

BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of
North Bend School
District 13

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FINDINGS OF FACT,
CONCLUSIONS,
AND FINAL ORDER
Case No. 23-054-026

I. BACKGROUND

On July 6, 2023, the Oregon Department of Education (the Department) received a written request for a special education complaint investigation from an advocate (Advocate) for the parents (Parents) of a student (Student) who last attended school in the North Bend School District (District) during the 2021-22 school year. The Complaint requested that the Department conduct a special education investigation under OAR 581-015-2030. The Department confirmed receipt of this Complaint and noted that the Advocate copied the District on the emailed Complaint documents.

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 July 18, 2023, the Department's Complaint Investigator (Complaint Investigator) sent a *Request for Response (RFR)* to the District identifying the specific allegations in the Complaint to be investigated and establishing a *Response* due date of August 1, 2023.

When submitting the Complaint in this case, the Complainant submitted the following relevant items:

1. Suspension appeal email, 11/23/23
2. State of Oregon Circuit Court Order, 8/12/22
3. Record of Suspensions 2021-2022
4. Email, 5/4/22
5. Staffing Report, 5/16/22
6. FBA & BIP Reports, 5/24/22
7. Prior Written Notice (PWN), 5/25/22
8. Email, 5/10/22
9. Email, 5/5/22
10. Manifestation Determination, 5/11/22
11. Meeting Notes, 5/17/22
12. PWN, 6/3/22
13. Placement determination, 6/2/22
14. Email, 6/22/22 email
15. IEP, 6/2/22 & staffing reports 5/15/22 & 6/2/22

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

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

16. PWN, 6/2/22
17. Email, 5/5/22
18. Meeting notes, undated
19. Meeting notes, 5/17/22
20. Email, 5/25/22
21. Email, 5/26/22
22. Email re education records request, 4/13/23
23. Email, 6/26/23
24. Email, 11/22/21
25. Email, 5/5/22

The District submitted a *Response* on August 1, denying the allegations, providing an explanation, and submitting documents in support of the District's position. The District submitted the following relevant items (several documents from the 2020-21 school year were provided but omitted from this list):

1. District's Written *Response* to Complaint, dated 8/1/23
2. Report Card, 2021-22
3. Eligibility Summary Statement, 10/1/20
4. IEP, 6/2/22
5. IEP Progress Report, 6/13/22
6. Manifestation Determination Review, 5/11/22
7. PWN, 6/3/22
8. PWN, 5/18/22
9. Placement Determination, 6/2/22
10. Consent for Evaluation, 2/23/22
11. PWN, 5/25/22
12. PWN, 6/2/22
13. PWN, 6/3/22 (re recovery services)
14. PWN, 6/3/22 (re homebound instruction)
15. PWN, 5/25/22 (re FBA/BIP updates)
16. Email communication = need to review
17. Meeting Notes, 1/27/22
18. IEP Final Audit Report, 4/14/22
19. District Services Request (for evaluations), 4/14/22
20. Eligibility Determination, 1/11/22
21. Psycho-Educational Evaluation Report, consent signed 11/9/21
22. Physician's School Seizure Protocol, 12/17/21
23. PWN re Consent for Evaluation, 11/2/21
24. Physical Therapy Evaluation, 11/4/22
25. Speech & Language File Review, 1/10/22
26. PWN – consent for initial provision of special education services, 1/11/22
27. Extensive email communication, 1/11/22 through 6/30/23

The Parents, through their Advocate, emailed a *Reply*, on August 7, 2023. The *Reply* included the following documents:

1. Meeting Notes, 5/17/22
2. Email from Department, 6/21/22
3. Email from new facilitator, 6/27/22
4. Email, 8/18/22
5. Coos County Circuit Court Order, 8/12/22
6. Staffing Report, 6/2/22

- 7. Email, 5/14/22
- 8. Email, 6/23/22
- 9. Email thread, 6/17/22- 6/29/22

The Complaint Investigator interviewed by telephone the District’s Attorney on August 21, 2023, as well as the Advocate by phone (the Parents declined to participate in the interview). The Complaint Investigator reviewed and considered all of these documents, interviews, and exhibits in reaching the findings of fact and conclusions of law contained in this order. This order is timely.

II. ALLEGATIONS AND CONCLUSIONS

The Department has jurisdiction to resolve this Complaint under 34 CFR §§ 300.151-153 and OAR 581-015-2030. The Parents’ allegations and the Department’s conclusions are set out in the chart below. The conclusions are based on the Findings of Fact in Section III and the Discussion in Section IV. This Complaint covers the one-year period from July 7, 2022 to the filing of this Complaint on July 6, 2023.

Allegations	Conclusions
<p>1. When IEPs Must Be in Effect (Implementation)</p> <p>The Complaint alleges that the District violated the IDEA by failing to implement the Student’s IEP, as follows:</p> <p>(a) From July 1, 2022 to July 30, 2022 (the “Extended School Year (ESY) program” is alleged to have been “scheduled to run July 10th to August 4th”, 2022), failing to provide ESY services, as set forth in the Student’s IEP dated June 2, 2022.</p> <p>(b) Following the Student’s June 2, 2022 IEP meeting, failing to (1) provide individualized recovery services as discussed during the Student’s June 2, 2022 IEP meeting and reflected in the Prior Written Notice (PWN) dated June 3, 2022; and (2) failing to follow the following statement in the District’s June 3, 2022 PWN: “Due to [the Student’s] current homebound placement, the Team will need to meet again to define which recovery services are needed.”</p> <p>(c) Failing to provide access to communication supports to be delivered by an Augmentative Communication Team Member beginning June 3, 2022 to June 1, 2023, as required by the Student’s IEP dated June 2, 2022.</p> <p>(OAR 581-015-2220; 34 CFR §§ 300.323 & 300.324)</p>	<p>Not Substantiated</p> <p>The Student’s placement required the delivery of all instruction at the Student’s home, and the alternative locations explored by the District at the Parents’ request were deemed to be insufficient. The District also attempted to schedule a meeting to discuss Individualized COVID-19 Recovery Services with the Parents, but the Parents did not respond to this request. The District stood ready to provide ESY, Individualized COVID-19 Recovery Services, and communication supports in the Student’s home as required by the Student’s IEP; however the Parents refused to allow this.</p>
<p>2. Access to Student Education Records</p> <p>The Complaint alleges that the District violated the IDEA “by not providing the entirety of the documents requested”</p>	<p>Not Substantiated</p> <p>There is no indication that the District failed to timely provide</p>

<p>by the Parents in a request for copies of the Student's education records made on April 13, 2023.</p> <p>(OAR 581-015-2300; 34 CFR §§ 300.501 & 34 CFR 303.405(a))</p>	<p>the education records in its possession. The Advocate, on behalf of the Parents, made a request for the Student's education records on April 13, 2023 and these were provided to the Parents by May 26, 2023. The District had 45 days to provide all education records of the Student in its possession and provided these records on day 43. The District also directed the Parents to the proper procedure for obtaining records in the District's possession that did not meet the definition of education records.</p>
<p>3. Free Appropriate Public Education (FAPE)</p> <p>The Complaint alleges that the District violated the IDEA and failed to provide FAPE to the Student, based upon the above allegations.</p> <p>(OAR 581-015-2040; 34 CFR § 300.101)</p>	<p>Not Substantiated</p> <p>The District attempted to provide FAPE to the Student but was unable to do so because of the Parent's refusal to allow services to be delivered in the home as required by the Student's IEP.</p>

<p>REQUESTED CORRECTIVE ACTION</p>
<ol style="list-style-type: none"> 1. The Complainant requests that the District provide compensatory services such as occupational, physical, behavioral and communication services. 2. The Complainant requests that the District locate a mutually agreeable location to deliver compensatory services outside of the reliance of the family residence. 3. The Complainant requests that the District provide in-service training and supports for the entire staff at North Bend High School on parental rights and the procedural safeguards under IDEA, including but not limited to parent involvement.

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 July 7, 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 is 17 years old and was in the tenth grade during the 2021-22 school year, when the Student last attended school in the District.

2. The Student is eligible for special education as a child with Autism Spectrum Disorder.
3. The Complaint in this case notes that “[b]etween the end of February to May 10, 2022, the Student was recorded as having approximately 182 incidences of inappropriate or aggressive behavior. This number includes both ‘minor’ incidents and ‘major’ incidents that were in violation of the school’s behavior code.”
4. The Placement Determination in the Student’s June 2, 2022 IEP provides for “Homebound” and “Home tutoring will occur within the home setting.” The PWN dated 6/2/22 states: “The IEP team has decided to implement the attached IEP. The IEP team met three times, with each meeting lasting more than two hours in length. The IEP team was led by an ODE [Oregon Department of Education] facilitator and legally guided by the district’s lawyer. The team originally had scheduled the IEP to occur prior to the IEP due date of 5/26/2022, but the special education teacher (IEP case manager) had received serious bodily harm by [the Student] and was unable to conduct the meeting due to . . . injuries. The team rescheduled the meeting for 5/17/2022, with took 2 ½ hours and then a second meeting occurred on 5/26/2022 which took over two hours and the team was able to complete the IEP and placement during the third meeting on 6/2/2022, which also took about two hours to complete.”

“The team agreed to homebound placement within the home. Foster parents stated that they refused to allow instruction in their home. The foster parents requested to have instruction to occur within their business setting The district stands ready to implement the homebound instruction in the home setting but the district will consider [the Parent’s business] as a possible location after doing District due diligence.”

5. The Student’s June 2, 2022 IEP includes several references to ESY, first noting that ESY is to be provided, and also noting in the service summary several accommodations for the Student and supports for school personnel regarding ESY to occur July 1, 2022 to July 30, 2022. Specifically, the IEP provides for 60 minutes per week of Functional Academics, 60 minutes per week of Functional Skills, 60 minutes per week of Functional Communication, and 270 minutes per week of Behavior.
6. Meeting notes from the June 2, 2022 IEP meeting state that the team agreed that the Student needs recovery services, and noted that the Student last attended in- person instruction in the District on May 9, 2022, with 26 absences prior to that date. A PWN issued by the District on June 3, 2022, states: “The team determined that [the Student] needs individualized recovery services...Team will need to meet again to define which recovery services are needed Team agreed during the 6/2/2022 meeting that [the Student] needs recovery services. Due to [the Student’s] current homebound placement, the team will need to meet again to determine the appropriate level of recovery services that will be needed.” As with ESY services, on June 29, 2022 the District attempted to schedule a meeting with the Parents to discuss the location of services, including ESY and recovery services, but the Parents did not respond to the District.
7. The Student’s June 2, 2022 IEP also includes, in the Service Summary, “Augmentative Communication” to be provided by an “Augmentative Communication Team Member” beginning on June 3, 2022, through June 1, 2023.
8. On June 21, 2022, the District received a request for the Student’s education records from another school district. The District understood this request, coupled with Parents’ refusal to engage in home instruction, to indicate that Student was no longer a resident of the District and instead would be enrolling in the other school district. The District, nonetheless stood ready to offer ESY services if the Student continued to be a resident of the District and the

family would allow the District to provide services to the Student in the home. On June 29, 2022, the District attempted to schedule a meeting with the Parents to discuss the location of services, including ESY and recovery services, but the Parents did not respond.

9. On August 24, 2022, the District learned that the Parents had enrolled the Student in the new school district. The District's enrollment history shows a withdrawal date of August 29, 2022.
10. A PWN issued by the District on July 15, 2022, states: "The district continues to stand ready to implement [the Student's] homebound instruction in the home setting. The district has explored alternative locations in which to implement [the Student's] IEP, but has not found a sufficient alternative. The district is open to considering additional alternatives if any are proposed by members of [the Student's] IEP team." Additionally, the July 15, 2022 PWN states: "In response to the family's request, the district has explored alternative locations in which [the Student's] IEP could be implemented. These locations included the Starfish Autism Facility, a location within the Oregon Department of Human Services (DHS), and the family's business. Those alternative locations were not viable for various reasons. Starfish staff shared that they were only able to provide consultation services and could not make a space available. District staff visited [the Parents' business] and noted a list of concerns that would need to be addressed in order to ensure that [the Student] could be taught safely in that setting. The family shared that they would not be able to accommodate all of the district's proposed solutions regarding that location. Finally, the district inquired with DHS (as [the Student] has had a number of individuals from DHS included in [the Student's] IEP team) about DHS having a space that could be used for instruction. DHS shared that they did not have a space that could accommodate [the Student's] instruction for some of the same reasons that [the Parents' business] would not work, such as the doors not locking, having a busy parking lot, and having glass doors and windows (as well as having members of the public in and out of the building all day). Because a sufficient alternative has not been identified, the district will need to implement [the Student's] IEP and placement in the home setting."
11. The July 15, 2022 PWN also notes, in the "other options considered and why those options were rejected" section: "Although neither Starfish, nor DHS indicated a willingness to make a space available for the district/[the Student], [the Student's] parents did propose [their business] as a potential location. After visiting [the Parents' business], staff noted concerns about how the front door of the [business] led to [a busy road], which would be concerning given [the Student's] history of elopement. The family indicated they could not monitor the front door to assure that it remained locked, or give a staff member a key without them signing waiver forms and needing to obtain permission from their landlord. The family also shared that they could not guarantee that public customers would be gone by 3:00 on days of instruction. [The Student] has a history of aggressive behavior resulting in harm to others, and the district had concerns about introducing members of the public into the instructional setting during sessions with [the Student]. The district has also shared concerns around the assessable items and possible glass within the instructional space that could lead to injury of [the Student], staff, and potential property damage. Some solutions have been offered by outside agencies, but the family has also shared concerns about the building not belonging to them and that they could not remove every item from the instructional space (except for the chairs that are being used, large table and couch) to address the district's concerns. The district shared concerns around having the ability to maintain clear visual contact or communication with parents during instruction. The family shared that they could not guarantee this during instruction and outside agencies shared that they would help when they could, but could not guarantee that assistance."

12. A Coos County Circuit Court Judge issued an order on August 12, 2022, finding “it is not in the best interests of the child to attend the child’s school of origin or any school within the child’s district of origin.”
13. The Parents emailed a request for student records to the District on April 13, 2023, about eight months after the Student’s withdrawal from the District. The District also received a request for the Student’s education records from another school district in Oregon on June 21, 2022, and the Student’s education records were physically picked up by the new district on August 29, 2022.
14. On May 2 and 3, 2023, the District responded to the Parents’ records request, and provided education records of the Student still in the possession of the District, including “the special education file that is still maintained in our Synergy program. Once [the Student] enrolled in Coos Bay School District, there are a number of records that we no longer have access to.” These emails from the District also noted that the District did not have any emails that constitute education records, and told the Parents how to make a public records request.
15. On May 2, 2023, in response to Parents’ belief that documents were missing, the District sent an email stating: “The first email consisted of all of the educational records. We were able to attach all of the documents through the one KM Synergy Docs attachment zip drive. I wasn’t sure if it would go through ok, but it appears as though it did. I can also print and scan them if needed.”
16. On May 5, 2023, an Advocate for the Parents emailed the District, expressing the opinion that emails that contain the Student’s personally identifiable information regarding the Student’s education are educational records. The email also advised “we are unable to open all of the provided document [*sic*]” and asked that the District print and scan the documents. The Advocate’s email also stated that the Parents requested the following documents: classes [the Student] attended, grades...received, test scores...received, school behavior data (formal and informal), discipline data, teacher/administrator/support personnel emails discussing [the Student], Conference forms completed, IEP forms (drafts and finals), progress reports (completed & documentation they were sent home), school data, district data, and all video footage directly related to any and all decisions which were made for/about [the Student] while within the district (i.e.: events that resulted in disciplinary actions, events that resulted in IEP being modified, etc.).
17. On May 11, 2023, the District printed, scanned, and emailed the documents previously emailed, through five separate emails. Additionally, on May 15, 2023, the District provided Parents with a Release of Information (ROI) form, to allow the District to communicate with the Advocate for the Parents. On May 23, 2023, the Advocate for the Parents emailed the District listing several categories of documents and requesting those documents “by the timeline of 5/28/23”. On May 26, 2023, following the District’s receipt of the signed ROI allowing the District to communicate with the Advocate for the Parents, the District provided additional documents to the Advocate, which included the categories of documents requested by the Advocate, except for those now in the possession of the Student’s new district, documents available through the public records request process, and service logs which the District does not maintain.
18. The District did not receive any further communication from the Advocate or the Parents. The Advocate confirmed that a request for public records has not been made to the District. The Advocate also clarified that the only categories of records that the District has not provided to the Parents are videos of incidents involving the Student and email communication.

IV. DISCUSSION

IEP Implementation: ESY Services, Individualized COVID-19 Recovery Services, Communication Supports

The Complaint alleges that the District violated the IDEA by failing to implement the Student's IEP, as follows:

(a) From July 1, 2022 to July 30, 2022 (the "Extended School Year (ESY) program" is alleged to have been "scheduled to run July 10th to August 4th", 2022), failing to provide ESY services, as set forth in the Student's IEP dated June 2, 2022.

(b) Following the Student's June 2, 2022 IEP meeting, failing to (1) provide individualized recovery services as discussed during the Student's June 2, 2022 IEP meeting and reflected in the Prior Written Notice (PWN) dated June 3, 2022; and (2) failing to follow the following statement in the District's June 3, 2022 PWN: "Due to [the Student's] current homebound placement, the Team will need to meet again to define which recovery services are needed."

(c) Failing to provide access to communication supports to be delivered by an Augmentative Communication Team Member beginning June 3, 2022 to June 1, 2023, as required by the Student's IEP dated June 2, 2022.

Districts must provide special education and related services to a child with a disability in accordance with a child's IEP.³ With alternative placements, such as home instruction, school districts must make provisions for supplementary aids and services to be provided to the student.⁴ A district violates the IDEA when it materially fails to implement an IEP.⁵ "A material failure occurs when there is more than a minor discrepancy between the services a school provides to a disabled child and the services required by the child's IEP."⁶

Additionally, OAR 581-015-2065(1) provides: "School districts must ensure that extended school year services are available as necessary to provide a free appropriate public education to a child with a disability." OAR 581-015-2065(4) provides: "The purpose of extended school year services is the maintenance of the child's learning skills or behavior, not the teaching of new skills or behaviors."

The June 2, 2022 IEP provided for the provision of ESY services, Individualized COVID-19 Recovery Services, and communication supports to the Student. The placement determination provided for homebound instruction with tutoring to be provided at the Student's home. This decision came in the context of numerous behavior incidents by the Student, resulting in harm to both District staff and another student. As noted in the factual findings in this case, the Student's June 2, 2022 IEP, in the "Present level of developmental and functional performance" section, provided some details about these incidents, and reading those details is essential to a full understanding of the rationale of the District's placement decision. The Complaint in this case notes that "[b]etween the end of February to May 10, 2022, the Student was recorded as having approximately 182 incidences of inappropriate or aggressive behavior. This number includes both 'minor' incidents and 'major' incidents that were in violation of the school's behavior code." The District issued a PWN regarding this placement decision on June 2, 2022, after the IEP team was not able to reach a consensus regarding placement. The Parents

³ OAR 581-015-2220(1)(a); 34 CFR § 300.323(c)

⁴ OAR 581-015-2245(2); 34 CFR § 300.115(b)(2)

⁵ Van Duyn v. Baker Sch. Dist. 5J, 502 F3d 811, 822 (9th Cir. 2007)

⁶ Id.

refused to allow instruction of the Student at the Student's home. The District also reached out to the Parents to schedule a meeting to discuss the scope of Individualized COVID-19 Recovery Services, but the Parents failed to respond to this request.

The placement decision occurred on June 2, 2022, more than one year before the filing of this Complaint July 6, 2023. The Parents agreed to the placement of homebound instruction and tutoring but disagreed about the location for delivery of the instruction. The District considered alternative locations for delivery of instruction at the request of the Parents, as reflected in a PWN issued on July 15, 2022. The primary alternative location sought by the Parents is a business operated by the Parents. The District noted several concerns with this location, and the District's concerns were never fully addressed, although the Parents presented counter arguments to the concerns voiced by the District about this alternative location. The District also explored other alternative locations that for various reasons were not available for the delivery of instruction to the Student.

The Parents refused to allow the District to deliver these services in the location required by the IEP.

The Department does not substantiate this allegation.

Request for Student Education Records

The Complaint alleges that the District violated the IDEA "by not providing the entirety of the documents requested" by the Parents in a request for copies of the Student's education records made on April 13, 2023.

The Parents, through their Advocate, clarified that the only categories of records requested that were not provided are videos of incidents involving the Student and email communication.

OAR 581-015-2300(1) provides: "For purposes of ensuring the safeguards for education records of children with disabilities, including early intervention and early childhood special education records, the Department adopts by reference the provisions of FERPA, 34 CFR 99.1 to 99.38, the IDEA, 34 CFR 300.6110 to 34 CFR 300.627 and 34 CFR 303.402 through 303.411." Education records under FERPA are those records that are: 1) directly related to a student; and are 2) maintained by an education agency or institution or by a party acting for the agency or institution.⁷ The IDEA provides that a district must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency no more than 45 days after the request has been made.⁸ Education records are those that are maintained "in a filing cabinet in a records room at the school or on a permanent secure database, perhaps even after the student is no longer enrolled."⁹ Emails in the possession of a district may only be considered part of a student's educational record when they are printed and/or added to a student's file.¹⁰ Similar reasoning extends to other dispersed records in the possession of a district but not maintained in a student's permanent file.¹¹ Public records are distinguished from education records. Under Oregon statutes, school districts may establish a fee for making public records available.¹²

⁷ 34 CFR § 99.3

⁸ See 34 CFR § 300.613

⁹ *Owasso Indep. Sch. Dist. No I-011 v. Falvo*, 534 U.S. 426, 432-33 (2002)

¹⁰ *Burnett v. San Mateo-Foster City School District*, 739 F. App'x 870 (2018)

¹¹ *Saddleback Valley Unified Sch. Dist.*, 57 IDELR 298 (SEA CA 2011)

¹² ORS 192.311(4); ORS 192.324 (4)(a), (4)(b)

The District's obligation to provide the Student's education records in possession of the District continued after withdrawal of the Student from the District and the transfer of the Student's records to the new district. However, there is no indication that the District failed to timely provide the education records in its possession. The record in this case reveals a request for the Student's education records on April 13, 2023 and the provision of the requested records in the District's possession to the Parents by May 26, 2023. The District had 45 days from April 13, 2023, or May 28, 2023 to provide all education records of the Student in its possession; and the District met the deadline. The District also directed the Parents to the proper procedure for obtaining records in the District's possession that did not meet the definition of education records.

The Department does not substantiate this allegation.

Free Appropriate Public Education (FAPE)

The Complaint alleges that the District violated the IDEA and failed to provide FAPE to the Student, based upon the above allegations.

OAR 581-015-2040(1) provides that school districts must provide a free appropriate public education to all school-age children with disabilities for whom the district is responsible.

The evidence in this case demonstrates that the District attempted to provide FAPE to the Student but was prevented from doing so by the Parents' refusal to allow in-home instruction as required in the Student's IEP.

The Department does not substantiate this allegation.

V. CORRECTIVE ACTION¹³

The Department does not order corrective action in this matter.

Dated: this 1st Day of September 2023



Eric B. Wells, Ed.D.
Director, IDEA Programs
Office of Enhancing Student Opportunities

E-mailing Date: September 1, 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).)

¹³ 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)).