

BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of)	FINDINGS OF FACT,
Bend-La Pine Administrative)	CONCLUSIONS,
School District 1)	AND FINAL ORDER
)	Case No. 23-054-024

I. BACKGROUND

On June 20, 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 Bend-La Pine 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 to engage in mediation or local resolution or for exceptional circumstances related to the complaint.²

On June 30, 2023, the Department’s Complaint Investigator (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 July 14, 2023.

On July 14, 2023, the District submitted documents requested in the June 30, 2023, *Request for Response*. The District submitted the following relevant items:

1. District Response
2. Communication Log
3. Student Quarter 4 Report Card
4. Evaluation Planning Summary, 02/10/2022
5. Reevaluation Agreement, 02/11/2022
6. Waiver Agreement from La Pine Middle, 02/11/2022
7. Prior Written Notice, 02/11/2022
8. Meeting Request, 04/01/2022
9. IEP Meeting Attendance, 04/14/2022
10. IEP Meeting Minutes, 04/14/2022
11. Disability Statement, 04/14/2022
12. Eligibility Summary Statement, 04/14/2022

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

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

13. Student IEP, 04/14/2022
14. Special Education Placement Determination, 04/14/2022
15. Individualized COVID-19 Recovery Services Review, 04/14/2022
16. Prior Notice of Special Education Action, 04/14/2022
17. IEP Progress Report—Measurable Annual Goals, 06/14/2022
18. Meeting Request, 11/02/2022
19. IEP Meeting Attendance, 11/08/2022
20. IEP Meeting Minutes, 11/08/2022
21. Student IEP, 11/08/2022
22. Special Education Placement Determination, 11/08/2022
23. Individualized COVID-19 Recovery Services Review, 11/08/2022
24. Prior Notice of Special Education Action, 11/08/2022
25. IEP Progress Report—Measurable Annual Goals, 06/15/2023
26. IEP Meeting Minutes, 01/05/2023
27. Meeting Request, 03/01/2023
28. IEP Meeting Minutes, 03/03/2023
29. Meeting Request, 05/18/2023
30. IEP Goals, 06/15/2023
31. Email: Accepted [Student] parent concerns @ Tue Jun 13, 2023 10:30am – 11am (PDT), 06/10/2023
32. Email: [Student] update 6/9, 06/09/2023
33. Email: Re: incident at school, 06/09/2023
34. Email: Re: Meeting, 06/09/2023
35. Email: [Student] update 6/2, 06/02/2023
36. Email: [Student] update 5/26, 05/30/2023
37. Email: [Student] update 5/19, 05/23/2023
38. Email: Re: Meeting canceled, 05/19/2023
39. Email: Re: meeting, 05/17/2023
40. Email: [Student] update 5/12, 05/12/2023
41. Email: Re: Check up meeting, 05/12/2023
42. Email: Re: 5/9 [Student] lost fanny, 05/09/2023
43. Email: Re: [Student] Update 05/05/2023
44. Email: Re: [Student] math and dysregulation, 05/01/2023
45. Email: Re: [Student] update 4/28, 04/29/2023
46. Email: Re: Learning lab conversation, 04/25/2023
47. Email: Re: [Student] Update 4/21, 04/21/2023
48. Email: Re: meeting, 04/19/2023
49. Email: Re: Follow up, 04/12/2023
50. Email: Re: [Student] 4/7, 04/08/2023
51. Email: Re: Meeting, 03/22/2023
52. Email: Online school, 03/13/2023
53. Email: Re: Meeting, 03/13/2023
54. Email: Fwd: Online school, 07/05/2023
55. Email: [Student's] schedule, 03/07/2023
56. Email: Re: Online school, 03/03/2023
57. Email: Re: [Student] update 2/25, 03/02/2023
58. Email: Re: [Student] update, 02/22/2023
59. Email: Re: Meeting, 02/21/2023

- 60. Email: Re: [Student] update, 02/21/2023
- 61. Email: Re: Meeting, 02/17/2023
- 62. Email: Re: Meeting with the school, 02/16/2023
- 63. Email: Re: Questions from school, 02/09/2023
- 64. Email: Re: [Student] update, 02/10/2023
- 65. Email: Re: [Student] update, 01/23/2023
- 66. Email: Re: [Student] update, 01/13/2023
- 67. Email: Re: Behavior plan, 01/11/2023
- 68. Email: Re: Behavior plan, 01/10/2023
- 69. Email: Re: itinerary for Thursday's meeting, 01/03/2023
- 70. Email: Re: Tuesday :), 12/15/2022
- 71. Email: Re: Tuesday :), 12/07/2022
- 72. Email: Re: weekly updates, 11/14/2022
- 73. Email: Re: IEP, 11/10/2022
- 74. Email: Re: IEP Meeting on November 8th 10 am, 11/08/2022
- 75. Email: Re: [Student's] Homework, 10/20/2022

On July 25, 2023, the Complaint Investigator interviewed the Parent regarding these issues. On July 31, 2023, the Complaint Investigator interviewed the District's Director of Student Services regarding the concerns raised in this Complaint. 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 June 21, 2022, to the filing of this Complaint on June 20, 2023.

Allegations	Conclusions
<p>(1) When IEPs Must Be In Effect</p> <p>The Parent alleged that the District violated the IDEA when:</p> <p>(a) the District did not provide modified work to the Student, nor send home school work, nor provide paper copies of homework, in conformity with the Student's IEP;</p>	<p>Not Substantiated</p> <p>(a) The Student's IEP does not require that work would be sent home, and there is no evidence in the record that the District did not provide modified work to the Student in conformity with the Student's IEP.</p>

<p>(b) the District did not make the Student’s IEP accessible to general education teachers, nor inform general education teachers of their specific responsibilities for implementing the Student’s IEP; and</p> <p>(c) the District did not collect reports of behavior incidents occurring in general education classrooms, nor send reports of the Student’s behavior incidents to the Parent’s as outlined in the Student’s IEP. The Parent alleged that these reporting requirements were added to the Student’s IEP at the March 17, 2023, IEP team meeting.</p> <p>(OAR 581-015-2220; 34 CFR §§ 300.232, 303.324)</p>	<p>(b) The record shows that the Student’s IEP was accessible to the Student’s general education teachers, that many attended the Student’s IEP meeting, and that the teachers were aware of the accommodations in the Student’s IEP.</p> <p>(c) The record indicates that the March 17, 2023, meeting was an informal meeting with the Parent and the District and not an IEP team meeting. The record further supports that the District did send reports of the Student’s behavior to the Parent, but the Parent often objected to the format or level of detail provided.</p>
<p>(2) IEP Team Considerations and Special Factors</p> <p>The Parent alleged that the District violated the IDEA when:</p> <p>(a) the District did not include the Parent’s concerns for enhancing the education of the Student in the Student’s IEP, specifically the Parent’s concerns regarding the Student’s behavior that could be helpful to staff, and</p> <p>(b) the District did not consider the use of positive behavior interventions and supports to address behavior exhibited by the Student that impeded the Student’s education.</p> <p>(OAR 581-015-2205; 34 CFR §§ 300.320, 300.324(a)(1) & (2) & (b)(2))</p>	<p>Not Substantiated</p> <p>(a) The Parent’s concerns for the Student’s education were included in the Student’s IEP.</p> <p>(b) The District agreed to address concerns raised by the Parent through existing Specially Designed Instruction (SDI) by modifying the Student’s schedule to adjust the specific time during the day that the Student accessed their SDI.</p>
<p>(3) Placement of the Child</p>	<p>Not Substantiated</p>

<p>The Parent alleged that the District violated the IDEA when the Student’s educational placement was changed by staff without the inclusion of the Parent or others knowledgeable about the Student. The Parent alleges that they discussed this concern with the District on March 17, 2023.</p> <p>(OAR 581-015-2250; 34 CFR §§ 300.116 & 300.327)</p>	<p>The Student’s IEP team was not in favor of a change in educational placement to a more restrictive environment to address the concerns raised by the Parent. Rather than change the Student’s educational placement, the District proposed a change in the Student’s schedule to adjust the time of day when the Student would receive SDI.</p>
<p>(4) Parent Participation – General</p> <p>The Parent alleged that the District violated the IDEA by:</p> <ul style="list-style-type: none"> (a) not providing notice of meeting participants to the Parent in advance of those participants attending the Student’s March 3, 2023, IEP team meeting; and (b) not providing the Parent an opportunity to participate in the educational placement of the Student, when on March 3, 2023, the Student was removed from general education classes. The Parent further alleges that on March 17, 2023, the District acknowledged that this change occurred as the result the decisions of two District staff members. <p>(OAR 581-015-2190; 34 CFR §§ 300.500, 300.327. & 300.501(b))</p>	<p>Not Substantiated</p> <ul style="list-style-type: none"> (a) All participants to the March 3, 2023, meeting, were listed in the meeting notice provided by the District, to the Parent. (b) The Student’s IEP team did not change the Student’s educational placement. Changes were made to the Student’s schedule to adjust the time of day that the Student would access the SDI contained in the Student’s IEP.
<p>(5) Additional Parent Participation Requirements for IEP and Placement Meetings</p> <p>The Parent alleged that the District violated the IDEA when it did not provide the Parent with a copy of the Student’s revised IEP following the Student’s March 3, 2023, IEP team meeting.</p>	<p>Not Substantiated</p> <p>The Student’s November 8, 2022, IEP was not changed at the March 3, 2023, IEP team meeting. As such, there was no new copy of the Student’s</p>

(OAR 581-015-2195; 34 CFR §§ 300.322, 300.500, 300.327, 300.328 & 300.501(c))

IEP for the District to provide to the Parent.

REQUESTED CORRECTIVE ACTION

1. The Complainant requests that the District issue an apology to the Student through commercial media and social media outlets;
2. The Complainant requests that specific District staff in question resign or undergo training specific to the issues raised in the Complaint;
3. The Complainant requests that the District pay for private schooling, or home schooling and associated costs, and transportation to the alternative education settings, as chose by the Student's Parents;
4. The Complainant requests that the District make changes to policies to encourage inclusivity, and provide training to staff on including students eligible for special education in the general education environment; and
5. The Complainant requests that the District convene general assemblies within the school to teach and encourage inclusion of students receiving special education services.

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 June 21, 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 case is 13 years of age and attended the seventh grade in a District middle school. The Student is eligible for special education under the category of Autism Spectrum Disorder (82).
2. The Student is described as curious, funny, happy, and creative, and enjoys playing with friends and being with family. The Student's April 14, 2022, IEP indicated that the Student continued to make excellent improvement in all academic areas, most notably in the area of writing.
3. During the 2021-22 school year, the Student was in the 6th grade. During this school year, the Student demonstrated difficulty with transitions, resulting in a change of schedule to include two periods in the life skills room. The Student experienced greater success managing their behavior following the schedule change.
4. The Student's April 14, 2022 IEP indicated that the Student received math instruction in the general education classroom. The Student showed improvement

in math, and was performing at the 3rd grade level. The Student performed at the 4th grade level in reading, receiving instruction in the general education classroom. The Student received writing instruction in the general education classroom. Typical grade level peers wrote 59 total words written with 53 correct writing sequences; the Student was able to write 27 total words with 28 correct writing sequences.

The Student received SDI in social skills, provided in a small group setting. The Student's IEP noted that the Student made significant progress in the area of social skills during the 2021-22 school year, and that incidents of frustration, yelling, talking back, and crying had nearly ceased. The Student was accessing supports and strategies for addressing their reaction to stressors and frustrating situations. Additionally, the Student received life skills training in mindfulness, speech and language services, and occupational therapy, and received coaching in sensory self-regulation.

5. On September 26, 2022, Family Member 1 sent an email to Teacher 1, observing strengths and weaknesses in the Student's homework, specifically word problems in mathematics.
6. On September 27, 2022, Teacher 1 responded to Family Member 1 by email, thanking them for their insights about the Student's homework. Teacher 1 observed that the Student often becomes frustrated regarding work. Teacher 1 wrote in a later email their observations about differences in learning for students with Autism Spectrum Disorder (ASD). Teacher 1 offered some suggestions for Family Member 1 to better assist the Student with school work as well as details regarding modifications made in the school environment.
7. On October 12, 2022, Family Member 1, in an email to Teacher 1, observed that they had not yet heard from any of the Student's other teachers and wanted to get a copy of the Student's IEP.
8. On October 13, 2022, Teacher 1 informed Family Member 1 that they would have the Case Manager reach out to them soon. Teacher 1 also shared that the Student was displaying "predictable" obstacles to learning, such as not completing all of an assignment or getting upset when asked to work on math skills. Teacher 1 provided further detail to assist Family Member 1 in supporting the Student at home.
9. On October 13, 2022, the Case Manager responded to Family Member 1's inquiries observing that the Student's annual IEP meeting was not due until April, 2023, but that if there was interest in holding a meeting sooner that could be arranged. Teacher 1 provided Family Member 1 with a copy of the Student's IEP on the same date.
10. On October 13, 2022, Family Member 1 sent an email to Teacher 1 and the Case Manager inquiring about the supports in the Student's IEP. Family Member 1 asked about the suitability of the supports in the Student's IEP, given their understanding of the Student's academic needs.

11. On October 13, 2022, Teacher 1 responded that they had contacted the Student's math teacher to discuss modifications suitable for the Student, and in coordination with the study skills supports that Teacher 1 provides as part of the Student's IEP services. Teacher 1 also provided an overview of the Student's IEP services and supports. Teacher 1 explained how the Student received supports and modifications for general education math courses as outlined in the Student's IEP.
12. On October 17, 2022, Family Member 1 sent an email to Teacher 1 and the Case Manager expressing concern that the Student's placement in 7th grade math with IEP supports was not appropriate given that the Student tested at the 3rd grade level in math. Family Member 1 suggested that behavior exhibited by the Student was potentially in response to the Student's being overwhelmed and unable to cope with the work assigned.
13. On October 19, 2022, Teacher 1, responding to Family Member 1, sent an email stating that the District was working to schedule an IEP team meeting to discuss Family Member 1's concerns.
14. On October 24, 2022, following communication with Family Member 1, one of the Student's Parent, and school staff, the District sent an email to Family Member 1 that an IEP team meeting would be scheduled for November 8, 2022.
15. On October 24, 2022, the County Health Worker working with the Student sent an email to the District expressing interest in attending the November 8, 2022, IEP team meeting.
16. On November 4, 2022, Teacher 2 sent an email to Family Member 1, reporting comments made by the Student toward classmates that may be "troubling." Teacher 2 gathered from the Student that they were repeating a phrase heard on the internet. Teacher 2 also suggested that the Student be present for the upcoming IEP team meeting. Family Member 1 agreed that the Student's attendance at the upcoming IEP team meeting could be helpful.
17. On November 8, 2022, Family Member 1, responding to Teacher 1's November 4, 2022, email posed questions and suggestions regarding the "troubling" comments made by the Student, and sought more support from the District on how best to respond to the Student in such cases.
18. On November 8, 2022, the Student's IEP team met to review the IEP. The Student attended this meeting, along with the Parent, Family Member 1, and other requisite IEP team members. The team decided to make the meeting the Student's annual IEP meeting. Teacher 1 noted that the Student was doing well and highlighted some areas of confusion for the Student. The Parent requested that the District provide updates on the Student's progress in class. Teacher 1 noted the Student's absence for vacation, and thus the District had fallen out of the practice of sending weekly updates. Though not required in the Student's IEP, the District, through the Case Manager, and Teacher 1 sent weekly updates regarding the Student's school work and observed behaviors. The District agreed to provide weekly updates for the

family thereafter. The Student's teachers spoke with the Student during the meeting on how best to communicate with the Student as well as reminding the Student of their ability to take breaks, and discussed other strategies to assist the Student. The Student participated in the meeting, asking clarifying questions about the use of calming strategies and IEP accommodations.

19. As the result of the November 8, 2022, IEP team meeting, the Student's IEP was updated. The Student's November 8, 2022, IEP indicated that the Student was then in the 7th grade and spent the majority of their day in the general education setting. The Student attended two classes per day in the resource setting where they received small group and individualized instruction.
20. The Student's IEP includes the following concerns of the Parent: "[The Student's] family is very involved in [the Student's] education and wants to help [the Student] be successful at home and school. They want to make sure that teachers understand [the Student's] unique needs and that [the Student] needs extra supports in [the Student's] classes. [The Parent] is pleased that [the Student's] annual IEP is being moved up, and that the team can all get on the same page earlier in the school year."
21. The Student was then receiving academic instruction in the general education classroom. The Student was performing at the fifth grade level in math while working on 7th grade curriculum. In reading, the Student was reading 107 words correct per minute with 100% accuracy, where grade level proficiency for a 7th grade student was 150 correct words per minute. The Student was able to write basic sentences, and performed at grade level in spelling. The Student received additional assistance in writing in a modified small group English/language arts class in the resource setting. Additionally, the Student received weekly instruction in social skills. The Student no longer received life skills classes, but continued to socialize with friends from the life skills classroom. The Student received speech services once per week, occupational therapy services, and sensory self-regulation services.
22. The Student's IEP included measurable annual goals in several areas. The Student's goal in mathematics included that within 36 instructional weeks, given a probe containing multi-step word problems, long division problems, and multiplying fractions and decimal problems, the Student would be able to solve them with 80% accuracy.
23. The IEP also included various supplementary aids and services, including access to a preferred adult for breaks, grades determined by both special education and general education teachers, access to sensory supports, tests administered in quiet areas, multiplication charts and calculator, and use of agreed upon common/consistent language. The IEP also contained supplementary aids and services such as, using notes to complete tests, use of drawing boards, additional time to complete writing assignments, paper copies of notes, overheads, slides, and encouraging the Student to take pictures or screenshots of lessons to encourage learning over note taking. Additionally, the Student was afforded

abbreviated assignments, tests, and quizzes, a visual schedule, access to a resource room/learning lab, text to speech/speech to text services, and an opportunity for movement breaks.

24. On December 1, 2022, Family Member 1 contacted the District about completed assignments not showing up in the online grading portal as part of the Student's assigned work. On December 2, 2022, Teacher 2 responded by email pledging to address the issues and work with the Student on incomplete assignments.
25. On December 6, 2022, Teacher 2 sent an email to Family Member 1, reporting that the Student became upset when asked to complete work they did not have advance notice of. Teacher 2 reported that later in the day the Student became upset regarding the perception that classmates were looking at them. That incident escalated into screaming and attempting to physically confront the classmates. Teacher 2 reported that the District was successful in calming the Student and that the Student finished the day without further incident.
26. On December 6, 2022, Family Member 1, in response to the email from Teacher 2, asked for further clarification about the attempted physical confrontation.
27. On December 7, 2022, Teacher 2 provided a more detailed explanation of the events of December 6, 2022, writing in relevant part that the Student "was frustrated and felt like the [classmates] were staring at [the Student], the [classmates] told [the Student] they weren't staring. [The Student] then stood up, pushed the desk, started screaming, and moved around the table toward one of the [classmates] with [their] hands up."
28. On December 7, 2022, Family Member 1 sent an email to the District disputing the District's characterization of the Student's behavior on December 6, 2022 and asking for more accuracy. Family Member 1 wrote in part, "...I have an expectation that you can deliver a story with accuracy, without bias and no exaggeration. This needs to be addressed because it is the second time receiving an email explaining a situation where [the Student's] intent is misconstrued and twisted with someone else's *[sic]* bias...when you say [the Student] went after a student physically, I'm expecting to hear that [the Student] laid hands on a student, such as pushing, hitting, anything of that nature." Family Member 1 went on to ask why the District did not intervene in the Student's behavior before the situation escalated. Family Member 1 went on to question whether the Student's IEP was being followed. Family Member 1 asked the District to answer whether the Student's teachers were not following the Student's IEP, or if the December 6, 2022, situation was the result of "exaggeration" and "someone else's malice."
29. On December 12, 2022, Family Member 1 sent an email to Teacher 1, Teacher 2, and others in the District asking for a response to their December 7, 2022 email questioning the District's characterization of the December 6, 2022, events. Family Member 1 also expressed interest in reviewing the Student's IEP with Teacher 1.
30. On December 12, 2022, Teacher 1, responding to Family Member 1's email, stated

that they were coordinating a meeting time.

31. On December 15, 2022, the Principal responded to Family Member 1, suggesting January 5, 2023 for an IEP meeting.
32. On December 15, 2022, Family Member 1 sent an email to the District suggesting that some parts of the conversation among IEP team members were not accurate or complete. Family Member 1 suggested that inaccuracies regarding the conversation were part of their overall concerns that statements made by District staff in email and at IEP meetings could have an impact on the Student's academic record due to what Family Member 1 suggested were "exaggerations" around reports "implying violence" and thereafter requesting "pure facts, not opinions, half truths [*sic*]..." included in documents related to the Student.
33. On January 10, 2023, Teacher 1 sent an email to the Parent, explaining that the Student did not then have a behavior plan. Teacher 1 explained that behavior plans were generally implemented "for students who have constant behavioral incidents which impede their ability to learn. [The Student] does not currently have constant undesirable behaviors and they [*sic*] when [the Student] does have an incident they don't take away from [the Student's] ability to learn."
34. On January 11, 2023, the Parent asked that the District continue to communicate through Family Member 1, as the Parent does not check their email frequently.
35. On January 11, 2023, Family Member 1 asked further clarifying questions regarding the Student's "behavior plan" and that the District had referred to such a plan in explaining that the Student's teachers reference such a document in learning to approach the Student. Family Member 1 went on to ask for clarification whether such a plan was "for teachers, on how to deal with a problem or to help the kids that need extra help and enlighten the teachers how to do so?"
36. On January 11, 2023, the County Health Worker responded to the email thread between the District and Family Member 1 regarding the "behavior plan" with clarifying details. The County Health Worker wrote in part, "It's quite common (and can cause a lot of confusion!) to find that we use the same terms for things that vary quite a bit across settings. So in this case, I believe the behavior plans that schools develop for students are likely to be entirely different documents than the behavior plan (a Positive Behavior Support Plan) that a Behavior Professional...has written for [the Student]." The County Health Worker went on to apply their explanation to Teacher 1's, January 10, 2023, email explanation regarding how the District may use the term "behavior plan." The County Health Worker further suggested that it might be beneficial to include language in the Student's IEP instructing teachers to look for behavioral triggers, and "collaboration between school and Behavior Professional..." The County Health Worker referenced a behavior plan created by a Community Behavior Specialist then working with the family.
37. On January 11, 2023, Teacher 1 responded by email, agreeing with the County Health Worker's explanation of the difference between "behavior plans" and how

the term may be used and applied in various scenarios. Teacher 1 noted that the Student has an educational assistant present who can redirect the Student in the most challenging classes. Teacher 1 went on to express interest in working with the Community Behavior Specialist in developing an “informal behavioral guide” to assist teachers working with the Student. Teacher 1 noted that the Student, “has some undesirable behaviors but they are few and far between.” Teacher 1 further noted that the Student was capable of staying regulated when the Student’s IEP accommodations were provided. Teacher 1 also communicated that they were then working on a weekly communication form to better communicate the Student’s needs and progress to the family on an ongoing basis.

38. On January 11, 2023, the Parent sent an email to the District communicating that the family had officially added Family Member 1 as a guardian for the Student, and providing consent to the District to share educational information with Family Member 1.
39. On January 13, 2023, Teacher 1 sent an update to Family Member 1 and the Parent, communicating that the Student was then doing well, and that existing support systems appeared to be working for the Student.
40. On January 21, 2023, the Parent, responding to Teacher 1’s January 13, 2023, email, suggested that Teacher 1 include in the Student’s list of late work any other expectations that the Student’s teachers have of the Student, so that the Student might better understand what is expected from assignments.
41. On January 30, 2023, the Parent, sent an email to Teacher 1, asking for an update on the Student’s weekly progress, observing that the family had not received a weekly update for the Student.
42. On February 6, 2023, the Parent sent an email to Teacher 1 asking about the Student’s progress the following week and whether the Student was “still struggling at school with understanding [their] homework load.”
43. On February 6, 2023, Teacher 1, responding to the Parent’s email, explained that they did not see a need for a weekly update as the prior week was the end of the semester and grading period. Teacher 1 observed that the Student was, “doing so well” at that time. Teacher 1 went on to explain that the Student gained an understanding of the prior math unit and was then “consistently utilizing [their] time in study skills...”
44. On February 9, 2023, the Parent sent an email to the District seeking a meeting between themselves, the Principal, the County Health Worker, the Community Behavior Specialist, and Family Member 1. The Principal, responding to the Parent, agreed to schedule a meeting and inquired about the purpose of the meeting. The Parent explained the purpose of the suggested meeting was to address several issues, such as why information wasn’t “getting back to [the family].” The Parent asked about a specific situation coming to the Principal’s attention, whether it was appropriate to question the Student about material the Student may have accessed

electronically, and why such issues were not reported to the family.

45. On February 10, 2023, Teacher 1 sent an email to the Parent and Family Member 1, reporting that the Student was then doing very well, that the Student had on that day displayed difficulty with “exponents and graphing,” and was having some difficulty accepting help. Teacher 1 further reported having provided assistance to the Student’s math teacher in supporting the Student. It was further reported that the Student became dysregulated later in the day. Teacher 1 explained that their concerns were the Student’s refusal to take a break earlier in the day and not accepting help.
46. On February 10, 2023, Teacher 1 sent an additional email to the Parent and Family Member 1, reporting that the Student, “had a huge turn around” after Teacher 1 sent the earlier email. Teacher 1 reported that the Student worked collaboratively on challenging math problems and suggested a different approach to a challenging assignment in another class.
47. On February 10, 2023, the Principal, the Parent, and Family Member 1 agreed to meet on February 16, 2023 to discuss the concerns raised by the Parent in their February 9, 2023, email.
48. On February 16, 2023, the Parent and Family Member 1 met with the Principal to discuss their concerns, especially the District’s model of including students receiving special education into the general education environment.
49. On February 18, 2023, Teacher 1 sent an email to the Parent, reporting that the Student was doing very well in school. Teacher 1 reported that the Student was then one of the top math students for that school year and was working well in other classes and accepting support. Teacher 1 reported that the Student had good grades, no missing assignments, and was staying regulated and expressing needs before becoming overwhelmed.
50. On February 24, 2023, Teacher 1 sent an email to the Parent and Family Member 1 with the Student’s weekly update. Teacher 1 included strategies the District and the Student were using to address concerns raised by the Student regarding how to handle the behavior of classmates.
51. On February 27, 2023, Family Member 1, responding to Teacher 1’s February 24 email, questioned whether a change in academic placement to more special education classes and environments would be preferable for the Student over more inclusion in the general education environment.
52. On February 27, 2023, Teacher 1, responding to Family Member 1’s questioning of a change in placement, responded that the District utilized an inclusion model where students are placed in general education classes “unless they cannot due to aggressive behaviors and can’t communicate effectively enough.” Teacher 1 went on to explain that students placed in the functional life skills classrooms are often working on skills as toileting and hygiene, and that this was likely not an appropriate

placement for the Student, but that Teacher 1 looked forward to discussing these concerns in more detail at the Student's upcoming meeting.

53. On February 28, 2023, the Parent, responding to Teacher 1's February 27, email expressed their skepticism over whether Teacher 1 heard the family's concerns regarding educational placement and that the District was "not providing solutions to the lack of support in the classrooms." The Parent went on to write that past discussions regarding modifications for the Student in the general education environment did not appear sufficient to support the Student or were not individualized enough for the Student. The Parent further noted that the Student appeared more comfortable around special education peers than general education peers, and that the inclusion model as currently implemented appeared to be damaging to the Student. The Parent went on to write that they perceived the distinctions made by Teacher 1 between the special education and general education environment as suggesting that Teacher 1 was speaking of special education students in a disapproving manner. The Parent went on to write that they had doubts about the Student remaining in the general education environment. The Parent also suggested that the District and Teacher 1 had suggested in past IEP team meetings that the Student's needs could not be met or accommodated in the general education environment.
54. On February 28, 2023, Teacher 1 responded to the Parent's email, expressing a willingness to discuss their concerns further.
55. On February 28, 2023, Family Member 1 sent an email to the Principal, expressing concerns regarding Teacher 1's depiction of the special education environment and suggesting that the Student might benefit from being in class with other students experiencing autism.
56. On March 1, 2023, the District sent the Parent a notice regarding the March 3, 2023, IEP meeting. This meeting notice included a list of participants, listing the District's Instructional Coach, the Director of Student Services, and teachers providing instruction to the Student.
57. On March 2, 2023, the Principal, responding to Family Member 1's February 28, email, explained that Teacher 1's role as the Student's Case Manager was to monitor and articulate their observations regarding the Student's progress to address necessary adjustments in the educational environment. The Principal further highlighted the role of the Parent in the educational decision-making process.
58. On March 3, 2023, the IEP team met to review the Student's progress and to address concerns raised by the Parent and Family Member 1. During this meeting, Teacher 1 described the academic progress made by the Student. The Parent shared their concerns regarding songs learned from peers and ways the District and the Parent might address the influence of peers, including moving to homeschooling. The IEP team discussed focusing on social norms with the Student during the Student's small group instruction periods. The Parent voiced concern

with the Student's level of stress and anxiety displayed at home. The Parent suggested a change of educational placement from the general education environment to a self-contained special education classroom as a means of limiting the influence of classmates. The IEP team discussed that neither the Student's behavior nor their academic progress warranted a change in placement. To address the concerns of the Parent, the District suggested a change in the Student's schedule whereby the Student would receive small group instruction and other existing educational supports prior to attending certain academic classes in which the Student displayed frustration.

59. On March 6, 2023, Teacher 1 sent an email to Family Member 1, observing that the Student had not completed work toward a math assignment. Teacher 1 suggested that Family Member 1 assist the Student at home ahead of an upcoming quiz, and provided some suggestions for how that might be accomplished. Teacher 1 also suggested how Family Member 1 might shorten the assignment for the Student.
60. On March 6, 2023, Family Member 1, responding to Teacher 1's email, asked how the Student had gotten behind with their school work. Family Member 1 also questioned whether the Student's general education teachers were appropriately supporting the Student, based on the observations Teacher 1 made in their email earlier in the day. Family Member 1 asked that Teacher 1 ensure that general education teachers do a better job of supporting the Student's special education needs generally.
61. On March 7, 2023, Family Member 1 forwarded the February 6, 2023 email between themselves and Teacher 1 to the Principal.
62. On March 7, 2023, Teacher 1 sent an email to Family Member 1, explaining their understanding that the Student preferred to work on a tablet rather than on paper copies, but that if Family Member 1 preferred to see paper copies of assignments they could provide that. Teacher 1 went on to explain how the Student may have conflated one type of assignment with another.
63. On March 7, 2023, Family Member 1 shared their recollection of the January IEP meeting to include the provision of hard copies of assignments, rather than electronic copies. Family Member 1 further expressed concern that the electronic versions of assignments may not accurately display modifications made by teachers, and also asked for clarification around the District's understanding of "inclusion" as that applies to students with IEPs in the general education environment.
64. On March 7, 2023, Teacher 1 reported that the Student was mostly caught up with their assignments and suggested ways the family might provide support at home to assist the Student.
65. On March 8, 2023, Family Member 1 sent an email to Teacher 1, expressing an interest in ensuring that the Student did not fall behind with their academic assignments. Family Member 1 explained their recollection of past meetings with

the District where the family expressed that they had not yet decided whether to advocate for a change in educational placement for the Student. Specifically, Family Member 1 wrote that they family did not want the Student to fall “behind academically in order to get emotional support.” Family Member 1 shared that they disagreed with changes made to the Student’s educational program and that those changes were not in alignment with opinions previously expressed in IEP team meetings.

66. On March 8, 2023, Teacher 1 sent an email to Family Member 1 outlining their understanding of discussions at prior IEP team meetings regarding the Student’s schedule. Teacher 1 expressed that if Family Member 1 wanted the Student’s schedule changed back to what it was the prior week, the District could accommodate that.
67. On March 10, 2023, Teacher 1 sent an email to the Family Member 1 reporting that the Student was current with their assignments.
68. On March 13, 2023, Family Member 1 requested a meeting with Teacher 1 for March 17, 2023, which Teacher 1 agreed to.
69. On March 17, 2023, the Parent and Family Member 1 met with the Principal to discuss their concerns with the Student’s education.
70. On March 20, 2023, Teacher 1 sent an email to the Parent and Family Member 1 with the notes from their March 17, 2023, meeting.
71. On March 20, 2023, in response to the notes sent by Teacher 1, Family Member 1 provided annotations to the notes. Family Member 1 also asked who the family should expect to receive updates from in the future.
72. On March 22, 2023, Family Member 1 reported that the Student came home upset, reporting that they were overwhelmed by weekly tests in general education classes. Family Member 1 reported that the Student found the tests difficult and did not know what was on the tests. Family Member 1 asked if the District could send hard copies of the lessons from these classes with the weekly updates for the Student. Family Member 1 further expressed doubt whether general education teachers were appropriately preparing the Student for these tests.
73. On March 22, 2023, the Principal sent an email to the Parent and Family Member 1, agreeing to provide hard copies of assignments from the Student’s general education classes as Family Member 1 had requested.
74. On April 3, 2023, Family Member 1 sent an email to the Principal, asking why the Student’s schedule was not changed to accommodate recent requests from the family. In response, the Principal indicated that the quarter did not match the Spring Break period, but that the schedule change would be implemented with the end of the quarter.

75. On April 4, 2023, Family Member 1 and the Parent asked the Principal for a meeting with all of the Student's teachers. In response, the Principal suggested that such a meeting occur once the Student's new schedule was implemented.
76. On April 7, 2023, Teacher 1 sent an email to the Parent and Family Member 1, reporting that the Student was current on all assignments. Teacher 1 reported the academic concepts the Student was then struggling to grasp. Teacher 1 also reported an upcoming change in the Student's schedule, including classes that the Student requested to join.
77. On April 10, 2023, Family Member 1 sent an email outlining the goals for a meeting with the Student's teachers. Family Member 1 hoped to promote "accountability" from the Student's teachers and to hear from each of the Student's teachers how they envisioned the proposed schedule change would benefit the Student. The family also hoped to hear from the Student's general education teachers about their understanding of the idea of "inclusion" with reference to students receiving special education services within the general education environment.
78. On April 11, 2023, the Principal sent an email to the Parent and Family Member 1, suggesting that they attend parent/teacher conferences as a means of meeting with the Student's teachers.
79. On April 11, 2023, Family Member 1 suggested a meeting with more District teachers and administrators instead. Family Member 1 suggested that this was needed because the Student's IEP "needs to be written to reflect what the teachers [sic] plans are with [the Student] because right now it doesn't reflect [the Student's] current levels and current needs geared towards inclusivity." Family Member 1 went on to write that they "want the teachers prepared for the meeting with their plan on inclusion and what they will be telling [the Student] they will be doing. This is all to rewrite the IEP, and to have the teachers accountable on their own plans on how they will move forward to avoid past issues weve [sic] had since september. [sic]"
80. On April 12, 2023, the Principal sent an email to the Parent and Family Member 1, suggesting a meeting with themselves, the Director of Student Services, and a District Instructional Coach, to address the concerns raised by Family Member 1 in their April 11, 2023, email. Family Member 1 responded later that day expressing gratitude for the suggested meeting and suggested dates for the meeting.
81. On April 12, 2023, Teacher 1 sent an update to the Parent and Family Member 1, reporting that the Student completed the quarter successfully and had no new assignments. Teacher 1 reported that the Student had become "somewhat dysregulated" that morning and afternoon. Teacher 1 identified two occasions where the Student may have become self-conscious, leading to dysregulation, but that on both occasions the Student successfully regained their composure.
82. On April 12, 2023, Family Member 1 forwarded the email from Teacher 1 to the Principal, asking for a meeting with teachers to address the Student's dysregulation in Teacher 1's class and the Student's math class. Family Member 1 further

described their skepticism with the accuracy of reports regarding the Student's episodes of dysregulation.

83. On April 17, 2023, Family Member 1 sent an email to the Principal reporting that the Student had difficulty the night before worrying about classes. Family Member 1 expressed an interest in the Student's general education teachers encouraging the Student to ask questions and considering how the Student would be included in the general education environment.
84. On April 18, 2023, the Parent sent an email to the Principal outlining concerns that the upcoming meeting that the family sought might not accomplish what the family hoped for. The Parent suggested that at prior meetings, they have outlined concerns and were interested in hearing what District staff would do differently to address those concerns. That Parent specified that they wanted the Student's IEP rewritten, or for teachers to address how they would implement the Student's IEP accommodations.
85. On April 19, 2023, the Parent sent an email to the Principal expressing concerns that including the Principal's suggested meeting participants may be a deviation from past meeting participant requests from the Parent. The Principal responded to the Parent's email, identifying the staff members they felt would be most appropriate to meet with the Parent and Family Member 1 to address their concerns.
86. On April 21, 2023, Teacher 1 sent an email to the Parent and Family Member 1, providing an update on the Student's academic progress. The Student was mostly up to date on assignments. Teacher 1 also explained how the Student's assignments and expectations would be modified due to lessons missed in the past.
87. On April 21, 2023, Family Member 1 sent an email to Teacher 1, thanking them for the update, and inquiring about classmates who assist the Student so that the family could better understand the Student's school day. Family Member 1 further praised the style and content of their April 21, 2023, email update Student and expressed a desire that the District would use a similar email format in the future.
88. On April 25, 2023, Teacher 1 sent an email to the Parent and Family Member 1, reporting about their conversation with the Student regarding how and under what circumstances the Student could access the learning lab. Teacher 1 explained that the Student could access the learning lab when the Student needed a break, academic support, or felt anxious or upset.
89. On April 28, 2023, Teacher 1 sent an email to the Parent and Family Member 1 with the Student's weekly update. The Student did not have any missing work, and Teacher 1 did not report any issues of dysregulation.
90. On April 29, 2023, Family Member 1, responding to Teacher 1's update, provided other ideas to assist the Student, such as the use of noise cancelling headphones, and that the Student was interested in hearing positive feedback from teachers. On April 29, 2023, Teacher 1, responding to Family Member 1, observed that the

supports suggested by them, such as noise cancelling headphones, were available, but that the Student often chose not to utilize these supports.

91. On May 1, 2023, Teacher 1 sent an email to the Parent and Family Member 1, reporting that the Student had become dysregulated that day. The Student's behavior appeared to the District to be in response to difficulty with a specific math problem. Teacher 1 indicated that the Student threw their tablet and water bottle and slammed their hands on the desk and yelled. Teacher 1 also reported that the Student was able to regain their composure. Teacher 1 further reported that this was "not a big deal, these tantrums happen." Teacher 1 also provided an example of the specific math problems that the Student found difficult.
92. Family Member 1 asked for more detail regarding the Student's episode of dysregulation that day. Family Member 1 wrote in part, "can you explain to me what pushed [the Student] that far to throw things, we all know [the Student] doesn't throw tantrums out of the blue and there is always an underlying cause." Teacher 1 reported that the Student had become frustrated in math class that morning, and provided specific details regarding how the Student responded to staff attempts to help them with the specific math problem that appeared to have led to the Student's dysregulation. Family Member 1 responded, thanking Teacher 1 for the added detail and commitment to work with the Student on the math concepts underlying the behavior displayed.
93. On May 4, 2023, Family Member 1 sent an email to Teacher 1, detailing skills that has helped the Student with the specific math concepts that were difficult for the Student.
94. On May 5, 2023, Teacher 1 emailed the Students weekly update to the Parent and Family Member 1. Teacher 1 provided updates regarding the Student's academic progress and outstanding assignments.
95. On May 8, 2023, Teacher 1 sent an email to the Parent and Family Member 1, providing further details to the May 5, 2023, weekly update. Teacher 1 explained that other administrative duties had delayed the full update from May 5. Teacher 1 further reported that the Student had become upset in class that day due to their perception that classmates could see pictures visible on the Student's tablet. Teacher 1 reported that the Student took a break and was able to successfully continue with class. Teacher 1 also suggested, in response to the understanding that the Parent and Family Member 1 wanted to meet with each of the Student's teachers, that the family attend parent/teacher conference held each semester.
96. On May 9, 2023, Teacher 1 emailed the Parent and Family Member 1 about an instance where the Student became dysregulated. Teacher 1 reported that the Student became upset following the loss or misplacement of personal property. Teacher 1 reported that the Student was upset and believed that the personal property had been stolen. The Student was also concerned they would be in trouble for losing the personal property. Teacher 1 also reported a possible bullying incident toward the Student from a classmate. Family Member 1, responding to Teacher 1's

email, observed that the “unknown of something new causes alot [*sic*] of anxiety...”

97. On May 12, 2023, Teacher 1 sent an email to the Parent and Family Member 1 to coordinate a meeting with the family and the Student’s teachers. Family Member 1 responded that they were most interested in meeting with the Student’s math teacher.
98. On May 12, 2023, Teacher 1 sent the Parent and Family Member 1 an update on the Student’s weekly progress.
99. On May 17, 2023, Teacher 1 sent an email to the Parent and Family Member 1 proposing a May 19 meeting date. Family Member 1 confirmed the meeting date.
100. On May 19, 2023, Teacher 1 sent an email to the Parent and Family Member 1, alerting them to the cancellation of the meeting that day due to scheduling issues. Family Member 1 asked that Teacher 1 inform the Student of this change because the Student had prepared for the meeting.
101. On May 22, 2023, Teacher 1 sent an email to the Parent and Family Member 1, informing the family of a miscommunication with the Student’s math teacher about scheduling a meeting. Teacher 1 offered to reschedule the meeting with the family if the family wanted the Student’s math teacher present. Family Member 1 suggested that Teacher 1 had not taken appropriate care in scheduling the meeting for the family to meet with the Student’s teachers. Family Member 1 went on to characterize their current concerns as a pattern of behavior by Teacher 1 that the family was not satisfied with. Family Member 1 further expressed their dissatisfaction with the time taken to schedule a meeting with the Student’s teachers.
102. On May 23, 2023, the Director of Student Services wrote that they were willing to address the family’s concerns and further expressed that the delay in scheduling a meeting was due to miscommunication rather than ill will.
103. On May 26, 2023, Teacher 1 sent an email to the Parent and Family Member 1 providing an update on the Student’s progress for that week. Teacher 1 offered a further apology for the miscommunication around scheduling a meeting with the Student’s math teachers, explaining that the math teacher had a field trip planned for the proposed meeting day.
104. On May 29, 2023, Family Member 1 expressed overall frustration with perceived deficiencies on the part of Teacher 1 and the District throughout the school year. Family Member 1 requested that the District schedule a meeting with each of the Student’s teachers and the Student, where the teachers would tell the Student “how they will change to be inclusive.” Family Member 1 further wrote that the family wanted a meeting before classes started for the 2023-24 school year “where the teachers are prepared to tell [the Student] what inclusive will mean for [the Student] in their class.”

105. On May 30, 2023, Teacher 1 agreed to work toward scheduling such a meeting with the Student's teachers in August 2023.
106. On June 2, 2023, Teacher 1 provided a weekly update on the Student's progress to the Parent and Family Member 1.
107. On June 8, 2023, Family Member 1 sent an email to Teacher 1 and the Principal, addressing behavior exhibited by the Student and reported by the Student to the Family Member 1 at the end of the school day. Family Member 1 expressed the opinion that the Student's self-advocacy "got twisted into [the Student] arguing." Family member 1 went on to ask for a detailed account of the day's events from the teacher's perspective.
108. On June 9, 2023, Teacher 1 provided an explanation of the prior day's events, writing that the Student had become dysregulated in math class. Teacher 1 related that the Student began accusing classmates of looking at their tablet as they began doing independent work and shouting at classmates. Teacher 1 noted that this was the second day in a row that the Student had accused classmates of looking at the Student's tablet during class. Teacher 1 explained the process that staff used to help the Student calm down.
109. On Jun 9, 2023, Family Member 1 explained that the Student felt unheard, and that they would like an opportunity to explain how that impacts the Student.
110. On June 9, 2023, Teacher 1 sent an email to the Parent and Family Member 1, with the Student's weekly update. Included with this update was a summary of the Student's dysregulation in math class.
111. On June 20, 2023, the Parent filed this Complaint.
112. On July 25, 2023, the Complaint Investigator interviewed the Parent and Family Member 1. Family Member 1 and the Parent explained their dissatisfaction with the District's implementation of the Student's IEP, as evidenced by behaviors exhibited by the Student. The Parent and Family Member 1 had expressed these concerns to the District during the February 28, 2023, and March 7, 2023, IEP team meetings. Specifically, the family raised concerns that the Student's IEP was not, or could not be, effectively implemented in the general education environment. The family pointed to incidents of dysregulation in the general education environment as support of their concerns.

As part of this interview, the Parent and Family Member 1 reported that the March 3, 2023, IEP team meeting included participants that were not previously involved with IEP team meetings. The Parent and Family Member 1 identified the Student's Instructional Coach and the District's Director of Student Services as new participants. Family Member 1 and the Parent further expressed displeasure regarding their attendance.

113. On July 31, 2023, the Complaint Investigator interviewed the Director of Student

Services regarding the concerns raised in this matter. During the interview, the Director observed that the family had expressed concerns about the Student's educational placement at the IEP meeting held on March 3, 2023. The family questioned whether a change to a more restrictive placement was appropriate for the Student. In response, the Director of Student Services recalled members of the Student's IEP team explaining that, at that time, the Student performing well both academically and behaviorally.

The Director of Student Services recalled that the Student's IEP team did not support a change of educational placement to a self-contained special education classroom. However, given the family's concerns about the Student's behavior in school and potential anxiety and discomfort with the current educational placement as manifested in behaviors at home, the District agreed at the March 3, 2023 IEP team meeting, to change the Student's schedule. This schedule change would afford the Student access to support from Teacher 1, and the access to the Resource Room, at different times during the school day, both of which were existing IEP services.

The Director of Student Services further noted that the incidents of dysregulation exhibited by the Student were considered comparatively minor by the Case Manager and Teacher 1, that the Student usually showed the ability to regulate themselves on those occasions, and if the Student was unable to do so District staff was always able to assist the Student in regulating their behavior. The Director of Student Services noted that the Student had exhibited approximately five instances of dysregulation for the 2022-23 school year and that few of these were concerning for the Student's IEP team.

IV. DISCUSSION

When IEPs Must Be In Effect

The Parent alleged that the District violated the IDEA when it did not provide modified work to the Student, nor send home school work, nor provide paper copies of homework, in conformity with the Student's IEP. The Parent also alleged that the District did not make the Student's IEP accessible to general education teachers, nor inform general education teachers of their specific responsibilities for implementing the Student's IEP. Additionally, the Parent alleged that the District did not collect reports of behavior incidents occurring in general education classrooms, nor send reports of the Student's behavior incidents to the Parent as outlined in the Student's IEP. The Parent alleged that the requirement that the District collect behavior incident reports was added to the Student's IEP at a March 17, 2023, IEP team meeting.

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. Districts must also 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.³

The Student's IEP indicated that the Student's school work would be modified by Teacher 1. The evidence in the record shows numerous emails where the family questioned how or whether the Student's assignments in the general education classroom would be modified. Teacher 1 responded to the inquiries about modifications to the Student's work, from the Parent and Family Member 1 on September 27, 2022, October 13, 2022, February 28, 2023, March 7, 2023, and April 21, 2023. The Student's IEP team discussed the specifics of modifications made to the Student's school work occurring during small group work in the special education classroom by Teacher 1 at the November 8, 2022 IEP team meeting. Teacher 1 also provided weekly email updates to the family that routinely included notes regarding modifications to the Student's assignments.

The Student's IEP did not specify that the District would provide paper copies of homework. Rather, the District and Teacher 1 informally agreed to provide paper copies of work provided to the Student when the family had difficulty accessing or reviewing school provided to the Student through the Student's tablet. There is no evidence in the record that the Student's general education teachers did not have access to the Student's IEP. Rather, on the occasions that the Student displayed dysregulated behavior, the Parent questioned whether the behavior was the result of teachers not implementing the Student's IEP.

The evidence in the record includes emails from the District to the Parent regarding behavior incidents involving the Student. The District documented incidents of dysregulation by the Student on, December 6, 2022, February 10, 2023, April 12, 2023, May 1, 2023, May 9, 2023, and June 9, 2023. Most of these appeared to involve the Student becoming frustrated with school work, or developing a perception that classmates were watching or regarding them in some manner. The December 6, 2022, incident appeared to be the biggest display in which the Student left their seat and approached classmates. The District documented that the other instances often involved the Student initially refusing assistance or a break, but that the incidents of dysregulation all ended with the Student recognizing the need for, or accepting redirection. In all but one instance the Student was able to continue in class after calming themselves.

On January 10, 2023, Teacher 1 sent an email to the Parent indicating that the Student did not display consistent undesirable behaviors in the classroom warranting further intervention or a behavior support plan. In December 2022, the Parent and Family Member 1 challenged the wording or characterization of a behavior incident described by the District. The record contains evidence of near weekly correspondence with the Parent and the District regarding the Student's progress, including any behavior concerns during that time.

Furthermore, the Student's IEP does not indicate that the District would send reports of behavior incidents, however the District had agreed informally to provide updates to the

³ OAR 581-015-2220(1)—(3)

Parent. As observed above, the Parent and Family Member 1 questioned the wording or characterization of the events of December 6, 2022, but there is no evidence in the record that the District did not inform the family of incidents of dysregulation. Incidents of dysregulation on the part of the Student, occurring following the March 17, 2023, meeting with the Student's Principal, were however, reported to the Parent.

The record in this matter does not support that the District did not provide modified work to the Student, rather the record contains instances of the Parent questioning how to access or review the Student's work through the District's digital platform. There is no evidence in the record that general education teachers were unaware of the Student's accommodations; rather, despite accommodations and modifications, the Student on occasion became frustrated in class. While not required by the Student's IEP, the District did provide reports of instances of the Student's dysregulation in class. The March 17, 2023, meeting was not an IEP team meeting but rather an informal meeting with the Principal to address concerns raised by the Parent.

The Department does not substantiate this allegation.

IEP Team Considerations and Special Factors

The Parent alleged that the District violated the IDEA when the District did not include in the Student's IEP, the Parent's concerns for enhancing the education of the Student, specifically the Parent's concerns regarding the Student's behavior that could be helpful to staff. The Parent further alleged that the District did not consider the use of positive behavior interventions and supports to address behavior exhibited by the Student that impeded the Student's education.

In developing, reviewing, and revising a child's IEP, the IEP team must consider the strengths of the child, and the concerns of the parents for enhancing the education of their child. For a child whose behavior impedes the child's learning or that of others, the IEP team must consider the use of positive behavioral interventions and supports, and other strategies to address that behavior.⁴

During the November 8, 2022, IEP team meeting, the Parent and Family Member 1 expressed concern about whether behaviors exhibited by the Student would lead to classmates fearing the Student. These concerns appear to be the result of the Student repeating, out of context, phrases or songs heard from classmates or in the community. The Parent and Family Member 1 voiced concern about the Student repeating this information at home and the potential impact to the Student in the educational environment if classmates were to form an unfavorable opinion of the Student. During the meeting, which the Student attended, the Student's IEP team discussed with the Parent and the Student, accommodations in the Student's IEP to assist the Student in addressing situations where they may become frustrated. During the March 3, 2023, IEP team meeting, the Parent also suggested that the Student may be better served in a homeschooled environment where they could avoid the social influence of classmates. The Student's IEP team observed that the Student had relatively few behavior concerns and was then performing well academically.

⁴ OAR 581-015-2205(1)—(3)

The Department does not substantiate this allegation.

Placement of the Child

The Parent alleged that the District violated the IDEA when the Student's educational placement was changed by staff without the inclusion of the Parent or others knowledgeable about the Student. The Parent alleged that they discussed this concern with the District on March 17, 2023.

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 placement options. A child's educational placement determination should be made in conformity with the Least Restrictive Environment (LRE) provisions of OAR 581-015-2240 to 581-015-2255. Placement determinations should also be based on the child's current IEP. In selecting the least restrictive environment, consideration should be given to any potential harmful effect on the child or on the quality of services which the child needs.⁵

During the Student's March 3, 2023, IEP team meeting, the Parent suggested changing the Student's educational placement from general education to a self-contained special education environment. The Student's IEP team observed that this would likely be unsuitable for the Student given the relatively minor behavior issues observed and high academic performance. To address the concerns of the Parent, the District discussed a change to the Student's schedule to provide certain existing special education supports and SDI ahead of courses where the Student displayed frustration. This would result in a change to the order of delivery of services, but not quantity of services. The Student's IEP team discussed the unsuitability of a change in educational placement given the Student's academic success in the current educational placement.

The Department does not substantiate this allegation.

Parent Participation—General

The Parent alleged that the District violated the IDEA by not providing notice of meeting participants to the Parent in advance of those participants attending the Student's March 3, 2023, IEP team meeting. It is also alleged that the District did not provide the Parent an opportunity to participate in the educational placement of the Student, when on March 3, 2023, the Student was removed from general education classes. It is alleged that on March 17, 2023, the District acknowledged that this change occurred as the result of the decisions made by two District staff members.

School districts must provide one or both parents with an opportunity to participate in meetings with respect to the identification, evaluation, IEP, and educational placement of the child. School districts must provide parents with written notice of the meeting

⁵ OAR 581-015-2250(1)—(5)

sufficiently in advance to ensure that the parents will have an opportunity to attend. The notice must state the purpose, time, and place of the meeting and who will attend.⁶

On March 1, 2023, the District provided the Parent with a meeting notice for the March 3, 2023, IEP team meeting. That notice listed the meeting participants, including the Director of Student Services and the Student's Instructional Coach, as well as other relevant general education and special education teachers. During the Parent's interview with the Complaint Investigator, the Parent acknowledged that the meeting participants were known in advance. The Parent explained that they had not wanted the additional meeting participants at the IEP team meeting.

The Department does not substantiate this allegation.

Additional Parent Participation Requirements for IEP and Placement Meetings

It is alleged that the District violated the IDEA when it did not provide the Parent with a copy of the Student's revised IEP following the March 3, 2023 IEP team meeting.

The school district must give the parent a copy of the IEP at no cost to the parent. If the parent does not attend the IEP meeting, the school district must ensure that a copy is provided to the parent.⁷

The Parent alleged that the District neglected to provide them with a copy of the Student's IEP following the March 3, 2023, IEP team meeting. The Parent alleged that the District made alterations to the Student's educational placement and schedule at this meeting that should have been reflected in the Student's IEP. That Parent further alleged that the District did not provide them with a copy of the Student's IEP reflecting those changes. The Director of Student Services reported to the Complaint Investigator that the District had not made changes to the Student's educational placement. Rather, in response to the Parent's concerns, the District made changes to the Student's schedule to allow them to access to Teacher 1 and the Resource Room earlier in the school day. The Director of Student Services understood that this was done on a trial basis to determine whether the Student would benefit from a change in the time during the day when the Student accessed existing IEP accommodations. The Director of Student Services indicated that because this change to the Student's schedule did not impact their IEP goals or accommodations, no change to the Student's November 8, 2022, IEP was needed or made.

The Department does not substantiate this allegation.

VII. CORRECTIVE ACTION

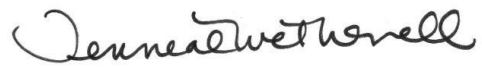
In the Bend-La Pine Administrative School District 1 Case No. 23-054-024

The Department does not order corrective action in this matter.

⁶ OAR 581-015-2190(1)–(3)

⁷ OAR 581-015-2195(5)

Dated: this 18th Day of August 2023



Tenneal Wetherell
Assistant Superintendent
Office of Enhancing Student Opportunities

E-mailing Date: August 18th, 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))