

**BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION**

In the Matter of Beaverton School District 48J	) ) ) ) )	FINDINGS OF FACT, CONCLUSIONS, AND STIPULATED CORRECTIVE ACTION Case No. 23-054-036
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**I. BACKGROUND**

On August 28, 2023, the Oregon Department of Education (the Department) received a written request for a special education complaint investigation from the parent (Parent) of a student (Student) residing in the Beaverton School District 48J (District). The Parent requested that the Department conduct a special education investigation under OAR 581-015-2030. The Department confirmed receipt of the 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.<sup>1</sup> This timeline may be extended if the Parent and the District agree to the extension in order to engage in mediation or local resolution or for exceptional circumstances related to the complaint.<sup>2</sup>

On September 5, 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 October 27, 2023.

The Complaint alleged that the District violated the IDEA when the Student’s IEP, dated January 26, 2023, was not finalized, or distributed until February 13, 2023. Further, the associated Prior Written Notice (PWN) dated January 26, 2023, was not sent to the Parent (or Counsel) until February 13, 2023.

The Student was eligible for special education due to an Autism Spectrum Disorder and Other Health Impairment.

In its *Response* submitted on September 19, 2023, the District did not contest the facts as set forth by the Complainant. The District *Response* indicated, “This would comport with the District’s internal procedures that clarify that staff are expected to issue finalized copies of IEPs and the corresponding PWN(s) within 10 school days of an IEP meeting.” The District also submitted a proposal for stipulated corrective action.

Friday, February 10, 2023 would have been the 10th school day following the January 26, 2023 IEP meeting. Because the IEP and PWN were issued the morning of Monday, February 13, 2023, the documents were issued the morning of the 11th school day following the January 26, 2023 IEP meeting.

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<sup>1</sup> OAR 581-015-2030(12) and 34 CFR § 300.152(a)

<sup>2</sup> OAR 581-015-2030(12) and 34 CFR § 300.152(b)

The District stipulated providing additional training on the District’s Special Education Handbook, including the expectation that IEP paperwork will be sent to families within 10 school days of an IEP meeting.

The District submitted the following relevant items:

1. District Response, 9/19/23;
2. Section 5 of District’s Internal Special Education Manual;
3. December 7, 2022 Notice of January 26, 2023 IEP;
4. June 26, 2023 IEP;
5. January 26, 2023 IEP Meeting Minutes;
6. January 26, 2023 Prior Written Notice; and
7. Student Contact Log.

The Complaint Investigator discussed the nature and content of a Stipulated Corrective Action and the District’s proposal with the Parent and the Parent’s Attorney on October 18, 2023.

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 Parent’s 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 August 29, 2022, to the filing of this Complaint on August 28, 2023.

Allegations	Conclusions
<p><b><u>Prior Written Notice (PWN)</u></b></p> <p>The Parent alleged that the District violated the IDEA when the Student’s IEP, dated January 26, 2023, was not finalized, or distributed until February 13, 2023. Further, the associated PWN dated January 26, 2023, was not sent to the Parent (or Counsel) until February 13, 2023.</p> <p>(OAR 581-015-2310; 34 CFR §300.421)</p>	<p>The District does not contest this allegation.</p>

<p><b>REQUESTED CORRECTIVE ACTION</b></p> <ol style="list-style-type: none"> <li>1. Train District special education staff on proper IEP documentation requirements, including accurate dates on IEPs and PWNs;</li> <li>2. Order the District to re-issue both the IEP and PWN with accurate dates; and</li> <li>3. Order a facilitated IEP meeting so that the Parent can participate in all aspects of the IEP meeting, through the completion of the IEP.</li> </ol>
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## III. FINDINGS OF FACT

1. The District's special education procedures manual, updated 2020, set forth "paperwork timelines" as "within 10 days of every meeting, case managers must send all documents to parents."
2. The Student is twelve years old and is currently enrolled in seventh grade at a middle school located within the District.
3. The January 26, 2023 IEP, indicated that the start dates for all the special education, related services, and supplementary aides were to commence on January 26, 2023.
4. On August 28, 2023, the Parent filed this Complaint.
5. The District did not contest the allegations made in the Complaint and the Parent has been apprised of the nature and content of the Stipulated Corrective Action, as set forth in the Corrective Action table, below.

#### **IV. DISCUSSION**

The Complaint alleged that the District violated the IDEA when the Student's IEP, dated January 26, 2023, was not finalized or distributed until February 13, 2023. Further, the associated PWN dated January 26, 2023, was not sent to the Parent (or Counsel) until February 13, 2023. The District did not contest this allegation.

Prior written notice must be given to the parent of a child within a reasonable time before a school district proposes 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. This requirement also applies when a school district refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.<sup>3</sup>

In this case, the District did not contest that the IEP documents, including the PWN, were sent 11 school days after the IEP meeting was held. Providing parents with finalized copies of an IEP within 10 school days is a reasonable amount of time. The District violated the IDEA when the District provided the PWN to the Parent after the changes made to the Student's IEP took effect on January 26, 2023. Further, the District's understanding of the requirements and procedures pertaining to when PWNs must be provided to parents do not align with the IDEA requirements; Districts must provide the notice before the changes take effect.

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

#### **V. STIPULATED CORRECTIVE ACTION<sup>4</sup>**

*In the Matter of Beaverton School District 48J  
Case No. 023-054-036*

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

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<sup>3</sup> OAR 581-015-2310

<sup>4</sup> The Department's order shall include any necessary corrective action as well as documentation to ensure that the corrective action has been completed (OAR 581-015-2030(13)). The Department expects and requires the timely completion of corrective action and will verify that the corrective action has been completed as specified in any final order (OAR 581-015-2030(15)). The Department may initiate remedies against a party who refuses to voluntarily comply with a plan of correction (OAR 581-015-2030(17) & (18)).

<b>Action Required</b>	<b>Submissions</b>	<b>Due As Soon As Possible But Not Later Than</b>
1. The District will ensure all PWNs that were required to be provided to the Parent regarding special education decisions for the Student have been provided, even if they were not provided in a timely manner.	Copy of all PWNs provided to the Parent or, if none needed to be provided, attestation that all required PWN had already been provided.	<b>November 17, 2023</b>
2. The District will review and revise special education procedures and practices for PWNs to meet the requirements under IDEA.	Revised procedures to be provided to ODE, if applicable.	<b>Within 30 days of adoption of revisions.</b>
3. The District will develop and conduct training for PWN and the requirements under IDEA. a. The training materials are to be submitted to ODE for approval prior to training District staff. b. All District staff responsible for the implementation of PWN requirements will be trained.	Materials to be submitted to ODE for approval.  Sign-in sheet and agenda.	<b>December 15, 2023</b>  <b>April 15, 2024</b>

Dated: this 1st Day of November 2023




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Tenneal Wetherell  
Chief of Staff  
Oregon Department of Education

E-mailing Date: November 1st, 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).)