

BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of Coos Bay School)
District 9)
) FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
STIPULATED CORRECTIVE ACTION
Case No. 24-054-003

I. BACKGROUND

On January 9, 2024, the Oregon Department of Education (Department) received a written special education complaint (Complaint) from the parent (Parent) of a student (Student) who resides within the Coos Bay School District 9 (District). The Parent requested that the Department conduct a special education investigation under Oregon Administrative Rule (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.¹ This timeline may be extended if the Parent and District agree to the extension in order to engage in mediation or local resolution, or for exceptional circumstances related to the complaint.² A complaint must allege a violation that occurred not more than one year before the date the Department received the complaint.³ Based on the date the Department received the Complaint, the relevant period for this Complaint is between January 10, 2023 and January 9, 2024.

On January 16, 2024, the Department’s Complaint Investigator (Complaint Investigator) sent to the District a *Request for Response (RFR)* specifying two allegations of IDEA violations and establishing a *Response* due date of January 30, 2024.

The District, through its legal counsel, submitted a timely *Response* on January 30, 2024. The *Response* did not dispute either of the allegations. The District submitted 117 pages of documents, including:

1. An extensive record of Remind app messages between the Parent and District staff members, including three of the Student’s teachers and the Principal at the Student’s school;
2. Numerous emails between the Parent and various staff members at the Student’s school;
3. Assessment data related to the Student’s math and reading achievement from September 2021 through December 2023;
4. The Student’s report cards from 3rd, 4th, and 5th grades and an undated 6th grade Progress Report;
5. Assorted meeting minutes, hand-written meeting notes, meeting request forms, emails scheduling meetings, from February 2021 through December 2023.

¹ OAR 581-015-2030(12) and 34 CFR § 300.152(a)
² OAR 581-015-2030(12) and 34 CFR § 300.152(b)
³ OAR 581-015-2030(5), 34 CFR § 300.153(c)

6. The Student's Section 504 file, including a medical report, a Section 504 Eligibility Form, a Section 504 Equal Educational Opportunity Plan, a 504 Accommodation Plan, and a Health Plan;
7. A list of staff or others who are knowledgeable about the circumstances in this complaint and their contact information.

The Complaint Investigator reviewed all of the documents and submissions provided by the parties.

The Complaint Investigator explained the nature and content of a Stipulated Corrective Action with the Parent on February 1, 2024. This order is timely.

II. ALLEGATIONS AND CONCLUSIONS

The Department has jurisdiction to resolve this Complaint under 34 CFR §§ 300.151-300.153 and OAR 581-015-2030. The allegations and the Department's conclusions are set out in the chart below.

Allegation	Conclusion
<p>Initial Evaluation</p> <p>The Complaint alleges that the District violated IDEA requirements for an initial evaluation. Complaint alleges that the District has had reason to suspect that the Student has a disability and may need special education because the Parent had repeatedly expressed concern about the Student's academic performance and had requested a special education evaluation.</p> <p>(OAR 581-015-2105(3); 34 CFR §300.301)</p>	<p>Not Contested</p> <p>The District does not contest this allegation.</p>
<p>Prior Written Notice</p> <p>The Complaint alleges that the District violated the IDEA by not providing prior written notice as required whenever a school district proposes or refuses to initiate or change anything about a student's special education identification, evaluation, educational placement, or the provision of a free, appropriate public education (FAPE). Specifically, the Parent alleges that the District either ignored requests for special education evaluation or deflected the Parent's requests with verbal comments that the Student's grades were improving and that any lag in academic achievement was caused by the Student's anxiety.</p>	<p>Not Contested</p> <p>The District does not contest this allegation.</p>

(OAR 581-015-2310; 34 CFR §300.503)	
-------------------------------------	--

REQUESTED CORRECTIVE ACTION

The Complainant requested corrective action as follows:

- | |
|---|
| <ol style="list-style-type: none">1. Special education evaluation for the Student.2. Staff training on responding to Parent requests for special education evaluation. |
|---|

III. FINDINGS OF FACT

1. The Student resides within the District attendance area.
2. The Student is 12 years and in 6th grade at a District school.
3. The Student has a Section 504 Plan but has not been evaluated for special education eligibility.

The District does not contest the allegations made in the Complaint in this matter and the parties have agreed to Stipulated Corrective Action, as set forth in the Corrective Action table, below.

IV. DISCUSSION

The Complaint alleged two IDEA violations, which the District does not contest.

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

V. STIPULATED CORRECTIVE ACTION⁴

*In the Matter of Coos Bay School District 9
Case No. 24-054-003*

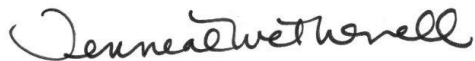
⁴ The Department's order shall include any necessary corrective action as well as documentation to ensure that the corrective action has been completed (OAR 581-015-2030(13)). The Department expects and requires the timely completion of corrective action and will verify that the corrective action has 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)).

Action Required	Submissions⁵	Due As Soon As Possible But No Later Than
<p>1. The District will convene an evaluation planning meeting and evaluate the student for eligibility for services under the IDEA, pending written parent consent.</p>	<p>The District will submit documentation to ODE demonstrating that it convened an evaluation planning meeting and appropriately determined eligibility for services under the IDEA following the evaluation, pending written parent consent.</p>	<p>June 15, 2024</p>
<p>2. If the Student becomes eligible for special education and related services, the District will:</p> <ul style="list-style-type: none"> a. Convene an IEP meeting with the Parent to develop an appropriate IEP for the student. b. Determine if any compensatory education is needed due to a potential delay in identification as a student eligible for special education and related services. c. Develop a plan about the type, amount, and scheduling of compensatory education to be provided to the student. d. Provide Parent with a prior written notice of the compensatory education offered. 	<p>The District will submit documentation of the agreement between the Parent and the District, including the type and amount of compensatory education, if any, that the Student has received or will receive.</p>	<p>October 31, 2024</p>

⁵ Corrective action submissions and related documentation as well as any questions about this corrective action should be directed to Mike Franklin, Oregon Department of Education, 255 Capitol St. NE, Salem, Oregon 97310- 0203; telephone – (503) 580-3083; e-mail: mike.franklin@ode.oregon.gov, fax number (503) 378-5156.

<p>3. The District will provide training to Sunset School administrators and teachers regarding the District's obligations under the IDEA's child find provisions and prior written notice provisions.</p>	<p>The District will submit a training plan to the Department, complete the training according to the approved plan, and submit evidence of completed training, materials, agenda, and sign-in sheets.</p>	<p>September 15, 2024</p>
<p>4. The District will revise its manual of policies and procedures related to students with Section 504 plans, including adding appropriate information regarding identification and evaluation procedures for students who may be in need of special education and related services.</p>	<p>The District will provide the revised manual to ODE.</p>	<p>June 15, 2024</p>

Dated: this 8th day of March 2024



Tenneal Wetherell
 Chief of Staff
 Oregon Department of Education

E-mailing date: March 8th, 2024

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)).