

BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

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|---------------------------|---|----------------------------------|
| In the Matter of Portland |) | FINDINGS OF FACT, |
| School District 1J |) | CONCLUSIONS, |
| |) | AND STIPULATED CORRECTIVE ACTION |
| |) | Case No. 24-054-046 |

I. BACKGROUND

On August 9, 2024, the Oregon Department of Education (Department) received a written request for a special education complaint (Complaint) from an attorney for the parents (Parent) of a student (Student) attending school in the Portland School District (District). The Complaint requested that the Department conduct a special education investigation under OAR 581-015-2030. The Department confirmed receipt of this original complaint and forwarded the request to the District by email on August 9, 2024. The Complaint also included eight exhibits, as follows:

1. Email Communication, 2/21/24
2. PWN (Prior Written Notice), 2/8/24
3. IEP, 2/8/24
4. Email Communication, 4/30/24
5. PWN, 4/25/24
6. IEP, 4/25/24
7. Oregon Department of Education Final Order, 23-054-036
8. Oregon Department of Education Final Order, 23-054-031

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 in order to engage in mediation or local resolution or for exceptional circumstances related to the complaint.²

On August 22, 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 September 5, 2024.

The District timely submitted a *Response* on August 28, 2024. The *Response* included a narrative, and the following relevant documents upon which the Investigator relied:

1. District’s Written *Response* to Complaint, 8/28/24

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

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

2. Notice of Team Meeting, 1/10/24
3. PWN, 1/22/24
4. Meeting Minutes, 1/22/24 and 1/24/24
5. Notice of Team Meeting, 2/1/24
6. Meeting Minutes, 2/8/24
7. PWN, 2/8/24
8. Placement Determination, 2/8/24
9. IEP, 2/8/24
10. Notice of Team Meeting, 4/17/24
11. PWN (2), 4/25/24
12. Placement Determination, 4/25/24
13. IEP, 4/25/24
14. Statement of Eligibility (3), 4/25/24
15. Email Communication, 1/25/24 to 4/30/24
16. Report Card, 2022-23
17. Report Card, 2023-24
18. IEP Progress Report, 4/2/24
19. IEP Progress Report, 6/14/24
20. Multi-Disciplinary Autism Spectrum Assessment Report, 4/23/24
21. Autism Spectrum Disorder Evaluation Report, 7/15/21
22. Meeting Minutes, 4/25/24

On September 3, the Parent, through their attorney, timely submitted a *Reply* via email.

The Complaint Investigator determined interviews of the Parent or District staff to not be necessary in this case. On September 25, 2024, the Complaint Investigator requested any written policies regarding the issuance of PWNs by the District; and that same day the District's attorney sent an email stating that the District does not presently have any such written policies. The Complaint Investigator reviewed and considered all of the documents 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's 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 August 10, 2023, to the filing of the Complaint on August 9, 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 Prior Written Notice (PWN) to the Parents before the changes made to the Student’s IEP were implemented, the date of which is unknown. Specifically, the Complaint alleges that after IEP meetings on February 8, 2024 and April 25, 2024, the District failed to provide to the Parent a PWN before implementing the amended IEPs on February 8, 2024 and April 25, 2024, respectively. The Complaint also alleges that the Parent did not receive the updated IEP and PWN following the February 8, 2024 IEP meeting until February 21, 2024, and did not receive an updated IEP and PWN following the April 25, 2024 IEP meeting until April 30, 2024.</p> <p>(OAR 581-015-2310; 34 CFR § 300.503)</p> | <p>Not Contested</p> <p>The District does not contest this allegation.</p> |

| REQUESTED CORRECTIVE ACTION |
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| <p>The Complainant requests the following corrective action:</p> <ul style="list-style-type: none"> ● “The Oregon Department of Education should order training of all special education staff on proper IEP document requirements, including accurate dates on IEPs and prior written notices”; ● Require District to send PWNs <i>prior</i> to implementing the student’s IEPs and provision of FAPE”; and ● “Require [the] District to update their [S]pecial [E]ducation [P]rocedures [M]annual.” |

III. FINDINGS OF FACT

1. The Student in this case is 8 years old and is in 3rd grade. The Student is eligible for special education as a child with Autism Spectrum Disorder (ASD) and Other Health Impairment (OHI) The Student’s placement is “80% or more of day – Regular Class”, with “Participation in General Education Settings with non-disabled peers” and “individualized/small group academic instruction at instructional level.”
2. On August 9, 2024, the Complainant, through their Attorney, filed this Complaint.
3. On September 25, 2024, the District submitted a *Response* indicating that it was not contesting the allegation in this Complaint. The District stipulates to the corrective action in this order. The Complainant’s Attorney requested that language related to ensuring that

appropriate dates be included in the training; however, the Department believes that this is already part of PWN training.

IV. DISCUSSION

The Complaint alleges an IDEA violation which the District does not contest.

The Department does not make a substantive determination in the allegations of the Complaint.

Based on the District not contesting the allegation of this Complaint, the Department orders and the District stipulates to the following Corrective Action:

V. STIPULATED CORRECTIVE ACTION³
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Based on the facts provided, the following corrective action is ordered:

| Action Required | Submissions | Due As Soon As Possible But No Later Than |
|--|---|---|
| 1. The District must provide documentation of the recent training of all special education staff on providing proper and timely PWNs following a change or refusal to change services by an IEP team that the District recently provided on August 22, 2024. | The District shall submit the following: Sign-in sheet for training. | Completed August 22, 2024 |
| 2. The District will review and revise special education policies, practices, and procedures for PWNs to meet the requirements under the IDEA. | Draft of revised policies, practices, and procedures, to be provided to ODE; Finalized procedures to be provided to ODE. | November 15, 2024 January 15, 2025 |

³ The Department’s order shall include any necessary corrective action as well as documentation to ensure that the corrective action has been completed (OAR 581-015-2030(13)). The Department expects and requires the timely completion of corrective action and will verify that the corrective action has been completed as specified in any final order (OAR 581-015-2030(15)). The Department may initiate remedies against a party who refuses to voluntarily comply with a plan of correction (OAR 581-015-2030(17) & (18)).

Dated: this Day 8th of October 2024

Ramonda Olaloye

Ramonda Olaloye
Assistant Superintendent
Office of Enhancing Student Opportunities

E-mailing Date: October 8th, 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).)