

BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of)
Beaverton School District 48J)
)
)
)
) FINDINGS OF FACT,
) CONCLUSIONS,
) AND FINAL ORDER
) Case No. 24-054-036

I. BACKGROUND

On June 20, 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.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 June 26, 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 July 11, 2024. On July 8, 2024, the District requested an extension of time to submit its *Response* due to the fact that the District had received numerous complaints in a short period of time and did not currently have a special education director on staff. On July 9, 2024, the Department granted a two-week extension to the District to submit its *Response*, establishing a new response date of July 25, 2024.

On July 26, 2024, the District submitted a *Response*, disputing the allegations described in the Complaint. The District submitted the following relevant items:

1. District *Response*
2. IEP Meeting Agenda, 1/25/2024
3. Student Behavior Support Plan, 11/16/2023
4. IEP Team Meeting Minutes, 1/25/2024
5. Student Escalation Plan, no date
6. Prior Notice about Evaluation/Consent for Evaluation, 1/25/2024
7. IEP Team Meeting Agenda, 2/26/2024

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

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

8. Student Academic Achievement Evaluation, 2/202/2024
9. Student Social Communication Assessment – Final Report, 2/26/2024
10. IEP Team Meeting Minutes, 2/26/2024
11. Autism Spectrum Disorder Assessment Summary, 2/14/2024
12. Student Psychoeducational Report, 2/26/2024
13. Notice of Team Meeting, 2/12/2024
14. Prior Notice of Special Education Action, 2/26/2024
15. IEP Team Meeting Agenda, 3/5/2024
16. Statement of Eligibility for Special Education, Other Health Impairment, 2/26/2024
17. Notice of Team Meeting, 2/28/2024
18. IEP Team Meeting Minutes, 3/9/2024
19. Notice of Team Meeting, 3/8/2024
20. Student IEP, 2/26/2024
21. Prior Notice of Special Education Action, 3/19/2024
22. Written Agreement between the Parent and the District, 5/13/2024
23. Student Inclusion Plan, 5/13/2024
24. Student IEP, 5/31/2024
25. Prior Notice of Special Education Action, 5/31/2024
26. Email: Re: Folder shared with you: “[Student] Working Folder”, 1/29/2024
27. Email: Re: Draft/Consent, 1/22/2024
28. Email: Draft Docs for Upcoming Meeting, 1/23/2024
29. Email: ROI and Consent for Eval for BSD Student [Student], 1/25/2024
30. Email: Item shared with you: “[Student]_SpedAction.pdf”, 1/29/2024
31. Email: Re: Student at [School], 1/29/2024
32. Email: Legal Nudge Needed for Consent, 1/31/2024
33. Email: [Student] – Consent for Evaluation, 2/12/2024
34. Email: Re: [Student] Previous ROIs, 2/2/2024
35. Email: Re: [Student] Legal Paperwork complete, 2/6/2024
36. Email: Re: Annual IEP & eval planning mtg, 2/15/2024
37. Email: Draft IEP, 2/21/2024
38. Email: Fw:, 2/21/2024
39. Email: Re Draft of [Student’s] academic report, 2/21/2024
40. Email: Draft IEP, 2/21/2024
41. Email: Report, 2/22/2024
42. Email: [Student] Draft IEP w/Eval Summary, 2/25/2024
43. Email: Re: Draft Docs for Upcoming Meeting, 2/23/2024
44. Email; Re: [Student information], 2/26/2024
45. Email: [Student information] report, 2/26/2024
46. Email: Eval reports, 2/26/2024
47. Email: (no subject), 2/26/2024
48. Email: CTOPP Psych report, 2/26/2024
49. Email: Re: documents for [Student], 2/29/2024
50. Email: Re: [Student] – Follow up from today, 3/4/2024
51. Email: Re: [Student Student information] paperwork, 2/12/2024
52. Email: Final Docs for 3/19/24 Meeting, 3/4/2024
53. Email: Re: [Student], 4/3/2024

54. Email: Re: ESY Data [Student], 4/3/2024
55. Email: Fw: Memo from [Parents' legal counsel] re [Student], 5/3/2024
56. Email: ESY Data & IEP Changes Due for [Student] to Attny & Family, 5/3/2024
57. Email: Re: updates for [Student], 5/7/2024
58. Email: Re: [Student], 5/8/2024
59. Email: Re: [Student] IEP, 5/10/2024
60. Email: [Student] – IEP, Placement, Prior Notice, ESY Data, 5/9/2024
61. Email: Re: Meeting minutes – [Student], 5/21/2024
62. Email: Re: Amended IEP based off [Parent legal counsel] Memo & ESY Data, 5/22/2024
63. Email: Re: [Student] Placement, 5/30/2024
64. Email: [Student] Amended IEP Paperwork
65. Re: [Student], 6/18/2024
66. 2022-2023 Elementary Progress Report, no date
67. Student Medication Authorization Form, no date
68. Student Medication Record, entries throughout school year
69. Legal Meeting Follow-up: [Student]

The Parent submitted the following items on June 20, and July 30, 2024:

1. Request for Complaint Investigation
2. Draft Student IEP, 2/26/2024
3. Email: Docs from mtg, 3/5/2024
4. Draft Student IEP, 3/19/2024
5. Prior Notice of Special Education Action, 2/26/2024
6. Email: Fw: Final Docs for 3/19/24 Meeting, 4/3/2024
7. Student IEP, 2/26/2024
8. Prior Notice of Special Education Action, 3/19/2024
9. Email: Fw: Memo from [Parent's Legal Counsel] re: [Student], 4/24/2024
10. Email: Fw: Amended IEP based off [Parent's Legal Counsel] Memo and ESY Data, 5/10/2024
11. Student IEP, 2/26/2024
12. Prior Notice of Special Education Action, 5/10/2024
13. ODE Final Order in Complaint 23-054-036, 11/1/2023
14. ODE Final Order in Complaint 23-054-031, 10/13/2023
15. Parent *Response*, 7/30/2024
16. El Paso County School District 2, 113 LRP 44602 (2013)
17. Parkrose School District 3, 115 LRP 17206 (2015)
18. *Letter to Chandler*, 59 IDELR 110 (2012)

On August 8, 2024, the Complaint Investigator spoke with the District's Attorney regarding this matter. 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 19, 2023, to the filing of this Complaint on June 20, 2024.

Allegations	Conclusions
<p>Prior Written Notice</p> <p>The Parents alleged that the District violated the IDEA when the District failed to provide accurate prior written notice (PWN) of changes made to the Student’s IEP, prior to the date of implementing that IEP. The Parents alleged that;</p> <ol style="list-style-type: none"> a. The District held annual IEP team meetings on February 26, 2024, and March 19, 2024, to revise the Student’s IEP. b. On April 3, 2024, the District sent the Parents a copy of the Student’s revised IEP. c. On April 24, 2024, the Parent’s counsel communicated to the District the need to edit the April 3, 2024, IEP, to bring the document into conformity with discussions at the Student’s IEP team meetings. d. On May 10, 2024, the District issued a revised IEP for the Student. e. The Parents alleged that the May 10, 2024, IEP was dated February 26, 2024, and that accompanying prior written notice was dated May 10, 2024. <p>The Parents further allege that the various dates among the various versions of the Student’s IEP provide no actual notice for the start date of special education services to the Student, and that the District provided no prior written notice for the April 3, 2024, IEP.</p> <p>(OAR 581-015-2310; 34 CFR § 300.503)</p>	<p>Substantiated</p> <p>The PWN provided to the Parent on April 3, 2024 and May 10, 2024 were provided after the District began implementing the Student’s revised IEPs.</p>

<p>Parent Participation</p> <p>The Parents alleged that the District violated the IDEA when the District failed to provide the Parents with notice of the start date of the IEP after proposing changes to the IEP following the first meeting that occurred on February 26, 2024. The Parents allege that neither the draft IEP dated February 26, 2024, the IEP dated April 3, 2024, the revised IEP dated May 10, 2024, nor the PWN dated May 10, 2024, provide adequate notice of the start date of the Student's IEP services, because these documents were either backdated, or there were intervening meetings and/or revisions to the IEP documents. The Parents allege that these actions denied the Parents an opportunity to participate in the IEP process.</p> <p>(OAR 581-015-2190; 34 CFR §§ 300.500, 300.327, 300.501(b))</p>	<p>Substantiated</p> <p>The Student's March 20, 2024 revised IEP and associated PWN were provided to the Parents on April 3, 2024. Errors were later discovered in the Student's IEP, requiring its revision. The District issued a corrected IEP and PWN on May 10, 2024. The timing of the notices deprived the Parents of the opportunity to meaningfully participate in these IEP meetings.</p>
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<p>REQUESTED CORRECTIVE ACTION</p> <p>The Parents request that the District:</p> <ul style="list-style-type: none"> • Order training of all special education staff on proper IEP document requirements, including accurate dates on IEP and prior written notices; • Require that the District send PWNs prior to implementing a student's IEP and provision of FAPE; and, • Require the District to update their special education procedure manual.
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III. FINDINGS OF FACT

1. The Student attended the second grade during the 2023-24 school year in a District elementary school. The Student was eligible for special education under the categories of Emotional Behavior Disability and Other Health Impairment.
2. The Student shows academic strengths in math, creative ideas for writing, and reading, with strong logic and reasoning skills. The Student can construct arguments, is observant, articulate, and excels at debate.
3. At times, the Student displays behavior that impedes their learning, such as unwillingness to participate in reading comprehension activities or complete vocabulary work. The Student displays clinically significant levels of behavioral and emotional dysregulation manifesting in behavioral outbursts resulting in physical and

verbal aggression. The Student demonstrates specific social, emotional, and behavioral needs in the education environment.

4. The Student's February 26, 2024 IEP included specially designed instruction (SDI) in emotional regulation, social/emotional skills, self-direction, social communication, and behavior safety. The IEP included a variety of additional related services, supplementary aids and services, and program modifications.
5. On January 25, 2024, the Student's IEP team met to review the IEP. Due to time constraints, the team agreed to continue the meeting on February 26, 2024, to complete review of the IEP including eligibility and assessment information.
6. On February 12, 2024, the District sent the Parents a Meeting Notice for the February 26, 2024, IEP team meeting.
7. On February 21, 2024, the District sent the Parents' Attorney a draft copy of the Student's IEP. The draft IEP listed the start date of services as February 26, 2024.
8. On February 26, 2024, the IEP team reconvened to complete review of the Student's IEP. However, the IEP team was unable to finish the IEP and agreed to reconvene on March 5, 2024.
9. On March 5, 2024, the District sent a revised draft IEP to the Parents' Attorney ahead of the March 19, 2024, IEP meeting. The draft documents received on March 5, 2024 showed the start date of services as February 26, 2024.
10. On March 19, 2024, the IEP team met to continue the review and revision of the Student's IEP.
11. On April 3, 2024, the District sent the Parents' Attorney an email with documents related to the IEP team meeting held March 19, 2024. Included with the email was a copy of the Student's IEP, dated February 26, 2024, showing the start date of IEP services as March 20, 2024. The District also provided a prior written notice (PWN) document dated March 19, 2024. That PWN indicated that the Student's February 25, 2024, IEP, originally scheduled to be implemented on February 26, 2024, was amended at the February 26, 2024 and March 19, 2024 IEP team meetings and was completed on March 19, 2024.
12. On April 24, 2024, the Parents' Attorney sent a memo by email to the District drawing attention to aspects of the IEP that deviated from the IEP team's discussion and agreement during the March 19, 2024 IEP team meeting and requesting changes to the document. The Parents' Attorney highlighted required edits to the Student's present levels in the IEP, and measurable annual goals and short-term objectives or benchmarks.
13. On May 10, 2024, in response to the Parents' Attorney's request to amend the

Student's IEP to reflect the IEP team's discussion, the District provided the Parents with an amended IEP and PWN. The amended IEP, dated February 26, 2024, showed the start date of IEP services as March 20, 2024. The accompanying PWN was dated May 10, 2024.

14. On June 20, 2024, the Parents, through their Attorney, filed this Complaint.
15. On July 26, 2024, the District submitted its *Response*. The District denied the allegations in the Parent's complaint.
16. On July 30, 2024, the Parents, through their Attorney, submitted a *Reply* to the District's *Response*.

IV. DISCUSSION

Prior Written Notice

The Parents alleged that the District violated the IDEA when the District failed to provide accurate PWN of changes made to the Student's IEP, prior to the date of implementing that IEP. The Parents alleged that the District held annual IEP team meetings on February 26, 2024, and March 19, 2024, to revise the Student's IEP. The Parents alleged that on April 3, 2024, the District sent them a copy of the Student's revised IEP, and that on May 10, 2024, the District issued a revised IEP for the Student, in response to a request from the Parents' Attorney to correct errors in the document. The Parents alleged that the May 10, 2024, IEP was dated February 26, 2024, and that accompanying PWN was dated May 10, 2024. The Parents alleged that the various dates among the various versions of the Student's IEP provided no actual notice for the start date of special education services to the Student, and that the District provided no PWN for the April 3, 2024 IEP.

The IDEA requires school districts to give parents PWN within a reasonable period of time before a school district it proposes or refuses to initiate or change anything related to the identification, evaluation, educational placement, or the provision of FAPE to a child with a disability.³ PWN must be both specific and explanatory, including:

- a. A description of the action the school proposed or refused;
- b. An explanation of why the school proposes or refuses to take the action;
- c. A description of each evaluation procedure, assessment, record, or report the school used as a basis for the proposed or refused action;
- d. A statement that the parents of a child with a disability have procedural safeguards under IDEA and how parents can obtain a copy of the procedural safeguards notice;
- e. Sources for parents to contact to obtain assistance in understanding the IDEA;
- f. A description of other options considered and the reasons why those options

³ OAR 581-015-2310; 34 CFR §300.503(a)

- were rejected; and
- g. A description of other factors that are relevant to the school's proposal or refusal.

The purpose of such detailed PWN requirements is two-fold. First, it assists school personnel to consider options carefully and to make decisions on the basis of articulable criteria or reasoning. Second, it gives parents definitive statements of school district decisions and enables their understanding of exactly what considerations led to those decisions.

The Student's IEP team convened on January 25, 2024, February 26, 2024, and March 19, 2024, to revise the Student's IEP. Ahead of the various IEP team meetings, the District sent the Parents draft copies of the Student's IEP. On February 21, 2024, the District sent the Parents a draft of the Student's IEP that indicated IEP services would begin on February 26, 2024. On April 3, 2024, the District sent the Parents' Attorney a copy of the IEP dated February 26, 2024, showing the start date of IEP services as March 20, 2024. The District also provided PWN dated March 19, 2024. That PWN indicated that the Student's February 25, 2024 IEP, originally scheduled to be implemented on February 26, 2024, was amended at the two prior IEP team meetings and was completed on March 19, 2024.

On April 24, 2024, the Parents' Attorney sent a memo to the District highlighting errors in the Student's IEP completed at the March 19, 2024, IEP team meeting. In response to the memo from the Parents' Attorney, the District provided the Parents with an amended IEP and PWN. The amended IEP dated February 26, 2024 showed the start date of IEP services as March 20, 2024. The accompanying PWN was dated May 10, 2024.

Neither the PWN sent to the Parents on April 3, 2024 and dated March 19, 2024, nor the PWN sent to the Parent on May 10, 2024, were sent to the Parents prior to the implementation of the Student's IEP.

The Department substantiates this allegation.

Parent Participation

The Parents alleged that the District violated the IDEA when it failed to provide the Parents with notice of the start date of the Student's IEP after proposing changes to the IEP following the first meeting that occurred on February 26, 2024. The Parents allege that neither the draft IEP dated February 26, 2024, the IEP dated April 3, 2024, the revised IEP dated May 10, 2024, or the PWN dated May 10, 2024, provide adequate notice of the start date of the Student's IEP services, because these documents were either backdated, or there were intervening meetings, and or revisions, to the IEP documents. The Parents allege that these actions denied the Parent's an opportunity to participate in the IEP process.

Ramonda Olaloye
Assistant Superintendent
Office of Enhancing Student Opportunities

Emailing Date: August 27th, 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).)