

**BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION**

In the Matter of Lincoln County School	)	
District	)	FINDINGS OF FACT,
	)	CONCLUSIONS, AND
	)	STIPULATED CORRECTIVE ACTION
	)	Case No. 24-054-052

**I. BACKGROUND**

On August 28, 2024, the Oregon Department of Education (the Department) received a written request for a special education complaint investigation from the parent (Parent) of a student (Student) residing in the Lincoln County District (District). The Parent 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 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.<sup>2</sup> The timeline was temporarily paused for 11 days, upon mutual agreement of the parties to participate in mediation, until the investigation of the complaint resumed on September 9, 2024.

On September 10, 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 24, 2024.

In their Complaint, the Parent alleged a number of IDEA violations including failure to properly identify and evaluate the Student for special education services, despite the Parent’s request for an evaluation. The Complaint further alleged that the District failed to implement the Student’s IEP, failed to provide the Parent with written notice of meetings, and failed to provide the Parent with a copy of the Student’s IEP following the May 22, 2024 IEP meeting.

On September 23, 2024, the District submitted to the Department a *Response* to the Complaint. The District did not contest any of the allegations. The *Response* included the Student’s background, facts relevant to the allegations contained in the Complaint, as well as a proposal for stipulated corrective action. The District submitted the following relevant items:

1. District’s Written *Response* with proposed corrective action, 9/23/24

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<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)

2. 504 Accommodation Plan, 9/12/2023
3. Parent Input, 4/2/2024
4. Statement of Eligibility for Special Education, 4/29/2024
5. Eligibility Summary Statement, 4/30/2024
6. Parent/Guardian Consent for Individual Evaluation, 4/3/24
7. Confidential Special Education Report, 4/24/24
8. Individualized Education Program (IEP), 5/22/24
9. Prior Notice and Consent for Initial Provision of Special Education Services, 4/30/24
10. Parent Consent to Claim Medicaid Reimbursement, 4/30/24
11. IEP Meeting Notes, 5/22/24
12. Prior Written Notice, 4/30/24
13. Private Functional Behavior Assessment, 3/21/24
14. Special Education Placement Determination, 5/22/24
15. IEP Progress Report, 6/14/24
16. PWN, 4/2/24
17. Notice of Referral, 4/2/24
18. Notice of Team Meeting, 3/18/24
19. Referral, 4/2/24
20. Letter from the Student's Doctor, 11/10/23
21. Conference Summary, 4/2/24
22. Email exchanges between the Parent and District Staff, 12/13/22-9/4/24

The Complaint Investigator discussed the nature and content of the District's proposed corrective action with the Parent on September 30, 2024. The Parent was provided an opportunity to provide additional input regarding proposed corrective action. 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 29, 2023, to the filing of this Complaint on August 28, 2024.

Allegations	Conclusions
<p><b>Child Find</b></p> <p>The Parent alleges that the District violated the IDEA by failing to identify, locate, and evaluate the Student as a child in need of special education services.</p> <p>(OAR 581-015-2080; 34 CFR § 300.111)</p>	<p><b>Not Contested</b></p> <p>The District does not contest this allegation.</p>

<p><b>Evaluation and Reevaluation Requirements</b></p> <p>The Parent alleges that the District violated the IDEA when it failed to timely initiate an initial evaluation of the Student following the Parent’s request for an evaluation.</p> <p>(OAR 581-015-2105; 34 CFR § 300.301)</p>	<p><b>Not Contested</b></p> <p>The District does not contest this allegation.</p>
<p><b>When IEPs Must Be in Effect</b></p> <p>The Parent alleges that the District violated the IDEA by not providing special education and related services in accordance with the Student’s IEP.</p> <p>(OAR 581-015-2220; 34 CFR § 300.323)</p>	<p><b>Not Contested</b></p> <p>The District does not contest this allegation.</p>
<p><b>Parent Participation</b></p> <p>The Parent alleges that the District violated the IDEA by failing to provide the Parent with written notice of meetings with respect to the identification, evaluation, IEP and educational placement of the Student, and the provision of a free appropriate public education to the Student.</p> <p>(OAR 581-015-2190; 34 CFR § 300.501)</p>	<p><b>Not Contested</b></p> <p>The District does not contest this allegation.</p>
<p><b>Additional Parent Participation Requirements for IEP and Placement Meetings</b></p> <p>The Parent alleges that the District violated the IDEA by failing to provide the Parent with a copy of the Student’s IEP following the development of Student’s initial IEP on May 22, 2024.</p> <p>(OAR 581-015-2195; 34 CFR § 300.322)</p>	<p><b>Not Contested</b></p> <p>The District does not contest this allegation.</p>

<p><b>REQUESTED CORRECTIVE ACTION</b></p> <p>The Parent requests that the Department order the District to take the following corrective action:</p> <ul style="list-style-type: none"> <li>• Provide the Student with compensatory education for (a) the time the Parent first requested the evaluation until the time that the District started the evaluation, as the Student missed out on a lot of learning opportunities; and (b) the lack of SDI instruction which was to be provided per Student’s May 22, 2024 IEP.</li> </ul>
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- For future meetings, provide a copy of the IEP draft a week prior to the IEP meeting and send the Parent a final IEP no later than one week after the IEP meeting.
- Provide the Parent with prior written notices from past meetings and any future meetings.
- Training for staff on positive interventions and prevention. Additionally, any staff member in contact with Student needs to be trained on Student's disability and review Student's IEP.
- Provide small groups with the counselor, the Student, and their bullies.
- Provide schoolwide social emotional learning for bullying.

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

1. The Student is ten years old and currently enrolled in fifth grade at a District-sponsored charter school (the School).
2. The Student is currently eligible for special education services under the category of Other Health Impairment (OHI).
3. On August 28, 2024, the Parent filed this Complaint.
4. The District has not contested the allegations made in the Complaint in this matter and the Parent has been informed of the Corrective Action, as set forth in the Corrective Action table, below. The Parent is in agreement with this Corrective Action.

### **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 ACTION<sup>3</sup>**

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<sup>3</sup> 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)).

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

<b>Action Required</b>	<b>Submissions</b>	<b>Due As Soon As Possible But No Later Than</b>
<p>1. The District must ensure that all District staff responsible for the identification, evaluation, IEP implementation for the Student receive training in each of the following areas:</p> <ul style="list-style-type: none"> <li>• Child Find;</li> <li>• Evaluation and Reevaluation Procedures;</li> <li>• IEP Implementation;</li> <li>• Issuance of Notice of Team Meetings and Prior Written Notices; and</li> <li>• Obligation to provide parents with a copy of a student’s IEP following the development of an IEP.</li> </ul>	<p>Training agenda/materials to ODE for review/approval.</p> <p>Sign-in sheet for training.</p>	<p><b>December 2, 2024</b></p> <p><b>April 1, 2025</b></p>
<p>2. The District will provide the Parent with a Prior Written Notice for the IEP meeting held on May 22, 2024.</p>	<p>Provide copy to ODE.</p>	<p><b>October 31, 2024</b></p>
<p>3. The District must provide the Student with compensatory education to make up for SDI not provided pursuant to the Student’s IEP. The compensatory education to be offered to the Parent shall include at least:</p> <ul style="list-style-type: none"> <li>• 360 minutes of SDI in written language;</li> <li>• 240 minutes of SDI in social skills; and</li> <li>• 480 minutes of SDI in behavior/social skills.</li> </ul>	<p>Completed plan for delivery of compensatory education developed with the Parent.</p> <p>Evidence of delivery of required compensatory services.</p>	<p><b>December 2, 2024</b></p> <p><b>April 1, 2025</b></p>

Dated: this 1<sup>st</sup> Day of November 2024




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Ramonda Olaloye

Assistant Superintendent  
Office of Enhancing Student Opportunities

E-mailing Date: November 1st, 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).)