

BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of
Portland School District 1J

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FINDINGS OF FACT,
CONCLUSIONS,
AND FINAL ORDER
Case No. 23-054-040

I. BACKGROUND

On October 25, 2023, the Oregon Department of Education (Department) received a written request for a special education complaint (Complaint) from the parent (Parent) of a student (Student) attending school in the Portland Public School District (District). The Complaint 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 by email on November 2, 2023.

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

On November 6, 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 November 28, 2023.

The District submitted a *Response* on November 15, 2023. As part of the response, the District acknowledged that Student had not received specially designed instruction as outlined in the Student’s IEP, stating that, “The District admits [Student] has not received SLP services yet during the 2023-2024 school year.” As Corrective Action, the District proposed that it, “Provide Student with 280 minutes of SLP services per quarter to compensate for the gap in services during the 2023-2024 school year.” The District also submitted documents with its *Response*. The District submitted the following relevant items:

1. District’s Written *Response* to Complaint, dated 11/15/23
2. IEP, 6/05/23
3. Eligibility Summary Statement, 6/05/23
4. Special Education Placement Determination, 6/05/23
5. Prior Written Notice, Notice of Triennial, 3/03/23
6. Disability Statement, Speech or Language Impairment, 6/05/23
7. Disability Statement, Developmental Delay, 6/05/23
8. Disability Statement, Other Health Impairment, 6/05/23
9. Parent/Guardian Consent for Individual Evaluation, 3/03/23
10. Student Summary, 10/21/22
11. Early Childhood Special Education Evaluation Report, 7/16/20

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

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

12. Statement of Eligibility for Special Education, Developmental Delay, 7/16/20
13. Individualized Family Service Plan, 1/06/22
14. Speech-Language Pathology Evaluation, 11/01/22
15. Neuropsychological Evaluation Report, 12/07/22
16. Occupational Therapy Evaluation, 1/13/23
17. Progress Notes, 2/03/23
18. Multidisciplinary Report, 6/05/23
19. Notice of Team Meeting, 2/23/23
20. Notice of Team Meeting, 6/02/23
21. Meeting Minutes, 6/05/23
22. Prior Written Notice, Notice of Eligibility, 6/05/23
23. Prior Written Notice, 6/05/23
24. Email Communication, 10/26/22 through 10/25/23
25. Letter from District Administrator and Building Administrator regarding provision of Speech Services, Undated
26. List of Knowledgeable Staff

The Complaint Investigator interviewed the Parent by telephone on November 2, 2023. Following that interview, the Parent provided email communication with the District dated 10/25/23 - 10/31/23. The Complaint Investigator had further discussion with Parent regarding the District's proposed Corrective Action via telephone on December 1, 2023. 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 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 October 26, 2022 to the filing of the Complaint on October 25, 2023.

Allegations	Conclusions
<p>When IEPs Must Be in Effect (Implementation)</p> <p>The Complaint alleges that the District violated the IDEA by failing to implement the Student's IEP as follows:</p> <ol style="list-style-type: none"> 1. During the 2023-24 school year, the District failed to provide specially designed instruction in the area of Communication as required by the Student's IEP. <p>(OAR 581-015-2220; 34 CFR §§ 300.323)</p>	<p>Not Contested</p> <p>The District does not contest this allegation.</p>

REQUESTED CORRECTIVE ACTION

The Complainant requests that the Department order the District to take the following corrective action:

1. Provide the Student with an SLP.



III. FINDINGS OF FACT

1. The Student in this case is 6 years old and attends kindergarten at an elementary school in the District. The Student is eligible for special education as a child with an Other Health Impairment (OHI) and Speech Language Impairment (SLI).
2. Since the beginning of the 2023-24 school year, Student has received services under an IEP dated June 5, 2023.
3. The June 5, 2023 IEP indicates that Student will receive Specially Designed Instruction (SDI) in the areas of: Writing, Mathematics, Communication, Reading, and Classroom/School Skills. Specifically, in the area of "Communication," the IEP provides that Student will receive 280 minutes of services per quarter.
4. On October 25, 2023, the Parent filed the Complaint in this case.
5. The District provided relevant documents and additional background information relevant to the Student and has considered the allegations made in the Complaint. The Complaint Investigator interviewed the Parent regarding the Complaint and received information concerning appropriate Corrective Action from both the Parent and the District.

IV. DISCUSSION

The Complaint alleges a single IDEA violation. The District stated in its *Response* that it does not contest the allegation.

The Department does not make a substantive determination regarding the allegation of the Complaint.

Based on the District not contesting the allegation in this Complaint, the Department orders the following Corrective Action:

V. CORRECTIVE ACTION³
In the Matter of Portland School District 1J
Case No. 023-054-040

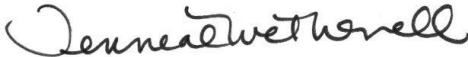
Based on the facts provided, the following corrective action is ordered:

Action Required	Submissions	To Be Completed As Soon as
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³ 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)).

		Possible but No Later Than
<p>1. The District will provide the Student with Compensatory Education to make up for any SDI in the area of Communication that was not provide in accordance with Student’s IEP.</p> <p>2. The District will hold an IEP meeting with the Parent to develop a plan to deliver the Compensatory Education.⁴</p>	<p>The District shall submit the following to ODE:</p> <p>Completed plan for delivery of Compensatory Education developed in IEP meeting with the Parent.</p> <p>Evidence showing compensatory education was provided.</p>	<p>January 31, 2024</p> <p>July 1, 2024</p>
<p>3. The District will provide training to all staff responsible for implementing the Student’s IEP on the District’s obligation to fully implement IEPs, even in the event of staffing shortages.</p>	<p>Training materials and agenda provided to ODE for review/approval.</p> <p>Sign-in sheet indicating staff attendance at training.</p>	<p>January 31, 2024</p> <p>March 31, 2024</p>

Dated: this 13th Day of December 2023



Tenneal Wetherell
 Chief of Staff
 Oregon Department of Education

E-mailing Date: December 13, 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).)

⁴ The Department provides IEP Facilitation services when it is mutually desired by parents and school districts and is available to support the Student’s IEP team in this meeting. If a Facilitated IEP meeting is desired, please email ode.disputeresolution@ode.state.or.us.