDEA by failing to place the students in placements allowing education with children who do not have a disability.</p> <p>(OAR 581-015-2250; 34 CFR § 300.116 &amp; § 300.327)</p>	<p><b>Not Contested</b></p> <p>The District does not contest this allegation due to a staffing shortage.</p>
<p><b>Review and Revision of IEPs; When IEPs Must Be in Effect</b></p> <p>The Complaint alleges that the District systemically violated the IDEA by not updating and, in some instances, not developing the</p>	<p><b>Not Contested</b></p>

<p>IEPs of students in a particular District life skills classroom. Specifically, the Complaint alleges that, despite numerous requests from certain District staff members, the District has not timely updated the IEPs of nearly all of the students in a particular District life skills classroom; and further alleges that the District has not timely completed the IEPs of several of the students in a particular District life skills classroom.</p> <p>(OAR 581-015-2225; 34 CFR § 300.324(a)(4), (a)(5) &amp; (b)(1). OAR 581-015-2220; 34 CFR § 300.323 &amp; § 300.324)</p>	<p>The District does not contest this allegation due to a staffing shortage.</p>
<p><b>When IEPs Must Be in Effect (Implementation)</b></p> <p>The Complaint alleges that the District systemically violated the IDEA by failing to provide services required in the IEPs of many of the Students in a particular District life skills classroom. Specifically, the Complaint alleges that the District did not provide sufficient staffing in the classroom to implement several students' IEPs and behavior plans.</p> <p>(OAR 581-015-2220; 34 CFR § 300.323 &amp; § 300.324)</p>	<p><b>Not Contested</b></p> <p>The District does not contest this allegation due to a staffing shortage.</p>
<p><b>Free Appropriate Public Education (FAPE)</b></p> <p>The Complaint alleges that the District systemically violated the IDEA from approximately August of 2022 through to the filing date of this complaint. Specifically, the Complaint alleges that the District failed to provide a FAPE to students in a particular life skills classroom during this time period, as outlined in the allegations above.</p> <p>(OAR 581-015-2040; 34 CFR § 300.101)</p>	<p><b>Not Contested</b></p> <p>The District does not contest this allegation due to a staffing shortage.</p>

<p><b>REQUESTED CORRECTIVE ACTION</b></p>
<p>The Complainant requested that the District hire appropriate staffing, that IEPs and behavior plans be kept updated, and that communication between staff members be improved.</p>

### III. FINDINGS OF FACT

The class of Students named in the Complaint were all receiving special education services at a particular District life skills elementary school classroom during the one-year complaint period.

The District does not contest the allegations made in the Complaint in this matter and the parties have agreed to Stipulated Corrective Action, as set forth in the Corrective Action table, below.

### IV. DISCUSSION

The Complaint alleged five IDEA violations, which the District does not contest.

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

### V. STIPULATED CORRECTIVE ACTION<sup>4</sup> *In the Matter of Lebanon School District Case No. 23-054-014*

Action Required	Submissions <sup>5</sup>	Due Date
1. The District will:  a. Convene an IEP meeting with parents or guardians of all students in the life skills classroom at the applicable elementary school by October 31, 2023.  b. Discuss how the District's lack of sufficient staff members impacted the student's circumstances in the 2022-23 school year, including their time in	The District will submit documentation of agreements between parents or guardians and the District, including the type and amount of compensatory services that each affected Student has received or will receive.	<b>October 31, 2023</b>

<sup>4</sup> 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)).

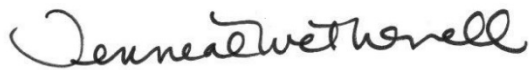
<sup>5</sup> Corrective action submissions and related documentation as well as any questions about this corrective action should be directed to Mike Franklin, Oregon Department of Education, 255 Capitol St. NE, Salem, Oregon 97310- 0203; telephone – (503) 580-3083; e-mail: [mike.franklin@ode.oregon.gov](mailto:mike.franklin@ode.oregon.gov), fax number (503) 378-5156.

<p>the general education setting.</p> <ul style="list-style-type: none"> <li>c. Review existing behavioral support plans (BSPs) and revise, as appropriate, during each student's IEP meeting. Consider the need for a BSP in cases where students do not have one.</li> <li>d. Reach agreement with parents or guardians about the type, amount, and scheduling of compensatory services.</li> <li>e. Provide parents or guardians with prior written notice as required based on the meeting, including for the compensatory services offered.</li> </ul>		
<p>2. The District will:</p> <ul style="list-style-type: none"> <li>a. Develop written procedures for monitoring compliant implementation of all IEPs and BSPs.</li> <li>b. Establish written procedures for special education staff to communicate with administrators about interruptions or other problems in delivering services required by students' IEPs.</li> <li>c. Disseminate procedures to all special education staff and administrators on these procedures.</li> </ul>	<p>The District shall submit to the Department the written procedures and evidence of dissemination of these materials.</p>	<p><b>October 31, 2023</b></p>

<p>3. The District will provide staff training for special education case managers, teachers, and administrators who work in, support, or are otherwise responsible for the provision of FAPE for students in the life skills classroom at the applicable elementary school in the following areas:</p> <ul style="list-style-type: none"> <li>a. Writing effective and compliant present levels of academic achievement and functional performance based on student-specific data that establish a baseline.</li> <li>b. Writing measurable annual goals linked to baselines established in the present levels of academic achievement and functional performance.</li> <li>c. Ensuring that the type and amount of specific special education and related services and supplementary aids and services are based on peer-reviewed research to the extent practicable and on each student's individual needs.</li> <li>d. Preparing periodic progress reports, as required by each student's IEP that are clearly linked with present levels of academic achievement</li> </ul>	<p>The District shall submit a training plan to the Department, complete the training according to the approved plan, and submit evidence of completed training, materials, agenda, and sign-in sheets.</p>	<p><b>November 30, 2023</b></p>
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<p>and functional performance and measurable annual goals.</p> <p>e. Ensuring placement in least restrictive environment based on each student's individual needs.</p>		
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Dated: this 10th day of July, 2023




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Tenneal Wetherell  
Assistant Superintendent  
Office of Enhancing Student Opportunities

E-mailing date: July 10, 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)).