

BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of
Eugene School
District 4J

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FINDINGS OF FACT,
CONCLUSIONS,
AND FINAL ORDER
Case No. 23-054-028

I. BACKGROUND

On July 20, 2023, the Oregon Department of Education (the Department) received a written request for a special education complaint investigation from the parents (Parents) of a student (Student) residing in the Eugene School District 4J (District). The Parents requested that the Department conduct a special education investigation under OAR 581-015-2030. The Department confirmed receipt of this Complaint and forwarded the request to the District.

Under state and federal law, the Department must investigate written complaints that allege violations of the Individuals with Disabilities Education Act (IDEA) and issue an order within sixty days of receipt of the complaint.¹ This timeline may be extended if the Parents and the District agree to the extension in order to engage in mediation or local resolution or for exceptional circumstances related to the complaint.²

On July 26, 2023, the Department’s Complaint Investigator sent a *Request for Response (RFR)* to the District identifying the specific allegations in the Complaint to be investigated and establishing a *Response* due date of August 9, 2023.

The District submitted a *Response* on August 16, 2023, denying the allegations, providing an explanation, and submitting documents in support of the District’s position. The District submitted the following relevant items:

1. Document, Hungerford Law Firm RE: Eugene School District Response to RFR in ODE Complaint No. 23-054-028, 8/9/23
2. Document, dear parent/caregiver of, 2023
3. Document, dear parent/caregiver of, 4/18/23
4. Document, Code: IGBAF Special Education- Individualized Education Program (IEP), 5/17/23
5. Document, Code: IGBAH Special Education-Evaluation Procedures, 11/7/18
6. Document, Eugene School District 4J Special Education Procedures Manual, 5/22
7. Document, FAX- Report for [Student], 2/15/23
8. Document, PF-4J 2023-5-12 Suggested edits to the 2023-04-12 Draft IEP, 5/12/23
9. Document, [Student], IEP corrections, next steps, 5/30/23
10. Document, born bad, 10/6/22
11. Document, Notice of Team Meeting, 4/4/23
12. Document, Meeting Attendance/Summary, 4/13/23
13. Document, Daily Attendance Profile, 2022-2023
14. Document, Meeting Attendance/Summary, 12/12/22

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

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

15. Document, Eligibility Summary Statement, 12/12/22
16. Document, Disability Statement Other Health Impairment, 12/12/22
17. Document, Disability Statement Specific Learning Disability, 12/12/22
18. Document, Prior Written Notice Eligibility, 12/12/22
19. Document, Confidential Psychoeducational Evaluation, 12/7/21
20. Document, Eugene School District 4J Special Education SSD Document Checklist, 12/8/21
21. Document, Individualized Education Program Amendment, 11/19/21
22. Document, [Student] BSP 11/19/21 Adoption and Amendment Team Members, 11/19/21
23. Document, Prior Written Notice for IEP, 12/7/21
24. Document, Individualized Education Program, 10/12/23
25. Document, Eugene School District 4J Special Education SSD Document Checklist, 5/17/23
26. Document, Notice of Team Meeting, 4/26/23
27. Document, Meeting Attendance/Summary, 5/16/23
28. Document, Individualized Education Program Amendment, 10/13/22
29. Document, [Student] BSP 11/19/21 Adoption and Amendment Team Members, 11/19/21
30. Document, Prior Written Notice for IEP, 5/16/23
31. Document, Notice of Team Meeting, 4/4/23
32. Document, Meeting Attendance/Summary, 4/13/23
33. Document, Notice of Team Meeting, 3/6/23
34. Document, Meeting Attendance/Summary, 3/14/23
35. Document, Eugene School District, 4J Special Education SSD Document Checklist, 1/6/23
36. Document, Notice of Team Meeting, 10/5/22
37. Document, Meeting Attendance/Summary, 10/13/22
38. Document, Individualized Education Program, 10/13/22
39. Document, [Student] BSP 11/19/21 Adoption and Amendment Team Members, 11/19/21
40. Document, Special Education Placement Determination, 10/13/22
41. Document, Prior Written Notice, 10/13/22
42. Document, Prior Written Notice for IEP, 10/13/22
43. Document, IEP Progress Report-Measurable Annual Goals, 6/7/23
44. Document, IEP Progress Report-Measurable Annual Goals, 3/15/23
45. Document, IEP Progress Report-Measurable Annual Goals, 6/13/22
46. Document, Meeting Attendance/Summary, 3/14/23
47. Document, Eugene School District 4J Special Education SSD Document Checklist, 5/17/23
48. Document, Notice of Team Meeting, 4/26/23
49. Document, Meeting Attendance/Summary, 5/16/23
50. Document, Individualized Education Program Amendment, 10/13/22
51. Document, [Student] BSP 11/19/21 Adoption and Amendment Team Members, 11/19/21
52. Document, Prior Written Notice for IEP, 5/16/23
53. Document, Eugene School District 4J Special Education SSD Document Checklist, 1/6/23
54. Document, Notice of Team Meeting, 10/5/22
55. Document, Meeting Attendance/Summary, 10/13/22
56. Document, Individualized Education Program, 10/13/22
57. Document, [Student] BSP 11/19/2021 Adoption and Amendment Team Members, 11/19/21
58. Document, Special Education Placement Determination, 10/13/22
59. Document, Individualized Education Program, Draft 4/21/23
60. Document, [Student] IEP Continuation May 16, 2023, 5/16/23
61. Document, [Student] IEP notes Mar 14, 2023 2:30-4:00, 3/14/23
62. Document, Parent/Guardian Consent for Individual Evaluation, 10/19/22
63. Document, [Student] Parent consent edit home phone, 10/27/22

64. Document, Prior Written Notice Evaluation Decision, 10/19/22
65. Document, Fax Report for 2/15/23
66. Document, PF-4J-invoice for past transportation costs (\$204.63)
67. Document, PF-4J-Invoice for past transportation costs (\$204.63)
68. Document, [School] Student Graduation Check, 10/7/22
69. Document, [School] Student Schedule, 10/7/22
70. Document, Academic Achievement Center invoice, 9/27/22
71. Document, Academic Achievement Center invoice, 10/5/22
72. Document, Parent/Guardian Consent for Individual Evaluation, 10/19/22
73. Document, Prior Written Notice, Evaluation Decision, 10/19/22
74. Document, Parent/Guardian Consent for Individual Evaluation, 10/19/22
75. Document, [Student] parent consent edit home phone, 10/27/22
76. Document, Parent/Guardian Consent for Individual Evaluation, 10/19/22
77. Document, Student Missing Assignments Report, 11/10/22
78. Document, [Student] BSP 11/19/2021 Adoption and Amendment Team Members, 11/19/21
79. 9-10 Writing Sample: Response to Literature, no date
80. 6+1 Trait Writing, no date
81. Attachments, Confidential Psychoeducational Evaluation, amended, 12/7/22
82. Attachments, Confidential Psychoeducational Evaluation, reeval [sic], 11/21/22
83. Invoice, 12/5/22
84. Invoice, 11/22/22
85. Invoice, 11/30/22
86. Invoice, 7/6/22
87. Attachments, Eligibility Summary Statement, 12/12/22
88. Attachments, Psychoeducational report, amended, 12/7/22
89. Attachments, Prior Written Notice, Eligibility Determination, 12/12/22
90. Fax, report for [School Psychologist], 2/15/23
91. Release of Information [unsigned], [Student], 3/10/23
92. Calendar invite, IEP [Student], 3/14/23
93. Fax Cover Sheet, re: report for [School Psychologist] for [Student], 2/15/23
94. Addendum Psychological Report, re: [Student], 2/3/23
95. Release of Information [signed], [Student], 3/20/23
96. Google Doc [shared], [Student] IEP notes March 2023, 3/22/23
97. Release of Information [signed], ROI [Student] revised, 3/22/23
98. Calendar invite, writing discussion [School], 3/22/23
99. Google Doc [shared], [Student] IEP notes March 2023, 3/23/23
100. Calendar invite, accept: IEP [Student], 4/4/23
101. Calendar invite, tentative: IEP [Student], 4/4/23
102. Calendar invite, re: decline: IEP [Student], 4/5/23
103. Calendar invite, re: accept: IEP [Student], 4/10/23
104. Attachments, copy of 519 parent caregiver consent document - english.docx.pdf, 4/17/23
105. Attachments, [Student]readingwritingstudypermissionformsigned.pdf [sic], 4/18/23
106. Attachments: [Student] IEP draft 4 21 23.pdf [sic], 10/12/23
107. Attachments, [Student]iepdraft4 24 2023.PDF [sic], 10/12/23
108. Attachments, Notice of Team Meeting, 4/26/23
109. Attachments, Procedural Safeguards Notice, 4/26/23
110. Attachments, grades, 4/27/23
111. Attachments, [Student] writing sample, 4/5/23
112. Attachments, English syllabus, 4/5/23
113. Attachments, ROI-[Student] revised - signed.pdf, Authorization to Use and/or Disclose Educational and Protected Health Information, 3/22/23
114. Attachments, [Student] BSP 11/19/2021 adoption and amendment, 11/19/21

115. Lexile proficiency and growth report, 3/23/23
116. Attachments, R180 diagnostic skills report [Student], 3/23/23
117. Attachments R180 student app report [Student], 3/23/23
118. Attachments R180 growth measure [Student], 3/23/23
119. Year-end proficiency ranges, no date
120. Attachments, [Student] born bad paragraph writing sample.pdf,
121. Attachments, [Student] expository essay actual writing.pdf
122. Attachments, [Student] family of little feet writing sample.pdf
123. Counselor externship experience, 7/27/23
124. Attachments, Prior Written Notice for IEP, amendment to IEP, 5/15/23
125. Attachments, Individualized Education Program Amendment, 5/16/23 duplicate
126. Attachments, [Student] BSP 11/19/2021 Adoption and Amendment, 11/19/2021 duplicate
127. Student schedule, 7/27/23
128. Emails, 7/21/22-6/30/23

The Parents submitted a *Reply* on August 23, 2023, providing an explanation and rebuttal, and documents in support of the Parents' position. The Parents submitted the following relevant items:

1. Letter, Student's response to RFR, ODE case no 23-054-028, 8/23/23
2. [Student] ODE complaint, 7/20/23
3. [District] special education SSD document checklist, 5/17/23
4. Notice of team meeting, 4/26/23
5. Meeting attendance/summary, 5/16/23
6. Individualized education program amendment, 5/15/23
7. [Student] BSP 11/19/21 adoption and amendment, 11/19/23
8. Prior written notice for IEP, details of changes, 5/16/23
9. [Student] IEP continuation, 5/16/23
10. Prior Written Notice for IEP, address concerns from the parent regarding present levels and goals, and adjusting SDI minutes, 5/16/23
11. Letter, [Student], IEP corrections, next steps, 5/30/23
12. Attachments, individualized education program amendment, 5/16/23
13. Attachments, [Student] BSP 11/19/21 adoption and amendment, 11/19/21
14. [District] special education SSD document checklist, 12/8/21
15. Individualized education program amendment, 12/7/21
16. Prior written notice for IEP, parent requested removal of text of email sent to case manager, 12/7/21
17. Individualized education program amendment, 12/7/21
18. [District] special education SSD document checklist, 1/6/23
19. Notice of team meeting, 10/5/22
20. Meeting attendance/summary, 10/13/22
21. Meeting attendance/summary, 10/13/22
22. Individualized education program, 10/13/22
23. Special education placement determination, 10/13/22
24. Prior written notice, individualized recovery services review, 10/13/22
25. Prior written notice for IEP, adopt and implement the recently developed IEP, 10/13/22
26. Notice of team meeting, 10/5/22
27. Meeting attendance/summary, 10/13/22
28. Meeting attendance/summary, 10/13/22
29. Parent/guardian consent for individual evaluation, 10/19/22
30. Prior written notice, evaluation decision, 10/19/22
31. Writing sample: response to literature, 11/23/22
32. Confidential psychoeducational evaluation, 12/7/22
33. Eligibility summary statement, 12/12/22

34. Disability statement, other health impairment, 12/12/22
35. Disability statement, specific learning disability, 12/12/22
36. Prior written notice, eligibility determination, 12/12/22
37. Prior written notice, evaluation decision, 10/19/22
38. Prior written notice, evaluation decision, 8/30/22
39. Confidential psychoeducational evaluation, report addendum, 2/3/23
40. [Student] IEP notes March 14, 2023 2:30-4:00, 3/14/23
41. Attachments, pf-4j_2023-05-13_suggested edits to the 2023-04-12 draft IEP [sic], 10/13/22
42. Writing sample: response to literature, 11/23/22
43. Notice of team meeting, 4/26/23 duplicate
44. Meeting attendance/summary, 5/16/23
45. Individualized education program amendment, 5/16/23
46. Letter, [Student], IEP corrections, next steps, 5/30/23
47. Individualized education program amendment, 12/7/21
48. Prior written notice for IEP, parent requested removal of text of email sent to case manager, 12/7/21
49. Meeting attendance/summary, 10/13/22
50. IEP Amendment, [Student], 11/19/21
51. Document, [Student] BSP adoption and amendment, 11/19/21
52. Document, 9-10 writing sample: response to literature, 11/23/22
53. 6+1 Trait Writing, scoring continuum, no date
54. Confidential Psychoeducational Evaluation, 11/21/22
55. [District] Special Education SSD Docume [sic] hecklist [sic], re: [Student], 1/6/23
56. Notice of Team Meeting, [Student], 10/5/22
57. Meeting Attendance/Summary, IEP and Placement, 10/13/22
58. IEP, [Student], 10/13/22
59. Special Education Placement Determination, [Student], 10/13/22
60. Prior Written Notice, individualized recovery services review, 10/13/22
61. Prior Written Notice for IEP, re: [Student], 10/13/22
62. Parent/Guardian Consent for Individual Evaluation, re: [Student], 10/19/22
63. Document, [Student] Parent Consent edit home phone [sic], 10/27/22
64. Prior Written Notice, evaluation decision, 10/19/22
65. Eligibility Summary Statement, re: [Student], (80,90), 12/12/22
66. Disability Statement, Other Health Impairment (80) criteria, 12/12/22
67. Disability Statement, Specific Learning Disability (90) criteria, 12/12/22
68. Prior Written Notice, eligibility, 12/12/22
69. Prior Written Notice, evaluation decision, 10/19/22
70. Prior Written Notice, evaluation decision, 8/30/22
71. Document, [Student] IEP notes March 14, 2023 2:30-4:00, 3/14/23
72. [District] Special Education SSD Document Checklist, re: [Student], 5/17/23
73. Notice of Team Meeting, IEP continuation meeting, 4/26/23
74. Meeting Attendance/Summary, IEP, 5/16/23
75. IEP, Amendment, 10/13/22
76. Document, [Student] BSP adoption and amendment, 11/19/21
77. Prior Written Notice for IEP, re: [Student], 5/16/23
78. Document, [Student] IEP continuation [notes], 5/16/23
79. Prior Written Notice for IEP, re: [Student], 5/16/23
80. Letter to Attorney, re: [Student], IEP corrections, next steps, 5/30/23
81. IEP, Amendment, 10/13/22
82. Prior Written Notice for IEP, re: [Student], 5/16/23
83. [District] Special Education SSD Document Checklist, re: [Student], 12/8/21
84. IEP, Amendment, 11/19/21

- 85. Prior Written Notice for IEP, re: [Student], 12/7/21
- 86. Notice of Team Meeting, IEP, 10/5/22
- 87. Meeting Attendance/Summary, IEP and Placement, 10/13/22
- 88. IEP, re: [Student], 10/13/22
- 89. Prior Written Notice, individualized recovery services review, 10/13/22
- 90. Prior Written Notice for IEP, re [Student], 10/13/22
- 91. Confidential Psychological Report, addendum, 2/3/23
- 92. Emails, 5/17/21-8/2/23

The Complaint Investigator interviewed the Parents and the Student on August 28, 2023. On August 28, August 29, and August 31, 2023, the Complaint Investigator interviewed District personnel. 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 21, 2022 to the filing of this Complaint on July 20, 2023.

Allegations	Conclusions
<p>General Evaluation and Reevaluation Requirements</p> <p>The Complaint alleges that the District failed to meet the requirements for special education evaluations when certain portions of a writing assessment were not completed. This resulted in incomplete assessment results for the Student's writing skills and needs.</p> <p>(OAR 581-015-2110(4aE)(4d-f); 34 CFR § 300.304)</p>	<p>Substantiated, in part</p> <p>The District met the minimum standards when assessing the Student's writing skills for eligibility purposes. The District failed to obtain informed written Parent consent for portions of the Student's re-evaluation and did not complete the re-evaluation and continued eligibility by the due date of October 27, 2022.</p>
<p>Content of the IEP</p> <p>The Complaint alleges that the District failed to:</p> <ul style="list-style-type: none"> a. determine the needs of the Student and appropriate services for writing; b. include recent testing for writing in the development of the IEP; c. provide an appropriate amount of specially designed instruction (SDI) in writing, d. include one on one instruction; e. use the appropriate approaches with the Student; 	<p>Substantiated</p> <p>The District failed to:</p> <ul style="list-style-type: none"> a. provide adequate present levels for writing in the October 12, 2022 IEP; b. include the results of the most recent re-evaluation; c. provide an appropriate

<p>and f. include the agreed to changes in the IEP document. (OAR 581-015-2200; 34 CFR § 300.320)</p>	<p>and accurate amount of SDI in writing; d. documented the agreed to one-on-one instruction; e. consider other appropriate instructional strategies for the Student; and f. accurately document the SDI in writing.</p>
<p>Parent Participation-Prior Written Notice</p> <p>The Complaint alleges that the District made major changes to the Student’s IEP without discussing the changes with the Parents first. (OAR 581-015-2190, OAR 581-015-2310; 34 CFR §§ 300.322, 300.421)</p>	<p>Substantiated</p> <p>In October 2022, the District unilaterally reduced special education services for the Student in writing and did not properly notify the Parent. In May 2023, the District decided to maintain the unilateral decision and improperly reported in a PWN that the decision was made by the team when the Parent was not afforded the opportunity to participate in the decision-making process.</p>
<p>When IEPs Must Be in Effect</p> <p>The Complaint alleges that the District’s Case Manager did not follow the Student’s behavior plan when the Student’s technology use was not monitored and the Student was not provided a calming environment. (OAR 581-015-2220, OAR 581-015-2310; 34 CFR § 300.323)</p>	<p>Not Substantiated</p> <p>The District monitored the Student’s technology use and had access to quiet, break spaces when requested. It is inconclusive whether the Student believed the classroom environment was disruptive.</p>

<p>REQUESTED CORRECTIVE ACTION</p> <p>The Parents’ requested that the Department order the District to take the following corrective action:</p> <ol style="list-style-type: none"> 1. Order a facilitated IEP meeting; 2. State in [Student’s] IEP the need for [Student] to have one on one instruction in writing by an educational assistant, well trained in dysgraphia intervention with training in AIMS web writing scoring, 1 hour 2 times per week; 3. Educate teachers and school psychologists about trauma informed practices; 4. Educate teachers and school psychologists on how to recognize potential learning disorders that could be underlying non-cooperative behaviors;
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5. Restore [Student's] specially designed instruction minutes in writing to 150 minutes per week in the IEP;
6. Require case managers to discuss all proposed major changes to [Student's] IEP with me and or my husband first before making those changes;
7. Require this of all case managers for all other students with IEPs in the [District];
8. Investigate whether parents of child whose IEP was released were notified of the breach in privacy;
9. Reimburse parents' costs for all past writing sessions at that AAC;
10. Reimburse parents for all past travel expenses to the AAC for writing sessions;
11. Reimburse parents for travel to HEDCO for writing assessment;
12. Reimburse parents for legal expenses since August 2022;
13. School to follow through on administering AIMSWEB Writing assessment like they said they would;
14. For all future evaluations of [Student], full evaluations in all areas of suspected disability will be conducted, including all subtests of normed academic achievement or cognitive functioning assessments used;
15. Reimburse parents for travel related to HEDCO writing assessment;
16. Reimburse parents for all AAC writing assessment and tutoring costs;
17. Have head psychologist answer directly for the findings in the 3-year re-evaluation psychoeducational report;
18. Have [Head Psychologist] now explain why the conclusion [they] were strongly asserting (that [Student] doesn't have a learning disorder in writing) was wrong and why [Head Psychologist] did not recommend any further testing in writing;
19. Provide additional training to [Head Psychologist] in how to recognize children who may have dysgraphia and need referral/additional evaluation outside of the school to determine at a higher degree of certainty whether learning disorders exist or not;
20. Require [Head Psychologist] and all [District] school psychologists to get to know the children they are evaluating and report findings directly to parents instead of getting Student another school psychologist to do so;
21. Adopt IEP changes suggested by Parent attorney and reimburse Parent's legal fees for the legal assistance;
22. Provide educational assistants in classes that are oversized, where [Student] needs are the most significant. [Student] has learning disorders including dysgraphia and [Student] struggles in English classes that are large, disruptive and do not have enough adult instruction, help, and supervision;
23. Provide this instruction during the time my child normally attends the Academic Seminar class so [Student] can focus and escape this chaotic classroom at least a few times per week;
24. Require case managers to recognize that what is written in the IEP is reflective of needs based on proven disabilities and that they need to be followed and guidance and implementation needs to be provided by staff for my child;
25. Require staff to periodically check on my child when [Student] is on screens to make sure [Student] is on task;
26. Auditing and accountability for staff and their behavior and performance; and
27. Have staff consider that their mistakes cost parents time and money, that parents also have jobs and shouldn't have to do theirs.

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 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 was 16 years old and in the 10th grade at the time the Complaint was filed.
2. The Student qualified for special education services due to a Specific Learning Disability in basic reading and reading fluency skills as well as Other Health Impairment at the time the Complaint was filed. The re-evaluation due date was October 27, 2022.
3. On November 19, 2021, the Adoption and Amendment IEP Team meeting included the following:
 - a. "[Student] is a talented problem solver, chess player, and athlete. [Student] loves soccer and basketball."
 - b. "[Student] is good with technology and provides input on tech questions. Has incredible spatial-reasoning. [Student] works well in small groups and takes on leadership roles in Performing Arts class....";
 - c. "Previous: [Parent] expressed that [they] want [Student] to use [their] strengths to compensate for the areas in which [they] struggle. [Parent] also expressed concerns with backsliding behavior...";
 - d. "From IEP mtg & parent October, 2020: [Student] says [they want] to pass [their] classes and graduate from high school, so teachers could give [them] some feedback about what it's going to take [for them] to pass the class. [Student] wants to accomplish these goals...";
 - e. "The Language Arts Teacher: [Student] seems to be taking things more seriously now since [their] quarantine, [Student] seems to care whether [Student] passes the class or not. [Student] takes [their] time getting down to work. [Their] lexile [*sic*] score has improved from 5th grade level to near 7th since September. [They] should stay in this class, a large part of what [Student] is learning is how to be a student."
 - f. The Present Level of Developmental and Functional Performance indicated the Student's grades in English- Intensive was 54.15 %, and 13 0's were noted;
 - g. The writing goal for the IEP dated November 19, 2021, indicated; [Student] will increase [their] writing skills in the areas of Ideas and Content, Organization, Voice, Word Choice, Sentence Fluency, and Conventions with 70% accuracy, as measured by teacher observation and maintaining at least a 70% grade in ELA classes. The Mastery Criteria or Short Term Objective indicated; on at least three occasions, [Student] will conference with a Teacher and make all recommended editing changes to [their] writing sample;
 - h. The Student's disability affects involvement and progress in the general education curriculum; "[Student's] need for high structure, regular teacher feedback, low tolerance for frustration [when] attempting new/challenging work or a non-preferred task negatively impacts [their] ability to access the general education curriculum without the accommodations set forth in this IEP.";
 - i. Special Factors for IEP Development included the Student's behavior impeded [their] learning or that of others which was addressed in current goals and through a behavior support plan attached to the IEP;
 - j. Specially Designed Instruction for Written Language was 150 minutes per week starting on November 19, 2021, and ending on November 18, 2022; and
 - k. Supplementary Aids/Services Accommodations indicated:
 - i. Behavior support plan/safety plan, to be updated as needed with parent input, 150 minutes per day, starting on November 19, 2021, and ending on November 18, 2022;
 - ii. Word prediction program available for all writing tasks, 60 minutes per day, starting on November 19, 2021, and ending on November 18, 2022;

- iii. Calming space or quiet break space, C-5 (LC) or equivalent, 60 minutes a day, starting November 19, 2021 and ending November 18, 2022;
 - iv. The Statement of Nonparticipation Justification stated the IEP team had determined the Student will need to be removed from participating with nondisabled students in order to receive specially designed instruction, related services, or supplementary aids or services. The Student will be removed from the general education class approximately one period out of five to receive specialized instruction in language arts and social skills; and
 - v. The Student requires SDI in the areas of behavior/social skills and language arts.
4. The November 19, 2021 behavior support plan (BSP) for the Student included: “antecedents-less structured times and when peers exhibit challenging behavior; and supports that help—does well when the classroom is calmer, [Student] receives extra attention, [Student’s] use of technology is monitored.”
 5. On December 7, 2021, permission was granted to amend the IEP for November 19, 2021 and the IEP was amended.
 6. On December 7, 2021, the Individualized Education Program (IEP) Amendment noted that on January 11, 2021, the Case Manager made a mistake on the Service Summary page of the IEP.
 7. On September 22, 2022, the Case Manager sent an email to the Student Services Administrator to relay communication from the English Teacher. “Student is just shutting down in class, placing [their] head down, after I told [Student, Student] needs to finish [the Student’s] missing paragraph. [Student] argued that [their] IEP gives [them] more time. I asked [Student] how much, but [Student] didn’t know. [Student] eventually put [their] head up, but I went into stealth mode. I found [Student] doing other stuff unrelated to class on [their] computer. [Student] has a 45% at the moment, and it could keep heading in the wrong direction real quick if [Student] doesn’t step up [their] game for class. [Student] hasn’t submitted [their] first formal paragraph assignment, and the deadline for late work is tomorrow. [Student’s] second formal paragraph assignment is due today.”
 8. On September 26, 2022, the Case Manager emailed the Parent to inform them that the Student had been “goofing off on [their] computer,” during Language Arts class. The Case Manager added, “I have been getting the same thing...I cannot come up with an answer other than giving [Student] a computer that does nothing but word processing, and if we do that [the Student] will lose all kind [sic] of other tools we want [them] to have.”
 9. On September 28, 2022, the Case Manager emailed the Parent to inform the Parent that the Student’s IEP was scheduled for November 18, 2022; the Student’s eligibility was due on October 27, 2022. The Case Manager indicated a preference for conducting the IEP and eligibility meeting at the same time.
 10. On October 5, 2022, a Notice of Team Meeting indicated that on October 13, 2022, a meeting would be held to determine eligibility for special education, and an initial or annual IEP would be developed for the Student.
 11. On October 5, 2022, the Case Manager sent an email to the Parent to let them know the Student had turned in one out of eight writing assignments. The Case Manager reported

that the Student sits in class with their screen darkened, playing games rather than working.

12. On October 11, 2022, a classroom observation was conducted by the Behavioral Consultant during language arts class. The Student “appeared to have a hard time getting started with [their] work, and it appeared that [Student] may not have known how to approach the task of editing [their] own writing...overall, [Student] completed very little work, even when the Teacher redirected [Student] and gave [Student] suggestions for edits to make.”
13. The Student’s 8th grade written expression assessment results for the statewide assessment (SBAC) indicated that the Student did not meet grade level standards. Compared to other 8th grade students in Oregon, the Student performed at the 4th percentile.
14. On October 13, 2022, an IEP meeting was held, and the IEP included:
 - a. The Summary of Present Levels of Academic Achievement and Functional Performance Parent concerns were: “Previous-[Student’s] Parent expressed that [Parent] wants to [sic] [Student] to use [their] strengths to compensate for the areas in which the [Student] struggles. [Parent] also expressed concerns with backsliding behavior and wants [Student] to continue to work on issues around personal space, anger, and self-control. [Parent] feels that [Student] needs Recovery Services provided by [District] in order for [Student] to be successful”;
 - b. Present Level of Developmental and Functional Performance stated; “[Language Arts Teacher]-[Student] is not rededicated [sic] to take the opportunities available. A lot of behavior is doing off-task [sic] on [Student’s] computer. Always keeping tabs on teacher’s location. [Student] does not ask for help or access it when it is provided. [Student] currently has a D. Pencils in the ceiling. A bit antagonistic to other kids in class. Trued [sic] various seating options. [Student] should be in a more focused section. A one-on-one?”
 - c. The Special Factors the team considered included that the Student’s behavior does impede their learning or that of others. The explanation for the decision was that the behavior was addressed in the current goals and through a BSP;
 - d. The annual IEP goal for writing stated, “[Student] will increase [their] writing skills in the areas of Ideas and Content, Organization, Voice, Word Choice, Sentence Fluency, and Conventions, with 70% accuracy, as measured by teacher observation and maintaining at least 70% grade in ELA classes. Mastery Criteria of Short-Term Objective: On at least three occasions, [Student] will conference with a teacher and make all recommended editing changes to [their] writing sample.”;
 - e. The Service Summary for SDI indicated the Student will receive written language services 600 minutes a year, starting October 13, 2022, and ending October 12, 2023;
 - f. Supplemental Aids/Services; Accommodations included:
 - i. Calming space or quiet break space, C-5 (LC) or equivalent, 60 minutes per day, starting October 13, 2022, and ending October 12, 2023;
 - ii. Word Prediction program available for all writing tasks, 60 minutes per day, starting October 13, 2022, and ending October 12, 2023;

- iii. Behavior support plan/safety plan, to be updated as needed with parent input, 150 minutes a day, starting October 13, 2022, and ending October 12, 2023;
 - iv. Opportunities to take breaks 60 minutes per day, starting on October 13, 2022, and ending October 12, 2023;
 - v. Daily check-in w/CM, the regular education teacher is responsible, 20 minutes per day, starting October 13, 2022, and ending October 12, 2023;
 - vi. [Student] May take a ten-minute break and meditate in Academic Seminar, 10 minutes a day, starting October 13, 2022, and ending October 12, 2023;
- g. Supports For School Personnel included a Behavioral Consultant, 120 minutes a year, starting October 13, 2022, and ending October 12, 2023; and
- h. The Statement of Nonparticipation Justification stated that the IEP team determined the Student needed to be removed from participating with nondisabled students in order to receive specially designed instruction, related services, or supplementary aids or services. The Student was removed from the general education class for approximately one out of five periods to receive specialized instruction in language arts and social studies because the [Student] required specially designed instruction in the areas of behavior/social skills and language arts.
15. On October 13, 2022, a Prior Written Notice (PWN) indicated new items discussed/decided at the IEP meeting:
- a. “Added: [Student] may take a ten-minute break and meditate in Academic Seminar;
 - b. Dropped: Sensory tools, fidget, lap weight;
 - c. Dropped: Point card that reflects specific behavior goals the Student is working on; and
 - d. Dropped: Written schedule with built-in movement breaks.”
16. On October 19, 2022, the District provided the Parent with a PWN regarding the decision to conduct a re-evaluation of the Student. The description of other factors considered stated: “Due to a communication error between the school and the previous psychologist, the consent was not signed in a timely fashion and evaluation was attempted to be started before consent was signed. Parent is aware of this error and agreed to review and sign for an updated comprehensive evaluation.”
17. On October 20, 2022, the School Psychologist sent an email to the Parent that attached the Parental Rights, the copy of the Prior Written Notice of Evaluation and a copy of the Parent consent. The email indicated that, if the Parent agreed to the Consent for Evaluation, the School Psychologist would send out the consent for the Parent’s signature.
18. On October 20, 2022, the Parent emailed the Case Manager to inform them that the Student had complained about disruptive students in class who made task completion difficult for the Student. The Case Manager responded, “it IS my rowdiest class period, but [Student] should be capable of getting that done in time. I of course will continue my efforts to keep the noise down to a dull roar.”
19. On October 21, 2022, the School Psychologist sent an email to the Parent stating that the School Psychologist sent an Adobe sign for the Parent Consent for Evaluation. A copy of the PWN related to the evaluation decision and a copy of procedural safeguards were also enclosed.

20. On October 24, 2022, the Parent sent an email to the School Psychologist asking if the Student was pulled out of academic seminar and language arts class for a reevaluation assessment. Both Parents reported that they did not want the Student pulled out of English class. The Parent stated that they had not yet signed the consent form for reevaluation assessments. The Student did not receive advanced notice prior to the evaluation assessments; the Student called the Parent from school to make sure an evaluation was something the Student was supposed to do.
21. On October 26, 2022, the Parent emailed the School Psychologist to follow up on a voicemail the Parent had previously left. The Parent's voicemail reflected that the Parent would review the Consent documentation, will probably sign it and, at that point, testing could be resumed. The Parent wanted to know which classes the Student would miss and for how long. The Parent requested that the testing take place over a period of time to reduce the impact on the Student's performance in their current classes. The Parent requested an updated consent document with the correct phone number.
22. On October 27, 2022, the Parent provided written consent for the re-evaluation.
23. On November 2, 2022, the Wechsler Individual Achievement Test, 4th Edition, (WIAT-4) was administered to the Student. The Student scored 68 standard score in the area of Spelling and 64 standard score for Essay Composition. "While [Student's] spelling was well-below age level expectations, [their] words were phonetically spelled and the evaluator was able to understand what words [Student] had written. [Student's] essay included three supporting statements but did not specify a thesis statement or a conclusion. In addition, [their] writing was very simplistic and low on detail."
24. On November 8, 2022, the Language Arts Teacher sent an email to the Parent, which stated the Student did not submit their own [original] writing on an essay assignment. The Student told the Language Arts Teacher that they had found an essay on a different subject and had used it as a model for their structure. When shown a copy of the essay the Student used, the Student responded that it could be a coincidence. The Language Arts Teacher stated, "It's plain to see that it's plagiarized, even if it was beyond a simple copy and paste of someone else's work." The Language Arts Teacher asserted that a plagiarized essay results in a zero, but they were willing to accept an original essay from the Student for half of the points.
25. On November 10, 2022, the Parent sent an email to the Language Arts Teacher stating that the Parent requested a copy of the essay the Student allegedly plagiarized. The Parent's email expressed their belief that the Student was not "receiving the level of help [they need] with [their] writing..." which "...results in [Student] feeling like giving up, producing poor quality work, and... plagiarism out of desperation."
26. On November 11, 2022, the Parent sent an email to the Case Manager. "Going into the last few days of this term I wanted to point out preliminary results from [Student's] three-year re-evaluation. According to the Wechsler Individualized Achievement Test 4th Edition that was administered, [Student] scored in the 2nd percentile in spelling, and the 0.8 percentile in composition." The Parent stated the Student is in desperate need of writing intervention and that certain behaviors could be from the result of the test scores.
27. On November 12, 2022, the Parent emailed the Case Manager. "I would like to point out a few things from [Student's] Behavioral Plan dated 11/19/21 (if there is a more current behavioral plan created after [their] last IEP meeting I was not given a copy of it)... Supports that help: [Student does well when [they get] extra adult attention and specific positive

feedback (is [Student] getting the level of attention [they need])?... When using technology in the classroom, monitor [Student's] use closely, as [Student] struggles to stay on approved websites/on task with assignments when using the computer. (I'm almost sure this is not happening at the level [Student] needs)."

28. On November 12, 2022, the Parent emailed the Case Manager and requested a copy of the Student's current IEP and BSP.
29. On November 14, 2022, the Parent sent an email to the Case Manager which indicated the Parent received a hard copy of the BSP dated November 19, 2021, at the Student's last IEP meeting. The Parent was told they could get back to the team about updates needed for the updated plan. The Parent hadn't completed that yet because the Parent was working with the School Psychologist about the Student's three-year reevaluation. The Parent stated the Student needed supervision while using screens at school.
30. On November 14, 2022, the Case Manager sent an email to the Parent stating that the Case Manager's understanding was the Parent was going to review the BSP and that the two of them were going to work on the final plan together. The Case Manager asked the Parent when they could talk about the plan.
31. On November 15, 2022, the Case Manager sent an email to the Parent stating that, "the Teachers do their best to monitor the Student on the computer but they can't sit with the Student every minute. The Student actively works to subvert efforts in this area including sitting so they cannot observe the Student [*sic*] screen, dimming the screen, and screen-swiping." The Case Manager stated that the teaching staff will help the Student the best they can.
32. On November 18, 2022, the Parent sent an email to the School Psychologist which stated the Case Manager said the [Student's] IEP for this year can't be finalized until evaluations are completed and asked if the testing had been completed. The School Psychologist replied stating they had contacted the team and the testing had been completed. The School Psychologist also let the Parent know that they may not be the one providing the results, but will continue to support and keep the Parent in the loop with information and updates.
33. On November 18, 2022, the School Psychologist sent an email to the Case Manager hoping to schedule a second meeting to go over the eligibility portion with updated testing information.
34. On November 18, 2022, the Parent emailed the Case Manager stating that the District was insistent that the Student would participate in the Lexile Assessment in the next 2 days. The Case Manager emailed the Parent letting them know that the testing would occur the following week and the Student will be taken out of Academic Seminar to minimize impact on the Student's other classes.
35. On November 18, 2022, the Parent stated; "I feel that my comments were misinterpreted at the last IEP meeting which resulted in me receiving a letter from the district (these misinterpretations were noted in the letter). An advocate may help me to communicate my thoughts in a way where they will be less likely to be misinterpreted." The School Psychologist replied, "The administrator that I shared your concerns/requests with has told me you are more than welcome to bring an advocate, but the district does not allow recordings at any meetings. They also let me know that this meeting is in no way related to

the letter you received...This meeting is part of the regular special education cycle...this is only to complete the reevaluation process and IEP at this time.”

36. On November 18, 2022, the School Psychologist emailed the Parent: “Thank you for getting back to me with your concerns and requests. I have looked into your requests and the write-up of the evaluation results are in process at the time, so we should be able to send you a copy of those on Monday morning. Also, this meeting should be brief to allow us to complete the paperwork for [Student’s] continued eligibility for special education services, which will allow us to finalize [their] IEP.”
37. On November 21, 2022, amended December 7, 2022, an assessment report concluded: “Based on current evaluation, it appears that [Student] continues to meet criteria in the disability categories of Other Health Impairment, based on ADHD and other conduct-related conditions. In addition, [Student] appears to meet the criteria for the disability of Specific Learning Disability, due to a pattern of strengths and weaknesses in [their] academics [sic] skills and research-related basic psychological processes that are relevant to the identification of learning disabilities. However, final determination of [Student’s] continuing eligibility and need for special education services will be made by [Student’s] educational team. [Student] will likely need continued specially designed instruction and supports in order to appropriately access [their] general education program.”

The Student was given the Wechsler Individual Achievement Test-4th Edition (WIAT-4) on November 2, 2022. The WIAT-4 Individual Assessment test for written expression indicated: “While [Student’s] spelling was well below age-level expectations, their words were phonetically spelled and the evaluator was able to understand what words [Student] had written. [Student’s] essay included three supporting statements, but did not specify a thesis statement or a conclusion. In addition, [their] writing was very simplistic and low on detail. [Student] endorsed the examiner’s observation that [Student] writes ‘like someone who hates writing’.” The report stated: “Written Expression is definitely a weak skill area for [Student].”

However, the psychological processes most closely linked to written expression are not weaknesses for [Student]. Language Use, Mental Control, and Analysis/Reasoning, are all average or above, as demonstrated on the KABC Knowledge, Planning and Simultaneous areas. It is likely that [Student’s] difficulty with initiation, stamina, and organization, due to [their] ADHD, and [their] intense dislike for writing activities are impacting [their] performance in this area. As such, [Student] does not likely have Specific Learning Disability in written expression, but rather poor writing performance due to [their] Other Health Impairment, as described in the previous section.”

38. On November 22, 2022, the Parent emailed the Case Manager asking; “What stood in the way of [Student] undertaking the writing assignments this trimester in Academic Seminar? What has changed that would allow/facilitate [Student] undertaking the writing assignments next trimester?...if we expect [Student] to change without changing any of the circumstances around [Student], then I fear we are setting ourselves up for a continuation of the present state.”
39. On November 22, 2022, the Case Manager sent an email to the Parent which stated the Case Manager felt the Student should undertake their writing assignments in Academic Seminar because this would help the Student complete more writing assignments.
40. On November 23, 2022, the Case Manager sent an email to the Parent which stated that the Case Manager felt: “The Student was avoiding the work. The Student had every opportunity

in Academic Seminar to do that paragraph and its rewrite...I begged [Student] to let me give [them] input on [their] essay for [Language Arts Teacher's] class...we did not get far. Yet [Student] was able to significantly improve [their] assignment." The Parent sent an email responding to the Case Manager which stated that the Parents agree the Student is avoiding the work, but that doesn't really address their concerns. The Parent stated: "I think we all agree that [Student] has the ability to do the work-at least in some capacity...What we seem to be missing is the why of [Student] not doing the work. Does [Student] fear something? Does [Student] see the value in the assignments? There must be something we're not addressing."

41. On December 7, 2022, the amended Confidential Psychoeducational Evaluation Report indicated updated assessments are congruent with the previous assessments of the Student's academic skills and psychological processes. The overall results for the Student suggested the need for instructional and behavioral support. While in 8th grade, the Student was evaluated by the University of Oregon HEDCO clinic. As a result of the evaluation the Student was diagnosed with, "Specific Learning Disorder in Reading, ADHD, and Oppositional Defiant Disorder using the Diagnostic and Statistical Manual of the American Psychological Association, 5th edition (DSM-V)."
 - a. Current grades indicated the Student earned a 'D' in English, a 'D' in Academic Seminar; and
 - b. Teachers report that the Student's grades are largely influenced by incomplete and missing assignments.
40. On December 8, 2022, the Parent sent an email to the School Psychologist which stated: "I have a few questions before our meeting. Is there a reason there is no percentile listed for written expression in the Wechsler Individual Achievement Test, 4th edition results? I also don't see the results of the CEFI or any input on the 2 questionnaires that I filled out (I only see the teacher's input on the behavioral assessment). The report looks identical or nearly identical to the draft you sent me previously (I haven't read every part but that was my impression after a quick glance), is this really the final version?"
41. On December 8, 2022, the Parent sent an email to the School Psychologist which stated: "I would still like an answer to this question when you get the chance: 'Is there a reason there is no percentile listed for written expression in the Wechsler Individual Achievement Test, 4th edition results?'"
42. On December 9, 2022, the School Psychologist sent an email to the Parent which stated: "It is exactly what you described. For math and reading, it provides a percentile rank and a standard score because of all of the subtests provided in that index to create an overall standard score and percentile rank attached to the standard score. For writing, Sentence Composition was not conducted or provided a standard score for it which impacted the index/composite score for writing. However, based on the Spelling and Essay Composition it would look to be between 2-<1 percentile rank over when looking at the standard scores and percentile ranks on both subtests, which [sic] both scores are in the same descriptive category range."
43. On December 12, 2022, an IEP team meeting was held to review the re-evaluation results for an eligibility determination. "Parents expressed concerns of written language impact and what the report indicated...The Parents expressed looking into an outside evaluation to explore this concern further. The School Psychologist did provide that the academic testing examiner was welcome to be contacted with further details and also edited a sentence of [Student's] memory improving from a previous full comprehensive evaluation. The [Parents] would like to review the information further for [Student] but want [Student] to continue to be

supported more in writing based on the results.” The Parents agreed that the Student continues to meet the eligibility criteria of Other Health Impairment and Specific Learning Disability.

44. On December 12, 2022, the IEP team determined the Student qualified for special education services for Other Health Impairment and Specific Learning Disability.
45. On December 12, 2022, the School Psychologist sent an email to the Parent which stated: “Thank you everyone for meeting. I will send out paperwork for the eligibility to be reestablished tomorrow. I will also speak with the report author to add the additional line of improvement of performance in memory. I will also make note in the meeting notes regarding the disagreement with the inconclusive impact of written expression. Also, let me know if you would like [School Psychologist 2] to connect with you regarding any further information regarding [their] testing in academics.”
46. On December 23, 2022, the Parent emailed the School Psychologist and asked if the Student’s evaluation results would be provided. Parent stated; “I would like [Student’s] IEP to be completed...but I need this additional information to decide whether I need legal representation to be present or not.”
47. On February 1, 2023, the Case Manager emailed the Parents and reported they were: “having zero luck getting [Student] to do [their] writing assignments.” The Case Manager suggested they “check in with [Student] and the Student states they are working on it...” However, the Case Manager stated they have received no rewrites from the Student. Instead, the Student submitted “only two initials (sensitively titled: ‘Sleepy [Student]’).” The Case Manager asked the Parent to encourage the Student to complete those assignments.
48. On February 1, 2023, the Parent sent an email to the Case Manager which stated: “Thanks for your email and the update. We can talk to [Student] about putting more effort into [their] writing assignments. FYI [Student] is continuing to do once weekly tutoring for writing at the AAC. We should be getting the [Outside Agency] writing assessment report this Friday. Hopefully they will have some suggestions on how we can better help [Student] with [their] writing.”
49. On February 3, 2023, the School Psychologist responded to the Parent’s prior email, which had updated the Parent, and expressed gratitude for an outside agency providing an evaluation. The School Psychologist invited the Parent to share the results of the evaluation: “so we can compare it to the current proposed IEP to see if [they] are supporting [Student] similarly to the results...” If needed, the IEP team would consider either additions or adjustments as indicated by the evaluation.
50. On February 3, 2023, a report addendum from an evaluation dated January 6, 2023, indicated the Student was given the Wechsler Individual Achievement Test-IV (WIAT-IV) and the AAC writing assessment. The WIAT-IV Sentence Writing Fluency subtest indicated the Student scored:
 - a. “Essay Composition-1 percentile which classified as extremely low;
 - b. Sentence Composition-14 percentile which classified as low average; and
 - c. Sentence Writing Fluency-5 percentile which classified as very low.”
51. On February 3, 2023, a report addendum from the same evaluation stated that the Diagnostic Impressions (DSM-5) indicated Specific Learning Disability with Impairment in Written Expression, Severe. School recommendations for possible supports for the Student’s learning disability in writing were:

- a. Grading assignments for content rather than spelling or grammar;
 - b. Allowing skill mastery to be shown in different ways;
 - c. Frequent check-ins for understanding, especially when relying on printed material;
 - d. Use of typed notes or lesson outlines (ex: printed versions of PowerPoints) before lessons begins;
 - e. Allowing [Student] to dictate assignments and tests to a 'scribe';
 - f. Allowing the use of dictation or speech-to-text apps (for writing);
 - g. Allowing [Student] to type assignments instead of writing them by hand;
 - h. Breaking writing assignments into smaller chunks;
 - i. Providing sentence starters for written short answer responses;
 - j. [Student's] Parent shared that [Student] has begun to make use of internet resources to compensate for [their] writing difficulties. It is recommended that [Student] receive explicit instruction on identifying plagiarism, and how to properly cite [their] sources; and
 - k. Other suggestions for writing/dysgraphia and their source.
52. On February 5, 2023, the Parent sent an email to the Case Manager which stated: "...I noticed an almost across-the-board reduction in Specially Designed Instruction Minutes. I would like to know who decided on this reduction without my knowledge or agreement...certainly not a reduction in [their] writing minutes, especially after written expression test results."

The Case Manager sent an email in response to the Parent email which indicated: "...I was regularizing the minutes according to what I thought was the reasonable SDI on a yearly basis. [Student] in fact in a typical week has the opportunity for 350 minutes SDI in Acad Sem [sic], and that's not counting the harder-to-qualify [sic] SDI in the classes through Accommodations [sic]. I can assure you I did not make an error, and I have no interest in making excuses. I am happy to restore the previous minutes. That being said, working with any student is not amenable to hard lines. We work with [Student] more than the minutes suggest (mandate), but I understand your unease. As far as the writing, whatever testing may be done, whatever eligibility may be added, we strive to meet [Student's] needs whatever they may be, evaluated or added or not. Regarding [Student's] writing in terms of any part of the operation, I cannot help [them] with it if I do not see it and if I do not have [them] actively participating in improving, which I think [Student] is capable of. That's what I have to concentrate on. I can amend [Student's] IEP to reflect the previous numbers if you wish, it is no problem. I apologize for causing you to think I was pulling a fast one, that was not my intention nor purpose. I am also happy to discuss it on the phone if you would like."

53. On February 8, 2023, the Parent sent an email to the Case Manager which stated: "Yesterday [Student] reported that you have been putting in effort trying to help [them] with [their] writing however [Student] does not feel the method you are using is effective. I asked [Student] if the method that the AAC is using for [their] writing is effective and [Student] said 'yes'. I'm writing this not to insult your skills or the services you are providing [Student], but rather to point out that [Student] perceives there is a method that's effective to help [Student's] writing and that it's being utilized by the AAC. Perhaps the report from HEDCO and/or communication from the AAC, with instruction on how to intervene with [Student's] writing, could help 4J in providing the writing services that [Student] needs."

The Case Manager emailed a response to the Parent. "What is AAC? I am not sure how [Student] can judge the efficacy of a method without trying it. My method is simple. The Student writes something, I assess it at the student's level, and they incorporate my suggestions in a re-write [sic]. I do not think this is beyond [Student's] abilities, and [their]

abilities increase if [Student] does it. The simple accumulation of practice (essential regardless of 'method') does the trick.”

54. On February 15, 2023, the School Psychologist emailed the Student Services Administrator to tell [them] that the Parent arranged an outside evaluation for the Student. The evaluation was “to look further into [Student’s] writing abilities (if it is resistance behaviorally or if there is a true writing disability.” The email stated that the Parent planned to provide the District with a copy of the report...” and that the Parent “wants to call an IEP meeting for us to consider the information.”
55. On February 23, 2023, the School Psychologist emailed the Parent to follow-up about whether the Parent still wanted to meet with the IEP team to review the results of the outside evaluation.
56. On February 26, 2023, the Parent responded to the School Psychologist’s email: “I’m waiting to hear back from my advisor first. I will let you know.”
57. On February 28, 2023, the Parent emailed the School Psychologist and requested an IEP meeting. The Parent indicated that a lawyer planned to attend the IEP meeting.
58. On March 6, 2023, a Notice of Team meeting indicated the IEP team would meet on March 14, 2023 to discuss the Parent’s concerns.
59. On March 14, 2023, an IEP meeting was held. IEP notes reflected that the Parent was upset due to a “reversal in writing accommodations.” The Parent also expressed concern about a reduction in SDI minutes. “This also happened at [Previous School]. [Case Manager] stated [they] would restore the minutes. The numbers are minimums. [They] can certainly have more than [Student] is getting now.” The meeting notes indicated that the Student had been receiving 600 minutes/year of writing services; the Student was writing in Academic Seminar. In the past IEP, the Student had received 150 minutes/week of writing support. Parent suggested that the Student may need increased support because the Student has dysgraphia.

When asked how else the [Student] could access instruction to support their learning, the Case Manager responded, “Gen. ed Teachers [*sic*] offer office hours before school, and it was offered for [Student] to come in during a prep period for support [their] English teacher has offered for [them] to come in and get 1:1 help. [Student], at this time, has not accessed this.” Meeting notes indicated that the IEP team decided to change the writing SDI from 600 minutes/year back to 150 minutes/week.

60. On March 15, 2023, the IEP Progress Report indicated that the Student had not made sufficient progress towards their annual writing goal: “On at least three occasions, [Student] will conference with a teacher and make all recommended editing changes to [their] writing sample.” The progress report recommended: “Consider IEP review meeting.”
62. On April 8, 2023, the Parent emailed the School Psychologist with a request to reschedule an upcoming IEP meeting: “I’m sorry [Case Manager] but I don’t think we’ve had enough time for me to prepare our proposed changes to [Student’s] IEP so I’m going to request that we reschedule the Thursday, 4/13/2023, at 2:30 pm IEP meeting.” Parent also asked if “there were any materials/rough drafts that still need to be shared with [Parent’s] attorney so they could finish preparing [their] own proposed changes...”

63. On April 10, 2023, the Assistive Technologist emailed the Case Manager: "I asked [Student] to type two sentences that were written on the board. [Student] has fairly good speed and accuracy. I demonstrated voice to text/dictation-[Student] is not interested, even if offered a quiet/private space. Lastly, I showed [Student] a tool in Read & Write, which was a way to record your voice in a Google Doc. It allows you to talk for up to 60 seconds to answer a question or write an essay or other assignment. So, it seems that the challenge is what you mentioned an unwillingness to write and the reason given was that what [Student] is asked to write about is 'boring' and of low interest. I'm not sure what the others might be thinking? We just wanted to respond to the request to take a look at alternatives. [Student] is a capable young man with good tech skills."
64. On April 10, 2023, the Student Services Administrator emailed the Case Manager: "We do not have any materials to send [to Parent] at this time. I will let [District Lawyer] know that we are going to reschedule." The Case Manager contacted the Parent and requested that the Parent email when they were ready to schedule the IEP meeting.
65. On April 13, 2022, the IEP team met to discuss the Student's writing performance. The meeting notes do not indicate what decisions, if any, were made at the IEP meeting.
66. On April 20, 2023, the Parent emailed the Student Services Administrator and requested updates on whether:
- "[Student] has been able to work with a technology accessibility specialist;
 - AAC has been contacted (signed consent form for [District] to communicate); and
 - The district's writing specialists assisting [Student's] education in any way since the last meeting."
67. The Parent added, "I'm feeling really disappointed with the recently withdrawn offer of help for [Student] from an English teacher at School...I would like to hear that at least some of other changes are being made."
68. On April 21, 2023, the Student Services Administrator sent an email to the Parent, stating that the requested IEP draft was attached to the email. In response to the previous questions posed by Parent, the Student Services Administrator stated the following:
- "The accessible technology specialists have assessed [Student's] current skills and will be prepared to share information at our next IEP meeting once that is set;
 - AAC has not been contacted at this time. I will ask our TOSA reading specialist to contact them. However, [ELA TOSA] discussed the AAC writing strategies [Parent] mentioned in the IEP...and we devised some potential instructional strategies to use with [Student] based on [their] information...; and
 - [The ELA TOSA] is working with the [School] team to discuss strategies to use with [Student] in the coming weeks...[T]he new [English Teacher] was also involved in the discussion of strategies and may be utilizing some of them in the classroom.... We were prepared to share these strategies with [Parent] at the early April IEP to get [Parent] feedback."
69. On April 21, 2023, the Case Manager sent an email to the Student Services Administrator which stated, "I was unaware that I was supposed to be drafting a 'new IEP.' I am not, and feel no need to do so. If they want different goals, they can write them and present them for OUR consideration. I thought we were waiting on THEM. As I have already said numerous times, the current issue is [Student] refusing to write. If we can get beyond that, then maybe we can find the need for other interventions. My professional opinion is slighted and ignored."

70. On April 26, 2023, a Notice of Team Meeting indicated the purpose of the meeting was an annual IEP and a continuation of an IEP meeting held on April 13, 2023. The meeting was to be held on May 16, 2023.
71. On May 1, 2023, the Assistive Technologist sent an email to the Secondary ELA TOSA which stated they had been asked to look at AT tools and had briefly met with the Student. The Student was shown three AT options; the Student was not interested. The Student typed a short sentence but did not use any tools.
72. On May 12, 2023, an IEP meeting was held. The Parent requested changes to the April 12, 2023, IEP:
- “Summary of Present Levels of Performance enhanced to include performance in reading, writing, math, social/emotional skills, and behavioral skills;
 - The Student Strengths section of the IEP needs more information;
 - [Student’s] writing skills are significantly below grade level, especially related to non-preferred topics. [Student] requires specially designed instruction to develop writing skills for success to college and post-high school settings;
 - This goal, [writing: informative], is designed to teach the skills to produce a writing sample, and [Student] will require adult support for this goal during this IEP cycle. For this next IEP I suggest we consider removing the adult support in the revision step;” and
 - The Service Summary for writing stated that the Student would receive 600 minutes a year starting on 10/13/2022, 150 minutes a week starting on 4/13/2023, and 150 minutes a week starting on 5/16/2023.
73. The Parent expressed concerns about the proposed social emotional goal; they requested input about the Student’s current levels in specific behavior skill areas (seeking assistant to resolve conflict, advocate for themselves in the classroom, identify situations that lead to stress, and complete assigned work on a daily basis). The Parent asked whether any of the previous behavior goals should be continued. The Parent suggestions also indicated that on March 14, 2023, the Parents explained the [Student’s] “social caution around seeming different”; the Parent asserted “how taking advantage of accommodations that make it obvious that [Student] needs accommodations are hindered by this social caution.” The Parent “offered a draft goal for discussion at the IEP meeting.”
74. A continuation of the IEP meeting was held on May 16, 2023. Notes from this meeting indicated that there were concerns with writing goals. The team reviewed the writing goals sent and also looked into present levels from information shared and gathered since the last IEP meeting.

Parent concerns were: “Getting the skills that [Student] needs in order to get a job in order to support [themselves]... [Student] has both dyslexia and dysgraphia which makes it difficult for completing work and having access to higher education and employment.” In regards to the offer for a teacher to work with [Student] 1:1, the meeting notes reflected, “... [They’re] pursuing a [sic] this and not knowing it was being offered to others. [They] stated that [they] offered [Parent] upset [sic] about this.” The Case Manager clarified that the offer for a teacher to work with the “Student...was not a district offer.”

The meeting notes indicated: “[Parent] stated that [Student] is not getting the approach [Student] needs for [their] writing. [Parent] feels that if [Student] is given the opportunity to get AAC type writing instruction [Student] would benefit from it. [Parent] would want it to happen during [Case Manager’s] class.” The Vice Principal asked what the individual help would look like. The response was that Student could get assistance from one of the EAs who were in the classroom. Parent stated they would be fine with that, as long as the

assistant knew what to do and how to provide the Student with the instruction that was required for the Student. The Transition Specialist stated, “[sic] Noticing that [Student] can write sentences that are coherent. They’re on topic. [Student] can do some of the things at home.”

The meeting notes indicated the Parent proposed an alternate writing goal for the Student, which addressed job application completion. In the IEP goal area of sentence writing, all team members agreed on 70% for Correct Word Sequence and would be put into the IEP. The Parent expressed concern and requested that the Student receive writing instruction in the special education setting, not the general education classroom. The Parent requested measures and direct instruction in writing in class. The Parent would like to focus instruction on writing mechanics for 20 minutes a day.

75. On May 16, 2023, an Individualized Education Program Amendment indicated:
- a. Parents requested information on the Student’s writing. The Case Manager agreed to add writing goals to the IEP, and to decrease the 80% accuracy rate to 70% accuracy rate;
 - b. Specially Designed Instruction in Written Language would occur 600 minutes per year starting, on October 13, 2022 and ending on October 12, 2023;
 - c. Given specially designed instruction in writing informative, factual, or expository sentences related to a specific prompt the Student will write at least five sentences...with a correct word sequence score of 70% or higher. On at least three occasions, [Student] will conference with a teacher and make all recommended editing changes to [their] writing sample;
 - d. Given Specially Designed Instruction in creating a topic sentence, identifying three or more facts to support the topic sentence, and developing a summarizing or concluding paragraph, [Student] will write a five-paragraph paper on a non-preferred topic while scoring a ‘4’ (meets grade level expectations) in Ideas and Content, Voice, Word Choice, Sentence Fluency, and Conventions on 3 of 5 writing prompts after no more than two revisions with instructor guidance for each writing sample;
 - e. Supplementary aids/services: accommodations included:
 - i. Please report any phone issues home or to Case Manager monitored by the General Education Teacher, during all settings, 10 minutes a day;
 - ii. Daily check-in with Case Manager, monitored by the General Education Teacher, across all settings, 60 minutes a day;
 - iii. Calming space or quiet break space, C-5 (LC) or equivalent, monitored by the General Education Teacher, across all settings, 60 minutes per day;
 - iv. Preferential seating, monitored by the General Education Teacher, across all settings, 150 minutes a day;
 - v. [Student] may take a ten-minute break and mediate in Academic Seminar, monitored by the Special Education Teacher/Provider, during Academic Seminar, 10 minutes per day;
 - vi. Text to speech, Google read write and audio books-along with written text to visually follow along with during tasks that include a large amount of reading, monitored by the General Education Teacher, across all settings, 300 minutes per day;
 - vii. Word prediction program available for all writing tasks, monitored by the General Education Teacher, across all settings, 60 minutes per day;
 - viii. Behavior support plan/safety plan to be updated as needed with parent input, monitored by the General Education Teacher, across all settings, 150 minutes per day;
 - ix. No reading aloud other than a one-on one situation, monitored by the General Education Teacher, across all settings, 150 minutes per day; and

- x. Opportunities to take breaks, across all settings, 60 minutes per day.
76. On May 16, 2023, a PWN for IEP description of actions proposed indicated, “[Case Manager] will add writing goals to IEP with the change of 80% to 70%. Changes to IEP [Student] has a math disability-please remove from IEP (under present levels). [Student] gets instruction in math due to [their] reading and writing.”
77. On May 16, 2023, a PWN for IEP indicated the district had amended the Student’s IEP to address concerns from the Parent regarding the Student’s present levels, writing goals, and supports. “Team agreed to adjust [Student’s] writing SDI minutes and provide more detailed present level statements.” The district considered denying these changes, but the team agreed they were useful and agreed to include them.
78. On May 17, 2023, an email was sent from the Parent to the Student Services Administrator which asked to let the Parent know when they should expect to receive an updated IEP for Student to reflect what had been discussed/agreed upon in the last two IEP meetings.
79. On May 17, 2023, the Case Manager sent an email to the Parent and with the attached amended IEP. The Case Manager asked the Parent to contact the Case Manager if the Case Manager had missed anything.
80. On May 18, 2023, the Parent sent an email to the Case Manager stating that the Parent and the Parent’s Attorney requested the [Student’s] writing scores at the May 17, 2023, IEP meeting.
81. On May 19, 2023, the Language Arts Teacher provided three samples of the Student’s writing. The English Teacher indicated: “The most accurate sample of [Student’s] writing is the expository essay on [their] dog. It’s a far cry from the plagiarized essays...that [Student] turned in later that trimester.” Given a rubric for measuring different writing domains with a range of 1 through 5, the Student (“developing”) scored 2s in all areas:
- a. Ideas & Content: 2;
 - b. Organization: 2;
 - c. Sentence Fluency: 2;
 - d. Conventions: 2.
82. On May 24, 2023, the Parent sent an email to the Case Manager which stated the following concerns:
- a. The Parent still does not have copies of the writing scores;
 - b. The SDI minutes for writing still show as 600 minutes per year;
 - c. The Specially Designed Instructional minutes for writing were supposed to be restored to at least the previous 150 minutes per week; and
 - d. There was no mention of any 1 on 1 writing instruction to be provided during the Academic Seminar class.
83. On May 25, 2023, an email was sent from the Special Education Administrator to the Parent in response to the Parent’s concerns regarding not having copies of writing scores from the Read 180 assessment, which stated: “The team worked with [Language Arts Teacher] to see what they could find. There are no writing assessment scores. [Language Arts Teacher] worked with [them] on writing, but there are no scores available. They were activities for which [they] received a grade and they are no longer available. However [Behavior Intervention Specialist] who was at our meeting is working on getting training for the [School] team to use the AimsWeb Writing Assessment we agreed upon. We should

have some current data if [Student] engages well with [Staff Member] in this area of writing soon.”

The Parent also had a question regarding SDI minutes still shown as 600 per year. The Parent thought the agreement was to restore the minutes to 150 minutes per week. The Special Education Administrator responded: “We did not agree to change the SDI minutes in the service summary. We did agree to have [Staff Member] work with [Student] for 150 minutes per week in writing, provided that [Student] cooperates. This means that we would easily meet the minutes in writing outlined in the service summary. As has been stated before, 600 minutes per year is a baseline, and we plan to go much higher than 600 minutes to serve [Student].”

The Parent questioned how the Secondary ELA Teacher on Special Assignment (TOSA) was able to state a writing score percentage during the March 16, 2023, meeting that was substantially higher than the Student’s HEDCO and 3-year evaluation score which made the Student’s performance appear much better than it was. The Parent asked if the score which was stated was from the TOSA’s memory or was it a score other than the Read 180 Program. The Parent stated that, at the February 6, 2023 meeting, the Case Manager stated in an email that the Case Manager could amend the IEP to reflect the previous numbers. The Parent stated: “Your plans are no guarantee (and certainly not transferable to other potential [District] educational environments/new team) and I want [Student’s] writing minutes restored in the service summary. I’m prepared to go the distance on this one if necessary.”

84. On May 30, 2023, a letter was sent to the District’s Attorney from the Parent’s Attorney that documented Parent concerns regarding the March 14, 2023, and May 16, 2023, IEP meetings and corrections to the IEP. The Parent requested that the District:
 - a. Finalize the IEP with improved present levels statements and appropriate goals, and corrected specially designed instruction service times, as discussed at both meetings and in the document that we provided with suggested edits;
 - b. Restore writing service delivery minutes to the original 150 minutes per week (from 600 minutes per year); and
 - c. Provide the Student with a trained educational assistant or teacher for one-on-one writing instruction, two times per week, throughout the entire Academic Seminar period. The one-on-one instruction must be added to the IEP as a related service.

85. On June 7, 2023, an IEP Progress Report-Measurable Annual Goals indicated:
 - a. “[Student] is currently not completing [their] ELA assignments, [Student] currently has 7 missing assignments. When [Student] engages [Student] does better, evinced by [their] assessment scores;
 - b. Assignments:
 - i. “Classwork and homework: 51.25%/82:00/160:00
 - ii. Tests, quizzes, and presentations: 74.71%/97.50%/130.50
 - iii. Writing assessment: N/A 0.00/0.00
 - iv. Imported assignments: N/A 0.00/0.00
 - v. Total: 65.33%.”
 - c. The Writing Annual Goal Progress Report goal as of June 7, 2023, the Student earned a “3” on all writing objectives; the Student made progress toward the goal, but the goal may not be met. Instructional strategies may need to be changed.

86. On June 28, 2023, the Parent’s Lawyer sent an email to the District’s Lawyer which stated the Parent wanted to relay the following information: “We had anticipated receiving the revised IEP before the end of school. Barring receipt of a completed IEP, we expected some

response about our request for the updated IEP, an assurance that the writing SDI minutes would be repaired, and information about the writing SDI format and service provider the district will provide next school year.”

87. On June 30, 2023, the District’s Lawyer sent an email to the Parent Lawyer. “You will see that the IEP continues to contain 600 minutes yearly of writing SDI. As discussed at the last IEP meeting, that amount would be sufficient for [Student] to make meaningful progress towards the corresponding writing goals. That being said, the district anticipates that [Student] will almost certainly receive more SDI on [their] writing goals than just that amount, even if 600 minutes is what is necessary for [Student] to make meaningful progress. Additionally, that will not be the totality of the writing instruction [Student] receives. As you are aware, staff will provide [Student] with writing instruction (e.g. writing instruction via general education instruction) - the SDI just relates to the instruction [Student] will receive towards the specific goals in the IEP.”

88. On July 27, 2023, an attendance report for the 2022-23 school year was generated, which indicated the Student was absent 9% of the school days.

89. On July 31, 2023, the Parent filed this Complaint.

IV. DISCUSSION

General Evaluation and Reevaluation Requirements

The Complaint alleged that the District failed to meet the requirements for special education evaluations when assessments in the area of written language were not completed. This resulted in incomplete assessment results for the Student’s writing skills and needs.

Before conducting any evaluation or reevaluation of a child, the public agency must conduct evaluation planning. Before conducting any evaluation or reevaluation, the public agency must provide notice to the parent that describes any evaluation procedures the agency proposes to conduct as a result of the evaluation planning process. Before conducting any evaluation or reevaluation, the public agency must obtain informed written consent for evaluation. Each public agency must ensure that assessments and other evaluation materials used to assess a child under the IDEA are administered in accordance with any instructions provided by the producer of the assessments. The District must ensure that the child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities. The evaluation must be sufficiently comprehensive to identify all of the child’s special education and related service needs, whether or not commonly linked to the disability category in which the child has been classified. The evaluation must also include assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child.³ A reevaluation for each child with a disability and must occur at least every three years, unless the parent and public agency agree that a reevaluation is unnecessary.⁴

On October 19, 2022, the District notified the Parent that, due to a communication error, the District staff conducted an assessment of the Student without the Parents’ written consent. On October 20, 2022, the District requested written consent from the Parents for the three-year re-

³ OAR 581-015-2110(1)(2ab)(4aE)(4d-f)

⁴ OAR 581-015-2105(4bB)

evaluation. The Student's special education eligibility expired on October 27, 2022. On October 27, 2022, the Parent provided written consent for the re-evaluation. On November 2, 2022, the District attempted to administer writing assessments. Due to the Student's resistance to the writing tasks, only two out of three tests were administered. The evaluation report provided a description of writing samples produced by the Student in class, information about the related psychological processes, and the Student's opinion about their dislike for writing. On December 12, 2022, the IEP team determined the Student qualified for special education services for Other Health Impairment and Specific Learning Disability.

While the evaluation conducted in the area of writing utilized multiple assessment tools, including a standardized assessment with two standard scores derived and descriptions of the quality and quantity of the Student's writing, the District failed to obtain informed written consent from the Parent prior to conducting assessments for the Student's continued special education eligibility. Further, the District failed to conduct a re-evaluation every three years; the Student's IEP team did not meet to review evaluation results and determine whether the Student continued to be eligible for special education services until December 2022.

The Department substantiates this allegation.

Content of the IEP

The Complaint alleged that the District failed to determine the needs of the Student and appropriate services for writing and behavior needs; include recent testing for writing in the development of the IEP; provide an appropriate amount of specially designed instruction in writing, include one on one instruction, use the appropriate approaches, and include the agreed upon changes in the IEP document.

The individualized education program (IEP) must include a statement of the child's present levels of academic achievement and functional performance, including the results of any re-evaluation and information provided by the parents and how the child's disability affects the child's involvement and progress in the general education curriculum.⁵ Also required is a statement of measurable annual goals, including academic and functional goals designed to meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum and meet each of the child's other educational needs that result from the child's disability. The IEP must include a statement of the specific special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child or on behalf of the child and a statement of the program modifications or supports for school personnel that will be provided for the child to advance appropriately toward attaining the annual goals to be involved and progress in the general education curriculum and to participate in extracurricular and other nonacademic activities, and to be educated and participate with other children with disabilities and children without disabilities.⁶

On October 13, 2022, the Student's IEP team met to conduct an annual IEP review and develop a new IEP. The present levels of academic achievement and functional performance did not include sufficient baseline data about the Student's writing skills for the IEP team to develop an appropriate goal that addressed the unique needs of the Student. At the October 13, 2022 IEP meeting, there was no team decision made to reduce the SDI in writing from 150 minutes per week to 600 minutes per year, a significant reduction in services. The PWN dated October 13, 2022 also did not document the IEP team's decision to reduce the SDI for writing. On February

⁵ OAR 581-015-2225(1bBC)

⁶ OAR 581-015-2200(a)(b)(d)

5, 2023, the Parent, after reviewing the updated IEP, communicated their concerns to the Case Manager about the reduction in SDI for writing without the Parent's knowledge, agreement, or participation in the decision-making process. The Case Manager responded that they had changed the service times to "regularize" the minutes, and that the SDI could be adjusted back to the original amount of 150 minutes per week.

On March 14, 2023, the IEP team met and the Parent again expressed concern about the reduction in writing SDI. Meeting notes indicated that the IEP team decided to restore the writing SDI from the unilaterally-determined 600 minutes/year back to the team-determined 150 minutes/week. On March 15, 2023, the Student's IEP progress report indicated that the Student had not made sufficient progress toward their writing goal and that an IEP review may be needed. The IEP team met again on April 13, 2023 to discuss concerns about the Student's writing and review the results of the private evaluation; the record is unclear about what decisions, if any, were made at this meeting. On May 12, 2023, the Parent requested that the SDI minutes for writing be restored to 150 minutes per week, as it still had not been done, despite the team agreeing to do so in the March 14, 2023 meeting of the IEP team. The IEP team met again to continue the IEP meeting on May 16, 2023.

At the May 16, 2023 IEP meeting, the Parent requested that the writing instruction approach be adjusted to reflect the strategies the Private Tutor used. The May 16, 2023 amended IEP continued to reflect the reduced SDI minutes in writing as 600 minutes per year and did not reflect the requested changes to the instructional approach in writing; nor were the District re-evaluation or the Private evaluation results included. The PWN dated May 16, 2023 indicated the IEP team agreed to adjust the SDI minutes for writing. The District contended the agreement was to provide 600 minutes per year of SDI in writing. The Parent disagreed with the District's account of the agreements made at the May 16, 2023 IEP meeting. On May 24, 2023, the Parent again requested that the IEP be adjusted to reflect the previously agreed upon 150 minutes per week of SDI in writing, and that the one-on-one writing instruction be included.

On May 25, 2023, the District informed the Parent that the IEP team had not agreed to change the SDI minutes in the service summary. Instead, the District agreed to provide a staff member to support the Student for 150 minutes per week in writing, provided the Student cooperated. The District further indicated that the 600 minutes per year of special education services was a baseline; the plan was to provide "much more" than 600 minutes to the Student. On May 30, 2023, the Parent again requested that the District reinstate the original 150 minutes per week of SDI in writing, and the addition of one-on-one writing instruction. On June 7, 2023, the IEP progress report indicated that the Student had not completed any ELA assignments and that the Student had made some progress on the writing goal. The progress report indicated that instructional strategies may need to be changed. On June 28, 2023, the Parent informed the District that they had not received a finalized IEP, complete with the changes the team had agreed upon. On June 30, 2023, the District informed the Parent that the IEP would not be adjusted to include more than 600 minutes per year of SDI in writing because 600 minutes per year of SDI was sufficient for the Student to make meaningful progress towards the corresponding writing goals. There was no documentation that this was a decision made in an IEP team meeting; the last documented IEP team decision about the number of SDI minutes required was at the March 14, 2023 IEP meeting, where the team noted its decision that the student required 150 minutes per week of SDI in writing in the meeting notes. Despite that decision by the IEP team, months later, without another decision, the school district unilaterally determined that 600 minutes of SDI per year was sufficient. This determination was made despite the district documenting a lack of sufficient progress towards the goals established by the IEP team that may require a change in instructional strategies earlier in the month.

The original present levels for the Student's writing skills documented in the October 2022 IEP did not provide enough data for the IEP team to construct a meaningful IEP goal that was unique to the Student's needs. The District did not provide documentation that the reduction of the SDI in writing was an IEP team decision. Rather, the documentation indicated that the Case Manager made a unilateral decision to adjust the SDI in writing and the decision was based on "regularizing" service times, not on the needs of the Student or Parent input about the Student's needs. The Case Manager and IEP team agreed to revise the IEP and restore the 150 minutes per week; however, the Case Manager never followed through on this action. In May 2023, the Special Education Administrator communicated to the Parent that the IEP team had agreed to have a District staff member work with the Student for 150 minutes per week in writing. The IEP progress reports both noted that the Student was not making adequate progress towards the IEP writing goals and that an IEP review and a change in instructional strategies needed to be considered. The District was aware that the Student required over 600 minutes per year of SDI in writing, as evidenced by the IEP team's agreement to restore the inappropriately reduced 150 minutes per week of SDI in writing. This decision was made during the March 14, 2023 IEP meeting, in order to correct the Case Manager's unilateral action to reduce services outside of the IEP process. However, despite acknowledging the Student's need for this level of SDI in the meeting notes, and having the obligation to provide it, the District failed to update the Student's IEP to accurately reflect the needed SDI minutes and did not deliver the agreed-upon services. The Department substantiates this allegation.

Parent Participation-Prior Written Notice

The Complaint alleged that the District made major changes to the Student's IEP without discussing the changes with the Parents first.

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 and the provision of a free appropriate public education to the child.⁷

Prior Written Notice (PWN) must be given to the parent of a child within a reasonable period of time before a school district proposes or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child. The content of the PWN must include a description of the action proposed or refused by the school district, an explanation of why the district proposes or refuses to take the action, and a description of each evaluation procedure, assessment, test, record, or report the school district used as a basis for the proposed or refused action. Also required is a statement that the parents of a child with a disability have protection under the procedural safeguards and, if this notice is not an initial referral for evaluation, how a copy of the Notice of Procedural Safeguards may be obtained, and sources for parents to contact to obtain assistance in understanding their procedural safeguards. Further required is a description of other options that the IEP Team considered and the reasons why those options were rejected, and a description of other factors that are relevant to the agency's proposal or refusal.⁸

There is no evidence that the decision to reduce the SDI in writing was made by the IEP team at the October 13, 2022 IEP meeting. There is evidence in the District's documentation that the Case Manager made a unilateral decision to reduce the amount of SDI in writing, agreed to revert the SDI in writing back to the original amount of 150 minutes per week, and then never

⁷ OAR 581-015-2190(1)

⁸ OAR 581-015-2310(2)(3)

followed through. The IEP meeting minutes also reflected that the IEP team agreed at subsequent meetings to adjust the SDI for writing back to the original amount. On May 16, 2023, when the District provided PWN about the changes to the SDI for writing, the notification inaccurately stated that the IEP team had agreed to the adjustment to the SDI in writing. According to the District, the change was a reduction in the SDI for writing, with which the Parent disagreed. The change in SDI was not a “team” decision.

The Department substantiates this allegation.

When IEPs Must Be in Effect

The Complaint alleged that the District’s Case Manager did not follow the Student’s behavior support plan (BSP), which was a required part of the Student’s IEP.

At the beginning of each school year, a school district must have in effect an IEP for each child with a disability within the district’s jurisdiction. School districts must provide special education and related services to a child with a disability in accordance with an IEP.⁹

The 2021 BSP in effect during the Complaint period noted that the Student did well when the classroom was calmer and when the Student’s use of technology was monitored. In October 2022, the Case Manager notified the Parent that the Student had missing writing assignments and that the Student was not using their computer appropriately. In November 2022, the Parent reminded the Case Manager that the Student’s BSP included the supervision of the Student’s technology use. During interviews, the Case Manager described that the teachers monitored the Student’s technology use multiple times each class period. The Parent expressed concerns to the Case Manager that the Student felt the class in which writing was completed was a disruptive environment; during interviews the Student refuted that they had ever expressed this concern.

The Department does not substantiate this allegation.

V. CORRECTIVE ACTION¹⁰
In the Matter of Eugene School District 4J
Case No. 023-054-028

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

Action Required	Submissions	Due As Soon As Possible But Not Later Than:
1. The District must provide the Student with 80 hours of Compensatory Education in writing to make up for SDI not provided in writing from October 13, 2022 through the end of the 2022-23 school year.	The District shall submit the following: Completed plan for delivery of Compensatory	November 15, 2023

⁹ OAR 581-015-2220(1)

¹⁰ 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)).

	Education developed in IEP meeting with Parent; Evidence showing compensatory education was provided.	September 17, 2024
2. The District must ensure that all District staff responsible for reviewing, revising, developing, and implementing IEPs for this student during the 2022-23 school year or currently in the 2023-24 school year receive training in each of the following areas: <ul style="list-style-type: none"> • General Evaluation and Reevaluation Requirements; • Content of the IEP, especially determining and documenting needed services and supports; • IEP Review/Revision; • Members of the IEP team; • Prior Written Notice; and • Parent Participation. 	Training agenda/materials to for review/approval. Sign-in sheet for training that includes the following legible information: <ul style="list-style-type: none"> • The full names of participants; • The job title of each participant; and • The dated signature of each participant affirming they completed the training. 	January 15, 2024 March 15, 2024

Dated: this 18th Day of September 2023



Tenneal Wetherell
Assistant Superintendent
Office of Enhancing Student Opportunities

E-mailing Date: September 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).)