

**BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION**

In the Matter of	)	FINDINGS OF FACT,
Eugene School District	)	CONCLUSIONS,
	)	AND FINAL ORDER
	)	Case No. 24-054-053

**I. BACKGROUND**

On September 5, 2024, the Oregon Department of Education (the Department) received a written request for a special education complaint (Complaint) from the parent (Parent) of a student (Student) residing in the Eugene School 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 Parents and the District agree to the extension to engage in mediation or local resolution or for exceptional circumstances related to the complaint.<sup>2</sup>

On September 13, 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 October 7, 2024. On October 7, 2024, the District submitted a *Response*, disputing the allegations described in the Complaint. The District submitted the following relevant items:

1. District Written Response
2. (Student 1) Prior Written Notice for IEP, 1/10/2024
3. (Student 1) Prior Written Notice for IEP, 5/17/2024
4. (Student 1) Prior Written Notice, 12/1/2023
5. (Student 1) Notice of Team Meeting, 12/4/2023
6. (Student 1) IEP Team Meeting Notes, 1/10/2024
7. (Student 1) Notice of Team Meeting, 5/1/2024
8. (Student 1) IEP Team Meeting Notes, 5/17/2024
9. (Student 1) IEP, 5/17/2024
10. (Student 1) Prior Written Notice for IEP, 5/17/2024
11. (Student 1) Notice of Team Meeting, 5/16/2023
12. (Student 1) IEP, 5/24/2024

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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)

13. (Student 1) IEP Team Meeting Notes, 5/24/2023
14. (Student 1) Special Education Placement Determination, 5/24/2023
15. (Student 1) Prior Written Notice, 5/24/2023
16. (Student 1) Prior Written Notice, 5/24/2023
17. (Student 1) Prior Written Notice for IEP, 3/2/2023
18. (Student 2) Document Checklist, 6/13/2024
19. (Student 2) Notice of Team Meeting, 3/6/2024
20. (Student 2) IEP Team Meeting Notes, 3/11/2024
21. (Student 2) Student IEP, 2/29/2024
22. (Student 2) Prior Notice for IEP, 3/13/2024
23. (Student 2) Notice of Team Meeting, 2/23/2024
24. (Student 2) Student IEP, 3/2/2023
25. (Student 2) IEP Team Meeting Notes, 3/2/2023
26. (Student 2) Prior Written Notice, 3/2/2023
27. (Student 2) Prior Written Notice for IEP, 3/2/2023
28. (Student 2) Prior Written Notice for IEP, 3/13/2024
29. (Student 3) Prior Written Notice for IEP, 1/26/2023
30. (Student 3) Prior Written Notice, 1/26/2023
31. (Student 3) Prior Written Notice for IEP, 5/20/2023
32. (Student 3) Document Checklist, 5/18/2023
33. (Student 3) Notice of Team Meeting, 1/21/2023
34. (Student 3) IEP Meeting Attendance/Summary, 1/26/2023
35. (Student 3) Student IEP, 1/26/2023
36. (Student 3) Prior Written Notice, 1/26/2023
37. (Student 3) Prior Written Notice for IEP, 1/26/2023
38. (Student 4) Notice of Team Meeting, 2/14/2024
39. (Student 4) Student IEP, 2/20/2024
40. (Student 4) Student IEP Team Meeting Notes, 2/20/2024
41. (Student 4) Student Special Education Placement Determination, 2/20/2024
42. (Student 4) Prior Written Notice for IEP, 2/20/2024
43. (Student 4) Notice of Team Meeting, 2/14/2023
44. (Student 4) Student IEP, 2/21/2024
45. (Student 4) Student IEP Team Meeting Notes, 2/21/2024
46. (Student 4) Student Special Education Placement Determination, 2/21/2023
47. (Student 4) Prior Written Notice, 2/21/2023
48. (Student 4) Prior Written Notice, 2/20/2024
49. (Student 4) Prior Written Notice for IEP, 2/21/2024
50. (Student 4) Prior Written Notice for IEP, 2/21/2023
51. (Student 5) Prior Written Notice for IEP, 4/10/2024
52. (Student 5) Document Checklist, 6/13/2024
53. (Student 5) Notice of Team Meeting, 3/13/2024
54. (Student 5) IEP Team Meeting Notes, 4/10/2024
55. (Student 5) Student IEP, 4/11/2024
56. (Student 5) Prior Written Notice for IEP, 4/10/2024

57. (Student 5) Document Checklist, 6/13/2024
58. (Student 5) Notice of Team Meeting, 4/6/2023
59. (Student 5) Student IEP, 4/12/2023
60. (Student 5) IEP Team Meeting Notes, 4/12/2023
61. (Student 5) Special Education Placement Determination, 4/12/2023
62. (Student 5) Prior Written Notice, 4/12/2023
63. (Student 5) Prior Written Notice, 4/12/2023
64. (Student 5) Prior Written Notice for IEP, 4/12/2023
65. (Student 5) Prior Written Notice, 4/12/2023
66. (Student 6) Prior Written Notice, 5/2/2024
67. (Student 6) Notice of Team Meeting, 4/24/2023
68. (Student 6) Student IEP, 5/10/2023
69. (Student 6) IEP Team Meeting Notes, 5/10/2023
70. (Student 6) Student Special Education Placement Determination, 5/10/2023
71. (Student 6) Prior Written Notice, 5/10/2023
72. (Student 6) Prior Written Notice for IEP, 5/10/2023
73. (Student 6) Document Checklist, 6/13/2024
74. (Student 6) Notice of Team Meeting, 4/18/2024
75. (Student 6) Student IEP Meeting Notes, 4/30/2024
76. (Student 6) Student IEP, 4/30/2024
77. (Student 6) Prior Written Notice for IEP, 4/30/2024
78. (Student 6) Prior Written Notice, 5/10/2023
79. (Student 6) Prior Written Notice for IEP, 5/10/2023
80. (Student 6) Prior Written Notice, 4/15/2024
81. (Student 6) Notice of Team Meeting, 11/20/2023
82. (Student 6) Student IEP Team Meeting Minutes, 12/17/2023
83. (Student 7) Student IEP, 12/6/2023
84. (Student 7) Prior Written Notice of IEP, 12/06/2023
85. (Student 7) Student IEP, 12/14/2022
86. (Student 7) Prior Written Notice, 12/14/2022
87. (Student 7) Prior Written Notice, 11/30/2023
88. (Student 7) Prior Written Notice for IEP, 12/6/2023
89. (Student 7) Prior Written Notice, 9/7/2023
90. (Student 8) Prior Written Notice, 2/29//2024
91. (Student 8) Prior Written Notice, 3/12/2024
92. (Student 8) Student IEP (Amendment), 10/18/2022
93. (Student 8) Student IEP Team Meeting Minutes, 10/18/2022
94. (Student 8) Prior Written Notice for IEP, 5/5/2023
95. (Student 8) Student IEP (Amendment), 10/18/2022
96. (Student 8) Prior Written Notice for IEP, 5/202/223
97. (Student 8) Notice of Team Meeting, 9/27/2023
98. (Student 8) Student IEP, 10/3/2023
99. (Student 8) Prior Written Notice for IEP, 10/3/2023
100. (Student 8) Notice of Team Meeting, 9/29/2022

101. (Student 8) Student IEP Team Meeting Minutes, 10/18/2022
102. (Student 8) Student IEP, 10/18/2022
103. (Student 8) Prior Written Notice, 10/18/2022
104. (Student 8) Prior Written Notice and Consent for Initial Provision of Special Education Services, 10/10/2022
105. (Student 8) Prior Written Notice for IEP, 10/18/2022
106. (Student 8) Prior Written Notice, 10/18/2022
107. (Student 9) IEP Progress Report, 2/2/2024
108. (Student 9) Prior Written Notice for IEP, 4/30/2024
109. (Student 9) Notice of Team Meeting, 5/16/2023
110. (Student 9) Student IEP, 5/19/2023
111. (Student 9) IEP Team Meeting Minutes, 5/19/2023
112. (Student 9) Special Education Placement Determination, 5/19/2023
113. (Student 9) Prior Written Notice, 5/19/2023
114. (Student 9) Prior Written Notice for IEP, 5/19/2023
115. (Student 9) Prior Written Notice for IEP, 12/4/2023
116. (Student 9) Notice of Team Meeting, 4/19/2024
117. (Student 9) Notice of Team Meeting, 4/15/2024
118. (Student 9) IEP Team Meeting Notes 4/29/2024
119. (Student 9) Student IEP, 4/26/2204
120. (Student 9) Prior Written Notice for IEP, 4/30/2024
121. (Student 9) Notice of Team Meeting, 11/29/2023
122. (Student 9) IEP Team Meeting Notes, 12/4/2023
123. (Student 9) IEP Amendment, 5/19/2023
124. (Student 9) IEP Team Meeting Minutes, 12/4/2023
125. (Student 9) Special Education Placement Determination, 12/4/2023
126. (Student 9) Prior Notice for IEP, 12/4/2023
127. (Student 9) Prior Written Notice, 1/4/2024
128. (Student 9) Notice of Team Meeting, 1/4/2024
129. (Student 9) IEP Team Meeting Notes, 2/8/2024
130. (Student 10) Student IEP, 2/7/2024
131. (Student 10) Prior Written Notice for IEP, 2/7/2024
132. (Student 10) Prior Written Notice, 2/8/2024
133. (Student 10) Notice of Team Meeting, 4/25/2023
134. (Student 10) Student IEP, 5/2/2023
135. (Student 10) IEP Team Meeting Minutes, 5/2/2023
136. (Student 10) Behavior Support Strategies, 5/9/2023
137. (Student 10) Special Education Placement Determination, 5/2/2023
138. (Student 10) Prior Written Notice, 5/2/2023
139. (Student 10) Prior Written Notice for IEP, 5/2/2023
140. (Student 10) Prior Written Notice for IEP, 2/7/2024
141. (Student 10) Prior Written Notice for IEP, 5/2/2023
142. (Student 10) Prior Written Notice, 5/2/2023
143. (Student 10) Notice of Team Meeting, 5/10/2024

144. (Student 11) IEP Team Meeting Notes, 5/24/2024
145. (Student 11) Student IEP, 5/24/2024
146. (Student 11) Prior Written Notice for IEP 5/24/2024
147. (Student 11) Notice of Team Meeting, 5/15/2023
148. (Student 11) Student IEP, 5/30/2023
149. (Student 11) IEP Team Meeting Minutes, 5/30/2023
150. (Student 11) Prior Written Notice, 5/30/2023
151. (Student 11) Prior Written Notice for IEP, 5/30/2023
152. (Student 11) Prior Written Notice for IEP, 5/24/2024
153. (Student 11) Prior Written Notice for IEP, 5/30/2023
154. (Student 11) Prior Written Notice, 5/30/2023
155. Email: Fwd: Formal Administrative Complaint Regarding Special Education Violations at [School], 9/5/2024
156. Relevant Email Communication between Parent and District within the Complaint period
157. List of Staff Assigned to Life Skills Classroom during the 2023-24 school year
158. School Event Announcements

The Parent submitted the following items on October 14, 2024:

1. Amended Request for Complaint
2. Email: Fwd: [Student] Opportunities!, 11/3/2023
3. Email: Fwd: Information we found online, 11/15/2023
4. Email: Fwd: [board] Enhancing Educational Assistant Involvement in School Meetings, 1/12/2024
5. Email: Fwd: Proposal for Enhanced Role of Educational Assistants in School Meetings, 11/28/2023
6. Email: Fwd: Request for Meeting to Revise [Student] IEP, 11/15/2023
7. Email: Fw: Request for information Regarding Alleged Abused in [Classroom] and External Investigation, 11/16/2023
8. Email: Fwd: Prior Written Notice of IEP, 2/6/2024
9. Email: Fwd: Inaccurate Contact Information, 1/8/2024
10. Email: Fwd: Shared Goals: Optimizing Classroom Accessibility, 10/14/2024
11. Email: Fwd: Need Email List, 10/14/2024
12. Email: Re: Valentine's Day, 10/14/2024
13. Email: Fwd: Aligning Home and School Efforts for [Student's] IEP Goals, 10/14/2024

On October 14, 2024, the Department's Complaint Investigator interviewed the Parent. On October 17, 2024, the Department's Complaint Investigator interviewed the Principal, Director of Student Services, and Life Skills Consultant. The Complaint Investigator reviewed and considered all 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 September 6, 2023, to the filing of this Complaint on September 5, 2024.

<b>Allegations</b>	<b>Conclusions</b>
<p><b>When IEPs Must Be In Effect</b></p> <p>It is alleged that the District systemically violated the IDEA when the District failed to provide consistent qualified staff to students in the Life Skills Classroom at the school. The Parent alleged that the District did not maintain appropriate and/or qualified special education teachers and aides in the Life Skills Classroom through the 2023-24 school year resulting in the improper implementation of the Student’s IEP. The Parent alleged that this situation impacted their Student, and similarly situated students in the District.</p> <p>(OAR 581-012-2220; 34 CFR § 300.323 &amp; 300.324)</p>	<p><b>Not Substantiated</b></p> <p>The District experienced loss of staff during the 2023-24 school year, but filled vacancies with licensed substitute teachers, and qualified District staff to address student IEP services, and meetings. There is no evidence that IEPs were not fully implemented.</p>
<p><b>Prior Written Notice</b></p> <p>It is alleged that the District systemically violated the IDEA when the District failed to notify the Parent of the District’s inability to implement the Student’s IEP due to a lack of appropriate, and or qualified, special education teachers and aides in the Life Skills Classroom at the school, through the 2023-24 school year. The Parent alleges that this situation impacted their Student, and similarly situated students in the District.</p> <p>(OAR 581-015-2310; 34 CFR § 300.503)</p>	<p><b>Not Substantiated</b></p> <p>Staffing changes in the Life Skills Classroom were not related to a proposal or refusal to initiate or change anything related to the identification, evaluation, educational placement, or the delivery of FAPE to any children with a disability. As such, the District was not required to provide PWN to the parents.</p>
<p><b>Nonacademic Services</b></p> <p>It is alleged that the District violated the IDEA when it failed to provide the Student with nonacademic and extracurricular services and activities. Specifically, it is alleged that students in the Life Skills Classroom at the</p>	<p><b>Not Substantiated</b></p> <p>Students in the Life Skills Classroom were afforded opportunities to participate in nonacademic and</p>

<p>school were excluded from participating in such activities as the school science fair, and Mardi Gras ticket distribution. The Parent alleges that this situation impacted their Student, and similarly situated students in the District.</p> <p>(OAR 581-015-2070; 34 CFR § 300.107)</p>	<p>extracurricular services and activities.</p>
<p><b>Requirement for Least Restrictive Environment</b></p> <p>It is alleged that the District violated the IDEA when students in the Life Skills Classroom at the school, were not allowed access to the general education lunch period and general education recess. Instead, it is alleged that these students engaged in separate recess and lunch periods. The Parent alleges that this situation impacted their Student, and similarly situated students in the District.</p> <p>(OAR 581-015-2240; 34 CFR § 300.114)</p>	<p><b>Not Substantiated</b></p> <p>Students in the Life Skills Classroom were provided access to the general education recess and lunch period as outlined in their IEPs.</p>

<p><b>REQUESTED CORRECTIVE ACTION</b></p>
<p>The Parents request that the District:</p> <ul style="list-style-type: none"> <li>• Address accountability for staff changes in the classroom;</li> <li>• Audit the special education services provided during the relevant complaint period; and,</li> <li>• A publicly available report of the outcome of this investigation.</li> </ul>

### III. FINDINGS OF FACT

1. This case involves eleven students attending school in one of the District’s Life Skills Classrooms during the 2023-24 school year.
2. Student 1 attended kindergarten in the District’s Life Skills Classroom. Student 1 was eligible for special education under the eligibility category of developmental delay (DD). Student 1 is energetic, imaginative, creative, and social and enjoys imaginative games. Student 1 was not able to express their wants and needs, required constant adult supervision, and received specially designed instruction (SDI) in all goal areas. Student 1’s educational placement was in the Life Skills Classroom for most of the school day. Student 1 would be included in general education activities such as morning meeting as Student 1 could tolerate. Student 1’s IEP team rejected placement in a regular classroom because it lacked

adequate structure and behavioral support, and small group/individualized instruction. During a January 10, 2024, IEP team meeting, Student 1's Parents expressed interest in Student 1 having more access to typically developing peers. Student 1's IEP team agreed to increase Student 1's time in the general education classroom as a result. During Student 1's May 17, 2024, IEP team meeting, Student 1's goals were revised. The team determined that Student 1's placement was still appropriate for Student 1.

3. Student 2 attended fourth grade in the school's Life Skills Classroom. Student 2 was eligible for special education under the eligibility category of intellectual disability (ID). Student 2 was then making use of their communication device during lunch to request food and make desired selections. Student 2 is cheerful, energetic, and showed improvement with connecting with people. Student 2's self-regulation skills – such as selecting food, addressing bathroom needs with less agitation and more cooperation and beginning to communicate bathroom needs – showed improvement. Student 2 was not yet able to express their wants and needs and required a high level of adult support to remain safe. Student 2 required SDI in all areas as well as modified materials and pacing. Student 2's needs required that they be removed from the regular education classroom for more than 90% of the day to work on academic skills, social communication, and life skills to receive intense and structures instruction for each skill, in the self-contained setting of Life Skills. During March 2, 2023 and March 11, 2024 IEP team meetings, Student 2's IEP team and the Parent agreed that Student 2's placement was appropriate, no concerns were raised about additional general education exposure.
4. Student 3 attended the fourth grade in the school's Life Skills Classroom. Student 3 was eligible for special education under the category of autism spectrum disorder (ASD) and other health impairment (OHI). Student 3 enjoys music and manipulatives to create noise, is highly motivated by food, and has specific food preferences as rewards. Student 3 enjoys hand squeezes, loves to spin, and shows interest in specific electronic academic programs. Student 3 was provided access to the regular curriculum through materials being presented in a consistent and systematic manner, and required a high level of support for academic, communication, and life skills for success. Student 3's needs required that they be removed from regular education classroom for more than 60% of the school day to access specific behavior monitoring, small group/individualized instruction, and intensive individualized instruction. During Student 3's IEP team meeting held January 26, 2023, Student 3's Parents had no concerns about Student 3's placement or additional general education inclusion.
5. Student 4 attended the fifth grade in the school's Life Skills Classroom. Student 4 was eligible for special education under the category of ASD. Student 4 is good at telling time, has neat and legible handwriting, works independently, and has displayed growth in their self-regulation skills. Student 4 excels at reading and writing. Student 4 was then working on toileting skills, anger regulation, and was working on sign language skills for communication. Student 4 required SDI in academics, social/emotional, and behavioral skills. Student 4 required modified materials and pacing, and needed constant adult support for prompting, transitions, communication, and behavior support. Student 4's need for SDI necessitated



their removal from the general education environment. During Student 4's February 20, 2024 IEP team meeting, Student 4's Parents discussed Student 4's specific needs and agreed that the current placement was appropriate.

6. Student 5 attended the third grade in the school's Life Skills Classroom. Student 5 was eligible for special education under the categories of ID and OHI. Student 5 is playful, loves music, is increasing their ability to seek adult attention when requesting something, and uses an augmentative communication device. Student 5 was then working to understand that they could impact their surroundings by interacting with it and learning to approach adults to get their needs met. Student 5 was not yet able to adequately express their wants and needs and required SDI, modified materials, and modified pacing in all goal areas. Student 5 required adult assistance for toileting and eating support. Student 5 was removed from the general education environment for up to 80% of the school day to work on functional academics, motor skills, communication, and life skills. Student 5 required a high level of adult supervision for safety and required placement in the Life Skills Classroom to deliver visual supports and adult support. During Student 5's April 23, 2023 IEP team meeting, the team added additional special education eligibilities and services to address Student 5's needs; no concerns were raised about general education exposure. During Student 5's April 10, 2024 IEP team meeting, Student 5's Parents did not raise any concerns about greater general education exposure, and the team agreed to keep Student 5's placement the same.
7. Student 6 attended the third grade in the school's Life Skills Classroom. Student 6 was eligible for special education under the category of ASD. Student 6 displayed improvement in transitioning between activities, joining morning circle, and other activities in the classroom. Student 6 attended lunch in the general education cafeteria. Student 6 could not yet adequately express their wants and needs and required adult assistance in all areas of academic and social skills instruction. As a result, they were removed from the general education environment to provide more explicit instruction and a high level of support to address their current skill levels. On May 10, 2023, Student 6's IEP team met and based on Student 6's needs and goals, determined that Student 6's placement was appropriate. On April 30, 2024, Student 6's IEP team met to review Student 6's IEP and found that Student 6's placement was appropriate.
8. Student 7 attended the fourth grade in the school's Life Skills Classroom. Student 7 was eligible for special education under the categories of ID and OHI. Student 7 is energetic, happy, social, creative, and kindhearted. Student 7 enjoyed helping in the classroom and gravitated toward helping younger classmates. Student 7 was making progress at making friends in recess and PE. Student 7 showed strengths in following routines and whole group learning. Student 7 required a high level of adult support, as well as modified materials and pacing to progress toward IEP goals. Student 7 was removed from the general education environment for 40-79% of the school day. Student 7 had the opportunity to attend class in general education environment, including music. Student 7 had a combination of push-in and pull-out support, and the provision of speech language pathology (SLP) and

occupational therapy (OT) services. During Student 7's December 12, 2022 and December 6, 2023 IEP team meetings, the team reviewed Student 7's placement and determined it was appropriate. The Parents did not raise any concerns about the placement determination made by the team.

9. Student 8 attended the first grade in the school's Life Skills Classroom. Student 8 was eligible for special education under the category of ASD. Student 8 was making progress in learning letters, and recognizing numbers, and was working on recognizing colors, and their own name. Student 8 was making progress with using augmentative communication devices to learn letters and numbers. Student 8 required adult assistance in all areas, academic, hygiene, functional, and personal safety, to maximize educational potential. Student 8 required removal from the general education environment for 85% of the day. During Student 8's October 18, 2022 IEP team meeting, all participants agreed with Student 8's placement. During the October 3, 2023 IEP meeting, Student 8's Parents asked that Student 8 have as much general education exposure as possible, but agreed with Student 8's placement.
10. Student 9 attended kindergarten in the school's Life Skills Classroom. Student 9 was eligible for special education under the category of ASD. Student 9 was described as always smiling and spinning, showing strengths in spelling, listening, and improvements in communication. Student 9 is kind and values relationships. Student 9 engages with their augmentative communication devices, thrives on praise and the satisfaction of getting answers right. Student 9 was working toward recognizing sight words and their meaning, letters of the alphabet, numbers, shapes, colors, and similar skills. Student 9 was working on the ability to interact with peers, and had yet to develop awareness of stranger danger, and would willingly approach any unknown adult or peer. Student 9 was removed 85% of the day from the regular classroom for adult assistance in all areas of academic and social skills instruction. Student 9 required SDI and educational support to make progress toward IEP goals and grade-level standards in reading, math, social/emotional, and writing. Removal from the general education environment provided support for more explicit instruction and a high level of support that addresses Student 9's skill levels. Additional opportunities for inclusion in the general education setting were planned as Student 9's skills and tolerance allowed. On May 19, 2023, Student 9's IEP team met and all members were in agreement regarding Student 9's placement. On December 4, 2023, Student 9's IEP team discussed Student 9's advanced academic abilities and need for additional general education exposure and agreed on Student 9's placement. As part of the December 4, 2024, IEP team meeting, Student 9's math instruction was delivered in the general education classroom, as well as their choice time. On April 29, 2024, Student 9's IEP team met and agreed that the Student 9's placement was appropriate, but Student 9's Parent removed Student 9 to homeschooling just prior to the meeting, on April 23, 2024.
11. Student 10 attended the second grade in the school's Life Skills Classroom. Student 10 was eligible for special education under the category of ASD. Student 10 enjoys art, animals, and musical instruments. Student 10 uses an augmentative communication device to type

words and ideas. Student 10 is polite in all interactions and enjoys physical activities. Student 10 requires a high level of adult support for frequent prompting, individual instruction, adjusted pacing, safety monitoring, and individualized materials to ensure progress toward IEP goals. Student 10 was removed from the general education environment for most of the school day to provide SDI in all academic areas, and social/emotional skills. Student 10 requires modified materials, increase repetitions, explicit instruction, and modified pacing that cannot be accomplished in the general education setting. On February 8, 2024, Student 10's IEP team met and agreed that Student 10's placement was appropriate. On May 2, 2023, Student 10's IEP team met to discuss Student 10's progress, new behaviors, and placement. All members of the team agreed with Student 10's placement determination.

12. Student 11 attended the first grade in the school's Life Skills Classroom. Student 11 was eligible for special education under the category of ASD. Student 11 displayed improvement in their ability to attend and regularly participate in morning circle. Student 11 was able to spell their name during group activities. Student 11 enjoys playing the piano, building with blocks, and playing with a variety of toys. Student 11 was communicating when they wanted a snack, was more aware, determined, and able to attend to activities. Student 11 was not yet able to adequately express their wants and needs. Student 11 requires constant adult supervision to remain safe and in the area. Student 11 requires SDI in all areas, as well as modified materials and adjusted pacing. Student 11 was removed from the general education environment for most of the school day. Student 11 struggles to attend recess, PE, and music, as transitions are difficult, and they are easily overwhelmed. On May 30, 2023, Student 11's IEP team met to discuss increasing services to Student 11 and agreed with Student 11's current placement. On May 24, 2024, Student 11's IEP team met to discuss Student 11's needs and agreed with Student 11's current placement.
13. At the beginning of the 2023-24 school year, Teacher 1 staffed the Life Skills Classroom. Teacher 1 held a Professional Teaching license with an endorsement in Special Education during the relevant period.
14. On October 23, 2023, the Principal sent an email to families of students in the Life Skills Classroom informing them of Teacher 1's absence, and updated points of contact for communications.
15. On November 3, 2023, in response to an email from the Parent of Student 9 regarding volunteering in the classroom, the Principal sent an email to the Parent of Student 9 explaining that in the absence of a permanent teacher in Student 9's classroom to manage and direct volunteers, parent volunteering would be paused.
16. On November 15, 2023, this Parent sent an email to the Principal discussing concerns about Student 9's IEP and requesting that the District provide more information to parents of students in the Life Skills Classroom. The email summarized a phone call where the two discussed communications to parents. The Parent also discussed their interest in seeing

educational assistants more involved in IEP team meetings and other discussions around student special education needs and services.

17. On November 15, 2023, the District, in response to this Parent's email, invited them to request an IEP team meeting if the issues raised impacted Student 9's education.
18. On November 15, 2023, this Parent sent an email to the District requesting an IEP team meeting to discuss potential revisions to Student 9's IEP.
19. On November 16, 2023, this Parent sent an email to the District expressing concerns regarding rumors in the community about the departure of Teacher 1 and concerns regarding student safety. The Parent requested information about District compliance standards relevant to these concerns.
20. At the beginning of December 2023, Teacher 1 retired from the District. Thereafter, the District utilized the service of substitute teachers. The District utilized Teacher 3, Teacher 4, Teacher 5, Teacher 6, Teacher 7, Teacher 8, and Teacher 9, until a replacement could be found.
21. Teacher 3 held a valid Substitute Teaching license for the PreK-12 levels during the relevant period. Teacher 4 held a Preliminary Teaching license with endorsements in special education, elementary-multiple subjects, foundational mathematics, and physical education, during the relevant period. Teacher 5 held a valid Preliminary Teaching license with endorsements in elementary – multiple subjects, legacy middle school, and specialization in early childhood education, during the relevant period. Teacher 6 held a valid Preliminary Teaching license with an endorsement in world languages, during the relevant period. Teacher 7 held a Restricted Teaching license for the PreK-12 level, during the relevant period. Teacher 8 held a Professional Teaching license with an endorsement in elementary-multiple subjects for the PreK-12 level, during the relevant period. Teacher 9 held a valid Professional Teaching license with endorsements in elementary-multiple subjects in the Prek-12 level, and specialization in Early Childhood Education, during the relevant period.
22. On December 4, 2023, this Parent sent the District a document with their concerns and observations about Student 9's education for the IEP team meeting held that day. As part of that document, the Parent included concerns for increasing Student 9's exposure to the general education setting.
23. On December 9, 2023, following Student 9's IEP team meeting, the District provided the Parent with prior written notice (PWN) documenting the discussion the IEP team meeting held December 4, 2023. As part of the changes made during that IEP team meeting, the District documented, "The team agreed to parent's request to increase [Student 9's] general education time by trying math and choice time in the kindergarten classroom. The team will meet again at the end of January or early February to discuss how this is going."

24. On December 9, 2023, the Life Skills Consultant sent a document to the Parent summarizing Student 9's skills and learning progress.
25. On December 30, 2023, this Parent sent an email to the Life Skills Consultant informing them of the outcome of testing they performed on Student 9, and that Student 9 had exceeded expectations in areas such as writing, reading, and math. The Parent expressed the hope that the school environment could provide support for social skills development that could not be provided in the home environment.
26. On January 8, 2024, this Parent sent an email to the District with updated contact information for the family and information relevant to Student 9.
27. On January 8, 2024, this Parent sent an email to the Director of Student Services and the Principal, stating that Student 9 was not afforded an opportunity to participate in general education classes, and that this situation was ongoing since September of the prior year. The Parent further reported the understanding that other students in the Life Skills Classroom had "limited interaction with their peers during lunch and other school activities." The Parent raised concerns whether the issues highlighted impacted least restrictive environment requirements of the IDEA and requested a meeting to discuss those concerns.
28. On January 9, 2024, the District hired Teacher 2 to replace Teacher 1.
29. On January 12, 2024, this Parent sent an email to the District advocating for an expanded role for educational assistants in "the educational framework." The Parent especially advocated for the inclusion of educational assistants in student IEP team meetings.
30. On January 25, 2024, this Parent sent an email to the Director of Student Services and the Life Skills Consultant thanking them for the meeting held that day and the opportunity to learn more about how Student 9 participated in the Life Skills Classroom and the general education environment.
31. On January 25, 2024, the Life Skills Consultant sent an email to this Parent thanking them for their information regarding Student 9 and expressing the intent to review that information to learn more about Student 9's academic progress and skills.
32. On January 29, 2024, the District sent this Parent an email announcing an upcoming Mardi Gras event on February 9, 2024.
33. On February 5, 2024, this Parent sent an email to one of the general education kindergarten teachers communicating their understanding that students in the Life Skills Classroom would not participate in an upcoming schoolwide event. The Parent wrote in relevant part, "We are okay with this decision since [Student 9] has a hard time around large crowds +

maintaining good manners.” The Parent went on to inquire how Student 9 and other students in the Life Skills Classroom might participate in a limited manner.

34. On February 6, 2024, this Parent sent an email to the Life Skills Consultant and others in the District regarding Student 9’s progress toward IEP goals and made suggestions regarding areas of academic skills where Student 9 needed additional support.
35. On February 6, 2024, The Life Skills Consultant responded to this Parent’s email, asking for additional information about Student 9’s academic needs, and clarifying concerns raised by the Parent.
36. On February 10, 2024, this Parent sent an email to the Director of Student Services raising concerns about Student 9’s February 2, 2024 IEP progress report. The Parent requested more information regarding assessment methods, evaluation criteria, documentation and reporting, and alignment with home and external support. The Parent also suggested that there was a disconnect between the progress observed in Student 9 outside of school and what the District reported in the school environment. The Parent suggested that the educational strategies in place may not be challenging enough for Student 9. The Parent took exception to the areas of assessment, suggesting it may not appropriately address Student 9’s needs, as they overlooked areas of strength . The Parent also took exception with the assertion that Student 9’s lack of expected progress was due to absences. The Parent concluded by welcoming assessment strategies from the District to better address Student 9’s education in the home environment.
37. On February 10, 2024, the Life Skills Consultant, responding to this Parent, welcomed the opportunity to discuss the concerns raised by the Parent following receipt of Student 9’s IEP progress report.
38. On February 13, 2024, the Life Skills Consultant suggested a meeting where Teacher 2 could address many of the concerns raised by this Parent.
39. On February 19, 2024, this Parent sent an email to the Principal thanking them for a meeting to discuss the inclusion of Student 9 and other students in the Life Skills Classroom in the school’s social activities.
40. In February 2024, Teacher 2 ceased employment with the District. Thereafter the District utilized the services of Teacher 7, Teacher 10, Teacher 11, Teacher 3, and Teacher 12.
41. Teacher 10 held a Preliminary Teaching license with an endorsement in Art at the PreK-12 level, during the relevant period. Teacher 11 held a Legacy Teaching License with endorsements in Elementary-Multiple Subjects in the PreK-12 level, Special Education in the PreK-12 level, and a specialization in Early Childhood Education, during the relevant period. Teacher 12 held a Professional Teaching license with endorsements in Elementary-Multiple Subjects, English Language Arts, legacy middle Level, and Reading Intervention in the PreK-

12 levels, during the relevant period.

42. On February 20, 2024, the Principal, responding to this Parent's February 19, 2024 email, noted that the school generally plans for events a year in advance, but that they would forward the Parent's ideas to the Parent Teacher Organization (PTO) for the following year.
43. On March 6, 2024, the PTO sent an email to parents of students in the Life Skills Classroom introducing this Parent as a parent representative to the PTO and thanking them for their assistance with recent events.
44. On March 7, 2024, this Parent requested that the PTO update communications to reflect donations made by the Parent to a school fundraiser.
45. On March 13, 2024, this Parent sent an email to the District asking for the email list of other parents of students in the Life Skills Classroom to enable the Parent to announce an upcoming social event at the School.
46. On March 13, 2024, the School Secretary sent an email to this Parent informing them that the school was moving forward with the Parent's request to grant them access to the email list to enable the Parent to send emails to all the Life Skills Classroom parents.
47. On March 14, 2024, the School Secretary sent this Parent an email with the email list previously discussed.
48. On March 21, 2024, this Parent sent an email to families of students in the Life Skills Classroom, as part of the School's PTO. The Parent announced the upcoming science fair scheduled for April 24, 2024.
49. On March 21, 2024, this Parent sent an email to the Principal and the PTO, thanking them for making accommodations to the science fair to afford students in the Life Skills Classroom an opportunity to fully participate in the event. The Parent provided several ideas for how students in the Life Skills Classroom might participate in the science fair.
50. On March 21, 2024, the Principal sent an email to this Parent thanking them for sending out updates about school events to parents of students in the Life Skills Classroom during the period the Life Skills Classroom was without a permanent teacher. The Principal also inquired with this Parent whether they were okay with the school adding information in the school's newsletter about seeking input for the coming year's Life Skills Classroom.
51. On April 2, 2024, this Parent sent an email to the Director of Student Services addressing concerns about prior comments made by Teacher 2 and the Life Skills Consultant related to Student 9's assessment. The Parent also expressed concerns about Student 9's IEP needs and requested a meeting to address those concerns.

52. On April 3, 2024, this Parent sent an email to the District about the needs of a future Life Skills Classroom at another school in the District.
53. On April 5, 2024, the Life Skills Consultant sent an email to this Parent regarding upcoming assessments for Student 9 and the intention to conduct those assessment in the home due to Student 9's illness. On the same date, the Life Skills Consultant informed the Parent that they would request an IEP team meeting to address the concerns the Parent had regarding Student 9's progress and how the District assessed Student 9.
54. On April 5, 2024, the Principal sent an email to this Parent asking if they would like a table at the science fair for Student 9 to make their presentation.
55. On April 9, 2024, this Parent sent an email to the Principal expressing their excitement at participating in the upcoming science fair.
56. On April 18, 2024, the Life Skills Consultant sent an email to this Parent confirming whether the Parent intended to move toward a mix of homeschooling and online schooling for Student 9. This Parent had previously requested information about other school options during meetings with the Life Skills Consultant.
57. On April 19, 2024, this Parent sent an email announcing the decision to withdraw the Student from the District and enroll them in an online program.
58. On April 19, 2024, the Life Skills Consultant sent an email to this Parent to schedule a home visit to observe Student 9's academic progress in the home environment.
59. On April 22, 2024, this Parent confirmed a date for the Life Skills Consultant to come to the family home to observe Student 9.
60. On September 5, 2024, this Parent filed this Complaint.
61. On September 13, 2024, the Department's Complaint Investigator interviewed this Parent to clarify the concerns in this Complaint.
62. On September 30, 2024, the District submitted its *Response* to this Complaint. The District denied all of the allegations.
63. As part of the District's September 30, 2024 *Response*, the District provided a list of teachers assigned to the Life Skills Classroom during the 2023-24 school year. As part of this investigation, the Complaint Investigator verified the licensure status of the Teachers utilized to replace Teacher 1 and Teacher 2.
64. On October 14, 2024, the Complaint Investigator interviewed the Parent of Student 9 regarding the concerns in this matter. The Parent reported that Teacher 1's departure was



not reported to parents and they requested additional explanation from the District when they found out about it. The Parent reported having spoken with the Principal regarding these concerns. The Parent reported dissatisfaction with the District's response to questions surrounding Teacher 1's departure. The Parent also reported their request to volunteer in the classroom was disrupted due to Teacher 1's departure.

65. The Parent reported concerns with District not including students in the Life Skills Classroom in all activities offered at the school. The Parent specifically recalled a discussion with the Principal where they advocated for the inclusion of students in the Life Skills Classroom in all activities the school offered. The Parent reported that, only after their advocacy, did the school make changes to accommodate the participation of the students. The Parent specifically related that Student 9 wanted to present a project to the science fair. The Parents reported that, through their advocacy for Student 9, the Principal provided a table for Student 9 to exhibit their project.
66. The Parent reported that the District did not inform parents of students in the Life Skills Classroom of all activities in the school. The Parent noted that parents of students in the Life Skills Classroom generally received communications from the school through folders sent home each day. The Parent reported that school flyers announcing some events were not added to student folders until the day of events. The Parent reported that the school did send emails regarding all events to all students, but that the volume of email was voluminous, and that students in the Life Skills Classroom were not specifically informed. Information regarding schoolwide events were generally included in the school newsletter, which was not provided to parents of Life Skills Classroom students through the daily folder. Similarly, the Parent alleged events involving students in the Life Skills Classroom were not included in schoolwide emails, leading parents of those students to not read such communications.
67. The Parent reported that school announcements regarding events similarly did not consider students in Life Skills Classroom. The Parent reported speaking with the Principal regarding these concerns. The Parent reported that only after speaking with the Principal were these concerns addressed. Specifically, the Parent took issue with having to ask the school and PTO for space for students in the Life Skills Classroom to participate in various events the school held. The Parent specifically highlighted the fundraising portion of one of the events. The Parent highlighted that the flyer announcing the fundraising event was placed in folders to students on the day of the event.
68. On October 17, 2024, the Complaint Investigator interviewed the Principal, the Life Skills Consultant, and the Director of Student Services regarding the concerns raised in this matter. Present for the interviews was the District's Attorney.
69. The District's Life Skills Consultant served as the case manager for all the students placed in the Life Skills Classroom. The Life Skills Consultant attended all IEP team meetings following the departure of Teacher 1. They reported having provided training to all educational

assistants in the Life Skills Classroom regarding the specific needs of each student and their IEPs. The Life Skills Consultant noted that educational assistants had an expanded role in the Life Skills Classroom context, delivering most of the instruction to students therein. The Life Skills Consultant noted that, although there were changes in teaching staff in the Life Skills Classroom, the educational assistants remained relatively consistent throughout the school year. As part of their role, the Life Skills Consultant provided support to teachers relevant to the needs of the students. The Life Skills Consultant noted that they also accompanied students to general education classes to support adaptations made to curriculum and educational environments.

70. The Life Skills Consultant reported that students in the Life Skills Classroom had a wide range of needs. Each was able to tolerate integration into the general education environment at different times and to different degrees.
71. The Life Skills Consultant further reported that the Parent had had conversations with Teacher 2 that spawned concerns regarding how the District was assessing Student 9. These concerns were reflected in the Parent's February 9, 2024, email to the District. The Life Skills Consultant coordinated with the Parent to conduct observations and assessments of Student 9 in the home to address the Parent's concern that Student 9 showed greater academic ability in the home environment than in school.
72. The Life Skills Consultant reported that Student 9 generally resisted the general education environment. Such environments were often overwhelming for them. Student 9 did take part in general education recess.
73. The Director of Student Services noted that the Life Skills Classroom is an educational placement dependent on the needs of students. They noted that IEP teams generally select the Life Skills Classroom based on three criteria, the student's cognitive factors, communication abilities, and adaptive functioning. Students in the Life Skills Classroom are generally in the first percentile of these domains when assessed. The Life Skills Classroom also has a much higher level of support from specialists such as speech language pathologists, occupational therapists, physical therapists, nursing, autism specialists, and behavior specialists.
74. The Principal reported that many of the extracurricular activities highlighted by the Parent were arranged by the school's PTO, including the science fair. As such they were added to the school calendar a year in advance. The Principal agreed that the Parent had advocated for greater inclusion of students from the Life Skills Classroom in these activities including the science fair, and that such changes were made to provide students from the Life Skills Classroom an opportunity to participate.
75. The Principal noted that school events were communicated schoolwide through a variety of methods. These included the school's newsletter, flyers posted around school, and on the bulletin board at the front of the school. Students in the Life Skills Classroom had folders

that went home with them. Educational assistants in the Life Skills Classroom were tasked with placing announcements and flyers into student folders. The Principal speculated that it was possible that educational assistants placed flyers into student folders later than intended, but that each class was provided the flyers in advance of activities. Parents were also informed of events through the school's online communication systems and social media postings.

76. The Principal reported that there were other opportunities for students in the Life Skills Classroom to interact with general education peers. They noted that the school had a buddy program, where kindergarten and third grade, first and fourth grade, and second and fifth grade students paired up. In the case of students from Life Skills, those students would push into the general education classroom. Other opportunities included morning meeting and choice time. Students in the Life Skills Classroom participated in general education recess and lunch, as was appropriate for their feeding, sensory, and safety needs.
77. The Principal and Director of Special Education reported that, due to confidentiality reasons, it is often difficult to report to families the specifics of staff changes. Both reported understanding that the lack of information might cause uncertainty for parents and an interest in finding ways to better communicate such changes in the future.

#### **IV. DISCUSSION**

##### **When IEPs Must Be In Effect**

It is alleged that the District systemically violated the IDEA when the District failed to provide consistent qualified staff to students in the Life Skills Classroom at the school. The Parent alleges that the District did not maintain appropriate, and/or qualified, special education teachers and aides in the Life Skills Classroom through the 2023-24 school year resulting in the insufficient implementation of the Student's IEP. The Parent alleges that this situation impacted their Student, and similarly situated students in the District.

At the beginning of each school year, a district must have in effect, an IEP for each child with a disability. School districts must provide special education and related services to a child with a disability in accordance with an IEP. As soon as possible following the development of the IEP, special education and related services must be made available to the child in accordance with the child's IEP. School districts must ensure that the IEP is accessible to each regular education teacher, special education teacher, related services provider, and other service provider responsible for implementing the IEP. The district must also inform each teacher and service provider of their specific responsibilities for implementing the child's IEP.<sup>3</sup>

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<sup>3</sup> OAR 581-015-2220(1)–(3)

During the 2023-24 school year, the Life Skills Classroom experienced changes in staffing. Due to these staffing changes, the District was required to utilize substitute teachers. These substitute teachers were all appropriately licensed teachers. Continuity of services to Student 9 and other students in the Life Skills Classroom was overseen by the Life Skills Consultant. The Life Skills Consultant participated in IEP team meetings, acted as the case manager for all the students in the Life Skills Classroom, and provided support to teachers and educational assistants in the Life Skills Classroom.

There is no evidence that the Life Skills Classroom did not have appropriately licensed teaching staff or that staffing changes resulted in a failure to implement any of the students' IEPs.

The Department does not substantiate this allegation.

### **Prior Written Notice**

The Parent alleged that the District systemically violated the IDEA when the District failed to notify the Parent of the District's inability to implement the Student's IEP due to a lack of appropriate, and or qualified, special education teachers and aides in the Life Skills Classroom at the school, through the 2023-24 school year. The Parent alleges that this situation impacted their Student, and similarly situated students in the District.

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.<sup>4</sup> 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.

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<sup>4</sup> OAR 581-015-2310; 34 CFR § 300.503(a)

The Parent of Student 9 reported that when Teacher 1 left, parents of students in the Life Skills Classroom were not informed of this change. The District agreed that parents were not informed of staffing changes, largely due to concerns that such notice might have resulted in a breach of confidentiality. In this case, the District was able to secure substitute teachers, and the support of the Life Skills Consultant to continue to service students in the Life Skills Classroom in accordance with their IEPs. There is no evidence on the record that staffing changes impacted the identification, placement, or provision of FAPE to this group of students.

Changes to staff in the Life Skills Classroom were not related to a proposal or refusal to initiate or change anything related to the identification, evaluation, educational placement, or the delivery of FAPE to any child with a disability. Therefore, the District was not required to provide PWN to the parents.

The Department does not substantiate this allegation.

### **Nonacademic Services**

The Parent alleged that the District violated the IDEA when it failed to provide Student 9 with nonacademic and extracurricular services and activities. Specifically, it is alleged that students in the Life Skills Classroom at the school were excluded from participating in such activities as the school science fair and Mardi Gras ticket distribution. The Parent alleges that this situation impacted Student 9, and similarly situated students in the District.

School districts must take steps, including the provision of supplementary aids and services determined appropriate and necessary by the child's IEP team, to provide nonacademic and extracurricular services and activities in a manner to afford children with disabilities an equal opportunity for participation in those services and activities. Nonacademic and extracurricular services and activities may include meals, recess periods, counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the school district, referrals to agencies that aid individuals with disabilities, and employment of students, including both employment by the school district and assistance in making outside employment available.<sup>5</sup>

The school offered several nonacademic activities through the PTO. These included a science fair and Mardi Gras event, among others. The Parent advocated for greater participation by students in the Life Skills Classroom in such events as the science fair. As a result of that advocacy, the PTO and the school provided space for Student 9 to have an exhibit and took suggestions from the Parent regarding ideas for greater participation by students in life skills. The Parent was also involved in announcing the event to families of students in the Life Skills Classroom.

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<sup>5</sup> OAR 581-015-2070(1)–(2)

The Parent reported that the flyer for the Mardi Gras event was not provided in Student 9's folder until the day of the event. The District acknowledged that this may have occurred due to when staff added the flyer to specific student folders, but that announcements for the event were provided to all families through a variety of other means. Email records show that the Parent was informed of the Mardi Gras event on January 29, 2024. On February 5, 2024, the Parent sent an email to the District expressing their understanding that Student 9's needs likely precluded their participation in the event. The Parent reported that they did receive information by email and the District's online portal. As part of this investigation the participation of students in the Life Skills Classroom in additional social activities was discussed with the District. The District reported that students in the Life Skills Classroom were provided opportunities with their general education peers.

The Department does not substantiate this allegation.

### **Requirement for Least Restrictive Environment**

The Parent for Student 9 alleged that the District violated the IDEA when students in the Life Skills Classroom at the school were not allowed access to the general education lunch period and general education recess. Instead, it is alleged that these students engaged in separate recess and lunch periods. The Parent alleges that this situation impacted Student 9 and similarly situated students in the District.

School districts must ensure that, to the maximum extent appropriate, children with disabilities are educated with children who do not have a disability. Special classes, separate schooling, or other removal of a child with a disability from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.<sup>6</sup>

The District reported that Student 9 did take part in general education recess. Student 9 took part in the general education cafeteria from time to time, but generally found the general education lunch overwhelming. The District reported that other students in the Life Skills Classroom took part in the general education lunch and recess as appropriate for them. On December 4, 2023, during an IEP meeting, the Parent expressed interest in Student 9 receiving additional exposure to the general education environment. On December 4, 2023, the District sent the Parent PWN documenting Student 9's IEP team's agreement to increase their exposure to the general education environment. Specifically, the team agreed to increase Student 9's general education exposure in math and choice time.

The District noted that some of the students' SDI revolved around appropriate requests for food and eating, which could not always be delivered in the general education cafeteria setting. The District also noted that the volume of students in the general education cafeteria was an obstacle for some students in the Life Skills Classroom. The individual IEPs reviewed as part of

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<sup>6</sup> OAR 581-015-2240(1)–(2)

this investigation support that many of the students in the Life Skills Classroom required a higher level of support for feeding than could likely be accomplished in the general education cafeteria. There is no evidence in the record that the District applied a blanket policy of excluding students in the Life Skills Classroom from participation in the general education cafeteria or recess.

The record supports that the Parent's request to increase Student 9's exposure to the general education environment was considered by Student 9's IEP team. IEPs of other students reviewed as part of the investigation showed that they had varying levels of exposure to the general education environment, including recess and lunch as appropriate for their needs.

The Department does not substantiate this allegation.

**VII. CORRECTIVE ACTION**  
*In the Eugene School District*  
*Case No. 24-054-053*

The Department does not order corrective action in this matter.

Dated: this 4th Day of November 2024



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Ramonda Olaloye  
Assistant Superintendent  
Office of Enhancing Student Opportunities

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).)

Emailing Date: November 4<sup>th</sup>, 2024