

**BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION**

|   |                       |   |
|---|-----------------------|---|
| In the Matter of<br>Beaverton School District | )<br>)<br>)<br>)<br>) | FINDINGS OF FACT,<br>CONCLUSIONS,<br>AND FINAL ORDER<br>Case No. 24-054-032 |
|---|-----------------------|---|

**I. BACKGROUND**

On June 4, 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 Beaverton School District (District), through the Parents' Attorney. The Parents 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.<sup>1</sup> 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.<sup>2</sup>

On June 14, 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 28, 2024.

On June 28, 2024, the District submitted a *Response*, disputing the allegations described in the Complaint. On July 17, 2024, the District provided additional information. The District submitted the following relevant items:

1. District Response
2. Prior Notice of Special Education Action, 6/8/2023
3. Notice of Team Meeting, 5/22/2023
4. Special Education Placement Determination, 1/26/2023
5. Student IEP, 1/26/2023, Amended 6/8/2023
6. IEP Meeting Minutes, 6/8/2023
7. IEP Meeting Agenda, 10/23/2023
8. Prior Notice of Special Education Action, 10/23/2023
9. Notice of Team Meeting, 10/5/2023
10. Special Education Placement Determination, 1/26/2023
11. Student IEP, 1/26/2023, Amended 10/23/2023
12. Authorization to Use and/or Disclose Educational and Protected Health

---

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

- Information,
13. IEP Meeting Minutes, 10/23/2023
  14. IEP Meeting Agenda, 12/12/2023 & 1/17/2024
  15. Prior Notice of Special Education Action, 12/12/2023
  16. IEP Meeting Minutes, 12/12/2023
  17. IEP Meeting Agenda, 3/14/2024
  18. Notice of Team Meeting, 2/26/2024
  19. Special Education Placement Determination, 3/14/2024
  20. Student Inclusion Plan, 3/14/2024
  21. Additional Adult Assistance Support and Independence Plan, 3/14/2024
  22. IEP Meeting Agenda, 2/24/2024
  23. Prior Notice of Special Education Action, 4/24/2024
  24. Special Education Placement Determination, 4/24/2024
  25. Student IEP, 4/24/2024
  26. Medical Statement or Health Assessment Statement, 1/9/2023
  27. Extended School Year Data Determination Worksheet, 4/24/2024
  28. IEP Meeting Minutes, 4/24/2024
  29. IEP Meeting Agenda, 6/4/2024
  30. Prior Notice of Special Education Action, 6/4/2024
  31. Special Education Placement Determination, 4/24/2024
  32. Student Inclusion Plan, 4/24/2024
  33. Adult Assistance Support and Independence Plan, 6/4/2024
  34. Behavior Support Plan, 6/4/2024
  35. Student Test Data, 6/4/2024
  36. Student IEP, 6/4/2024
  37. IEP Meeting Minutes, 6/4/2024
  38. Email Communication between District and Parents, Multiple Emails and Dates
  39. Prior Notice of Special Education Action, 2/9/2024
  40. IEP Meeting Agenda, 4/24/2024
  41. IEP Meeting Agenda, 6/4/2024
  42. Email: Fw: [Student] – Private Evaluation and supporting documents, 7/16/2024
  43. Email: Fw: Fw: Neuropsych Evaluation, 7/16/2024

The Parents submitted the following items on June 4, July 3, and July 17, 2024:

1. Complaint
2. Student IEP, 1/26/2023, Amended 10/23/2023
3. Email: Final Docs From Meeting, 5/2/2024
4. Student IEP, 4/24/2024
5. Parent Response to District Response, 7/2/2024
6. IEP Meeting Agenda and Draft Document, 6/4/2024
7. Letter from Parent Legal Counsel to District, 7/9/2024
8. Student Draft IEP Documents, Multiple Dates

On July 16, 2024, the Complaint Investigator interviewed the Parent regarding their concerns in this matter. Following the interview, the Parents submitted additional

information relevant to the complaint. On July 17, 2024, the District provided additional information and responses to questions posed by the Complaint Investigator. 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 June 3, 2023, to the filing of this Complaint on June 4, 2024.

| <b>Allegations</b>   | <b>Conclusions</b>   |
|--|--|
| <p><b>Prior Written Notice</b></p> <p>The Parents alleged that the District violated the IDEA when the District failed to provide a prior written notice of changes made to the Student’s IEP prior to the date of implementing that IEP. Specifically, it is alleged that the District failed to provide timely notice of when it began providing services to the Student, and that the notice was not sufficiently specific regarding what services it implemented for the Student.</p> <p>(OAR 581-015-2310; 34 CFR § 300.503)</p>  | <p><b>Substantiated</b></p> <p>The notice provided by the District to the Parent was provided after the District began implementing the Student’s revised IEP.</p>   |
| <p><b>Parent Participation</b></p> <p>The Parents alleged that the District violated the IDEA when the District failed to provide them with an opportunity to participate in meetings with respect to the identification, evaluation, IEP, and educational placement of the Student. Specifically, it is alleged that the May 2, 2024 prior written notice documented the that the District began implementing the Student’s IEP on April 24, 2024, the same date the team met to revise the Student’s IEP. The Student’s IEP included such supporting documents as a behavior support plan, safety plan, additional adult assistance, and inclusion plan. It is alleged that these additional supporting documents were not reviewed in either of the December 12, 2023, or April 24, 2024, IEP meetings, depriving the Parents of the opportunity to</p> | <p><b>Not Substantiated</b></p> <p>The Student’s IEP team met on April 24, 2024, but did not complete the review of the Student’s IEP. An additional meeting was scheduled for June 4, 2024, where the IEP revision was completed. Prior to the April 24, 2024 meeting, the District provided notice to the Parents of the continued implementation of the Student’s previous IEP beyond the annual review period due to interruptions</p> |

|  |                                    |
|--|------------------------------------|
| participate in their development of the IEP during these meetings.<br><br>(OAR 581-015-2190; 34 CFR §§ 300.500, 300.327, 300.501(b)) | and delays in scheduling meetings. |
|--|------------------------------------|

| <b>REQUESTED CORRECTIVE ACTION</b>   |
|--|
| <p>The Parents request the following corrective action:</p> <ul style="list-style-type: none"> <li>• Order training of all special education staff on proper IEP document requirements, including accurate dates on IEP and prior written notices;</li> <li>• Require that the District send PWNs prior to implementing a student’s IEP and provision of FAPE; and,</li> <li>• Require the District to update their special education procedure manual.</li> </ul> |

### **III. FINDINGS OF FACT**

1. The Student in this case attended the sixth grade during the 2023-24 school year at a District middle school. The Student is eligible for special education under the categories of Autism Spectrum Disorder (ASD) and Other Health Impairment (OHI).
2. On October 5, 2023, the District sent the Parents and the Parents’ Attorney a notice for an IEP meeting scheduled for October 23, 2023.
3. On October 23, 2023, the IEP team met to review the Student’s IEP.
4. On October 23, 2023, the District sent the Parents a Prior Written Notice (PWN) dated October 23, 2023, documenting the meeting to review the Parents’ concerns and the Student’s progress to date.
5. On December 7, 2023, the District sent an agenda and draft IEP to the Parents ahead of an IEP meeting scheduled for December 12, 2023.
6. On December 12, 2023, the IEP team met for the Student’s annual IEP review. This meeting was cut short due to technical issues, when team members who joined remotely were unable to attend due to internet connectivity problems. The same day, the District sent PWN to the Parents documenting that the December 12, 2023 meeting was adjourned due to technical problems and that the team would reconvene ahead of the annual review due by January 25, 2024.
7. On December 18, 2023, the District sent the Parents a draft IEP and a meeting

notice of the Student's IEP meeting scheduled for January 17, 2024.

8. On January 4, 2024, the Parents sent an email to the District with suggested edits to the draft IEP to reflect the date of the upcoming meeting, updates on the Student's progress toward IEP goals, questions about evaluations proposed by the District, the nature of the accommodations for the Student, and IEP team member attendance for the meeting.
9. On January 12, 2024, the District sent the Parents an updated draft IEP reflecting the concerns raised by the Parents in their January 4, 2024 email.
10. On January 17, 2024, the IEP team could not meet due to inclement weather.
11. On February 9, 2024, the District provided the Parents with PWN documenting that the IEP meeting scheduled for January 17, 2024, was not held because of school closures due to weather. The PWN documented that the Student's IEP team was then looking for an alternative meeting time. The PWN indicated that the District would, "...continue to implement the services in the January 26, 2023 IEP in order to ensure that [the Student] continues to receive services while attending school."
12. On February 26, 2024, the District sent the Parents a meeting notice for the next IEP meeting, scheduled for March 14, 2024.
13. On March 11, 2024, the District sent the Parents an email with a draft copy of the IEP and noted that the Student's IEP meeting was then scheduled for March 14, 2024.
14. On March 12, 2024, the Parents, responding to the District's March 11, 2024 email, expressed interest in specific IEP team members attending the meeting, and suggested changes to the draft IEP regarding the Student's accommodations for adult support.
15. On March 14, 2024, the Parents' Attorney informed the District of the need to cancel the March 14, 2024 IEP meeting due to illness.
16. Following the attempted March meeting, the Parents and District began working with an IEP meeting facilitator from the Department. On April 4, 2024, the IEP meeting facilitator emailed the Student's IEP team members regarding potential meeting dates.
17. On April 8, 2024, the IEP meeting facilitator emailed the IEP team members confirming April 24, 2024 as the next IEP meeting date.
18. On April 18, 2024, the District sent the Parents a meeting notice for the IEP meeting scheduled for April 24, 2024.

19. On April 22, 2024, the District sent the Parents draft IEP documents for the upcoming IEP meeting scheduled for April 24, 2024.
20. On April 24, 2024, the IEP team met to review and revise the Student's IEP. The agenda for the meeting included a review of the Student's behavior support plan, an inclusion plan, a plan for additional adult support, and a safety plan.
21. During the meeting, the IEP team reviewed the Student's present levels of academic and functional performance, transition plan, participation in state testing, and IEP goals. The team also reviewed the Student's accommodations, documenting that the team agreed to keep all of the proposed accommodations, and add the accommodation of "enlarged font and shortened assignments."
22. On May 2, 2024, the District sent PWN to the Parent. The PWN was dated April 24, 2024. Along with the notice, the District sent an updated copy of the Student's IEP reflecting the changes discussed at the April 24, 2024 IEP meeting. Following the meeting, the District provided the Parents with PWN documenting changes to the Student's IEP. The PWN indicated that the Student's IEP was due for annual review and update with the team determining that the Student required "specially designed instruction in the areas of reading, writing, math, communication, social/emotional/behavioral, and self-direction." The District documented the Student's special education disabilities as ASD and OHI.
23. On June 4, 2024, the IEP team reconvened to complete the annual review of the Student's IEP. During this meeting, the Student's various accommodations such as the Student's behavior support plan, safety plan, additional adult assistance, and inclusion plan, were reviewed and updated.
24. On June 4, 2024, the Parents, through their Attorney, filed this Complaint.
25. On July 9, 2024, the Parents' Attorney sent a memo to the District addressing errors and requesting changes to the IEP to reflect the discussions and decisions at the April 24, 2024, and June 4, 2024, IEP meetings.
26. On July 16, 2024, the Complaint Investigator interviewed one of the Parents. The Parent reported that the District generally provided draft IEPs ahead of meetings for review and comment. The Parent sometimes provided comment or feedback regarding the draft documents. The Parent reported that at the April 24, 2024 IEP meeting, the team had not completed the review of the Student's IEP. The Parent reported that associated documents such as the Student's behavior support plan, adult assistance plan, inclusion plan, and safety plan, were not discussed during the meeting. The Parent noted that this was largely due to a lack of time, and unfinished discussions about data gathering and interpretation. The Parent observed that because these plans were not reviewed during the April 24, 2024,

meeting, they were unsure which versions of the plans were implemented for the Student between April 24, 2024, and receipt of the revised IEP on May 2, 2024. The Parent also raised the concern that drafts of the plans received prior to the April 24, 2024, IEP meeting had incorrect dates, details, or schedules for the Student.

27. On July 17, 2024, the District provided additional information relevant to the case and as well as responses to questions posed by the Complaint Investigator. The District explained that meeting agendas and draft IEPs are generally provided in advance of meetings. When there is a second or follow-up meeting, the District updates the agenda and resends it ahead of the next scheduled meeting.

## IV. DISCUSSION

### **Prior Written Notice**

The Parents alleged that the District violated the IDEA when the District failed to provide prior written notice of changes made to the Student's IEP prior to its date of implementation. Specifically, it is alleged that the District failed to provide timely notice of when it began providing services to the Student, and that the notice was not sufficiently specific regarding what services it implemented for the Student.

A district must provide prior written notice to the parent of a child, within a reasonable period of time before it proposes or refuses to initiate or change, the identification, evaluation, or educational placement, or the provision of a free appropriate public education (FAPE) to the child.<sup>3</sup> When the IEP team makes a proposal for the initiation, identification, evaluation, proposed change in placement, or provision of FAPE, it should provide prior written notice allowing 10 calendar days, or a period of time that would be reasonable under the circumstances, before initiating the proposed change.<sup>4</sup> The notice must be provided before a district changes the provision of FAPE to the child.<sup>5</sup> The notice to the parent could be provided through a variety of ways so long as the method complies with the content requirements of 34 CFR § 300.503.<sup>6</sup>

The IEP team met on April 24, 2024. The District sent the Parents prior written notice on May 2, 2024 stating that the District had begun implementing the Student's revised IEP on April 24, 2024. The District did not provide other documentation to the Parents that would serve to provide notice of the changes to the provision of FAPE to the Student prior to implementing the decisions made at the April 24, 2024, IEP meeting.

The Department substantiates this allegation.

---

<sup>3</sup> OAR 581-015-2310(2)(a)

<sup>4</sup> *Letter to Winston*, 213 IDELR 102 (OSEP 1987)

<sup>5</sup> 34 CFR § 300.503(a)(1)

<sup>6</sup> *El Paso Count School. Dist. 2*, 113 LRP 44602

## **Parent Participation**

The Parents alleged that the District violated the IDEA when the District failed to provide the Parents with an opportunity to participate in meetings with respect to the identification, evaluation, IEP, and educational placement of the Student. Specifically, it was alleged that the May 2, 2024, Prior Written Notice, documented the implementation of the Student's April 24, 2024, IEP. The Student's IEP included such supporting documents as a behavior support plan, safety plan, additional adult assistance, and inclusion plan. It is alleged that these additional supporting documents were not reviewed in either of the December 12, 2023, or April 24, 2024, IEP meetings, depriving the Parents of the opportunity to participate in their development.

School districts must provide one or both parents with an opportunity to participate in meetings with respect to the identification, evaluation, IEP, and educational placement of the child, and the provision of a free appropriate public education to the child. The written notice must state the purpose, time, and place of the meeting and who will attend. The notice should also inform the parents that they may invite other individuals whom they believe have knowledge or special expertise regarding the child. A district must take whatever action is necessary to ensure that the parent understands the proceedings at a meeting.<sup>7</sup>

The Parents reported that the District's action in sending PWN and copy of the Student's IEP, dated April 24, 2024, the date of the IEP team meeting, on May 2, 2024, created ambiguity about both when the District began implementing the April 24, 2024 IEP, and what accommodations were implemented. Specifically, the Parents reported that the various accommodations plans, such as the Student's behavior support plan, safety plan, additional adult assistance, and inclusion plan, were not reviewed during the April 24, 2024 IEP meeting. The Parents reported that this, combined with various draft IEPs circulated ahead of the meetings, created ambiguity around which plans were implemented following the April 24, 2024 meeting, and when those plans were implemented.

The District's *Response* in this matter included PWN related to the various IEP meetings that occurred during the 2023-24 school year. On February 9, 2024, the District sent the Parents PWN documenting that the IEP meeting scheduled for January 17, 2024 was not held because of school closures due to weather. Given that the IEP team was unable to meet at the scheduled time, the PWN indicated that the District would, "...continue to implement the services in the January 26, 2023, IEP in order to ensure that [the Student] continues to receive services while attending school." The IEP team was unable to completely review the Student's IEP during the April 24, 2024, meeting, necessitating a second meeting on June 4, 2024 to complete the review. The record supports that the unreviewed portions of the Student's IEP, including the various support plans, remained unchanged until the IEP review was completed on June 4, 2024.

---

<sup>7</sup> OAR 581-015-2190(1)—(3)



The Department does not substantiate this allegation.

**VII. CORRECTIVE ACTION**  
*In the Beaverton School District*  
*Case No. 24-054-032*

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

| <b>Action Required</b>  | <b>Submissions</b>                                    | <b>Due Date</b>         |
|---|---|-------------------------|
| 1. The District must ensure that all District staff responsible for reviewing, revising, developing, and implementing IEPs for this Student receive training in each of the following areas: <ul style="list-style-type: none"><li>• IEP Review/Revision; and</li><li>• Prior Written Notices</li></ul> | Training agenda/materials to ODE for review/approval. | <b>October 15, 2024</b> |
|   | Sign-in sheet for training.                           | <b>January 15, 2025</b> |

Dated: this 30th Day of July 2024



---

Ramonda Olaloye  
Assistant Superintendent  
Office of Enhancing Student Opportunities

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).)