

15. Pre-IEP Meeting Feedback Form, 02/19/24
16. Email, re: [Student] ESY (Extended School Year)/Comp Ed Meeting, 04/11/23
17. Email, re: before spring break data, 04/11/23
18. [Student] Daily Data, 02-03/23
19. Email, re: IEP team meeting for [Student], 04/14-04/27/23
20. Confidential Report Occupational Therapy Evaluation, 04/18/23
21. Sensory Processing Measure School Form, 03/17- 04/27/23
22. Email, re: ESY determination data - [Student], 04/28/23
23. Email, re: team meeting for [Student], 09/19/23
24. Running Record Level 2, 01/23/24
25. Running Record Level 4, 01/23/24
26. Home Instruction Weekly Summary, 10/30 -11/27/23
27. Email, re: [Student] Q2 progress and annual IEP meeting, 02/07-02/08/24, duplicate
28. Email, re: update: comp ed services - [Student] thank you, 10/25-10/27/23
29. Email, re: opinion writing [Student], 11/01-11/02/23
30. Email, re: [Student] IEP - follow up question, 06/13-06/15/23
31. Email, re: [Student] initial APE [Adapted Physical Education] review, 04/14-04/21/23
32. Email, re: [Student] quarterly data, 04/20-04/21/23
33. Email, re: IEP team meeting for [Student], 04/14-04/28/23
34. Text Messages, 03/06-10/12/23
35. Email, re: [Student]'s data, 11/09/23-02/16/24
36. Email, re: [Student] folder, 11/30-12/11/23
37. Email, re: communication home, 11/17-11/20/23
38. Email, re: 9/21 meeting agenda, 09/22-10/03/23
39. Sticker Charts, 02/09-03/08/24
40. Email, re: [Student] final IEP / PWN (Prior Written Notice), 03/05/24
41. Email, re: draft IEP, 02/28/24
42. Email, re: draft IEP, 02/28/24
43. Email, re: [Student] IEP meeting prep, 02/26/24
44. Email, re: [Student] IEP eval meeting, 05/10-05/17/23
45. Contact Log, 09/16/21-04/03/24
46. Daily Attendance Profile, 2023-2024
47. License History, 02/02/23-06/30/24
48. Email, re: IEP meeting, 02/12/24
49. Email, re: formal request for an IEE (Independent Educational Evaluation) - [Student], 03/15-03/19/24
50. Email, re: [Student] final IEP / PWN, 03/05-03/13/24
51. Email, re: SPED (Special Education) teacher emergency licensure, 05/31/23-05/01/24
52. Email, re: [Student] parent input 5/31/ IEP meeting, 05/29-05/30/23
53. Email, re: [Teacher] - license, 07/15-07/20/23
54. Email, re: meeting today, 09/21-09/22/23
55. Email, re: phone call - IEE - 3/20/24, 04/02/24
56. Email, re: IEP packet (parent feedback), 03/14-04/02/24
57. Email, re: IEP packet (parent feedback), 03/14-03/22/24
58. Email, re: pre-IEP meeting parent input 04/08 [Student], 04/05/24
59. Email, re: disagreement on a placement decision, 04/08-04/14/24
60. Email, re: records request, 02/08-03/12/24
61. Email, re: [Student] - transfer?, 03/20/24
62. Autism Spectrum Disorder (ASD) Assessment Summary, 05/19/23
63. Oregon Standard Individualized Education Program, 02/29/24
64. Oregon Standard IEP Draft, 02/29/24, 04/08/24
65. Oregon Standard IEP, 03/09/23, 06/09/23
66. Oregon Standard IEP, 03/09/23, 09/21/23

67. 23-24 Special Education Meeting Minutes, 02/29/24
68. 23-24 Special Education Meeting Minutes, 04/08/24
69. Special Education Meeting Minutes, 05/04/23
70. Special Education Meeting Minutes, 05/31/23-06/09/23, duplicate
71. 23-24 Special Education Meeting Minutes, 09/21/23
72. Notice of Team Meeting, 04/21/23
73. Notice of Team Meeting, 05/19/23
74. Notice of Team Meeting, 09/07/23
75. Prior Notice of Special Education Action, 02/29/24
76. Prior Notice of Special Education Action, 03/20/24
77. First Grade Report Card, 2022-2023
78. Second Grade Report Card, 2023-2024

The Parent submitted a *Reply* on May 9, 2024, providing an explanation, rebuttal, and documents supporting the Parents' position. The Parent submitted the following relevant items:

1. Parents' *Reply* to the District's *Response to RFR*, 5/9/2024
2. Oregon Standard Individualized Education Program, 02/29/24
3. Prior Notice of Special Education Action, 02/29/24
4. Special Education Meeting Minutes, 05/31/23, 06/09/23
5. Oregon Standard IEP, 03/09/23, 09/21/23
6. Prior Notice of Special Education Action, 09/21/23
7. 23-24 Special Education Meeting Minutes, 09/21/23
8. IEP Amendment Team Meeting Agenda, 04/08/24
9. Prior Notice about Evaluation/Consent for Evaluation, 03/09/23
10. Progress Notes, 04/13/23
11. Email, re: ASD and articulation evaluations, 05/05/23
12. Email, re: [Student] - ESY transportation, 06/19-06/22/23
13. Email, re: [Student] IEP - follow up question, 06/13-06/15/23
14. Email, re: [Student] parent input 5/31 IEP meeting, 05/29-05/30/23
15. Email, re: meeting today, 09/21-09/22/23
16. Email, re: progress notes and work samples, 02/09/24
17. Email, re: IEP packet (parent feedback), 03/21-04/02/24
18. Email, re: records request, 02/08-03/12/24
19. Prior Notice of Special Education Action, 06/20/23
20. Star Family Report, 10/26/23
21. Assessment, 01/25/24
22. 23-24 Special Education Meeting Minutes, 04/08/24
23. Email, re: disagreement on a placement decision, 04/08-04/14/24
24. Email, re: draft IEP, 02/28/24
25. Email, re: [Teacher] - license, 07/15-07/20/23
26. Email, re: formal request for an IEE - [Student], 03/15/24
27. Email, re: IEP packet, 03/14/24
28. Email, re: [Student] IEP fall 2023, 09/05-09/06/23
29. Email, re: [Student] IEP meeting prep, 02/26/24
30. Email, re: phone call - IEE - 3/20/24, 03/20/24
31. Email, re: pre-IEP meeting parent input 04/08 [Student], 04/05/24
32. Email, re: team meeting for [Student], 09/07-09/19/23
33. [Student] IEP Meeting 5/31/23 Parent Input, no date
34. Meeting Agenda, 05/31/23
35. Special Education Progress Notes, 02/09/24
36. Prior Notice of Special Education Action, 03/20/24
37. Prior Notice of Special Education Action, 04/08/24

The Complaint Investigator interviewed the Parent on May 20, 2024. The interviews for District personnel were postponed until July 2, 2024 while the Department resolved a unique legal issue.

The Complaint Investigator reviewed and considered these documents, interviews, and exhibits to reach the findings of fact and conclusions of law in this order. The final order date for this Complaint was extended, and under that extension, this order is timely.³

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 April 12, 2023, to the filing of this Complaint on April 11, 2024.

Allegations	Conclusions
<p>Child Find and Evaluations</p> <p>The Parent alleged the District violated the IDEA when the District failed to identify and evaluate the Student for learning disabilities associated with reading, writing, and math.</p> <p>(OAR 581-015-2080, OAR 581-015-2110; 34 CFR §§ 300.111, 300.122)</p>	<p>Not Substantiated.</p> <p>The District conducted an evaluation less than a year before a request for another evaluation was made by the Parent and utilized that data to draft an IEP that met the unique needs of the Student in reading, writing, and math.</p>
<p>Independent Educational Evaluation</p> <p>The Parent alleged the District violated the IDEA by establishing timelines and procedures that interfered with the Parent’s ability to obtain an Independent Educational Evaluation (IEE) at public expense.</p> <p>(OAR 581-015-2305; 34 CFR §300.502)</p>	<p>Not Substantiated.</p> <p>The District did not impose conditions or timelines, nor did they unreasonably delay the Parent’s access to acquiring an IEE at public expense.</p>
<p>IEP Team and Personnel Qualifications</p> <p>The Parent alleged the District violated the IDEA when it failed to have a qualified special education teacher at the Elementary School from January 2023 to the time of the Complaint, including at IEP meetings.</p> <p>(OAR 581-015-2210; 34 CFR §§ 300.207, 300.156)</p>	<p>Not Substantiated.</p> <p>The District worked with the Teacher Standards and Practices Commission (TSPC) to ensure the Special Education Teacher met TSPC requirements.</p>
<p>Access to Student Records</p>	<p>Not Substantiated.</p>

³ The Department received a request from an attorney from the Oregon Education Association to be allowed to be present when the Complaint Investigator conducted interviews with staff members. As this was the first such request the Department has received, it was necessary to consult with the Oregon Department of Justice.

Allegations	Conclusions
<p>The Parent alleged the District violated the IDEA when it failed to provide service logs after a records request was made by the Parent.</p> <p>(OAR 581-015-2300; 34 CFR §300.613)</p>	<p>Service logs from the Occupational Therapy Consultant and the Second Grade Teacher for the 2023-2024 school year were in the materials provided to the Parent on March 15, 2024.</p>
<p>Placement of the Child</p> <p>The Parent alleged the District violated the IDEA by failing to ensure that the Student’s placement was determined by a group of persons, including the Parent and other persons knowledgeable about the Student, the meaning of the evaluation data, and the placement options. Specifically, the Parent alleged that the District retracted a placement decision and would not consider the Parent’s input regarding the change in decision.</p> <p>(OAR 581-015-2250; 34 CFR §300.116)</p>	<p>Not Substantiated.</p> <p>The IEP team met the legal requirements for the educational placement of the Student. The District determined the educational placement in a meeting with a group of persons knowledgeable about the Student, including the Parent, and evaluated different placement options. ”</p>
<p>Prior Written Notice (PWN)</p> <p>The Parent alleged the District violated the IDEA when it failed to provide a PWN after refusing to update/add a writing goal and refusing to discuss compensatory education services. The Parent also alleged that the District failed to provide a PWN before reducing specially designed instruction (SDI) in math.</p> <p>(OAR 581-015-2310; 34 CFR §300.421)</p>	<p>Substantiated.</p> <p>The District did not provide the Parents with PWN related to its decision to unilaterally reduce SDI for the Student in math.</p>
<p>Extended School Year (ESY) Services</p> <p>The Parent alleged the District violated the IDEA by failing to collect data needed to determine the need for ESY services following the summer break.</p> <p>(OAR 581-015-2065; 34 CFR §300.106)</p>	<p>Not Substantiated.</p> <p>Based on the use of progress monitoring and observational data, combined with professional judgment, the District met its obligation in this area.</p>
<p>Content of the IEP</p> <p>The Parent alleged the District failed to provide the Student with the appropriate amount of SDI in math and did not consider the Parent’s concerns when making the decision.</p> <p>(OAR 581-015-2200; 34 CFR §§300.320-300.324)</p>	<p>Substantiated.</p> <p>The District adjusted the Student’s SDI in math without going through the needed processes to determine if such a reduction was appropriate, such as an IEP team meeting or written agreement with the Parent. This action constitutes a violation of IDEA’s procedural safeguards.</p>
<p>Free Appropriate Public Education (FAPE)</p>	<p>Not Substantiated.</p>

Allegations	Conclusions
<p>The Parent alleged that the District failed to provide the Student with a FAPE when it failed to offer and implement an IEP reasonably calculated to allow the Student to make appropriate progress, given the Student’s unique circumstances.</p> <p>(OAR 581-015-2040; 34 CFR §300.101)</p>	<p>There is no evidence that the adjustment of the number of minutes of SDI in math impacted the Student’s progress towards their IEP goals.</p>

REQUESTED CORRECTIVE ACTION
<p>The Parent requested the following corrective action:</p> <ol style="list-style-type: none"> 1. “When the [Independent Educational Evaluation] IEE is completed, hold an IEP team meeting and consider the results. Provide staff training on the requirements under the IDEA on child find and evaluations. Provide compensatory education services.” 2. “The District should change their procedures regarding IEEs to be in compliance with the IDEA.” 3. “Provide compensatory education services for all time (within the scope of the complaint period) that [the Student] was not receiving special education services under the supervision of a special educator.” 4. “The District should provide service logs for the last calendar year (the scope for this complaint) and provide compensatory education services for any missed specifically designed instruction.” 5. “The District should provide compensatory education services and work to formulate an IEP that allows the Student to make progress given [the Student’s] unique circumstances.” 6. “Have another IEP team meeting to discuss placement options and provide staff training on placement and predetermination.” 7. “Provide staff training on PWN.” 8. “Have an IEP team meeting to reconsider ESY services, given the lack of data collection during the return from summer break in the fall of 2023.” 9. “Provide staff training on the importance of parental input and changes to an IEP only during an IEP meeting.”

III. FINDINGS OF FACT

IDEA regulations limit complaint investigations to alleged violations occurring no more than one year before the Department receives the special education complaint. This Complaint Investigation did not consider any IDEA violations alleged to have occurred before April 12, 2023. Any facts listed below relating to circumstances or incidents earlier than that date are included solely to provide the context necessary to understand the Student’s disability and special education history.

1. The Student is eight years old, in the second grade, and attended an elementary school in the District during the 2023-24 school year.
2. The Student is eligible for Special Education under the category of Other Health Impairment (OHI).

3. The Student demonstrates strengths in following schedules and routines, responds well to first-then requests, thrives with consistent routines implemented in the classroom, speaks in complete sentences, and advocates for their wants and needs.
4. According to a Daily Attendance Profile for the 2023-24 School Year, the Student was absent 9.3 % of the time. The Student was tardy 0.01 % of the time.
5. According to the Student's Daily Data Logs, between February 2023 and March 2023, the Student had 10 incidents where they refused to transition for a period of time, according to five teachers. A review of the data collected during these transition periods revealed that there were 100 minutes during which the Student refused to complete tasks, with only 20 minutes during this period where the Student completed tasks. A teacher noted the Student "really struggled this morning following directions and completing work." Another teacher noted that the Student struggled during reading group transitions.
6. According to a 2022-23 First Grade Report Card for semester 2, in English Language Arts, the Student received:
 - a. Print Concepts – Meets;
 - b. Phonological Awareness – Not Yet Meets;
 - c. Phonics and Word Recognition – Nearly Meets;
 - d. Fluency – Not Yet Meets;
 - e. Key Ideas and Details – Meets;
 - f. Craft and Structure – Meets;
 - g. Integration of Knowledge and Ideas – Meets;
 - h. Range of Reading and Text Complexity – Not Yet Meets;
 - i. Writing Text Types and Purposes – Nearly Meets;
 - j. Production and Distribution of Writing – Nearly Meets;
 - k. Research to Build and Present Knowledge – Meets;
 - l. Speaking and Listening Comprehension and Collaboration – Meets;
 - m. Presentation of Knowledge and Ideas – Meets;
 - n. Language Conventions of Standard English – Not Yet Meets; and
 - o. Vocabulary Acquisition – Nearly Meets.
7. According to a 2022-23 First Grade Report Card for semester 2, in Mathematics, the Student received:
 - a. Operations and Algebraic Thinking – Not Yet Meets;
 - b. Numbers and Operations in Base Ten – Nearly Meets;
 - c. Measurement and Data – Not Yet Meets; and
 - d. Geometry – Not Yet Meets.
8. According to a 2023-24 Second Grade Report Card for semester 1, in English Language Arts, the Student received:
 - a. Phonological Awareness – Not Yet Meets;
 - b. Phonics and Word Recognition – Nearly Meets;
 - c. Fluency – Not Yet Meets;
 - d. Key Ideas and Details – Not Yet Meets;
 - e. Craft and Structure – Not Yet Meets;
 - f. Integration of Knowledge and Ideas – No Score;
 - g. Range of Reading and Text Complexity – Not Yet Meets;
 - h. Key Ideas and Details – Not Yet Meets;
 - i. Craft and Structure – Not Yet Meets;
 - j. Integration of Knowledge and Ideas – No Score;

- k. Range of Reading and Text Complexity – Not Yet Meets;
 - l. Writing Text Types and Purposes – Not Yet Meets;
 - m. Production and Distribution of Writing – Not Yet Meets;
 - n. Research to Build and Present Knowledge – No Score;
 - o. Speaking and Listening Comprehension and Collaboration – Not Yet Meets;
 - p. Presentation of Knowledge and Ideas – Not Yet Meets;
 - q. Language Conventions of Standard English – Not Yet Meets;
 - r. Knowledge of Language – Not Yet Meets; and
 - s. Vocabulary Acquisition – Not Yet Meets.
9. According to a 2023-24 Second Grade Report Card for semester 1, in Mathematics, the Student scored:
- a. Operations and Algebraic Thinking – Not Yet Meets;
 - b. Numbers and Operations in Base Ten – Nearly Meets;
 - c. Measurement and Data – Not Yet Meets; and
 - d. Geometry – No Score.
10. On March 9, 2023, a Prior Notice About Evaluation/Consent for Evaluation indicated an evaluation was requested because “[The Student] is currently eligible as a [S]tudent experiencing [a] developmental delay. The [T]eam agrees that a comprehensive evaluation is appropriate to better plan for supports at school. Additionally, [the Student’s Parent] formally requested a psycho[-]educational evaluation.”
11. A Sensory Processing Measure, second edition (SPM2) Occupational Therapy Evaluation dated March 17, 2023, indicated, “A score in the Typical range indicates that this client’s overall level of functioning falls within the average range, in comparison to others in this age level.” (D112)
12. On April 11, 2023, the Parent emailed the Director of Student Services, “I just wanted to circle back and see if we can get an April meeting set up to discuss ESY and Comp Ed [sic].” The Parent wanted to meet before the end of the year.
13. On April 11, 2023, the Special Education Teacher emailed the Director of Student Services, “I saw [the Parent] is requesting another meeting and hoping for next week. I’d like to touch base beforehand again, if possible. Attached is the data that was collected before spring break. Let me know what else you may need from me to prepare for this meeting.”
14. According to Progress Notes for a Summary of Evaluation that was conducted on April 13, 2023, the Student was given the Adaptive Behavior Assessment System, Third Edition (ABAS-3). The Student scored in the second percentile, with a 69 standard score, which is exceptionally low in the general adaptive composite. The Wechsler Abbreviated Scale of Intelligence, 2nd Edition, (WASI-II) indicated the Student scored on the Perceptual Reasoning Index a 92 Standard Score, 30th percentile, which placed them in the average range. It was noted that “[The Student] was unwilling to engage in verbal tasks which made it impossible to obtain a Full-Scale IQ. Visual subtests were able to be completed.”
15. On April 14, 2023, the Elementary Adapted Physical Education (APE) Specialist emailed the Special Education Teacher, “[The Student] scored at the 5th percentile and has demonstrated progress and success in both APE and General PE.”
16. An Occupational Therapy Evaluation Report dated April 18, 2023 indicated, “[The Student] is being assessed for occupational therapy as part of an initial assessment to determine whether [their] needs significantly impact [their] academic performance within the realm of

occupational therapy.” According to the Sensory Processing Measure 2 (SPM 2), the Student performed the following results:

- a. “Vision - 90 percentile, moderate difficulties”;
- b. “Hearing - 42 percentile, typical”;
- c. “Touch - 66 percentile, typical”;
- d. “Taste and Smell - 50 percentile, typical”;
- e. “Body Awareness - 82 percentile, typical”;
- f. “Balance and Motion - 95 percentile, moderate difficulties”;
- g. “Sensory Total - 79 percentile, typical”;
- h. “Planning and Idea - 69 percentile, typical”; and
- i. “Social Participation - 73 percentile, typical.”

17. On April 20, 2023, the Parent emailed the Special Education Teacher, “Just wanted to check in. As discussed during our IEP meeting on 3/10, data is going to be sent home on all of [the Student’s] IEP goals quarterly.”
18. A Notice of Team Meeting dated April 21, 2023, indicated a review of ESY eligibility and an OT (Occupational Therapy) evaluation was needed.
19. On April 21, 2023, the Elementary APE Specialist emailed the Special Education Teacher, “Any progress in getting a meeting scheduled to review results of [sic] Adapted PE evaluation?” The Special Education Teacher replied, “I am adding [the First Grade Teacher and the Director of Student Services] to this conversation in hopes that we can find time to meet and discuss the results of this eval[uation]. This [S]tudent is missing important general education time and a reading intervention group during our current APE time, so I’d also like to discuss plans moving forward.”
20. On April 21, 2023, the Parent emailed the Special Education Teacher, “Again, I’m not looking for or expecting progress at this point, really. Just want to make sure it works for everyone how we are collecting data and reporting progress as well as to ensure the goals are measurable as written.”
21. On April 27, 2023, the Occupational Therapist emailed the Parent, “I was hoping to send over the OT evaluation report for [the Student] to review before [their] meeting next week. Please let me know if you have any questions and I will go over this information at our next IEP meeting. The full Sensory Processing Measure 2 results are also attached here. I have a summary in the report as well.”

The Parent replied to the Occupational Therapist the next day, “I did want to touch on the vision piece really quickly. [The Student] was diagnosed with Duane’s Syndrome and Accommodative Esotropia when [the Student] was 8 months old, and [they have] since been seen by an eye doctor bi-annually [sic]. Duane’s Syndrome is a genetic malformation that occurs in the sixth cranial nerve. To put it briefly [the Student] was born ‘missing’ an eye muscle that allows [their] left eye to look outward, toward [their] ear. So [they have] limited/no peripheral vision on the left side.” The Occupational Therapist responded, “Thank you so much for the medical vision background! That really helps me figure out what I am seeing functionally and will help us to make more appropriate accommodations to help [the Student].”

22. On April 28, 2023, the Director of Student Services emailed the Parent, “Thank you for your patience! ... I’ve attached the data we will review and discuss at our team meeting next week. You’ll receive an agenda from me by the end of day Tuesday, 05/02.”

23. The May 4, 2023 amended IEP described the Student's goals in reading, mathematics, and written language. The Parent's concerns were described in the Present Levels of Academic Achievement and Functional Performance section of the IEP. In relevant part, the IEP included the following:
- a. Reading goal: "By the annual review date, given specially designed instruction and text at [their] current instructional reading level, [the Student] will be able to decode text with 80% accuracy, over 3 consecutive opportunities."
 - b. Math goal: "By the annual review date, with access to math manipulatives, [the Student] will independently complete addition and subtraction problems with numbers and solutions within 20. [The Student] will solve (e.g., by counting on, and stating or writing the answer, for 4 out of 5) addition and subtraction activities. ..."
 - c. Written Language goal: "By the annual review date, given a choice of three familiar informational writing topics with a visual cue, [the Student] will draw two facts and write one sentence connecting [their] ideas about [their] chosen topic, on (3 out of 4) progress monitoring assessments."
 - d. Specially designed instruction in reading and math was needed for 150 minutes per week in the general and special education classrooms, which were to be provided by the general education teacher. Specially Designed Instruction in written language was needed for 90 minutes per week in the general and special education classroom by the general education teacher.
 - e. The IEP amendment dated May 4, 2023 indicated the "vision section of a previously shared OT evaluation]. Added [P]arent input regarding vision. Removed recommendation for talking to an eye doctor. Focus in schools is on functional participation within the school environment."
24. On May 5, 2023, the Parent emailed the Autism Specialist, "[The Student] saw a Psychologist and a Speech-Language Pathologist at [Clinic] for an ASD evaluation]. I included both reports."
25. On May 10, 2023, the Parent emailed the Administrative Support Specialist, "I mentioned we should schedule the (hopefully) final IEP meeting of the year for [the Student] as soon as possible, since we only have a little over a month of school left. During this IEP Meeting we will need to:
- a. "Go over evaluations."
 - b. "Review [the Student's] present levels, IEP goals, services, accommodations, etc. And update with present information from the evaluations. [sic] (we were very much guessing during the formulation of [their] goals during [their] annual IEP meeting, due to lack of information/data)."
 - c. "We definitely need to revise some of the goals. For instance, on some of the goals, in the progress notes/data I received for the end of Quarter 3 ... it states [the Student] is already reaching a goal."
 - d. "Discuss and make a plan for [the Student's] ESY and Compensatory Education that will take place in the Summer of 2023."
26. On May 11, 2023, the Director of Student Services emailed the Parent, "The evaluation team will be needing to meet and review findings the week of May 29th." On May 16, 2023, the Director of Student Services emailed the Parent, "It sounds like the team is best able to accommodate an afternoon meeting. ... We'll be sure to get a draft to you well in advance. Having time to review and share input ahead of time will help make for a more efficient conversation. I'm hopeful that, with a succinct agenda, we can cover all items in one meeting but of course a second meeting is an option if needed."

27. On May 17, 2023, the Parent messaged the District, “[The Student] came off the bus just sobbing? The bus driver said [they] came to the bus by [themselves] just crying and cried the whole ride home? Wonder if something happened?”
28. A Notice of Team Meeting, for a meeting to be held on May 31, 2023, indicated a review of ESY Eligibility and an OT evaluation was needed.
29. On May 19, 2023, a Psycho-Educational Evaluation Summary indicated the Student had received special education services “under the eligibility category of Developmental Delay (DD). This eligibility category expires at age 10. It was determined by the [S]chool [T]eam to explore alternative eligibilities during [the Student’s] current triennial evaluation.” According to the Psycho-Educational Evaluation Summary, “[The Student] received a diagnosis of ADHD [Attention Deficit Hyperactivity Disorder] in January of 2023. [The Student] began taking medication shortly after this diagnosis. It is reported that there has been a marked observed difference in [the Student’s] attentive behavior following this change, including [their] willingness to participate in academic activities, ease with transitions and engaging in conversation.”

The Psycho-Educational Evaluation Summary also indicated during a classroom observation that the Student “worked one-to-one with an educational assistant for the duration of the routine.” The Social Communication Classroom (SCC) Teacher indicated, “[The Student] is good at advocating for [themselves] if [they need] something or requires help.” (D3) Behaviors of concern noted by the SCC Teacher were, “[The Student] being unmotivated to do work and difficulty initiating tasks... There was expressed uncertainty if [their] aversion to academic work is because the work is too hard or because of other factors.” When the Conners-4 was given to the Student, “[b]oth teacher respondents rated [the Student] in the average range across all Conners-4 scales with the exception of an elevated score in Peer Interactions by [their] classroom teacher.”

The Woodcock-Johnson Tests of Achievement, Fourth Edition results indicated:

- a. “Reading - SS-67, 1st percentile, Low”;
 - i. “Letter-Word Identification - SS-67, 1st percentile, Low”;
 - ii. “Passage Comprehension - SS-69, 2nd percentile, Low”;
- b. “Mathematics - SS-65, 1st percentile, Low”;
 - iii. “Applied Problems - SS-63, 1st percentile, Low”;
 - iv. “Calculation - SS-68, 2nd percentile, Low”;
- c. “Written Language - SS-56, 0.2nd percentile, Low”;
 - v. “Spelling - SS-70, 2nd percentile, Low”; and
 - vi. “Writing Samples - SS-49, <0.1 percentile, Extremely Low.”

The Psycho-Educational Evaluation Summary also indicated the Student would benefit from:

- b. Preferential seating;
- c. Chunk[ing] assignments;
- d. Clear expectations;
- e. Access to break space;
- f. Access to calming and sensory tools;
- g. Advanced notice for substitutes;
- h. Reward system for initiating assignments;
- i. Transition warnings;

- j. Use of simple, concise language;
 - k. Extra time for tests, longer assignments;
 - l. Provide answers in alternative ways; and
 - m. Use of nonverbal signals.
30. On May 19, 2023, a Speech-Language Evaluation Report indicated phonology and articulation skills were not assessed during the evaluation because the Student received "Speech Services for articulation/phonology." The report summary stated, "[The Student] exhibits many strengths as a communicator. Strengths include speaking in complete sentences, asking questions when [they are] curious, advocating [for their] wants and needs, and listening/following directions. Needs could include sharing [their] thinking with peers with adult prompting/modeling to allow for more independence and learning from [their] peers. [The Student] also continues to need support in the area of articulation/phonology."
31. According to an Autism Spectrum Disorder (ASD) Assessment Summary dated May 19, 2023, in nonverbal communicative behaviors used for social interaction, the Student:
- a. "Maintains eye contact with speakers."
 - b. "Positions body toward speakers when listening."
 - c. "Makes appropriate gestures in the classroom."
 - d. "Can recognize peers [sic] non-verbal behavior, especially facial expressions."
 - e. "Directs facial expressions to others to show the emotions [the Student] is feeling."
32. On May 30, 2023, the Director of Student Services emailed the Parent, "Thank you for providing input! The [T]eam will review this prior to our meeting. A few questions for you[:]"
- a. "Would you like this included as [P]arent input and concerns in the IEP document?"
 - b. "Do you prefer to meet in person or by [G]oogle [M]eet tomorrow afternoon?"
 - c. "I noticed that you had additional questions regarding recovery services provision. During our conversation tomorrow, we'll certainly plan to discuss what provision will look like this summer."

The Parent responded to the Director of Student Services, "If you think we should schedule another meeting with [the Executive Director of Student Services], I'm happy to. I'm happy with the 36 hours of Recovery Services. But again, we do not know if that will [b]e sufficient for [the Student] and we will need to evaluate/discuss in the fall." The Parent continued, "As I'm sure you know, I have 12 calendar months for a [C]omplaint. If there were to be a situation were [sic] we could not make an agreement on the time, amount, type, etc. of recovery services. That needs to occur within 12 months so I can seek help from the ODE [Oregon Department of Education] or OCR [Office of Civil Rights]. That's why it is important to me to make sure this is resolved with [sic] 12 months."

33. On May 31, 2023, a Meeting Agenda indicated a Virtual Google Meet for a Team review, eligibility, and summer services was held. According to a Student IEP Meeting Parent Input document, the Parent indicated, "My biggest concern is how far behind [the Student] is academically. The [P]sycho-[Educatoional Evaluation results] identified some strategies (most of which we already have implemented) that may assist with [the Student] academically. I have concerns that [the Student] may be suffering from [a] SLD [specific learning disability]. [The Student] is medicated for ADHD now and is able to focus and be 'available' for learning more. But, as stated on the evaluation [the Student] is still requiring adult prompting and is testing in the 1st percentile or below in all areas academically."
34. On May 31, 2023, a Statement of Eligibility for Special Education (Other Health Impairment) indicated the Student did qualify for special education services under the category of OHI. The form noted that a copy of the evaluation report and the eligibility statement were

provided to the Parent. There were no signatures on the form submitted. The written consent was provided via the chat feature during the virtual meeting that was held.

35. On May 31, 2023, a Statement of Eligibility for Special Education (DD) indicated the Student did not qualify for special education under the category of DD. The form noted that a copy of the evaluation report and the eligibility statement were provided to the Parent.
36. On May 31, 2023, a Statement of Eligibility for Special Education (ASD) (ESCE & School-Age) indicated the Student did not qualify for special education under the category of ASD. The form noted that a copy of the evaluation report and the eligibility statement were provided to the Parent.
37. Special Education Meeting Notes dated May 31, 2023 indicated the Parent consented to receive the Special Education paperwork electronically. The Parent acknowledged receiving the Procedural Safeguards. The purpose of the meeting was to discuss an IEP Amendment. According to the Meeting Minutes, the Team agreed with OHI eligibility for the Student. The Development Delay disability would be “discontinued due to new OHI eligibility.” The Team discussed Specific Learning Disability (SLD) eligibility and recommended “to wait and look at that until 2/3 grade. Helps us find areas of cognitive weakness. Tricky for K/1st graders is they have a low floor. [sic]”
38. On May 31, 2023, the Director of Student Services emailed the Parent, “To clarify possible compensatory ed[ucation] provisions, we’ll outline your concerns and our current offer in the present levels. While the IEP [T]eam determines the services [the Student] needs to access [their] education, comp[ensatory] ed[ucation] ... determinations are a grievance/investigation/resolution process between [P]aren’t/[S]tudent and [D]istrict.”
39. On May 31, 2023, the Executive Director of Student Services emailed an ODE District Support Specialist, “I am hoping to talk with you as soon as possible about our 6 (ahhh!) [Special Education] teachers who do not yet have bachelor’s degrees. We met with our HR [Human Resources] department today and we have a proposed plan I’d like to bounce off you. ... I think before that though we’d like to know your take or to see if you have any more ideas. PS [sic] I’m copying another one of our [Special Education] Directors, [Special Education Director]. When might you have a few minutes to chat about our idea? I will really try to work around your schedule as this is so time[-]sensitive.”
40. On June 1, 2023, a Medical Statement or Health Assessment Statement indicated the Student had a diagnosis of F90.2 ADHD, Combined Type.
41. On June 9, 2023, the IEP was amended to indicate the following:
 - a. The Present Level of Academic Achievement described, “[The Student] is identifying letter names with 85% accuracy across 5 opportunities. [The Student] is identifying blends and reading CVC [Consonant-Vowel-Consonant] words with 34% accuracy across 5 opportunities.”
 - b. For written language, the following information was added, “When given a verbal prompt, [the Student] is able to independently verbally compose basic but complete sentences. [The Student] is able to draw a picture related to a topic and write a sentence related to a topic. [The Student] benefits from support when manually completing writing tasks. This looks like accessing visual prompts and written models, as dictated to a scribe. [Their] ability to independently write words, without [sic] visual model, is dependent on development of letter/sound recognition.”
 - c. The reading goal was “By the annual review date, given specially designed instruction and text at [their] current instructional reading level (end of kindergarten/beginning of

- first grade) [the Student] will be able to decode text with 80% accuracy, over 3 consecutive opportunities.”
- d. The math goal was “By the annual review date, with access to math manipulatives, [the Student] will independently solve (e.g., by counting on, stating and writing the answer) addition and subtraction problems with numbers and solutions within 20, in 80% of observed opportunities.”
 - e. The written language goal was “By the annual review date, given a choice of three familiar informational writing topics (i.e., previously read passage, experience, picture prompt, opinion), [the Student] will independently write one complete sentence, using correct capitalization, ending punctuation, and word spacing in 50% of observed opportunities.”
42. The June 9, 2023 Meeting Notes indicated that the Parent “would like to continue working on manual writing.”
 43. On June 13, 2023, the Parent emailed the Director of Student Services, “One (important) thing I forgot to mention during the IEP meeting Friday is clarification on the writing goal. According to the Progress notes I received at the end of the 3rd quarter. [sic] [The Student] is/was already meeting this goal.”
 44. On June 15, 2023, the Parent emailed the First Grade Teacher, “I also have yet to receive an updated IEP draft to look over since our recent meetings.”
 45. On June 19, 2023, the Parent emailed the Director of Student Services, “I have made it clear that the importance of data, how it is collected, and how it is reported home clear [sic]. At least I thought. We spent a lot of time discussing the exact verbiage for how is written [sic] into [their] IEP in an effort to make it clear to all in [the Student’s] IEP team. I haven’t received [their] end of 4th quarter progress/data. Hopefully, it will be included with [their] end[-]of[-]the[-]year report card when it comes in the mail. And the other question I had was regarding [their] writing goal – according to Progress notes from the end of the third quarter, [they are] already meeting the goal. ... I’ve yet to receive a copy of the IEP following [their] meeting on 6/9/23.”
 46. On June 20, 2023, a Prior Written Notice of Special Education Action (PWN) indicated a proposal to change the Student’s identification for Special Education. “An outside evaluation found that [the Student] did not qualify for [a] diagnosis of Autism Spectrum Disorder. The Parent inquired about potential Specific Learning Disability. [The Student] has made marked progress in the functional areas for this year. The focus of [their] programming and services has shifted from that of functional skill development to that of academic skill development.” The Student was found eligible in the category of OHI.
 47. On June 21, 2023, the Parent emailed the Director of Student Services, “On the PWN you did mention that I brought up the possibility of [the Student] having SLD (Specific Learning Disability). Maybe add some verbiage that [the District] [or the School Psychologist], however, you’d like to write it recommended waiting until [the Student] is a bit older to do an evaluation for SLD. I didn’t ‘formally’ request the evaluation. But we did discuss it. And depending on progress [the Student] makes over the next few months and throughout 2nd grade, will likely be requesting this evaluation.”
 48. On June 22, 2023, the Parent emailed the Director of Student Services, “In the future maybe it would be beneficial to have a separate ‘Handwriting’ goal to work on the fine motor skill of physically writing on paper. And maybe a separate ‘Writing’ or ‘Composure’ [sic] goal for

[them] to work on turning [their] ideas into words, summarizing, answering prompts, organizing [their] ideas into sentences and paragraphs, etc.”

49. On July 15, 2023, the Parent sent an email to the Director of Student Services, “As we are both aware, there was no Special Education [T]eacher at [the School] from 10/2022-2/2023. Then [the Special Education Teacher], a SEA [Special Education Assistant], received [e]mergency teacher licensure that was valid from 2/1/2023-6/30/2023. Now when I look at TSPC [Teacher Standards and Practices Commission] it states [their] Emergency Teacher license is renewed or now valid from 7/1/2023-6/30/2024. From my understanding, [e]mergency teacher licenses typically do not exceed a year, they are designed for short[-]term use, and should not be used once the emergency situation is resolved. I periodically look at [the School District’s] website for job listings and haven’t noticed any job listings for a [S]pecial [E]ducation [t]eacher at [the School].”
50. On September 5, 2023, the Parent emailed the Second Grade Teacher and the Special Education Teacher, “I just wanted to send an email as soon as possible about scheduling an IEP meeting for [the Student] because I know scheduling can take some time and creativity.”
51. A Notice of Team Meeting dated September 7, 2023, indicated a “Team Meeting” was needed to discuss the Student’s present levels prior to the IEP meeting.
52. On September 19, 2023, the Parent emailed the Director of Student Services, “I wanted to touch base before our IEP meeting on Thursday for [the Student]. I wasn’t sure if you were going to make a written agenda (and it’s fine if you’re not going to), but I wanted to mention a few things I want to discuss at this meeting:”
 - a. “Brief update on how the school year is going so far.”
 - b. “Communication journal. [The Student] has had a daily communication journal since [they] started attending school.”
 - c. “IEP does not properly reflect what was discussed during the June 2023 meeting regarding [the Student’s] writing goal. I’d like to discuss the writing goal, the verbiage being used, and potentially create separate writing and composing goals.”
 - d. “Lastly, we need to discuss the compensatory education services [the Student] received in July and if they were sufficient to cover the time [they were] not receiving FAPE from 9/2022-01/2022.”

On September 20, 2023, the Director of Student Services emailed the Parent, “I am so sorry for the late notice. I won’t be able to attend [the Student’s] meeting this afternoon. [The Autism Specialist] will be there to facilitate the conversation, and all of your proposed items look like great topics of conversation.”

53. According to an amended IEP dated September 21, 2023, “The [T]eam met at [P]arent request. The [T]eam discussed and came up with a plan for communication between home and school. Weekly home/school communication will be added to the IEP as an accommodation. The [P]arent and [C]lassroom [T]eacher will check in at parent conferences for progress information in the area of writing. Compensatory education services was not discussed at this meeting as it is a [D]istrict level decision and conversation. [The Student Services Directors] will reach out to [P]arent to schedule a meeting to discuss this topic.” (P39) The IEP was amended to have a writing goal that stated the Student was “physically writing.”
54. On September 21, 2023, the Special Education Meeting Minutes indicated the purpose of the IEP meeting was for an IEP Amendment and a Team meeting. Regarding ESY/Recovery

Services, [the Autism Specialist] stated, “This is a question for [the Director of Student Services] and [the Executive Director of Student Services] who have the decision rights on that. This is not an IEP [T]eam decision. As far as data for ESY, the IEP [T]eam will be taking data that will be shared which the [T]eam will use to make a decision.” The Parent responded they were confused because, “[The Executive Director of Student Services] and [the Director of Student Services] said it’s an IEP [T]eam decision for Comp[ensatory] Ed[ucation] So [sic] it’s not an IEP [T]eam decision?”

55. A PWN dated September 21, 2023 indicated, “Parent requested a team meeting to discuss an update on how this year is going, communication between home and school, writing goal and compensatory education services.” Other factors considered were, “The team discussed and came up with a plan for communication between home and school. The [P]arent and [C]lassroom [T]eacher will check in at parent conferences for progress information in the area of writing. Compensatory education services was [sic] not discussed at this meeting as it is a [D]istrict level decision and conversation. Student Services Directors will reach out to [P]arent to schedule a meeting to discuss this topic.”
56. On September 21, 2023, the Parent emailed the Director of Student Services, “My main intention for the IEP meeting today was to discuss compensatory education for [the Student]. [The Autism Specialist] informed me that I need to have that discussion with you and [the Executive Director of Student Services]. [sic] Which is contradictory to what I’ve been told in the past.”
57. On September 22, 2023, the Parent emailed the Director of Student Services, “If we are going to need to reconvene the IEP for that discussion then I am just going to utilize a different dispute resolution process. I only have a calendar year if we can not [sic] come to an agreement. Time is of the essence. And reconvening the IEP team will take a few weeks at least. Not something I am willing to wait for. I will be requesting additional comp[ensatory] ed[ucation] for [the Student].”

The Director of Student Services replied to the Parent, “You are absolutely able to request an IEP meeting at any time. However, you won’t need to convene an IEP team meeting to determine comp[ensatory] ed[ucation]. Because those decisions are reactive in nature (responding to services that were determined needed but not provided), it is based on current and previous IEP documents.”

58. On September 28, 2023, the Parent emailed the Special Education Teacher regarding the IEP meeting and content, “Mainly just weekly communication home being added to [their] IEP as an accommodation. And I have thought about it, mainly what I’m looking for in the weekly communication is:
 - a. “Any behavioral concerns. [The Student] has had 4 separate FBA/BSP’s [Functional Behavior Analysis [sic]/Behavior Support Plan] since they started school. I’d like to be aware of any behavioral concerns, transitioning, etc.”
 - b. “[The Student’s] level of participation that [they have] with academic work, especially with [their] SDI.”
 - c. “[The Student’s] level of involvement with peers.”
59. On October 3, 2023, the Special Education Teacher emailed the Parent, “I just spoke to [the Administrative Support Specialist], [sic] the PWN is a part of the attachment sent last week. [They] just checked to confirm, [sic] it’s toward the end of the packet. I added [them] to this email in case you have any more questions.”

60. On October 10, 2023, a Psychiatric Diagnostic Evaluation for the Student indicated, "School[-]Related Issues: Advanced a grade. Behavior. IEP. Met with [S]chool [C]ounselor. Occupational therapy. Peer relationships. Required special help. ... Currently working on staying in [their] gen[eral] ed[ucation] classroom and completing academic tasks that are asked of [them]." "Attention and Concentration: Attention span moderately impaired. ... Easily distracted. ... Judgement [sic] mildly impaired." "Diagnoses F90.2 ADHD Combined Type [sic]."
61. On October 12, 2023, the Parent messaged the District, "I noticed the chewing/sucking on [the Student's] clothes periodically and have noticed it has really increased lately. I should look into something similar for at home."
62. A Star Family Report dated October 26, 2023, indicated, "[The Student's] score of 818 on the Star Math test ... This score results in a placement in Level 2, below the target of Level 4. It is higher than 16 % [sic] of students in Grade 2 and comparable to those of a typical 1st grader in the fourth month of the school year."
63. A Home Instruction Weekly Summary dated October 30, 2023, indicated the Student "Was able to identify lower case j, k, l, m, a, g, n, t, v, w, f, p, and q. Got u and d mixed around for n and b. Capitals identified were P, J, Z, Y, E, X, F, A, B, C, M, H, O, Q, W, S, K. Didn't quickly verbalize R, A, C, D, G, N, U, T, B and V."
64. On November 2, 2023, the Special Education Teacher emailed the Home Instructor Teacher, "I was under the impression that you would be working on [the Student's] IEP goals and bridging the gap from [their] level to grade level work. [The Director of Student Services] and I talked today and believe [they are] getting enough 2nd-grade instruction during the school day and agree that [they] really [need] more support focused on [their] current levels in order to help [them] be more successful in class when producing grade level work (independently)."
65. On November 17, 2023, the Parent emailed the Special Education Teacher with concerns about "inconsistency with the communication sheets making it home."
66. On November 20, 2023, the Special Education Teacher emailed the Parent, "I appreciate your understanding and patience as we are figuring out the best way to send home these communication sheets. As I said during our conversation on 11/6/2023, it's a work in progress. We do believe that merging [the Student's] daily sticker sheets with [their] communication sheet has been easier to manage, but we are still finding the right way to get them in the backpack with the rush of the schedule at the end of the day."
67. On November 30, 2023, the Parent emailed the Second Grade Teacher, "I've brought up concerns about [the Student's] folder a few times. I was concerned it may not be getting sent home because [they aren't] grabbing it when [they] should, etc. I was told during conferences if it doesn't come that means there was nothing to send."

The Second Grade Teacher replied to the Parent the same day, "I will take responsibility for November and apologize. The November homework calendars came home very late last month for everyone. I had a personal emergency come up in November. It has required a lot of subs in the room. Between this, so many days of no school, and conferences it caused disruptions in routines. I am so excited to have you come in to volunteer and helping us with the folders would be great! It will help a lot."

68. On December 11, 2023, the Special Education Teacher emailed the Parent, "I just wanted to reach out and let you know that I had a family emergency that has taken me out of the building today and Friday. My sub let me know that [the Student's] papers were on my desk. I will be back tomorrow and will make sure they end up in [the Student's] backpack. Just want to give you a heads up and apologize they haven't made it home yet."
69. On January 23, 2024, Reading Running Records for the Student indicated the Student's reading accuracy percentages were 85% and 72%.
70. In a Dolch Assessment dated January 25, 2024, the Student scored 76% on a sight word reading test.
71. A Star Family Report dated Jan 22, 2024, indicated, "[The Student's] score of 765 on the Star Math test is based on the difficulty of the questions and the number of correct responses. ... This score results in a placement in Level 1, below the target of Level 4. It is higher than 1% of students in Grade 2 and are [sic] comparable to those of a typical kindergartener in the seventh month of the school year."
72. On February 7, 2024, the Parent emailed the Second Grade Teacher and the Special Education Teacher, "Quarter 2 just ended, so I am looking forward to interval data tracking, work samples and written progress notes on all of [their] IEP goals. (As listed in [their] IEP) [sic]" The Special Education Teacher responded, "... Regarding progress notes, these will be emailed out by [the Special Education Secretary], and report cards will be mailed by the end of the week." On February 8, 2024, the Second Grade Teacher emailed the Parent, "In [the Student's] backpack are the results for some of the testing we have done. Math is in there and the latest writing sample/rubric."
73. On February 8, 2024, the Parent emailed the Special Education Teacher, "We definitely need to make sure [the Occupational Therapist] can make it [to the IEP meeting] because I wanted to address the writing goal but was told we couldn't in September without [them] there."
74. On February 12, 2024, the Administrative Support Specialist emailed the Parent to schedule a meeting, "Unfortunately, none of the other times you suggested will work for all the team to attend. Our IEP days are in place so meetings can happen during the day while providing a sub for our classroom teacher. ... Some of the people attending [the Student's] meeting are not here on Mondays and we don't hold meetings on Wednesdays because of Academic Seminar." The Parent replied to the Administrative Support Specialist the same day, "It seems like a violation of the IDEA for the school to have an 'IEP day for the month.' When IDEA makes it clear meetings need to be a 'mutually agreed upon time.'"
75. On February 8, 2024, the Parent emailed the Communications Officer, "This [sic] records I am seeking are:
- a. 'IEP Data tracking forms, progress notes and service logs/records.'
 - b. 'Emails, staff notes, call logs, records of all types between teachers, principals, student services directors, [E]xecutive [D]irector of [S]tudent [S]ervices, school nurses, psychologists, parents, and any other administrator within the district.'"
76. On February 9, 2024, the Administrative Support Specialist emailed the Parent the Student's Progress Notes and Work Samples.
77. According to Behavioral Sticker Charts from February 9, 2023 through March 8, 2024, during the Morning Meeting, the Student was on task and able to participate 17 out of 17 days.

During English Language Arts (ELA), the Student participated in the class for 17 out of 17 days. In the area of Writing, the Student needed to be redirected and received several prompts in four out of the 17 days.

78. Special Education Progress Notes for the Student from February 9, 2024, indicated:
- a. "02/02/24 [Reading] [The Student] is able to identify letter sounds with 89% accuracy."
 - b. "[The Student] is able to identify blends and read/write CVC words with 60% accuracy. (sh, th, at, it, and ap)."
 - c. "[The Student] is able to accurately identify sight words with 62% accuracy."
 - d. "02/02/24 [Math] ...This objective has been met. With adult support and prompting, [the Student] can accurately solve addition problems within 20. [They get] stuck when counting in the teen[s], but only take one verbal or pointing prompt for [them] to self-correct."
 - e. "[The Student] will independently solve addition problems within 20 in 75% of observed opportunities."
 - f. "Given access to math manipulatives and adult support and prompting, [the Student] will accurately solve subtraction problems."
 - g. "02/02/24 [Written Language] With minimal prompting, [the Student] is able to arrange the words from [their] sentence into correct order with 100% accuracy. Independently, [the Student] is able to complete this objective with 60% of the time."
 - h. "Given a familiar topic, visual prompt and a word bank, [the Student] independently writes one sentence connecting [their] thoughts to provided [sic] topic in 57% of observed opportunities. [They] still [need] prompting to add punctuation at the end of the sentence but understands which punctuation is appropriate. [The Student] prefers to share orally. [They have] great ideas and vocabulary! When completing writing tasks independently. [The Student] gets slowed down and frustrated with letter formation and building words which results in task refusal, and less content."
79. On February 13, 2024, the Compliance Specialist emailed the Parent, "Just checking with you to see if you heard from [the Communication Officer] regarding this records request. If not, I might be able to help steer you in the right direction. Have you reached out to the [P]rincipal?"
80. On February 16, 2024, the Home Instructor Teacher emailed the Special Education Teacher, "Know you don't have the data but promise I will work on it and you will have it before Monday on the [G]oogle form. When is [the Student's] IEP? I am hoping I will have 1 more Monday with [them] before the IEP so I can have time to get more concrete data."
81. According to a Pre-IEP Meeting Feedback Form dated February 18, 2024, the Home Instructor Teacher indicated the Student:
- a. "Transitioned easily between tasks and environments";
 - b. "Safe at school";
 - c. "Follows school rules and routines";
 - d. "Responds to redirection from teacher";
 - e. "Responds to social cues from adults";
 - f. "Caring/kind to others";
 - g. "Hard worker";
 - h. "Shows creativity";
 - i. "Is able to self-advocate";
 - j. "Easily frustrated";
 - k. "Has difficulty staying on task without continual prompting";
 - l. "Easily [d]istracted";
 - m. "Difficult in reading body language"; and

n. "Difficulty with personal space [sic] (invades others personal 'bubble')."

82. On February 19, 2024, the Pre-IEP Meeting Feedback form that was filled out by the Second Grade Teacher indicated that in math, the Student was below grade level. "[The Student] is building [their] foundation in number sense. [They are] much more successful at adding and subtracting numbers to 20, but still heavily requires manipulatives." In reading, the second-grade Teacher stated, "[The Student] is so close to being able to assess using a running record, but not quite there yet. [They are] still working primarily with [the Special Education Assistant] for small group reading ([University of Florida Literacy Institute] UFLI) and [are] making progress." In the area of writing the Student "is also not quite at grade level for writing. [They have] improved with letter formations, but writing will need continued support as long as [they are] still working on letters and sound in reading."
83. On February 26, 2024, the Parent emailed the Special Education Teacher, "I attached some recent data I've collected at home. And I look forward to any data (that I don't already have) and a draft IEP prior to the meeting. ... [The Student] is not meeting [their] reading [sic] writing or math goals. ... The (medical) doctor that performed [the Student's] ASD evaluation last year, as well as a few other members of [their] medical team have stated that it is highly likely [the Student] has a specific learning disability. Which [sic] I think would be a definite possibility, and we have discussed in the past. I think it is important that we evaluate for and potentially identify an SLD."

The Special Education Teacher replied to the Parent the same day, "I will add it to the parent input portion of [their] present levels. Also, just a heads up, I will not be able to get you the draft today. ... I'm also waiting for [the Speech Therapist] to return ([they are] out today) to update [the Student's] communication goal and present levels."

84. On February 28, 2024, the Special Education Teacher emailed the Parent, "Attached is [the Student's] IEP draft. We look forward to meeting with you tomorrow afternoon!"
85. On February 28, 2024, the Parent emailed the Special Education Teacher, "If possible please send home a consent for the evaluations for SLD in reading, writing, and math. If you send the consent form home tomorrow, we can get the ball rolling asap [sic] on that. Or if the [S]chool is going to deny my request for that evaluation – I'll need a PWN. Either way, looking forward to the meeting, thanks!"
86. On February 29, 2024, an IEP meeting was held with all legally required participants. This IEP included the following:
- The Special Factors section of the IEP indicated that the Student exhibited behavior that impeded their learning or the learning of others, and the Student had communication needs. The Student needed assistive technology devices or services.
 - The Present Levels of Academic Achievement and Functional Performance indicated Student strengths were, "[The Student] responds well to hands[-]on learning and play[-]based activities to engage [them] in [their] learning. [They have] a great imagination and enjoy[] communicating [their] ideas with both adults and peers. [The Student] has a great sense of humor and is a great communicator, [they are] able to initiate and hold back[-]and[-]forth conversations as well as communicate [their] needs, emotions, and challenges. [The Student] is very tech savvy and responds/comprehends well to work on the computer."
 - The Parent reported no concerns regarding the Student's vision. The Student had worn glasses since they were ten months old. "[The Student] also receives medication management and (inconsistent) therapy through [Outside Provider] for the treatment

- of [their] ADHD. [The Student] takes methylphenidate for treatment of [their] ADHD. ... [The Student] is not meeting [their] reading, writing or math goals.”
- d. “Evaluation results suggest that behaviorally, [the Student] can have difficulty [*sic*] executive functioning tasks. [The] Parent and teacher rating scale data indicate challenges regarding [the] initiation of tasks, utilization of working memory, transition between activities, and emotional regulation. Based on teacher input, [the Student] has shown improvement in many of these areas but often requires adult prompting and guidance to complete academic activities (e.g., adult highlighting words for [the Student] to trace over).”
 - e. In the area of mathematics, “[The Student] is below grade level in math. [The Student] is building [their] foundation in number sense. [The Student] is much more successful at adding and subtracting numbers to 20, but still heavily requires manipulatives. [The Student] understands pieces of grade level math (like adding on a number line) but will make mistakes and often refuses adult help.”
 - f. In the area of reading, the IEP indicates that the Student can answer comprehension questions when books are read to them. “[The Student] is working on reading foundational skills. [*sic*] (reading grade[-]level text). We’ve seen an increase to [the Student’s] ability to attend and focus now that [they are] on medication. ... [The Student i’s] in [their] General Education class for foundational skills and whole group reading. In small group [they are] working to read the sight words, and mastering letter sounds, as well as blends and CVC words.”
 - g. In the area of written language, the Student “is not quite [*sic*] grade level in writing. [They have] great ideas, [they] know what [they want] to write. [They speak] in full sentences which contributes to [their] writing when using a scribe or speech[-]to[-]text. When asked to write a sentence starting [*sic*] [they are] able to form a complete sentence by speaking what [they want] someone to write, then [the Student]...is able to independently copy it down.”
 - h. The measurable annual math goal was, “By the annual review date, with access to math manipulatives, [the Student] will independently solve (e.g., by counting on, stating and writing the answer) addition and subtraction problems with numbers and solutions within 20, in 80% of observed opportunities and will increase [their] number recognition [*sic*] and oral counting to 100 in 80% of observed opportunities.” Progress will be measured by staff observations, and data collection. Progress will be reported by written progress reports, to include at least one work sample, sent home quarterly.”
 - i. The measurable annual writing goal was, “By the annual review date, [the Student] will produce 1-3 complete sentences, using capitalization, and ending punctuation, in 80% of observed opportunities.” Staff observations and data collection will monitor progress. Progress will be reported by written progress reports, which will include at least one work sample and be sent home quarterly.
 - j. The measurable annual fine motor goal was, “By the next annual IEP, [the Student] will consistently demonstrate improved handwriting by focusing on proper letter formation, maintaining proper letter size and spacing, and showing increased legibility in written assignments with at least 80% accuracy.” Progress will be measured by written progress reports, including at least one work sample, and sent home quarterly.
 - k. The measurable annual self-management goal was, “Given modeling and prompting, [the Student] will accept help from adults during academic tasks and complete in[-]class assignments in 4/5 observed.” Progress will be measured by staff observation and data collection. Progress will be reported quarterly in a written report, including one work sample.
 - l. The SDI section of the IEP included:
 - i. “Articulation, 90 Minutes/Monthly, in the Special Ed[ucation] classroom, by the Speech[-]Language Pathologist”;

- ii. "Reading, 150 Minutes/Weekly, in the Gen[eral] Ed[ucation] Classroom, by the Special Education Teacher/Provider";
- iii. "Math, 120 Minutes/Weekly, in the Gen[eral] Ed[ucation] Classroom, by the Special Education Teacher/Provider";
- iv. "Writing, 90 Minutes/Weekly, in the Gen[eral] Ed[ucation] Classroom, by the Special Education Teacher/Provider";
- v. "Fine Motor, 60 Minutes/Weekly, in the Gen[eral] Ed[ucation] Classroom, by the Special Education Teacher/Provider"; and
- vi. "Self-Management, 30 Minutes/Weekly, in the Gen[eral] Ed[ucation] Classroom, by the Special Education Teacher/Provider."

These services were to be provided by the LEA with starting dates of February 29, 2024 and ending dates of February 27, 2025.

m. The Supplementary Aids/Services section of the IEP included the following accommodations:

- i. "Redirecting to on task, for expected behaviors, school[-]wide, the General Education Teacher responsible for monitoring";
- ii. "Visual Schedule, for routines and transitions as needed, [in] the General Education/Special Education Classroom, monitored by the General Education Teacher";
- iii. "Sentence Frames, to express thoughts in writing and speaking, [in] the General Education/Special Education Classroom, monitored by the General Education Teacher";
- iv. "Breaks when needing to regulate, [s]chool [w]ide, monitored by the General Education Teacher";
- v. "Social Stories, new routines as needed, [s]chool [w]ide, monitored by the Special Education Teacher/Provider";
- vi. "Progress Monitoring Report, [p]rovided to Parent, quarterly, Special Education Classroom, monitored by the Special Education Teacher/Provider";
- vii. "Pre-Teaching/Frontloading, prior to teaching new material, [s]chool [w]ide, monitored by the General Education Teacher";
- viii. "Reinforcement System, during all academic and self-management/functional skills activities, [in] the General Education/Special Education Classroom, monitored by Special Education Teacher/Provider";
- ix. "Scaffolding/breaking down of new or abstract content, during all academic activities, [in] the General Education/Special Education Classroom, monitored by the General Education Teacher";
- x. "Opportunities for movement/mental breaks during the day, throughout the school day, [s]chool [w]ide, monitored by the General Education Teacher";
- xi. "Calming (self-regulation space), during times of dysregulation, [s]chool [w]ide, monitored by the Special Education Teacher/Provider";
- xii. "Behavior Support Plan, throughout the school day, [s]chool [w]ide, monitored by the Case Manager";
- xiii. "Access to whiteboard, as needed, [s]chool [w]ide, monitored by the General Education Teacher";
- xiv. "Frequent check in's, during academic tasks, in the General Education/Special Education Classroom, monitored by the General Education Teacher";
- xv. "Additional adult support, when expected to copy or write things down from the board, in the General Education/Special Education [Classroom], monitored by the General Education Teacher";
- xvi. "Limit far point copying tasks, when completing academic tasks, in the General Education/Special Education [Classroom], monitored by the General Education Teacher";

- xvii. "Access to visual model for numbers and letters, when completing academic tasks, in the General Education/Special Education [Classroom], monitored by the General Education Teacher";
- xviii. "Access to writing tools (e.g., varied writing utensils, large lined paper, slant board, when completing written tasks, in the General Education/Special Education [Classroom], monitored by the General Education Teacher";
- xix. "Access to graphic organizers, when planning and completing academic tasks, in the General Education/Special Education [Classroom], monitored by the General Education Teacher";
- xx. "Provide extra time to complete written assignments, when completing written tasks, in the General Education/Special Education [Classroom], monitored by the General Education Teacher";
- xxi. "Allow verbal response when demonstrating fatigue with writing, when completing written tasks, in the General Education/Special Education [Classroom], monitored by the General Education Teacher";
- xxii. "Home/school communication, once per week, in the General Education/Special Education [Classroom], monitored by the General Education Teacher";
- xxiii. "Scribe, during written assignments, in the General Education/Special Education [Classroom], monitored by the General Education Teacher"; and
- xxiv. "Speech-to-text, during written assignments, in the General Education/Special Education [Classroom], monitored by the General Education Teacher."

These accommodations were to be provided by the LEA with a starting date of February 27, 2025 and an ending date of February 27, 2024.

- n. Supports for School Personnel included occupational therapy consultation, 120 minutes per year, school-wide, starting February 29, 2024, through February 27, 2025. The LEA was responsible for providing these supports, with the Occupational Therapy Consultant (OTC) identified as the role responsible for monitoring.
 - o. According to the IEP, the Student did not require ESY.
 - p. The Nonparticipation Justification indicated, "[The Student] will be removed from the general education classroom for no more than 21% of [their] school week to receive support for [their] speech and academic goals. The remaining SDI will be fulfilled in the General Education Classroom setting."
87. A PWN dated February 29, 2024, indicated, "The IEP team met to review [the Student's] IEP and is in agreement with [their] updated IEP goals and objectives. Parent requested SLD testing and the team explained the evaluation planning process. [The Student] had academic testing less than a year ago, 4/23/23, which cannot be repeated within the same year. The team will reach out to the school psychologist in the fall for a file review when [the Student] is in the third grade. The team is in agreement with waiting until third grade."
88. On March 5, 2024, the Parent emailed the Special Education Teacher, "Please send over [the Student's] final IEP and a PWN on the refusal to evaluate [the Student] for a Specific Learning Disability in reading, math, and writing."
89. On March 12, 2024, the Parent emailed the Compliance Specialist, "I submitted this special education record request on 2/8/24 in order to be in compliance with the Procedural Safeguards, I need to have access within 45 days of my request. So that puts us at the end of the week next week." The Secretary to the Director of Student Services replied to the Parent the same day, "Thank you for following up. I will be sending you those records by the end of this week."

90. On March 13, 2024, the Parent emailed the Special Education Teacher, “Just following up on this finished IEP and a PWN, since it’s been about 14 days since the meeting. Also wanted to make sure you got my other email to update the background portion of [the Student’s] IEP.”
91. On March 13, 2024, the Parent emailed the Director of Student Services, “I’d like the [D]istrict protocol that [the Special Education Teacher] referenced here. As well as information on what/who/where ‘compliance’ is. Never heard of people outside the IEP team needing to approve an IEP.” The Director of Student Services responded with a clarification that the “compliance team ... makes sure timelines are met, boxes are checked, processes are followed, documents are uploaded to our databases, etc.” The Parent replied, “Thanks [Director of Student Services]. That makes sense. I was thinking ‘how could they possibly have any say in approving an IEP for a student they haven’t met, don’t know, etc. So, it makes a lot better sense now. Appreciate the clarification. 10 [sic] school days from the date of the meeting will be tomorrow, so I’ll keep an eye [out] for the IEP tomorrow. Mainly waiting for the PWN on the [S]chools [sic] refusal to evaluate [the Student].”
92. On March 14, 2024, the Administrative Support Specialist emailed the Parent, “I have attached the IEP packet to this email. Please let me know if you have any questions.”
93. On March 15, 2024, the Secretary to the Director of Student Services emailed the Parent, “I have sent a file via secure file transfer. You can access this file by using password [redacted]. Please let me know if you have any issues accessing this file, it will be available on the server for 30 days after which will no longer be available.” Service logs from the Occupational Therapy Consultant and the Second Grade Teacher were provided in the materials for the 2023-24 school year.
94. On March 15, 2024, the Parent emailed the Special Education Teacher, “I just got my records request back for [the Student]. One item that I’d like to ask for is all data and/or the Pre-IEP form that [the Home Instructor Teacher] filled out during [their] time with [the Student] over the last few months for compensatory education. I saw emails referencing the data but not the data itself. Also, just to mention, I didn’t see any single service logs [sic].”
95. On March 15, 2024, the Parent emailed the Principal and the Director of Student Services, “[The Student] was evaluated for special education services in April of 2023. I am writing to request an Independent Educational Evaluation at public expense, for the following reasons:
- a. ‘I disagree with the results of the evaluations because between April of 2023 and March of 2024 minimal progress has been made, and [the Student] did not meet any of [their] academic IEP goals. Those goals, services, etc., were created based on the LEA’s evaluations.’
 - b. ‘The evaluation should have included testing in every area of suspected disability such as specific learning disabilities, intellectual disabilities, etc.’”
96. On March 19, 2024, the Director of Student Services emailed the Parent, “We have received your request for an IEE. I see that we have a phone call scheduled for this Wednesday, March 20th. I’m happy to discuss this with [sic] further during that time. Until then, I’ve attached an outline of the process for you to review.”
97. On March 20, 2024, the Parent emailed the Principal, “I have been told by the IEP team, as well as by [the Executive Director of Student Services] and [the Director of Student Services] that [the Student] will be able to stay at [the Current School]. It has never been mentioned

to me that I would have to fill out any request forms for [them] to stay there, and it's listed in [their] IEP under placement that [they are] staying there.”

98. On March 20, 2024, the Parent emailed the Director of Student Services, “To summarize our phone call:
- a. “You will get me a corrected PWN and meeting minutes in regards to the 02/29 IEP meeting for [the Student]. An evaluation for a SLD was discussed, and my request for an evaluation was denied because of [the Student’s] age.”
 - b. “My request for an IEE at public expense is approved.”
 - c. “You will send me a list of independent evaluators in our area, as well as qualifications/parameters for the independent evaluator, in case I choose an evaluator not included on the list.”
99. A PWN dated March 20, 2024, indicated in identification, “Parent requested evaluation in the area of SLD, explaining that [the Student’s] doctor had previously suspected SLD and thought that [the District] should look at the eligibility area. This was [sic] request was denied based on assessment age norms. Skills and deficits may not show up on assessments at this age (grade 2).” Other options the Team considered was to complete an evaluation for SLD eligibility. The Team rejected this option because “[The Student] is a student currently eligible for special education services in the area of Other Health Impairment. [They receive] specially designed instruction in communication, reading, mathematics, writing, fine motor and self-management.”
100. On March 21, 2024, the Parent emailed the Special Education Teacher, “I apologize for my delay in getting back my feedback on the IEP. We had some things we had to work through with the PWN and evaluations, etc. (as I’m sure you’re aware). Here are my notes on the IEP”:
- a. “Page 10: Under behavioral regulation/management needs it states that [the Student] is argumentative, defiant, yells at teachers and is verbally disruptive in class. As we are all aware, and we touched on this in the IEP meeting, [the Student] has a BSP in place. If that BSP is not working to identify the antecedent and prevent those behaviors from occurring, we need to conduct a Functional Behavioral Assessment. If [the Student] is displaying behaviors that are affecting [their] access to [their] education, they need to be addressed.”
 - b. “Page 13: Statewide assessments are not conducted until 3rd grade. That being said, this IEP will be in place till the middle of [their] 3rd grade school year. Do we need to address this now? Or with [their] next annual IEP meeting? Unsure what time of the school year statewide assessments take place.”
 - c. “Page 17: Annual reading goal. Objective #3, ‘grade level sight words.’ What grade level? 1st grade? Please clarify.”
 - d. “Page 18: Annual math goal. Where is [the Student] at currently with orally counting to 100? At home, counting over 10 [the Student] will typically get numbers mixed up in the teens. For us to keep orally counting to 100, we need a baseline of where [the Student] is at currently, it’s not in the present levels.”
 - e. “Page 20: Fine motor goal. How are we going to measure this goal? ‘Improved handwriting’ is objective. The first objective is ‘[The Student] will practice forming individual letters using correct strokes and starting point to improve letter formation accuracy and consistency in 80% of observed opportunities.’ Where [are they] currently? It’s important to have a baseline and accurate way to measure this goal.”
 - f. “Page 21: The new self-management goal. Happy to have this included if it’s needed. Again, if behaviors are impacting [their] access to [their] education, let’s look at the FBA/BSP. It’s concerning that [they are] only completing assigned tasks in 50% of

observed opportunities. And accepting help from adults in only 65% of observed opportunities.”

- g. “Page 22: Math SDI. Last years [sic] IEP [the Student] received 150 minutes/weekly of SDI in math. The draft provided to me prior to the IEP meeting had 150 minutes of math SDI. This copy has 120 minutes listed for math SDI. Why the reduction? [They] did not meet [their] math goal. I do not feel it is appropriate to reduce [their] math SDI by 30 minutes a week. We did not discuss this during the meeting, if we need to talk about this because of scheduling constraints, let me know.”

101. On March 22, 2024, the Director of Student Services emailed the Parent, “In special education, ‘placement’ means a *setting* (special education classroom, general education classroom, specialized program, therapeutic day treatment, etc.) needed to provide services according to the IEP, not *location* ([the School], [the Middle School], [the School Academy], [the Center]). It’s likely that you already have the [Special Education] guide for Parents from Disability Rights Oregon, but I’ve attached it for quick access just in case. They discuss placement (and many other things!) in Chapter 6.”

102. On March 22, 2024, the Special Education Teacher emailed the Parent, “Since the IEP was finalized on March 14th, we will need to schedule an IEP revision meeting to address these additional pieces of feedback. We were just going to reach out about an IEP revision meeting as well, since we now have clarification about neighborhood schools, we need to update the placement and placement page options. Neighborhood school and/or Neighborhood schools are not placement options and need to be removed.”

103. On April 2, 2024, the Parent emailed the Director of Student Services, “The evaluator I would like to perform [the Student’s] IEE is [Outside Provider]. It is on the list provided to me from [the District]. ... It was mentioned to me that there will be a contract between [the District] and [Outside Provider] for the IEE. I’d just like to be able to view the contract.”

104. According to Contact Log entries on April 3, 2024, the Administrative Support Specialist called and spoke to the Parent and confirmed the IEP Revision meeting date. The Administrative Support Specialist sent the meeting notice, agenda, Parent Rights Handbook, and link for the meeting.

105. On April 5, 2024, the Parent emailed the Special Education Teacher, “Spoke about this briefly with [the Director of Student Services], but feel it is important to touch on as an IEP team as well. Significant (over 20 hours SDI) changes to [the Student’s] education plan have occurred *after* the IEP meeting took place without any discussion during the meeting[,] without data justifying the change, and without prior written notice to me. So I’d just like clarification from the team on when IEP’s [sic] can be changed, when they’re implemented after an IEP meeting, and if we can make alterations after the IEP is ‘final’ without calling another meeting.”

106. On April 8, 2024, the Parent emailed the Executive Director of Student Services, “Another item that we spoke about and that has been a concern of mine, is my [Student’s] placement. [The Student] started school at [the Previous Elementary School] in Kindergarten. At the end of Kindergarten [their] IEP at [the Current Elementary School] in their SCC. It is my understanding that [the District] changed their policies and moved to a ‘neighborhood school’ model. The IEP team made a placement decision (that I am in disagreement with) that [the Student] should leave [the Current School] and go to the school that is closest to

our home. It's inappropriate for [the Student] to have to start at a new school due to [the District] changing their policies.”

The Executive Director of Student Services replied to the Parent the same day, “I’m happy to attend an IEP meeting, however I’m wondering if a phone conversation might be helpful for us first. Typically[,] if a student is placed in a resource program[,] they attend their neighborhood school. The kind of placement a student has is separate from location. If your neighborhood school location is not where you want [the Student] to attend, the process would apply for a transfer to whatever building you would like to be in.”

107. On April 8, 2024, the IEP was amended to add additional email feedback from the Parent and the need to revise the placement page. According to Meeting Notes dated April 8, 2024, the Placement page listed the neighborhood school. “We need to remove this, as it is a location. Confusing because we have neighborhood school - the school of residence – and Neighborhood Schools, the programming where we bring program level of support to the neighborhood school for students.” The Special Education Meeting Minutes indicated an IEP amendment meeting changed the Math SDI minutes from 150 minutes to 120 minutes, “the pull-out group is 4x week. [The Student] also get[s] SDI in class not as pull-out and w/the [sic] gen[eral] ed[ucation] curriculum.”

108. On April 8, 2024, a PWN indicated a refusal for placement, “In May of 2022, the IEP [T]eam agreed to [the] placement of ‘Specialized program with opportunities for inclusion as behavior data indicates.’ To access this [Special Education] placement, [the Student’s] location changed to [the Current School]. In February of 2024, the IEP changed [the Student’s] [Special Education] placement to ‘General education classroom with push-in and pull-out supports for speech and academic goals.’ This [Special Education] placement can be accessed at [the Current School] as well as [the Student’s] school of residence, [School of Residence]. Location of services, when services can be equally provided, is not determined by the IEP [T]eam.”

The PWN included, “[The] Parent wanted it noted in the minutes and the [P]rior [W]ritten [N]otice that [the Parent] disagrees with removing location as a placement option. The [T]eam explained that location (specific school) is not a placement option and would not be included in the placement options on the placement page (separate PWN to specifically address this).” The Team met to amend the IEP to reflect the input and concerns of the Parent. “[The Parent] is requesting an amendment to the IEP to reflect current baselines in the areas of of reading, writing, and math. [The Parent] is also requesting reverting back to 150 minutes per week in the are[a] of math. The [T]eam also agreed to update the BSP to include a ‘familiar adult.’”

134. During interviews with the Complaint Investigator, the Parent expressed concerns about the failure of the District to provide a PWN about the math minutes being reduced from 150 minutes per week to 120 minutes per week. The Parent stated that, from March 14, 2024, to the week of May 13, 2024, the Student missed 30 minutes per week of math instruction. The District agreed to increase Math SDI to 150 minutes per week at the April 8, 2024, IEP meeting. In written language, the IEP Team, upon request by the Parent, changed the handwriting writing goal to two separate goals, one for handwriting and one to produce writing content with supports. According to the Parent, during the spring of 2023, the District conducted an evaluation of the Student for ASD. A private evaluation was also done suggesting the possibility of the Student having a specific learning disability. At the February 29, 2024 IEP meeting, the Parent requested an SLD evaluation, but the district denied it because the Student was not old enough. The Parent felt the District did not do a thorough

evaluation and the PWN was incorrect as the Parent did not agree to wait to evaluate the Student. The Parent acknowledged that the District provided the Parent with a corrected PWN when the error was brought to their attention.

135. On July 2, 2024, the Complaint Investigator interviewed the Director of Student Services. According to the Director of Student Services, the Student was placed in a specialized program two years ago due to emotional self-regulation issues. The Student made significant progress, particularly in emotional regulation, and is now accessing general education classes for most of the school day. The Director of Student Services shared that there were still academic gaps that needed to be addressed, and the Team was working on revising the Student's IEP. There have been discussions about the need for additional academic testing; however, the Director of Student Services indicated that the Parent agreed not to test now for an SLD but revisit the idea in the future.
136. When asked by the Complaint Investigator about the reduction of SDI for the Student without a PWN or data to support the change, the Director of Student Services indicated there was confusion and disagreement about the delivery model (push-in or pull-out). There was a change in location, and a PWN did not specify this change. The Executive Director of Student Services shared that the services were reduced from February 29, 2024 through April 8, 2024 because of a change in location issue.
137. When asked about scheduling conflicts that resulted in the Student missing reading intervention and general education time, the Executive Director of Student Services indicated that the APE was a pull-out group and, if the student went to APE, the Student might miss some time in general education or another program. Priority was given to general education, and APE was discontinued.
138. The Director of Student Services described their practice of sending home IEP drafts three days before the meeting, if possible, or on a specific date if requested by a parent, if possible, but noted that there was not a set policy. In this case, a draft of the IEP was sent home after the meeting. There was some back-and-forth communication between parties before finalizing the IEP, and the District Office Compliance Team also reviewed the final draft. The Director of Student Services indicated that the typical timeline for sending final copies of the IEP home was no more than ten school days.
139. When asked about the Special Education Teacher's license, the Director of Student Services shared that the Special Education Teacher was awarded an emergency license in 2023. From January to June 2023, the Special Education Teacher held a stand-alone emergency license. After June 2023, per ODE and TSPC regulations, this license was acceptable only if the Special Education Teacher held at least a Bachelor's degree, was working under a licensed special education teacher, and was pursuing completion of an appropriate licensure program. During the 2023-24 school year, the Special Education Teacher met with a mentor at least once per week and participated in professional development activities like a 2-day New Teacher Boot Camp, quarterly compliance training, and a 3-day training on special education processes and procedures. The Director of Student Services shared that there was never a time in which a special education teacher was not assigned to the School. The Executive Director of Student Services indicated that they hired staff that did not hold a Special Education credential; however, they were in licensure programs while teaching and had fully licensed special education teachers as

mentors.

140. The Director of Student Services indicated that the data used to determine ESY were progress monitoring data, observational data, and professional judgment. The Director of Student Services shared that in the summer of 2023, the Student qualified for ESY, not due to regression, but instead due to having emerging skills. The Student did not qualify for the summer of 2024.
141. The Director of Student Services shared that the May 4, 2023 IEP provided more appropriate accommodations to help the Student, including access to writing tools and graphic organizers. The Director of Student Services indicated that the June 9, 2023 IEP was amended; a section was added to the PLEP (Present Level of Educational Performance) for academics and compensatory education.
142. The Director of Student Services explained that the request for a different dispute resolution process for the Student's IEP was specifically regarding compensatory education. The suggestion was to gather more information after ESY and then meet with special education administrators instead of the whole IEP team. The Director reported this was because they needed to research and review data and gather parent concerns to determine the appropriate offering. The Director of Student Services clarified that, regarding the compensatory education offer, it had to come from Student Services Administrators because the District was looking into past services missed by a previous team.
143. Regarding the Parent's claim that the Student had already met their writing goal based on Progress Reports, the Director of Student Services clarified that, during the IEP meeting, there was a discussion about whether the Student completed the work samples independently. The Director of Student Services also shared that the Parent was confused about the BSP not being current because the current one was saved in an incorrect location, and someone inadvertently shared the incorrect one with the Parent.
144. According to a TSPC licensure summary, the Special Education Teacher had an Emergency Teaching License as a Special Education Generalist PreK-12, active from February 2, 2023 through June 30, 2023. The Special Education Teacher had an Emergency License for a Special Education Generalist and an Elementary-Multiple Subjects, PreK-12, active from July 1, 2023, through June 30, 2024.
145. On April 11, 2024, the Parent filed this Complaint.

IV. DISCUSSION

Child Find and Evaluations

The Parent alleged the District violated the IDEA when the District failed to identify and evaluate the Student for learning disabilities associated with reading, writing, and math.

The requirements of Child Find apply to all children unless they are no longer entitled to a free appropriate public education (FAPE). School districts must identify, locate, and evaluate all children with disabilities for whom they are responsible, regardless of the severity of the disability, who are in need of early intervention, early childhood special education, or special education services, including highly mobile children with disabilities (such as migrant and

homeless children), children who are wards of the state, Indian preschool children who reside on reservations, children who are suspected of having a disability even though they are advancing from grade to grade, and children enrolled in public charter schools. Additionally, school districts have a child find obligation for children who are home-schooled, children below the age of compulsory school attendance who are not enrolled in a public or private school program, children above the age of compulsory school attendance who have not graduated with a regular high school diploma, and children attending private schools. For purposes of child find, residency is determined in accordance with school attendance, except for children enrolled in charter schools. Residency for children enrolled in charter schools is determined in accordance with Oregon Public Charter School regulations. The district in which the charter school is located is the LEA that retains the FAPE obligation and is responsible for child find for students enrolled in the charter school regardless of parental resident district.⁴

Before conducting any evaluation or reevaluation of a child, the public agency must conduct evaluation planning, must provide notice to the parent that describes any evaluation procedures the agency proposes to conduct as a result of the evaluation planning process, and must obtain informed written consent for evaluation. If the public agency refuses an evaluation or reevaluation requested by the parent, the public agency must provide the parent with prior written notice. Parents may challenge the public agency's refusal to conduct a reevaluation. In conducting the evaluation, the public agency must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent that may assist in determining whether the child is a child with a disability and the content of the child's IEP, including information related to enabling the child to be involved in and progress in the general education curriculum (or, for a preschool child, to participate in appropriate activities).⁵

When conducting an evaluation, Districts cannot use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability or for determining an appropriate educational program for the child and must use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors. Each public agency must ensure that assessments and other evaluation materials used to assess a child are selected and administered so as not to be discriminatory on a racial or cultural basis, are provided and administered in the child's native language or other modes of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally unless it is clearly not feasible to do so, are used for the purposes for which the assessments or measures are valid and reliable, and are administered by trained and knowledgeable personnel. The assessments are administered in accordance with any instructions provided by the producer of the assessments. Assessments and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.⁶

Assessments are selected and administered to ensure that, if an assessment is administered to a child with impaired sensory, manual, or speaking skills, the assessment results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure). 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

⁴ OAR 581-015-2080(1)(2)(3)

⁵ OAR 581-015-2110(1)(2)(3)(a)(A)(B)

⁶ OAR 581-015-2110(3)(b)(c)(4)(A-E)(b)

abilities. The evaluation is sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified. The evaluation includes assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child.⁷

An initial evaluation must be completed within sixty school days from written parent consent to the date of the meeting to consider eligibility. A reevaluation must be completed within sixty school days from written parent consent (or from the date the evaluation is initiated), and not more than three years from the most recent evaluation. There are exceptions under which the date of the meeting to consider eligibility, continuing eligibility, or the student's educational needs may be completed in more than 60 school days. Those exceptions include the following circumstances, if documented in the child's educational record: the parents of a child repeatedly fail or refuse to produce the child for an evaluation, the student is a transfer student in the process of evaluation and the district and the parents agree in writing to a different length of time to complete the evaluation, or for other circumstances outside the school district's control.⁸

When a child with disabilities transfers from one school district to another school district in the same school year, the previous and current school district must coordinate any pending assessments as necessary and as expeditiously as possible to ensure prompt completion of the evaluation. The exception for transfer students only applies if the current school district is making sufficient progress to ensure a prompt completion of the evaluation and the parent and current school district agree to a specific time for completion of the evaluation.⁹

The Parent requested a revision of the Student's IEP goals, particularly in writing, based on their current progress. They also requested an evaluation for SLD due to concerns about academic progress and the possibility of SLD. Additionally, the Parent wanted the School to address a discrepancy in the IEP regarding the writing goal, increase math instruction to 150 minutes per week, and change the handwriting writing goal into two separate goals. In response, the School conducted evaluations in the Spring of 2023 and determined the Student was eligible for OHI. They decided to postpone the SLD evaluation until the Student was older, but they did amend the IEP to include separate goals for handwriting and writing content. In the next school year, the School increased math instruction to 150 minutes per week and denied the Parent's official request for SLD evaluation based on the Student's age and recent academic testing, as documented in the March 20, 2024 PWN.

In the Spring of 2023, the District conducted evaluations and identified the Student as eligible for special education under the category of OHI. They also responded to the Parent's concerns about academic progress and the possibility of an SLD by writing goals in reading, writing, and math in the May 4, 2023 IEP and the June 9, 2023 IEP. OAR 581-015-2105(4)(b)(A) provides that a reevaluation for each child with a disability may occur not more than once a year unless the parent and public agency agree otherwise. The District provided an appropriate response by declining to conduct an evaluation in the March 20, 2024 PWN, which indicated that "[The Student] is a student currently eligible for special education services in the area of Other Health Impairment. [They receive] specially designed instruction in communication, reading, mathematics, writing, fine motor, and self[-]management."

⁷ OAR 581-015-2110(4)(C)(d)(e)(f)

⁸ OAR 581-015-2110(5)(a-c)(A-C)

⁹ OAR 581-015-2110(5)(d)(A)(B)

The District conducted numerous evaluations that were sufficiently comprehensive to identify the student's educational needs and provided PWN when it refused to conduct a second evaluation of the Student within one year.

The Department does not substantiate this allegation.

Independent Educational Evaluation

The Parent alleged the District violated the IDEA by establishing timelines and procedures that interfered with the Parent's ability to obtain an IEE at public expense.

A parent of a child with a disability or suspected disability has the right to an independent educational evaluation (IEE) at public expense if the parent disagrees with an evaluation obtained by the school district. "Independent educational evaluation" means an evaluation conducted by a qualified examiner who is not employed by the school district responsible for the education of the child. "Public expense" means that the school district either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent. If a parent requests an IEE at public expense, the school district must provide information to parents about where an IEE may be obtained and the school district criteria applicable for IEEs. If an IEE is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation, the qualifications of the examiner, and cost, must be the same as the criteria the school district uses when it initiates an evaluation, to the extent those criteria are consistent with the parent's right to an IEE. A school district may not impose conditions or timelines related to obtaining an IEE at public expense.¹⁰

The school district must provide parents an opportunity to demonstrate that unique circumstances justify an IEE that does not meet the district's criteria. If a parent requests an IEE at public expense, the school district must, without unnecessary delay, either ensure that an IEE is provided at public expense unless the school district demonstrates in a hearing that the evaluation obtained by the parent did not meet school district criteria or initiate a due process hearing to show that its evaluation is appropriate. If the school district initiates a hearing and the final decision is that the school district's evaluation is appropriate, the parent still has the right to an IEE, but not at public expense. If the parent requests an IEE, the school district may ask why the parent disagrees with the public evaluation. The parent may, but is not required, to provide an explanation. The school district may not unreasonably delay either providing the IEE at public expense or initiating a due process hearing to defend the public evaluation.¹¹

If the parent obtains an IEE at public expense or shares with the district an evaluation obtained at private expense, the results of the evaluation must be considered by the school district. These results can also be submitted as evidence in a due process hearing by any party involved. If a hearing officer requests an IEE as part of a hearing, the cost of the evaluation must be at public expense. A parent is entitled to only one IEE at public expense each time the public agency conducts an evaluation with which the parent disagrees.¹²

On March 15, 2024, the Parent emailed the Principal and the Director of Student Services requesting an IEE at public expense, expressing disagreement with the previous evaluation results due to minimal progress and the lack of testing in areas of suspected disability. On March 19, 2024, the Director of Student Services responded and offered to discuss it further during a scheduled phone call. After the phone call on March 20th, the Parent emailed the

¹⁰ OAR 581-015-2305(1)(2)(3)(a)

¹¹ OAR 581-015-2305(3)(b)(4)(5)(6)

¹² OAR 581-015-2305(7)(8)(9)

Director confirming that the request for an IEE was approved and that they would receive a list of independent evaluators. On April 2nd, the Parent informed the Director of their choice of evaluator, from the provided list.

The District did not impose conditions or timelines, nor did they unreasonably delay the Parent's access to acquiring an IEE at public expense.

The Department does not substantiate this allegation.

IEP Team and Personnel Qualifications

The Parent alleged the District violated the IDEA by failing to have a qualified special education teacher at the Elementary School from January 2023 to the time the Complaint was filed, including at IEP meetings.

School districts must ensure that the IEP Team for each child with a disability includes one or both of the child's parents, the child where appropriate, and at least one regular education teacher of the child if the child is or may be participating in the regular education environment. Also required is at least one special education teacher of the child or, if appropriate, at least one special education provider for the child. The IEP team must additionally include someone qualified to interpret the instructional implications of evaluation results and a representative of the school district, both of whom may also be another member of the team. The representative of the school district must be qualified to provide or supervise the provision of specially designed instruction, knowledgeable about the general education curriculum, and knowledgeable about district resources. The representative of the school district is the IEP Team member authorized to commit district resources and ensure that services set out in the IEP will be provided. Other individuals may also be invited, including related services personnel and transition services participants, as appropriate; people invited by the parent, whom the parent determines to have knowledge or special expertise regarding the child; or people invited the school district, whom the school district determines to have knowledge or special expertise regarding the child.¹³

A member of the IEP team is not required to attend an IEP meeting, in whole or in part, if the parent of a child with a disability and the school district agree in writing that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed at the meeting. A member of the IEP team may be excused from attending an IEP meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of curriculum or related services if the parent and school district consent in writing to the excusal, and the member submits, in writing to the parent and the IEP team, input into the development of the IEP before the meeting. The regular education teacher of the child must participate as a member of the IEP team, to the extent appropriate, in the development, review, and revision of the child's IEP, including assisting in the determination of supplementary aids and services, program modifications and supports for school personnel that will be provided for the child, and appropriate positive behavioral interventions and supports, and other strategies for the child.¹⁴

The Restricted Teaching License in Oregon allows individuals with a bachelor's degree but without a completed teacher preparation program to teach in public schools under extenuating circumstances. It requires district sponsorship and a plan for the teacher to progress toward non-provisional licensure. The license can be issued for up to four years and may be transferred

¹³ OAR 581-015-2210(1)(a-e)(A-D)(f-g)

¹⁴ OAR 581-015-2210(3)(4)

between districts. To be eligible, applicants must meet certain qualifications and submit required documents. The license can be reissued if the teacher shows progress in their licensure program but can also be denied if progress is not demonstrated. There is an emergency exception for a workforce shortage that allows for an additional reissue for certain applicants who have taught in Oregon public schools during specific school years.¹⁵

The Parent believed that the District violated the IDEA by not having a qualified special education teacher from January 2023 until the Complaint was filed. The Parent pointed out that the teacher had an emergency license that was renewed, which they believed was not in line with the intended use of the license. The District explained that, due to a statewide shortage of special education teachers, they have been working with TSPC to follow parameters regarding personnel qualifications given staff shortages. They shared that they have hired a licensed veteran special education teacher to oversee case management and instruction and to mentor teachers working toward unrestricted licensure. The District maintained that there was never a time when a special education teacher was not assigned to the School.

There is no evidence to indicate that the District was out of compliance regarding the licensure of the Special Education Teacher at the School.

The Department does not substantiate this allegation.

Access To Student Records

The Parent alleged the District violated the IDEA when it failed to provide service logs after a record request made by the Parent.

To ensure the safeguards required for education records of children with disabilities, including early intervention and early childhood special education records, the Department adopts the provisions of FERPA (Family Educational Rights and Privacy Act) and the IDEA. This provision includes all education records with respect to the identification, evaluation, and educational placement of the child and the provision of a FAPE to the child. The program, district, agency, or contractor must comply with a parent's request to inspect and review records without unnecessary delay and before any meeting regarding an IEP, or any due process hearing, or resolution session related to a due process hearing, and in no case more than 45 days after the request has been made process hearing, or resolution session related to a due process hearing, and in no case more than 45 days after the request has been made.¹⁶

On February 9, 2024, the Parent requested specific student records from the District. On March 15, the Parent received a code from the District to access a secure student record file. The Parent noted that service logs were not present in the file transfer. The District responded that the service logs had been provided to the Parent in the materials. The Parent has a right to inspect their child's educational records within 45 days of making a request to view them. There were service logs from the Occupational Therapy Consultant and the Second Grade Teacher for the 2023-24 school year provided in the materials provided to the Complaint Investigator. The Parent had the opportunity to review requested records within 45 days of making the request.

The Department does not substantiate this allegation.

Placement of the Child

¹⁵ OAR 584-210-0100 Restricted Teaching License

¹⁶ OAR 581-015-2300

The Parent alleged the District violated the IDEA by failing to ensure that the Student's placement was determined by a group of persons, including the Parent and other persons knowledgeable about the Student, the meaning of the evaluation data, and the placement options. Specifically, the Parent alleged that the District retracted a placement decision and would not consider the Parent's input regarding the change in decision.

The educational placement of a child with a disability is determined by a group of persons, including the parents and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options. The educational placement is made in conformity with the Least Restrictive Environment (LRE) provisions of the IDEA¹⁷. The educational placement is based on the child's current IEP is determined at least once every 365 days and is as close as possible to the child's home. Alternative placements are available to the extent necessary to implement the IEP for each child with a disability. Unless the child's IEP requires some other arrangement, the child is educated in the school that they would attend if not disabled. In selecting the LRE, consideration is given to any potentially harmful effect on the child or on the quality of services that they need, and a child with a disability is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum.¹⁸

The Parent was concerned about the Student's placement in a new school due to a change in the District's policies. They believed that the IEP team's decision to move the Student to their neighborhood school was inappropriate and that the Student should be able to stay at their current school. The Parent was confused about the distinction between "placement" and "location" in the IEP. The District responded by clarifying that "placement" refers to the educational setting (e.g., special education classroom, general education classroom), while "location" refers to the specific school building. They explained that, typically, students in resource programs attend their neighborhood school, and the type of placement being implemented is separate from the location where the placement is implemented. The District also informed the Parent that, if they wanted the Student to attend a different school, they could apply for a transfer. On April 8, 2024, a PWN that described the changes that were made and the rationale was provided to the Parent.

The placement decision was made by the IEP team after a thorough discussion in which the Parent participated. It was determined that this was the least restrictive environment in which this Student's needs could be met and that this placement was close to the Student's home.

The Department does not substantiate this allegation.

Prior Written Notice

The Parent alleged the District violated the IDEA when it failed to provide a PWN after refusing to update/add a writing goal and refused to discuss compensatory education services. The Parent also alleged that the District failed to provide a PWN before reducing SDI in math.

PWN must be given to the parent of a child and to the adult student after rights have transferred, within a reasonable period of time before a school district proposes to initiate or change the identification, evaluation, or educational placement of the child, or the provision of a FAPE to the child. PWN must also be given within a reasonable period of time before the district

¹⁷ 34 CFR § 300.114
¹⁸ OAR 581-015-2250

refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.¹⁹

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 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. The content of the PWN must also include 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. The content of the PWN must include a description of other options that the IEP Team considered, the reasons why those options were rejected, and a description of other factors that are relevant to the agency's proposal or refusal. PWN must be written in a language understandable to the general public and provided in the parent's native language or other mode of communication unless it is clearly not feasible to do so.²⁰

On June 9, 2023, the District's meeting notes indicated that the Parent commented about the Student continuing to work on writing. The June 20, 2023 PWN indicated a change in the Student's eligibility, which reflected a shift in focus from functional skill development to academic skill development. On June 22, 2023, the Parent emailed requesting to discuss a handwriting goal "in the future." There was no proposal to initiate or change the identification, the educational placement, or the provision of FAPE by the Parent or the District. A PWN was not required.

On May 30, 2023, the Director of Student Services emailed the Parent to discuss their input and questions regarding compensatory education services for the summer. The following day, on May 31, 2023, the Director clarified that the IEP team would outline the Parent's concerns and the District's offer for compensatory education in the Student's present levels but that the final determination would be a separate process between the Parent/Student and the District. Later, on September 19, 2023, the Parent emailed the Director of Special Education Services to discuss the compensatory education services the Student received in July and whether they were sufficient to address the time the Student was not receiving a FAPE from September 2022 to January 2023. The email discussions about compensatory education do not constitute proposals for action or denial of action by a Party and are not subject to the PWN requirements.

When reviewing the February 29, 2024 IEP, the Parent noted that the Student's math SDI minutes were reduced from 150 to 120 minutes per week. The Parent questioned this reduction in their email feedback, as the Student had not met their math goals, and they did not recall the change being discussed during the meeting. During the IEP amendment meeting on April 8, 2024, it was clarified that the 120 minutes referred to pull-out instruction and that the Student would also receive additional in-class SDI with the general education curriculum.

The February 29, 2024 PWN did not describe a proposal to change the service minutes for math for the Student. However, the February 29, 2024 IEP indicated that the SDI for the Student was reduced by 30 minutes per week in math. While the service model changed, the Parent was not properly notified.

The Department substantiates this allegation.

¹⁹ OAR 581-015-2310(1)(2)

²⁰ OAR 581-015-2310(3)(4)

Extended School Year (ESY) Services

The Parent alleged the District violated the IDEA by failing to collect data needed to determine ESY services following the summer break.

School districts must ensure that ESY services are available as necessary to provide FAPE to a child with a disability. ESY services must be provided only if the child's IEP team determines, on an individual basis, that the services are necessary for the provision of FAPE to the child. A school district may not limit ESY services to particular categories of disability or unilaterally limit the type, amount, or duration of those services. The purpose of ESY services is the maintenance of the child's learning skills or behavior, not the teaching of new skills or behaviors. School districts must develop criteria for determining the need for ESY services. Criteria must include regression and recoupment time based on documented evidence or, if there is no documented evidence, on predictions according to the professional judgment of the team.²¹

"Regression" means a significant loss of skills or behaviors in any area specified on the IEP because of an interruption in education services. "Recoupment" means the recovery of skills or behaviors specified on the IEP to a level demonstrated before the interruption of education services. "Extended school year services" means special education and related services that are provided to a child with a disability beyond the normal school year of the school district, in accordance with the child's IEP, at no cost to the parents of the child, and meet the standards of the Department.²²

On May 10, 2023, the Parent requested an IEP meeting to discuss evaluations, revise IEP goals based on new data, and plan ESY services and compensatory education for the summer of 2023. A team meeting was held on May 19, 2023, to review ESY eligibility, and the Student did receive ESY services that summer due to emerging skills. However, in a later IEP meeting on September 21, 2023, there was confusion about who had the decision-making authority regarding ESY and compensatory education. By February 29, 2024, the Student's IEP indicated that they no longer qualified for ESY. The Director of Student Services confirmed that the decision not to provide ESY in the summer of 2024 was based on progress monitoring data, observational data, and professional judgment.

The IDEA does not provide specific criteria for determining eligibility for ESY services. However, the IEP team must consider factors such as the Student's rate of progress, regression, recoupment of skills, emerging skills, nature and severity of the disability, and the Student's behavioral and physical needs. Based on the use of progress monitoring and observational data, combined with professional judgment, the District met its obligation in this area.

The Department does not substantiate this allegation.

Content of the IEP

The Parent alleged the District failed to provide the Student with the appropriate amount of SDI in math and did not consider the Parent's concerns when making the decision.

The IEP must include a statement of the child's present levels of academic achievement and functional performance, including how the child's disability affects the child's involvement and

²¹ OAR 581-015-2065(1)(2)(3)(a)(3)(b)(4)(5)

²² OAR 581-015-2065(6)(a)(6)(b)(7)(a)(A-C)(b)

progress in the general education curriculum. The IEP must include a statement of measurable annual goals, including academic and functional goals (and, for children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of short-term objectives) 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. The IEP must meet each of the child's other educational needs that result from the child's disability and needs to include a description of how the child's progress toward meeting the annual goals will be measured and when periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided.²³

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. The IEP must also include 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. The IEP must contain the projected dates for initiation of services and modifications and the anticipated frequency, amount, location, and duration of the services and modifications and an explanation of the extent, if any, to which the child will not participate with children without disabilities in the regular class and activities. The IEP must include a statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on State and district-wide assessments of student achievement that are needed for the child to participate in the assessment. A child may not be exempt from participation in State or district-wide assessment, including extended and juried assessments, because of a disability, unless the parent has requested an exemption.²⁴

The Parent noticed, when reviewing the February 29, 2024 IEP, that the Student's math SDI minutes were reduced from 150 to 120 minutes per week. The Parent questioned this reduction in their email feedback, as the Student had not met their math goals, and they did not recall the change being discussed during the meeting. During the IEP amendment meeting on April 8, 2024, it was clarified that the 120 minutes referred to pull-out instruction and that the Student would also receive additional in-class SDI with the general education curriculum. The February 29, 2024 PWN did not describe a proposal to change the service minutes for math for the Student. However, the February 29, 2024 IEP indicated that the SDI for the Student was reduced by 30 minutes per week in math. While the service model changed, the Parent was not properly notified.

The Department substantiates this allegation.

Free Appropriate Public Education

The Parent alleged that the District failed to provide the Student with FAPE when it failed to offer and implement an IEP reasonably calculated to allow the Student to make appropriate progress, given the Student's unique circumstances.

School districts must provide FAPE to all school-age children with disabilities for whom the district is responsible or involving open enrollment. "School-age children" are children who have

²³ OAR 581-015-2200(1)(a)(1)(b)(A)(B)(c)

²⁴ OAR 581-015-2200(1d)(A-C)(e-g)(A)(B)

reached five years of age but have not yet reached 21 years of age on or before September 1 of the current school year. The requirements of this rule also apply to children with disabilities who have been suspended or expelled from school.²⁵

In February 2024, the District reduced the Student’s math SDI by 30 minutes per week. However, the Student received additional math support in the general education classroom. The total amount of math instruction, while reduced accompanied with the change in the service model, could have potentially benefitted the Student. The District indicated that there was an issue with a change in location. There was no data provided to indicate that the reduction of SDI impacted the Student’s progress toward their goals. Eventually, in April, the IEP was amended to reflect the Parent’s concerns and increase math SDI minutes to 150 minutes per week.

The determination of a denial of a FAPE depends on the impact the change in math SDI had on the Student’s progress and whether the overall services provided were sufficient to meet their individual needs. The evidence is insufficient to determine that the Student was denied a FAPE.

The Department does not substantiate this allegation.

V. CORRECTIVE ACTION²⁶
In the Matter of Hillsboro School District 1J
Case No. 24-054-022

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

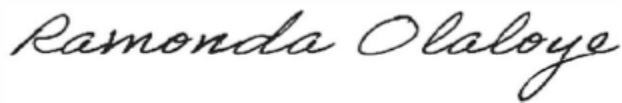
Action Required	Submissions	As Soon As Possible But No Later Than Due Date
<p>1. The District must reconvene an IEP meeting to determine whether changes in Math services between February 29 and April 8, 2024 resulted in the Student’s lack of expected progress. If the IEP team determines that the changes in Math services resulted in a lack of expected progress, the IEP team needs to determine whether and what compensatory education is required in light of the lack of expected progress and, if so, work with the parent to develop a plan for delivery of the required compensatory education.</p>	<p>Evidence of IEP meeting to be provided to ODE along with IEP team’s determination.</p> <p>If compensatory education is determined necessary, a copy of the compensatory education plan.</p> <p>If compensatory education is determined necessary, evidence that compensatory education</p>	<p>October 15, 2024</p> <p>October 15, 2024</p> <p>July 1, 2025</p>

²⁵ OAR 581-015-2040(1)(3)

²⁶ 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)).

	was provided as required.	
2. The District must ensure that all District staff responsible for reviewing, revising, developing, and implementing IEPs receive training in IEP Content and PWNs.	Training agenda/materials to ODE for review/approval. Sign-in sheet for training.	November 15, 2024 January 15, 2025

Dated: this 29th Day of July 2024



Ramonda Olaloye
Assistant Superintendent
Office of Enhancing Student Opportunities

E-mailing Date: July 29, 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).