

BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of)
North Lake School District)
)
)
) FINDINGS OF FACT,
) CONCLUSIONS,
) AND FINAL ORDER
) Case No. 24-054-028

I. BACKGROUND

On May 13, 2024, the Oregon Department of Education (the Department) received a written request for a special education complaint (Complaint) from the parents (Parents) of a student (Student) residing in the North Lake School District (District). The Parent requested that the Department conduct a special education investigation under OAR 581-015-2030. The Department confirmed receipt of this Complaint and forwarded the request to the District.

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

On May 20, 2024, the Department’s Complaint Investigator sent a *Request for Response (RFR)* to the District identifying specific allegations in the Complaint to be investigated and establishing a *Response* due date of June 4, 2024.

On June 4, 2024, the District submitted a *Response*, disputing the allegations described in the Complaint. The District submitted the following relevant items:

1. District *Response*
2. Prior Notice of Special Education Action, 5/7/2024
3. Prior Notice of Special Education Action, 11/14/2023
4. Prior Notice of Special Education Action, 12/13/2022
5. File Setup Check Sheet, 11/14/2023
6. File Setup Check Sheet, 12/13/2022
7. Letter from Student Re: Extended Diploma, 5/7/2024
8. Letter from Student: Re: Parent Communication, 12/5/2023
9. Present Levels of Academic Achievement and Functional Performance, 11/14/2023
10. Transition Planning, 11/14/2023
11. Student IEP, 11/14/2023
12. Student IEP, 12/13/2022

¹ OAR 581-015-2030(12) and 34 CFR § 300.152(a)
² OAR 581-015-2030(12) and 34 CFR § 300.152(b)

13. IEP Team Meeting Notes, 11/14/2023
14. IEP Team Meeting Note, 12/13/2022
15. Prior Notice and Consent for Initial Provision of Special Education Services, 11/18/2014
16. Confidential Statement of Eligibility for Special Education (Emotional Behavior Disability 60), 12/13/2022
17. Prior Notice of Special Education Action, 5/7/2024
18. Prior Notice of Special Education Action, 11/14/2023
19. Student IEP, 11/14/2023
20. Special Education Notice of Team Meeting, 11/1/2023
21. Special Education Notice of Team Meeting, 11/28/2022
22. Functional Behavioral Assessment, 6/2/2021
23. Assessment Report, 1/14/2021
24. Psycho-educational Assessment, 4/20/2020
25. Confidential Statement of Eligibility for Special Education (Emotional Behavior Disability 60), 12/13/2022
26. Functional Behavioral Assessment, 6/1/2021
27. Behavior Support Plan, 6/1/2021
28. Behavior Support Plan, 6/1/2021
29. Annual Academic and Functional Goals and Objectives Progress Report, 11/14/2023
30. Annual Academic and Functional Goals and Objectives Progress Report, 12/13/2022
31. Assessment Report, 1/14/2021
32. Psychoeducational Assessment, 4/20/2020
33. Student-Parent Notification Form
34. District Behavior Tracking Form, 11/28/2023
35. District School Update Form, 8/11/2023
36. Report of Student Behavior, 4/29/2024
37. Relevant Email Communication between Parent and District
38. Video of 11/28/2023 Incident
39. Student Education Records
40. District Behavior Tracking Form, 11/28/2023
41. Letter from District to Parent regarding 11/28/2023 Incident, 12/1/2023
42. District Policy JFC, Student Conduct
43. District Policy JGDA/JGEA, Discipline of Students with Disabilities
44. District Policy JGDA/JGEA-AR, Discipline of Students with Disabilities
45. District Investigation Notes, 11/30/2023
46. District Investigation Notes, 11/29/2023
47. District Investigation Notes, 11/28/2023
48. District Investigation Notes, 11/30/2023
49. Student Education Records
50. Student Notes, 12/5/2023
51. Incident Details, 12/5/2023
52. District Behavior Tracking Form, 5/23/2023
53. School Bus Incident Report, 11/21/2023

54. Student Education Records
55. Email: November 28, 2023, 5/22/2024
56. Email: Nov 28, 2023 [Student] and [Teacher], 5/23/2024
57. Memo, 11/28/2023
58. Memo, 11/28/2023
59. Email: Bus Incident 11-28-2023, 5/22/2024
60. Memo: Incident on November 28th, 2023, 5/23/2024
61. Memo, Re: November 28, 2023
62. Memo, Re: 11-28-2023
63. Memo, 2/26/2024
64. Memo, Monday 4/29/2024
65. Prior Notice and Consent for Initial Provision of Special Education Services, 11/18/2014

The Parent submitted the following items on June 15, and June 17, 2024:

1. Complaint
2. Page from Police Report
3. Memo, Monday 4/29/2024
4. Email: RE: Bus Issue, 11/22/2023
5. Email: 3 days suspension from the bus, 11/28/2023
6. Email: [Student], 12/5/2023
7. Note
8. District Behavior Tracking Form, 11/28/2023
9. Email: 3 Days Suspension from the Bus, 11/28/2023
10. Email: Re: Letter for [Student], 2/26/2024
11. Email: Re: [Student], 11/29/2023
12. Email: Re: Letter for [Student], 2/26/2024
13. Email: [Student], 12/5/2023

On June 14, 2024, the Complaint Investigator interviewed the Parents regarding their concerns in this matter. Following the interview, the Parents submitted additional information relevant to the complaint. On June 24, 2024, the Complaint Investigator interviewed relevant District staff, including Teacher 1, the Transportation Manager, the School Psychologist, the Vice Principal, and the Principal. Virtual interviews were conducted instead of on-site interviews. The Complaint Investigator reviewed and considered all of these documents, interviews, and exhibits in reaching the findings of fact and conclusions of law contained in this order. This order is timely.

II. ALLEGATIONS AND CONCLUSIONS

The Department has jurisdiction to resolve this Complaint under 34 CFR §§ 300.151-153 and OAR 581-015-2030. The Parents' allegations and the Department's conclusions are set out in the chart below. The conclusions are based on the Findings of Fact in Section

III and the Discussion in Section IV. This Complaint covers the one-year period from May 14, 2023, to the filing of this Complaint on May 13, 2024.

Allegations	Conclusions
<p>When IEPs Must Be In Effect</p> <p>The Parents alleged that the District violated the IDEA when the District failed to follow, or appropriately utilize, the Student’s behavior supports outlined in the Student’s IEP. The Parents alleged that this failure predictably exacerbated the Student’s behavior in ways outlined in the Student’s IEP. The Parents further alleged that the Student was subject to student discipline and other consequences as a result of the District staff’s failure to follow the Student’s IEP.</p> <p>(OAR 581-015-2220; 34 CFR § 300.323 & § 300.324)</p>	<p>Not Substantiated</p> <p>There is insufficient evidence in the record to demonstrate that the District failed to utilize or apply the BSP in this situation.</p>

REQUESTED CORRECTIVE ACTION
<p>The Parents request that the District:</p> <ul style="list-style-type: none"> • Dismiss pending criminal charges stemming from the underlying incident; • Follow the Student’s IEP so that they can graduate; • Provide the Student with the free and fair education; and • Cease any biased treatment of the Student and cease gossiping about the Student.

III. FINDINGS OF FACT

1. The Student in this case attended the twelfth grade and graduated from a high school in the District. The Student was eligible for special education under the category of Emotional Behavior Disability (60).
2. The Student enjoys spending time with friends, listening to music, and playing video games. The Student is empathetic toward classmates and others. The Student shows strengths in the area of passage comprehension and verbal comprehension.
3. The Student’s disability impacts them in the general education classroom when they are asked to read, write, or do math at grade level. The Student is also impacted by their disability where they begin to feel anxious with too many people around them.
4. During the 2023-24 school year, the Student was working toward a modified diploma and planned to pursue a career working with their hands or caring for others.

5. The Student initially qualified for special education in 2014 under the category of Specific Learning Disability. In 2020, as a seventh grader, the Student demonstrated increased difficulties with behavior at school. Teachers reported that the Student appeared to have a lack of motivation, didn't try, and did not do any work in class. The Student refused assistance when offered, and easily became distracted and angry. The Student's moods tended to be erratic. On April 20, 2020, the District completed a psycho-educational assessment for the Student. The evaluation noted that, when corrected, the Student generally makes a rude or disrespectful comment to the adult, and that the Student has the most difficulty with their behavior in the afternoon. The results of the evaluation indicated that the Student "is struggling emotionally and behaviorally. [The Student's] hyperactivity, attention problems, and mood swings appear to be interfering with [their] learning and social relationships. [The Student's] parents may want to consider having [the Student] see a counselor...to help [them] learn some new skills so [they] can be more successful in school and with [their] relationships."
6. As part of a June 1, 2021, Functional Behavioral Assessment (FBA) the District noted that the Student's community medical provider diagnosed the Student with Mood Swings and Panic Disorder.
7. On June 1, 2021, the District completed an FBA for the Student. The FBA noted that the Student started the year on a positive note but seemed to struggle with behaviors later in their eighth-grade year. In April 2021, the Student got into an altercation with a peer on the bus, and near the of the 2020-21 school year, the Student got into an altercation with a peer that led to the Parents withdrawing the Student from school for the remainder of the year. The District formulated a behavior plan for the Student, and an FBA was requested as a result of the Student's behavior.
8. In the area of cognitive flexibility, the FBA's results noted that the Student showed consistent difficulty thinking rationally when frustrated and struggles to manage irritability and frustration in an age-appropriate manner. The assessment noted that the Student also struggled to think hypothetically, appropriately handle deviations from rules, routines and original plans, and appropriately address unpredictability, ambiguity, uncertainty, and novelty. The FBA also noted that the Student struggled in shifting from an original idea, solution, or plan.
9. The FBA identified the following triggers/expectations:
 - a. "When [the Student] is asked to do something [they don't] want to do."
 - b. "When [they are] asked to do something in from of [their] peers [they] may not know how to do."
 - c. "Other students saying thing that [the Student] does not like."
 - d. "Has a difficult time following directions."
 - e. "When directions are repeated, [The Student] becomes angry."
 - f. "[The Student] usually has [their] mind made up before anything happens as to how [they] want it to be."

10. In reference to the function of the behavior or possible lagging skills that underlie the behavior, the Student's teachers identified the following:
 - a. "[The Student] is at least 2 grade levels below [their] same age peers in reading, writing, and math."
 - b. "Emotional and self-regulation."
 - c. "Attention and working memory skills."
 - d. "I think [the Student] does not understanding what is being asked of [them]"
 - e. "[The Student] becomes angry when asked why [they aren't] doing [their] work."
 - f. "Uses anger to hid [*sic*] the fact that [they don't] know what I am saying."
11. The Student's November 14, 2023 IEP included specially designed instruction (SDI) in reading-transition, writing-transition, math, leaning strategies, and behavior. The Student's IEP included additional accommodations such as preferential seating near the front of the room, ability to leave class to go to the special education teacher's office, additional time to complete assignments, reduced number of problems on assignments, taking tests and quizzes in the resource room, provision of lecture notes, and a behavior plan. The Student's IEP noted that the Student "needs to have a behavior plan..." and that their disability affects them in "the general education classroom when (they) are asked to read, write, or do math at grade level."
12. Notes from the November 14, 2023 IEP team meeting indicate that the Student was then working toward a modified diploma, and that the Student continued to have a behavior plan in place.
13. The IEP included a behavior support plan (BSP) dated June 1, 2021. This plan was created when the Student was in eighth grade. The Student's BSP indicated that expectations should be presented "clearly and precisely using multiple modes, including simple visuals, and check for understanding." The BSP also observes that when "presenting expectation or addressing behavioral concerns it may be helpful to learn the Student's "triggers and communication style." To that end the plan encouraged using:
 - a. "redirects that are simple (1-5 words) and positively stated (may be helpful to use visuals) such as '[Student], please sit at your chair."
 - b. "Allow wait-time for processing and/or calming."
 - c. "Do not engage in power struggle (argumentative approach)."
 - d. "Assure that redirects are given in a way that [the Student] doesn't feel put on the spot or humiliated."
 - e. "Regular/proactive breaks following long tasks, or when initial signs of frustration appear."
14. The Student's BSP included various common scenarios and how the Student and District staff could respond. This included that when "doing classroom assignment/activities that the Student doesn't prefer, [the Student] often engages in behavior that is viewed as defiant, distracting or non-productive because of a

deficit in:

- a. Understanding spoken directions
 - b. Ability to tell someone what's bothering [them]
 - c. Maintaining focus during activities
 - d. Ignoring irrelevant noises, people, or other stimuli
 - e. Considering a range of solutions to a problem
 - f. Thinking rationally, even when frustrated
 - g. Academic skills.”
15. To address these concerns, the BSP includes strategies that include having the Student present concerns in writing to the teacher, teachers checking in with the Student about help getting started with working, helping the Student “think it through” imagining possibilities in a non-threatening and non-punishing way, and allowing the Student to choose an alternative way to show learning.
16. The BSP plan further noted that when, “following specific teacher direction is expected, [the Student] will often engage in behavior that doesn't match the direction that were given because of a deficit in:
- a. Understanding spoken direction
 - b. Ability to tell someone what's bothering [them]
 - c. Thinking rationally, even when frustrated
 - d. Managing irritability, anxiety, in an age-appropriate way
 - e. Academic skills”
17. In response, the BSP suggests the use of “a written note or visual by teacher to redirect without verbal engagement.”
18. The BSP further noted that the Student demonstrated “a number of lagging neurocognitive skill deficits and will greatly benefit from a relational approach...All staff will need to guard against power struggles with [the Student] as [they] get ‘stuck’ on certain behaviors and ‘solutions.’ Pushing against [the Student’s] concerns and perspectives will likely result in even more dysregulation and unsafe behavior. When [the Student] is regulated [they are] able to demonstrate kind, caring and relational behavior. However, once [the Student] begin [*sic*] to perceive that [they are] not liked by a staff person, it is difficult for [them] to change this perception. The key is to build a strong relationship that will be able to be maintained, even when it is necessary to use consequences for behavior.”
19. On November 21, 2023, the District documented that the Student engaged in behavior on the school bus afternoon route that led to a three-day suspension, through November 22, 2023. The District documented that the behavior as “disrespectful to and challenging bus manager.”
20. On November 21, 2023, the Transportation Supervisor wrote an email to the Superintendent which read in part, “There is also a problem with a high school student on the bus who is behaving completely inappropriately, also speaking

completely inappropriately as well as having some anger issues. [The Bus Driver] has attempted to address this with little to no actual result. I am in the process of reaching out to the parents, but if the school could in some way help address this, that would be very helpful....[the Student] and the stuff [they] are spewing on the bus is not appropriate for anywhere, [they are] also harassing and belittling [a classmate. They] believe[they] should get [their] way of whatever it is [they] wants [sic] for the day. [The Student] has on more than one occasion told [their classmate] to move away from [them] after [the classmate] was first on the bus and first seated. And the way [the Student] speaks to [the classmate] is just gross.”

21. On November 21, 2023, the Transportation Supervisor sent another email to the Superintendent reporting that the Student would be removed from the bus for three days and requesting the District’s support in addressing the issue. The Transportation Supervisor wrote in part, “[The Student] will also be removed from the bus as well for 3 days. This is ridiculous. We will need the school’s support in addressing these issues.”
22. On November 28, 2023, at 2:48 p.m., the Transportation Supervisor sent the Student an email with the subject, “3 days suspension from the bus.” The Transportation Supervisor wrote, “This is a reminder that you are suspended from the bus for 3 days. You will not be allowed to ride the [sic] in the morning or evening for those 3 days. You may return to the bus on Thursday, the 30th. I am contacting you by this email as I do not have a phone number for you.” This email was copied to Administrator 1, Administrator 2, and Administrator 3.
23. On November 29, 2023, the Parents sent an email to the Bus Company, the Vice Principal and Principal, asking why the Principal became involved in the issue of the Student riding the bus, if the District and the Bus Company are two separate entities. The Parents alleged that the Vice Principal’s approach to the situation was “threatening, causing severe anxiety, embarrassment and left [the Student] stranded at school.” In the same email the Parents included an email sent to the Transportation Supervisor. That email read in part, “You have a huge communication problem. The times and notifications to [the Student] of a bus suspension are highly suspicious. Tuesday November 21st at 5:30ish pm you email [the Student] through a school email account, [the Student] has no reason to check over Thanksgiving break. Then you pick [the Student] up on the bus Tuesday November 28 in the morning. Then you email [the Student] again Tuesday November 28 at 2:48pm reminding [them] of [their] bus suspension. An email [they] never received because [the Student] has [a class where they would not access email] last class. No one spoke to [the Student] regarding this situation all day. On [their] way to the bus with no acknowledgment on [the Student’s] part you send [the Vice Principal], who got in [the Student’s] face and with intent to threaten [them] from getting on the bus. Later [the Student] got a citation (charged) for harassment, will you please explain yourself? You say you didn’t have [The Student’s] phone number, not true it’s on [their] bus paperwork and school records. Explain yourself please.”

24. On November 29, 2023, the Transportation Supervisor, responding to the Parents' email wrote, "I would be happy to discuss this with [the Student] if I had [their] number. Thank you for your inquiry."
25. On November 29, 2023, the Superintendent, responding to the Parents' email wrote in part, "I can really only answer two questions for you. [The Vice Principal] was involved in the situation with [the Student] because our staff, including teachers and administration, always assist with loading and unloading buses. Because [the Transportation Supervisor] was not there at the time, [the Vice Principal] was attempting to help enforce the bus suspension...when I learned [the Student] left campus on foot I requested law enforcement be called because I did not want [them] walking home. I was hoping the officer would see [the Student] and give [them] a ride...I would suggest speaking with the officer if you have questions about the harassment charge. However, when [the Student] put [their] hands on [Administrator 3] and shoved [them], that is cause for disciplinary action, both from law enforcement and from the district."
26. On November 29, 2023, the Parents sent an email to the Superintendent, Principal, Vice Principal, and the Transportation Supervisor, writing in part, "[The Student] thought the whole thing was a joke, not understanding why [they were] picked up an [sic] brought to school with no way to get home. Luckily [the Student's sibling]...was able to get [them]."
27. On November 29, 2023, the Transportation Supervisor sent an email to the Superintendent, writing, "Just had a very long conversation with [the Student] and [the Parents], we eventually had a civil conversation. I will work better on communication in the future to prevent such issues. [The Student] will work better on communication in the future to respond more appropriately. I'm not sure that this helps anything at this point, or that it will be fruitful."
28. On December 1, 2023, the Superintendent sent an email to the Parents regarding the events of November 28, 2023. The Superintendent wrote that the letter was in response to the incident that "resulted in [the Student] shoving [the Vice Principal] ...while attempting to board the bus after being suspended from district transportation for a period of three days." The Superintendent continued, "Upon concluding my investigation into the incident, video evidence clearly shows that after being told [they were] not allowed to ride the bus home, [the Student] attempted to push past [the Vice Principal] and board the bus on at least three occasions. At one point, [the Student] made physical contact with [the Vice Principal], shoving [them] with [their] body knocking [the Vice Principal] off balance and into a younger student, who was pushed into the open bus door." The Superintendent went on to quote the relevant violations of District policy, and criminal law, observing that the Student received a citation from a sheriff's deputy for the offense of harassment for "offensive physical contact." The Student was suspended from school for three days, December 6, 7, and 8, 2023.

29. On December 5, 2023, the Parents sent an email to the Bus Company reporting the conduct of the Transportation Supervisor and alleging that the Transportation Supervisor's failure to provide proper notice of the bus suspension to the Student caused the incident between the Student and the Vice Principal. The Parent related that the Transportation Supervisor was angered when the Student had commented to them that they did not have the "power to make school suspensions..." and that the Transportation Supervisor "did admit [they were] offended [their] authority was challenged. This incident occurred on the bus the 21st Of [sic] November last day of school before Thanksgiving. The paperwork I received regarding a suspension was mailed late on November 28, I got it in the mail November 29th. Speaking with [the Principal] today, [they] agreed with [the Transportation Supervisor's] lack of proper communication."
30. On December 5, 2023, the Superintendent sent an email to the Parents informing them that the Student was suspended out of school for three days.
31. On May 13, 2024, the Parents filed this Complaint.
32. On June 4, 2024, the District submitted 'its *Response* to the allegation. As part of the response, the District provided a building security camera recording of the interaction between the Vice Principal and the Student. The video showed the Vice Principal standing by the door of a school bus. The Student approached and attempted to board the bus. The Vice Principal and the Student engaged in dialogue. The Student repeatedly attempted to board the bus. The Vice Principal blocked these attempts by placing their body between the Student and the bus door. During this time, other students boarded the bus. The Student, unable to board the bus, turned their back to the Vice Principal and backed into the Vice Principal. This caused the Vice Principal to take a step forward to regain their balance, in the process contacting a classmate. The contact between the Vice Principal and the classmate resulted in the classmate dropping their schoolwork. The Vice Principal assisted the classmate in gathering their schoolwork. The Principal arrived and spoke with the Student. The Student turned to leave and walked out of frame of the video.
33. Included with the District's *Response* were copies of the District's policies relevant to student discipline. District Policy JFC, notes that Students are subject to discipline stemming from conduct occurring "while traveling to and from school..." The District also included its policy regarding discipline of students with disabilities, JGDA/JGEA. That policy notes that Students with disabilities may be suspended "for up to 10 school days in a school year" for "a violation of a code of conduct..."
34. On June 24, 2024, the Department's Complaint Investigator interviewed Teacher 1, the School Psychologist, Vice Principal, Principal, and the Transportation Supervisor. Present for the interviews were the District's Legal Counsel and the Superintendent.

35. Teacher 1 confirmed that the Student's IEP included an accommodation that the Student could come to their classroom as a behavioral intervention. Teacher 1 noted that the Student did utilize this accommodation, generally when they emotionally shut down or became disinterested in schoolwork. Teacher 1 explained that the Student would often shut down in class during discussion or lessons on topics that did not interest them. After coming to their classroom to cool down, they would sometimes discuss the issue, which allowed the Student to return to class. Teacher 1 was present on November 28, 2023, and observed the Student's interaction with the Vice Principal. Teacher 1 recalled that the Student's volume with the Vice Principal was getting loud, and that the Vice Principal remained calm during the interaction. Teacher 1 related that someone suggested that they go into the building to retrieve the Principal, which they did. Teacher 1 did not see the remainder of the interaction. Teacher 1 confirmed that, by the spring of 2024, the Student had completed the necessary credits to graduate with a modified diploma and thereafter worked toward that goal.
36. The School Psychologist confirmed that the June 1, 2021 BSP was the current plan for the Student. The School Psychologist noted that they provided support to numerous buildings in the District, that they did not have ongoing contact with the Student following formulating the behavior support plan, and that they were not called upon to update or revise the BSP. The School Psychologist indicated that the selected supports appeared to be sufficient for the Student's needs. The School Psychologist noted that the primary trigger for the Student was a deficiency in academic skills, and that academic situations highlighting this deficiency would trigger behaviors. The School Psychologist noted that the Student was diagnosed with mood swings and panic disorder, and that confrontations would result in elevated behavior from the Student whether in the classroom or elsewhere in the school environment.
37. The Transportation Supervisor reported that they were on the bus on November 21, 2023, to address the behavior of other students. In the course of addressing that behavior, the Student reportedly got involved in an incident that led to the Transportation Supervisor recommending bus suspension for the Student. The Transportation Supervisor noted that this situation differed from most bus suspensions because it was the Tuesday preceding the Thanksgiving holiday, which interrupted the normal communication of a bus suspension to a student. The Transportation Supervisor sent an email that afternoon of November 21, 2023 to the Student documenting the suspension. The suspension was intended to run November 27, 28, and 29, 2023, following the Thanksgiving holiday break. The Transportation Supervisor noted that the Student did not ride the bus on the Monday after the Thanksgiving holiday, November 27, 2023.
38. On the morning of November 28, 2023, the weather was unusually cold and snowy, and the Student appeared at the bus stop for the bus. The bus driver, while aware of the suspension, did not enforce the suspension largely due to the weather. The Transportation Supervisor reported that they sent an additional email

communication to the Student near the end of the school day on November 28, 2023, reminding the Student that they were suspended from the bus and could not ride the bus that afternoon. The Transportation Supervisor further reported that the Vice Principal 3 was generally outside the school to oversee buses and students in the morning and afternoons. The Transportation Supervisor reported that the Student had not responded to the emails sent regarding the suspension. The Transportation Supervisor confirmed the conversation with the Parents on November 29, 2023, that was documented in their email to the Principal on the same date. The Transportation Supervisor noted that the conversation was initially contentious, but felt that they, the Parents, and the Student, came to an understanding regarding communication expectations.

39. The Vice Principal reported that they generally oversee the bus process in the morning and afternoons. They confirmed that they were present at the bus as a general part of their routine on November 28, 2023, but that they were aware that the Student was suspended from the bus. The Vice Principal further reported that the bus driver told them the Student was suspended. The Vice Principal reported that, when the Student approached the bus to board, they told the Student that they were suspended. The Vice Principal stated that the Student cursed and wondered aloud how they were going to get home. The Vice Principal observed that, despite repeating to the Student that they were suspended and could not ride the bus, the Student persisted in attempting to board the bus. The Vice Principal reported that, during this time, the Student exclaimed, "Don't touch me!" The Vice Principal continued to block the Student's access to the bus. This situation continued until the Student turned their back toward the Vice Principal's back and backed into them, causing the Vice Principal to stumble toward the bus door and into a classmate. Shortly thereafter, the Principal approached and engaged with the Student. After this interaction, the Student walked off. The Vice Principal reported having called the Sheriff regarding the interaction and giving a statement to law enforcement.
40. The Principal reported that, in accordance with the student handbook, students could be subject to discipline regarding behavior on the bus. The Principal confirmed that the District would conduct its own investigation of issues on the bus when reported by bus staff. The Principal was informed of the Student's suspension from the bus by the Transportation Supervisor on Thursday, November 21, 2023. On Tuesday, November 28, 2023, the Principal directed the Transportation Supervisor to ensure that the Student had notice of the suspension. The Transportation Supervisor sent an email to the Student on the afternoon of November 28, 2023, reminding them of the suspension.

Later in the day, the Principal was alerted to the situation between the Student and the Vice Principal. The Principal attempted to intervene to calm the Student. The Principal recalled hearing the Vice Principal tell the Student that they could find them a way home, and a classmate offered the Student a ride. The Principal reported that the Student was agitated, cursing and walked off. The Principal went inside the school with others to debrief regarding the situation, where they learned

that there was physical contact from the Student to the Vice Principal. Staff also heard that a teacher had encountered the Student off campus in the parking lot of a local business without a ride. The Principal reported calling law enforcement for a welfare check on the Student. As part of the discussion with the Principal, it was observed that the Student was then 18 years old, had a cell phone, and was capable of leaving campus on their own. The Principal further reported that they had taught the Student in the past, had a good rapport with them, was aware of their BSP, and had attempted to deescalate the Student before they walked off.

41. On May 13, 2024, the Parents filed this Complaint.

IV. DISCUSSION

When IEPs Must Be In Effect

The Parents alleged that the District violated the IDEA when the District failed to follow or appropriately utilize the Student's behavior supports outlined in the Student's IEP. The Parent's allege that this failure predictably exacerbated the Student's behavior in ways outlined in the Student's IEP. The Parents further allege that the Student was subject to Student discipline and other consequences as a result of District staff's failure to follow the Student's IEP.

At the beginning of each school year, a district must have in effect an IEP for each child with a disability. School districts must provide special education and related services to a child with a disability in accordance with an IEP. As soon as possible following the development of the IEP, special education and related services must be made available to the child in accordance with the child's IEP. School districts must ensure that the IEP is accessible to each regular education teacher, special education teacher, related services provider, and other service provider responsible for implementing the IEP. The district must also inform each teacher and related services provider of their specific responsibilities for implementing the child's IEP.³

The Student's IEP included a BSP. That plan, derived from the Student's FBA, noted that the Student displayed behavior stemming from underlying mood swings, panic disorder diagnoses, and academic delays. That FBA noted that the Student showed consistent difficulty thinking rationally when frustrated and struggled to manage irritability and frustration in an age-appropriate manner. The assessment noted that the Student also struggled to think hypothetically; appropriately handle deviations from rules, routines, and original plans; and appropriately address unpredictability, ambiguity, and uncertainty. The FBA noted that the Student struggled to shift from an original idea, solution, or plan.

While it is unclear whether the Student had actual notice of the bus suspension before attempting to board, the Student's BSP does not require such notice in this situation.

³ OAR 581-015-2220(1)—(3)

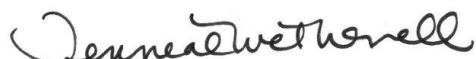
The District had policies in place to address Student behavior and discipline, including behavior on school transportation. The Student's behavior on the bus on November 21, 2023, resulted in a suspension of bus privileges. The Student's behavior when attempting to board the bus on November 28, 2023, included conduct that violated District policy, such as physical contact with Administrator 3. District staff agree that they attempted to discuss the matter calmly with the Student before the Student made contact with Administrator 3 and left campus.

The Department does not substantiate this allegation.

VII. CORRECTIVE ACTION
In the North Lake School District
Case No. 24-054-028

The Department does not order corrective action in this matter.

Dated: this 9th Day of July 2024



Tenneal Wetherell
Chief of Staff
Oregon Department of Education

Emailing Date: July 9th, 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 provision of ORS § 183.484. (OAR 581-015-2030 (14).)