

BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of)	FINDINGS OF FACT,
Beaverton School District 48J)	CONCLUSIONS,
)	AND FINAL ORDER
)	Case No. 24-054-039

I. BACKGROUND

On June 27, 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 July 3, 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 17, 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 31, 2024.

On July 31, 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 Team Meeting Minutes, 12/7/2023
3. IEP Team Meeting Minutes, 6/5/2023
4. Student IEP, 12/7/2023, Amended 6/5/2024
5. Student IEP, 12/7/2023
6. Prior Notice of Special Education Action, 12/7/2023

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

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

7. Notice of Team Meeting, 10/26/2023
8. Prior Notice of Special Education Action, 6/5/2023
9. Notice of Team Meeting, 5/16/2024

The Parents submitted the following items on June 27, and August 6, 2024:

1. Request for Complaint Investigation
2. Email: Final Docs From Meeting, 6/11/2024
3. Prior Notice of Special Education Action, 6/5/2024
4. Student IEP, 12/7/2023, Amended 6/5/2024
5. ODE Final Order in Complaint, 23-054-036, 11/1/2023
6. ODE Final Order in Complaint, 23-054-031, 10/13/2023
7. Parents' *Reply to District's Response*
8. El Paso County School District 2, 112 LRP 44602
9. Parkrose School District 3, 115 LRP 17206
10. Letter to Chandler, 59 IDELR 110

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 28, 2023, to the filing of this Complaint on June 27, 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 and timely prior written notice (PWN) of changes made to the Student's IEP and services implemented for the Student, following IEP team meeting held June 5, 2024. It is alleged that the District sent the Parents PWN on June 11, 2024, dated June 5, 2024. It is further alleged that this document failed to provide notice of the proposed changes to the Student's IEP.</p>	<p>Not Substantiated</p> <p>The District-provided PWN to the Parents was received before the proposed decision was implemented by the District.</p>

Allegations	Conclusions
(OAR 581-015-2310; 34 CFR § 300.503)	
<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 IEP services, when it provided the Parents with PWN on June 11, 2024, listing the start date of services as June 5, 2024. The Parents allege that this action denied them an opportunity to participate in the IEP process, because the District did not provide notice to them prior to the implementation of the IEP and provision of FAPE.</p> <p>(OAR 581-015-2190; 34 CFR §§ 300.500, 300.327, & 300.501(b))</p>	<p>Not Substantiated</p> <p>The Parents attended the June 5, 2024 IEP meeting, where the team determined that the Student did not require ESY. No other changes were made to the Student’s IEP services at this meeting.</p>

REQUESTED CORRECTIVE ACTION
<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.

III. FINDINGS OF FACT

1. The Student attended the eighth grade in a District middle school during the 2023-24 school year. The Student is eligible for special education under the eligibility of Specific Learning Disability (SLD).
2. The Student is energetic, humorous, and has a passion for technology. The Student demonstrates strong self-advocacy skills, strengths in mathematical thinking, and a willingness to ask questions.
3. The Student receives specially designed instruction (SDI) in reading, writing, and self-direction. In addition, the Student receives a variety of supplementary aids, services, and accommodations to assist their learning.

4. On June 5, 2024, the Student's IEP team met to review the Student's IEP, transition to high school, and data to inform a determination about the need for extended school year (ESY) services. At the conclusion of the meeting, the Parents' Attorney asked when they would receive a copy of the IEP. The District responded at that time that a copy would be sent no later than June 14, 2024.
5. At the June 5, 2024 IEP meeting the IEP team determined that the Student did not require ESY, given that the Student did not demonstrate regression. The IEP was not otherwise changed as a result of the June 5, 2024 meeting.
6. On June 11, 2024, the District sent an email to the Parents and the Parents' Attorney, with a link to the Student's IEP and PWN. The PWN received on June 11, 2024 was dated June 5, 2024.
7. On June 27, 2024, the Parents, through their Attorney, filed this Complaint.
8. On July 31, 2024, the District submitted its *Response* to the Parents' Complaint. As part of the *Response*, the District indicated that PWN was sent to the Parents on June 11, 2024 and was dated June 5, 2024, "because that is the date the IEP team met, agreed to changes to the IEP, and the District began implementing any changes." The District further noted that the only change to the IEP was the ESY determination, and that there was no change to IEP services implemented for the Student between June 5, and June 11, 2024.
9. On August 6, 2024, the Parents submitted their *Reply* to the District's *Response*. The Parents' *Reply* took issue with aspects of the District's interpretation regarding the timing of PWN and reiterated their concerns regarding limiting the analysis of parent participation to meeting attendance alone.

IV. DISCUSSION

Prior Written Notice

The Parents alleged that the District violated the IDEA when the District failed to provide accurate and timely prior written notice of changes made to the Student's IEP and services implemented for the Student following the IEP meeting held on June 5, 2024. It is alleged that the District sent the Parents PWN on June 11, 2024, dated June 5, 2024. It is further alleged that this document failed to provide notice of the proposed changes to the Student's IEP.

The IDEA requires a school district to give parents PWN within a reasonable period of time before 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 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 IEP developed during the June 5, 2024, IEP meeting was provided to the Parents on June 11, 2024. The District provided PWN to the Parents on June 11, 2024, which was dated June 5, 2024. The PWN sent to the Parents June 11, 2024 was sent to the Parents prior to the period of time that ESY would have been provided to the Student.

The Department does not substantiate this allegation.

Parent Participation

The Parents alleged that the District violated the IDEA when the District failed to provide the Parents with notice of the start date of IEP services, when it provided the Parents with a prior written notice on June 11, 2024, listing the start date of services as June 5, 2024. The Parent's allege that this action denied them an opportunity to participate in the IEP process, because the District did not provide notice to them prior to the implementation of the IEP and provision of FAPE.

School districts must take steps to ensure the parents of a child with a disability are present at each IEP or placement meeting or are afforded the opportunity to participate. Districts must also give parents a copy of the Student's IEP at no cost.⁴ "Under the IDEA, parental participation doesn't end when the parent signs the IEP. Parents must be able to use the IEP to monitor and enforce the services their child is to receive. When a parent is unaware of the services offered to the student—and therefore, can't monitor how these services are provided—a FAPE has

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

⁴ OAR 581-015-2195(1) & (5)

been denied, whether or not the parent had ample opportunity to participate in the formulation of the IEP.”⁵ While the IDEA does not provide a specific timeframe within which to provide a copy of the IEP to the Parents, a copy should be provided within a reasonable time. The District’s Special Education Handbook specifics that the IEP should be sent to parents within 10 days of the IEP team meeting.⁶

Following the June 5, 2024 IEP meeting, the District provided a copy of the IEP to the Parents on June 11, 2024, indicating that the Student did not require ESY services. At the June 5, 2024 IEP meeting, the IEP team determined that ESY was not required due to a lack of evidence showing regression. There were no other changes to the IEP.

The Department does not substantiate this allegation.

VII. CORRECTIVE ACTION

In the Beaverton School District

Case No. 24-054-039

The Department does not order corrective action in this matter.

Dated: this 9th Day of September 2024



Ramonda Olaloye
Assistant Superintendent
Office of Enhancing Student Opportunities

Emailing date: September 9th, 2024

Appeal Rights: Partied 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).)

⁵ *M.C. v. Antelope Valley Union High Sch. Dist.*, 858 F.3d 1189, 1198 (9th Cir. 2017)

⁶ Beaverton School District, Special Education Handbook (Updated 10/2023), pp. 32—33