

BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of Salem-Keizer SD 24J

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FINDINGS OF FACT,
CONCLUSIONS,
AND FINAL ORDER
Case No. 24-054-037

I. BACKGROUND

On June 24, 2024, the Oregon Department of Education (Department) received a written request for a special education complaint investigation from the attorney (Attorney) for the parent (Parent) of a student (Student) residing in Salem-Keizer School District (District). The Attorney 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 Parent and the District agree to the extension in order to engage in mediation or local resolution or for exceptional circumstances related to the complaint.²

On June 28, 2024, the Department’s Complaint Investigator sent a *Request for Response (RFR)* to the District identifying the specific allegations in the Complaint to be investigated and establishing a *Response* due date of July 15, 2024.

The District submitted a *Response* on July 15, 2024. The District did not contest the allegations and proposed a stipulated corrective action plan. The District submitted the following relevant items:

1. Conference Summary, 04/23/24
2. PWN dated 04/23/24 stating that the proposed action will be implemented on 04/23/24
3. IEP Amendment, 10/11/23
4. IEP Progress Report, 06/14/24
5. Conference Summary, 05/28/24
6. PWN dated 05/28/24 stating that the proposed action will be implemented 09/03/24
7. Conference Summary, 05/28/24
8. IEP Amendment, 10/11/23
9. PWN dated 05/28/24 stating that the proposed action will be implemented 09/03/24
10. Extended School Year (ESY) Eligibility, 06/12/24
11. Emails between School Staff and the Parents during the time covered by the Complaint
12. District Special Education Process Manual pertaining to PWN
13. District Training Power Point pertaining to PWN

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

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

14. Parents' Written Response

The Parent submitted the following documents in support of allegations set forth with the complaint document:

1. Email dated 05/07/24 from the District with attachments
2. IEP Document with 04/23/24 amendment
3. Memo from Parents' Attorney, 5/16/24
4. Email dated 06/06/2024 from the District with Attachments
5. IEP with 05/28/24 Amendment
6. Complaint Order: Case No. 23-054-036
7. Complaint Order: Case No. 23-054-031

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 Parent 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 25, 2023, to the filing of this Complaint on June 24, 2024.

Allegations	Conclusions
<p>Prior Written Notice (PWN)</p> <p>The Complaint alleges that the District violated the IDEA "when the District did not provide the PWN to the Parents before the changes made to the Student's IEP were implemented, which is unknown."</p> <p>(OAR 581-015-2310; 34 CFR §300.421)</p>	<p>Not Contested</p> <p>The District does not contest this allegation.</p>

REQUESTED CORRECTIVE ACTION
<p>The Complainant requested the following corrective action:</p> <ol style="list-style-type: none">1. "Order training on proper IEP document requirements, including accurate dates on IEPs and prior written notices for all special education staff";2. "Require the District to send PWNs prior to implementing the students' IEPs and provision of FAPE";3. "Require the District to update their special education procedures manual."

III. FINDINGS OF FACT

IDEA regulations limit complaint investigation to alleged violations occurring no more than one year before the Department's receipt of the special education complaint. This Complaint Investigation did not consider any IDEA violations alleged to have occurred before June 25, 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 issue set forth.

1. At the time the Complaint was filed, the Student attended 5th grade at a District Elementary School.
2. The Student is eligible for Special Education as a child with a Traumatic Brain Injury, Speech or Language Impairment, Other Health Impairment, and Specific Learning Disability.
3. On June 23, 2024, Parents filed this Complaint.
4. The District did not contest the allegations made in the Complaint and the Parents agreed with the nature and content of the Stipulated Corrective Action Plan offered by the District.

IV. DISCUSSION

Prior Written Notice

The Complainant alleges that the District violated the IDEA when it failed to provide PWN and a copy of the finalized IEP document to the Parents *before* the IEP was implemented.

Written notice must be given to the parents of a child with a disability a reasonable time *before* the public agency proposes or refuses to initiate or change the identification, evaluation or educational placement of the child, or the provision of FAPE to the child.³ The PWN must include, among other things, a description of the action refused by the agency, an explanation of why the agency refused to take the action, a statement that the parents have procedural safeguards, and sources for parents to contact to obtain assistance.⁴

The District does not contest that the facts presented by the Parents are accurate and proposed a stipulated corrective action plan that the Parents agree with.

Based on the District's proposal and Parents' agreement, the District stipulates to the following Corrective Action.

V. STIPULATED CORRECTIVE ACTION

In the Salem-Keizer School District 24J

Case No. 24-054-037

The Department orders corrective action in this matter.

³ OAR 581-015-2310; 34 CFR 300.503

⁴ OAR 581-015-2310; 34 CFR 300.503

Corrective Action	Proposed Submissions	Proposed Due Date
<p>1. The District will develop and conduct training sessions for PWN and its requirements under the IDEA.</p> <ul style="list-style-type: none"> • Training materials will be submitted to ODE for approval prior to training District staff. • All District staff responsible for implementing PWN requirements will receive training on PWN and its requirements under the IDEA. 	<p>The District will submit training materials for ODE approval.</p> <p>The District will submit to ODE a sign-in sheet and training agenda.</p>	<p>October 1, 2024</p> <p>October 31, 2024</p>
<p>2. The District will review and revise, as applicable, its special education practices for PWNs to meet the IDEAs requirements.</p>	<p>Revised procedures, if applicable.</p>	<p>October 31, 2024</p>

Dated: this 21st Day of August 2024



Ramonda Olaloye
Assistant Superintendent
Office of Enhancing Student Opportunities

E-mailing Date: August 21st, 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).)