

**CONFIDENTIAL**

**FINAL REPORT**  
**Complaint Investigation**  
**Garden Valley School District #71 / [REDACTED]**  
**C-23-09-19a**

The Idaho Department of Education (Department) received a state administrative complaint on September 19, 2023, from [REDACTED] (Complainant), on behalf of [REDACTED] (Student), against the Garden Valley School District #71 (District). The 60-day timeline for the investigation of this complaint began on September 19, 2023, and expires on November 18, 2023. The Complaint alleged that the District violated the Individuals with Disabilities Education Act (IDEA).

**Complaint Issues and Allegations**

The Idaho Department of Education accepted the following issues for investigation:

- 1. Did the District ensure that special education and related services, including specially designed instruction, were made available to the Student in accordance with the Student's Individualized Education Program (IEP)? [34 CFR § 300.34, 34 CFR § 300.323, 34 CFR § 300.39]**

The Complaint alleges that one week before a meeting [REDACTED], the District notified the Complainant that the Student was [REDACTED]; the Complainant notified the District that they had been [REDACTED].

- 2. Did the District properly develop, review, and revise the IEP in compliance with the Individuals with Disabilities Education Act (IDEA) and provide written notice to the parents when changing or refusing to change the educational placement of or provision of free appropriate public education (FAPE) to the Student? [34 CFR § 300.324] and [34 CFR § 300.503]**

The Complaint alleges the District is refusing to allow the Student [REDACTED].

- 3. Did the District provide periodic progress reports towards measurable goals? [34 CFR § 300.320]**

The Complaint alleges that one week before a [REDACTED], the District notified the Complainant that the Student was [REDACTED].

- 4. Did the District ensure the parent was involved in all decisions related to the Student's placement? [34 CFR § 300.114, 34 CFR § 300.116, 34 CFR § 300.501(c)]**

The Complaint alleges that the District is refusing to [REDACTED], that the Student has done what the District required to [REDACTED], and that instead, the District [REDACTED] the Student [REDACTED].

### **Scope of the Idaho Department of Education's Review and Authority**

The Idaho Department of Education administers federal and state regulations governing special education programming requirements for students with disabilities. Ensuring implementation of the federal regulations from the Individuals with Disabilities Education Act (IDEA) and any corresponding state rules requires the Department to investigate state complaints regarding violations of these provisions. The Department has investigated this complaint and now issues this report and Corrective Action Plan (CAP) pursuant to 34 CFR § 300.152(a)(5).

Facts discussed that occurred prior to September 19, 2022, or after September 19, 2023, are for background information only. Federal regulations limit the investigation of state complaints to violations that occurred not more than one year prior to the date the complaint was received. 34 CFR § 300.153(c).

### **Complaint Investigation Review**

The Idaho Department of Education's complaint investigation included the following:

- Review of the submitted complaint and supporting documentation.
- Review of District-produced documents.
- In-person review of the Student's physical file.
- An on-site investigation.
- In-person and virtual interviews with District staff.
- In-person interview with sheriff deputy/school resource officer (SRO).
- In-person interviews with the Student, the Complainant, and the Student's other parent.
- Telephone interview with the Student's [REDACTED] general education teacher, [REDACTED] [REDACTED]
- Review of the District's online Policy Manual.
- Review of the District's online service contracts.
- Review of the District's publicly available financial audit.
- Review of the School Board's publicly available online meeting agendas and meeting minutes.
- Review of the Idaho *Special Education Manual* (2018), the IDEA and the applicable Code of Federal Regulations, and relevant case law.

### **Findings of Facts**

1. The Complainant filed a complaint on September 19, 2023. No issues raised in this complaint are currently subject to a due process hearing, nor have these issues been previously decided in a due process hearing.
2. The Student is [REDACTED] and in [REDACTED]

3. The Student was [REDACTED] the District at all times relevant to the Complaint due to [REDACTED]. The Student's [REDACTED].
4. The Student is currently eligible for special education services under the eligibility category [REDACTED].<sup>1</sup>
5. A review of the District's online Policy Manual reflected that there is *no* policy regarding special education services or the IDEA. The Policy Manual did reflect that Policy 3340P explains how the District [REDACTED] with IDEA. The District accepts federal funds to support special education.
6. There is nothing in the record to reflect that the Board adopted as policy the Idaho *Special Education Manual* (2018) at any time during or before the 12 months prior to this investigation.
7. A review of the District's online Policy Manual reflected that there is *no* policy regarding [REDACTED].<sup>2</sup> The Student's IEP [REDACTED]. Interviews reflected that not all staff assigned to work with the Student are [REDACTED].
8. The Student's education file contained an unsigned Consent for Assessment dated August 17, 2022, for a 3-year re-evaluation. The document identified that previous testing and previous academic performance would be the information used to determine the areas to be assessed. The parent who attended the September 26, 2022, eligibility meeting did not recall ever seeing or being given a copy of the Consent for Assessment.
9. The Student's file contained a signed annual IEP dated September 13, 2021, which included a projected re-evaluation date of May 12, 2022. This was for the Student's [REDACTED]. The Student's eligibility category was [REDACTED]. The IEP included a reading comprehension goal, a math goal, an occupational therapy goal, and a behavioral study skills goal.
10. The service grid reflected 720 minutes weekly of special education services to be provided by the special education teacher in the special education classroom from August 30, 2021 through August 31, 2022.
11. The Student was to receive 30 minutes weekly of [REDACTED]. The Optional Statement of Service Delivery section of the IEP included: "Other services will be math, reading, and study skills, plus positive behavior support and will be provided by the special education teacher or a paraprofessional under the direction of the special education teacher." The Least Restrictive Environment (LRE) identified that the Student would be inside the general education environment for 1,200 minutes per week and outside the general education environment for 720 minutes per week.

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<sup>2</sup> A review of the October 18, 2023, Board agenda reflected a first reading of a proposed policy.

12. [REDACTED] section of the IEP, the response to the question of whether the [REDACTED] is “No.” [REDACTED]”
13. Accommodations included reading and/or rereading directions; checking for understanding of directions and main concepts; allowing for breaks as needed, [REDACTED]; text to speech, speech to text, or a scribe; shortened assignments and assessments; verbal assessments if possible or assessments read aloud; supplemented notes; and prompts to stay on task. There were no adaptations to the general education curriculum according to the IEP.
14. In the Written Notice section of this September 13, 2021 IEP, the subsections for “Actions Proposed” and “Actions Refused” were left blank. The box checked for the subsection “Explanation of why actions were proposed or refused” was “Special education services are required in order for the student to benefit from an educational program.” It was noted below that an option that was considered but rejected included “providing a [REDACTED] but that was rejected because [the Student] is able to independently [REDACTED].” Previous testing, current IEP, parent input, and teacher input were listed as the basis of the decision. It was noted that the Student [REDACTED]
15. The Student had an interest [REDACTED] and wanted to [REDACTED]. The Student was not allowed to [REDACTED] or [REDACTED] or any [REDACTED] despite the IEP reflecting otherwise.
16. On [REDACTED] 2022, the Student [REDACTED] the special education resource room. Interviews reported that [REDACTED]. The District’s response was to request the [REDACTED] to [REDACTED] speak with the Student about respect and integrity [REDACTED] perspective [REDACTED]. The [REDACTED] Student’s general education teacher, who was nearby, and the school counselor [REDACTED] and prevent the [REDACTED]. An interview described the initial part of the [REDACTED] which included physical contact<sup>4</sup>, in an attempt to prevent [REDACTED]. The Student [REDACTED]
17. The District alleges that [REDACTED] about the use of a [REDACTED] on the same day, and the District determined those statements [REDACTED]. The District believed that the [REDACTED]

<sup>3</sup> [REDACTED]

“This is an ongoing report that will be edited as reports are submitted and the timeline of events is clarified.” No other [REDACTED] reports were included in the file, and the file is void of any information pertaining to [REDACTED]. That information was shared exclusively through interviews. There were no [REDACTED] reported in 2022-2023 in the physical file, nor were any provided by the District. The [REDACTED] reported the [REDACTED]

- Student had [REDACTED]
18. The Student was [REDACTED]. Interviews reflected that the District was concerned about the [REDACTED]
  19. The District sought [REDACTED] through the [REDACTED] but [REDACTED] was denied [REDACTED]. Interviews reported that the only [REDACTED] was by the [REDACTED] by the District. [REDACTED] required the Student to [REDACTED] did not prevent the Student from [REDACTED].
  20. Following the incident on [REDACTED], the District did not file for a [REDACTED]
  21. The District did not file for a [REDACTED] for a change of placement.
  22. The District did not pursue a [REDACTED] placement.
  23. The District did not [REDACTED] Student.
  24. On [REDACTED] 2022, a meeting was held that included the Student's parents, school psychologist, superintendent, SRO, principal, special education teacher, and the special education director. At the meeting, those present considered the [REDACTED]. They conducted [REDACTED] and made [REDACTED] conclusions, conflating the two meetings.
  25. The District provided a [REDACTED] document titled [REDACTED], dated [REDACTED] 2022. The first question box, on page 1, prompting the review team to "Consider all relevant information," is blank. There is no record as to what information the team considered, as there are no meeting minutes. The second section considers the relationship between [REDACTED]; the team responded [REDACTED] to the question, [REDACTED]. The form prompts, "If yes, explain," but the explanation section is blank. In the third section, the team responded "No" to the question [REDACTED] was a direct result of the District's failure to implement the IEP. It is unclear whether the team reviewed or considered the IEP that was in effect at the time of the incident. In the [REDACTED], the team stated, [REDACTED] but the required explanation section is blank.
  26. The individuals participating in the [REDACTED] 2022, meeting included the superintendent and SRO. During interviews, the SRO said they did not consider themselves a member of the Student's IEP team and did not realize the District considered them as such. The SRO was not familiar with the IDEA definition of special education placement or least restrictive environment (LRE) or what a manifestation determination review (MDR) evaluates and addresses separate and apart from a threat assessment screening.
  27. The District has a template, [REDACTED] which includes 11 yes/no questions, including an inquiry as to whether [REDACTED] warrants the completion of a [REDACTED]

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[REDACTED] The District must continue to provide a FAPE.

[redacted] as determined by [redacted] members of the [redacted] assessment team. Part of the [redacted] form focuses on a [redacted] [redacted] which includes immediate and intervention considerations.

28. The school psychologist filled out the paperwork, including the [redacted] document dated [redacted] 2022<sup>7</sup>. The [redacted] states that the [redacted] occurred first. For a description of the [redacted] the document directs the reader to [redacted] and the special education file but does not otherwise explain the basis of the [redacted] District interviews reflected that the [redacted] [redacted] to the [redacted] intervention with [redacted] as well as the [redacted]

29. The [redacted] dated [redacted] 2022, shows the team responded [redacted] to the following inquiries:

- [redacted]

30. The [redacted] dated [redacted] 2022, shows the team responded [redacted] to the following inquiries:

- [redacted]

31. [redacted] did not warrant the completion of a [redacted]. The Student was determined to be [redacted] based on [redacted] that the Student [redacted]. The District-provided document did not contain the second and third pages of the standard form template, which included [redacted] Plan.”

32. The information in the box for a description of additional circumstances that might [redacted] included comments about:  
*updating the [redacted]; that [redacted] had been conducted; current services and concerns related to the Student’s [redacted]*

<sup>7</sup> The District reported that the contracted school psychologist provides 4 hours of services monthly.

<sup>8</sup> The Student responded [redacted]

concerns endorsed by team members about [REDACTED]; and a current plan to refer to the IEP team for an updated [REDACTED] plan, and updated assessments/evaluation to better determine the Student's present levels of [REDACTED] functioning<sup>10</sup>.

33. A [REDACTED] assessment [REDACTED] was not completed at that time, nor was a preexisting one found in the Student's file. The District reported that staff asked the contracted school psychologist to complete one, but no [REDACTED] ever completed.
34. A District interview reflected that historically, as a child, the Student would [REDACTED] when attending a [REDACTED] program in elementary school in order to work. Interviews reflected that the Student sought [REDACTED] with a [REDACTED] towards [REDACTED] in order to [REDACTED].
35. The SRO is not a District employee. The SRO did not want to participate in disciplining members of the student body. The SRO has not received training in [REDACTED] for students with [REDACTED], including those with disability-related [REDACTED]. The SRO did not believe that they had ever participated in an IEP team meeting, although the record shows that the SRO has been listed as a member of an IEP team.
36. The record includes an Invitation to a Meeting dated September 14, 2022, which indicated that the team would discuss eligibility and the IEP and specifies that the meeting would take place on September 26, 2022.
37. The invitation specified that the purpose of the meeting was to "develop the IEP and determine placement in the least restrictive environment, to review evaluation information and determine eligibility, and review and revise the IEP."
38. The meeting was *not* intended to discuss the need for a [REDACTED] or the development of a [REDACTED]. The invitation included the Student, but [REDACTED] and the Student [REDACTED].
39. The record includes a draft IEP dated September 19, 2022. The draft IEP included 960 minutes weekly of special education services to be provided [REDACTED]. The Optional Statement of Service Delivery section stated that the Student was participating in all academic and special education services [REDACTED] and that the Student's [REDACTED] the core curriculum in science, social studies, reading, English, math, and writing, and that [The Student] also [REDACTED] twice weekly.
40. An Eligibility Report, dated September 19, 2022, and signed by [REDACTED] on [REDACTED] 2022, reflected that the only assessment done was a [REDACTED] for academic performance, which was completed by the special education teacher and which showed [REDACTED] in the area of academics.<sup>11</sup>

<sup>9</sup> There was no [REDACTED].

<sup>10</sup> The record contained none.

<sup>11</sup> A review of the Student's education file produced an [REDACTED] Eligibility Report [REDACTED] which included [REDACTED].

41. The Classroom Observation section was blank. The Results section indicated that the Student's least restrictive environment (LRE) had been moved to [REDACTED] and referenced the written notice for additional information.
42. The eligibility report described the adverse effect on educational performance, stating that the Student [REDACTED] and that these [REDACTED] impact the Student's [REDACTED] impacts the Student's [REDACTED] performance.
43. The Eligibility Report described the Student's need for specially designed instruction in [REDACTED] to help the Student be [REDACTED] successful and further stated that the Student also needed [REDACTED] to help them [REDACTED] and [REDACTED].
44. Interviews reflected that the Student's [REDACTED] placement was decided by the District outside of an IEP meeting following the District's unsuccessful attempt to [REDACTED]. Interviews reflected that the primary concern was for [REDACTED] based on the Student's [REDACTED].
45. The District's Policy [REDACTED] states:  
[REDACTED]
46. Eligibility and IEP team meeting participants at the meeting on [REDACTED] 2022, included a parent, the special education teacher, the contracted school psychologist who appeared virtually, and the district representative who appeared telephonically. A general education teacher did not participate in the meeting. There was no excusal form in the file, nor was there written input from a general education teacher. While there are no meeting minutes, it appears that the eligibility determination and IEP development both took place during a single meeting on [REDACTED] 2022. The file did not contain a written notice for this meeting.
47. Interviews described the [REDACTED] plan as [REDACTED] that would [REDACTED] on a quarterly timeline. The Student would be [REDACTED] and the expectation would be that the Student would be [REDACTED] by the end of the year. However, interviews also reflected that a District official was clear that [REDACTED]. A District interview reflected that if [REDACTED] required by the District, the Student would [REDACTED] but the Student was [REDACTED] successfully. The District



pointed to the [REDACTED] as contributing to the [REDACTED] success in meeting the IEP goals.

48. The draft IEP dated [REDACTED] 2022, did not outline [REDACTED] plan.
49. On [REDACTED] 2022, the [REDACTED] was amended by the contracted school psychologist via a letter. The [REDACTED] template was not used, and there was no [REDACTED]. The Amendment was based on information provided to the District by the [REDACTED] which had been obtained from [REDACTED] another [REDACTED].
50. Prior to [REDACTED] 2022, the Student was [REDACTED]. The information that the Student may have [REDACTED] was the basis for the [REDACTED] team to conclude that the Student was [REDACTED],” and, [REDACTED] consult with [REDACTED] school special education team to determine next steps in [the Student’s] placement. [REDACTED] did not involve any individual associated with the District or the student body.
51. The parents [REDACTED] the information in the Amendment [REDACTED] to make a special education placement decision. The Student was not [REDACTED] for the [REDACTED]. The parents maintained that the information was [REDACTED] by the District to [REDACTED] the Student [REDACTED].
52. The Written Notice dated October 31, 2022, indicated that the District received a [REDACTED] from [REDACTED] because the Student was [REDACTED] pursuant to the above-referenced [REDACTED].
53. The IEP was amended on [REDACTED] 2023, without convening an IEP team meeting. It was signed by a parent and the District [REDACTED], 2023. The amendment details read:  
*The team met to make a plan for [the Student’s] [REDACTED] gen ed now that [the Student] has [REDACTED] [the District]. [The Student’s] IEP is being amended to reflect [...] new service time. [REDACTED]*  
*The team considered and rejected keeping the Student’s [REDACTED]*  
*[REDACTED] nder other factors, the information included that the Student [REDACTED]*
54. On February 6, 2023, an email was sent from the [REDACTED] to the District notifying the District that the Student was [REDACTED] and that for the next [REDACTED]. The Student [REDACTED]. The email clarified that the Student would only have [REDACTED]. The email inquired about [REDACTED].

- [redacted] notified the District that the Student would be eligible to [redacted]. The email was circulated among District staff on [redacted] 2023.
55. MobyMax’s website states that it offers a web-based curriculum that “specializes in finding and fixing missing skills, creating a unique learning path for each student that is ideal for special education,” and “MobyMax is the only automatic IEP tracking system available for Special Ed teachers. Teachers set standards-based objectives and MobyMax automatically assigns the necessary skills and practice. Even better, MobyMax automatically tracks the student progress against the goals set.”
56. On February 16, 2023, the District and the [redacted] exchanged emails regarding the Student’s program and [redacted]. The District’s email stated: [t]o be clear, [the Student’s] [redacted] plan does not have [the Student] [redacted] school this year or next until we can get [redacted]
57. On February 24, 2023, the [redacted] notified the District of system errors and trouble signing into the Student’s MobyMax account. Following receipt of the email, the District emailed parents that the Student was not [redacted] and that “we are no longer going to [redacted] until [the Student] completes [redacted]
58. On March 7, 2023, a meeting was held to amend the IEP. The document is not signed and does not indicate whether Procedural Safeguards were offered, accepted, or declined. The area to identify IEP team members invited was blank. The services on the amended IEP were for the time period of March 7, 2023, to September 18, 2023. [redacted] assessment [redacted] discussed above. The service grid reflected [redacted] minutes per week of special education services to be provided [redacted] by the special education teacher. Other services included [redacted] minutes of [redacted] special education services by a [redacted] specialist. The Student’s day consisted of [redacted] hours per day to [redacted] core curriculum in science, social studies, reading, English, math, and writing. The Student was expected to [redacted] with the special education teacher or a paraprofessional under the direction of the teacher [redacted]
59. A [redacted] goal identified a need for specialized instruction and support with [redacted] strategies and [redacted] skills. The baseline data indicated that the Student [redacted] and [redacted] % of the time. The annual goal reflected: “[g]iven a [redacted] [the Student] will [redacted] solve [redacted] % of the time in 3 consecutive trials by September 18, 2023.
60. The section of the IEP asking if the Student had “the opportunity to participate in [redacted] and [redacted] with nondisabled students” was marked “Yes.” Interviews reported that the Student was excluded from all [redacted], including [redacted].
61. The [redacted] section of the IEP provides that the Student’s [redacted], and there is a [redacted] [redacted], including positive behavior supports. [redacted] form includes preventative strategies, teaching [redacted], and responding with [redacted] strategies. The area of [redacted] form that would identify the teaching [redacted] was left

blank. [redacted] appears to be designed for [redacted] learning since it refers to [redacted]

were to be tracked in [redacted] District's student information [redacted]

62. The [redacted] described the following:

- [redacted]
- [redacted]
- [redacted]

63. Meeting notes reflected the following placement options were discussed at the IEP meeting:

- Option 1* – [redacted]
- Option 2* – [redacted]

64. Accommodations included asking for help in [redacted] or “get help [redacted]

65. The Student and parents reported that the [redacted] entire academic program for the majority of the relevant timeframe of this investigation was [redacted] with the exception of the time the Student received [redacted]. The Student reported that [redacted] check in with the special education teacher [redacted] but there was no direct instruction from the District. [redacted] stated that they facilitated the Student's education [redacted]. The [redacted] kept a [redacted] log of when the Student worked on a subject, at what time, and the duration.

66. District interviews reflected that the Student's [redacted] attendance and work completion was [redacted]. The Student's education through the District was periodically [redacted]

[redacted] There were times when the Student did not log [redacted]

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<sup>12</sup> The District provided an Invitation to a Meeting dated outside of the complaint investigation timeline, but this document and the meeting are discussed due to their relevance to the Corrective Action Plan. The invitation was blank in terms of salutation, location of the meeting, and purpose. Page 3 of 20 of the IEP was titled [redacted] and identified the following team members: special education director, administrator, and school psychologist. The parents were not listed as team members. There is no listed general education teacher. The [redacted] was identified as being based on the [redacted] Assessment from a report dated [redacted] 2022, almost a year prior to the invitation. The rationale for the [redacted] states, “[p]er the [redacted] 2022 [redacted] assessment, the team has determined that [the Student] [redacted]. Under “Summarize data or results from the student's FBA or other assessments,” the document reads, “Per the [redacted] 2022 [redacted] assessment, [the Student] has [redacted] so least restrictive environment, at this time, will be [redacted] instruction. [redacted] However, the District did not conduct an [redacted] and there was no specific updated information to support such a claim. The Student was not [redacted] at the time of the invitation [redacted]. It does not appear that the school psychologist interviewed the Student or conducted a thorough review of records. Step 7 on page 7 of 20 is the [redacted] “If [the Student] [redacted] An unsigned and predominantly blank, but with some goals, IEP followed.

67. The Student's academic progress was monitored [REDACTED], using the [REDACTED] program. The record included a document dated October 17, 2023, which appears to track the Student's progress for different time periods, including October 2022 to September 2023. From August 17, 2023, to September 9, 2023, the usage varied from [REDACTED] per day. Skills [REDACTED] varied from [REDACTED].
68. Grade level progress for [REDACTED] reflects an [REDACTED] from September 27, 2022, through the end of August 2023, at which point the Student [REDACTED] at the beginning of September and remained [REDACTED] through October 17, 2023. Between August 1 (year not identified) and October 17, [REDACTED] was [REDACTED] and [REDACTED] skills [REDACTED] from the beginning of September 2023 through October 17, 2023. For [REDACTED] from October 2022 to August 2023, the student's grade level [REDACTED] the following month. The overall grade level [REDACTED] for math from October 2022 until August 2023 was [REDACTED]. From August 2023 to September 2023, the Student [REDACTED] grade level.
69. A progress report was included in the file. The progress report measured the Student's progress on the amended IEP dated March 7, 2023. The Progress Codes were valued at numbers 1-4. The Progress Projection Codes were valued at letters A and B; the progress reflected period 1, dated May 22, 2023. The [REDACTED] goal was given a value [REDACTED] which was "in progress." No Progress Projection Code was indicated. The area for criteria and comments was entirely blank. The same information was contained for the [REDACTED] goal, as well as the [REDACTED] goal. The Student's parents do not recall receiving progress reports. It is unclear how the goal was measured.
70. A review of the Student's report card for the [REDACTED] the 2022-2023 academic year reflected [REDACTED]: [REDACTED]. The Student's attendance reflected [REDACTED] for Semester 2, [REDACTED].
71. [REDACTED] report was logged by the District on [REDACTED] 2023. The description of the [REDACTED]. The District alleged that the Student [REDACTED]. The Student and the Complainant deny [REDACTED]. Interviews reflected that the Student was [REDACTED] September 11, 2023, through September 18, 2023. The Student [REDACTED] and could no longer access educational services [REDACTED].
72. The Student was not permitted to [REDACTED] during the relevant time period of this investigation, nor was the Student permitted to attend school-sponsored [REDACTED] or other extracurricular activities, even if accompanied by a family member or [REDACTED].
73. An interview reflected that the Student has been participating in [REDACTED] with a focus on [REDACTED]. It was reported that the Student has demonstrated [REDACTED] attending this program, with a focus on [REDACTED] sense of belonging. The Student is learning [REDACTED] and [REDACTED] practices. The interview reflected that there is doubt as to whether the Student [REDACTED].

- ██████████ The interview reported that when the Student ██████████ the Student responds well.
74. Following the ██████████ September 11, 2023, through September 18, 2023, and for approximately the past month, the Student has been provided services ██████████ with a ██████████ by the District and has training in Positive Behavior Intervention Strategies (PBIS) and intensive ██████████ interventions, including ██████████ techniques. It was reported that the Student is ██████████ with a positive attitude, and has participated in school ██████████. The ██████████ described success using the holistic ██████████ framework. ██████████ support the well-being of children ██████████ prevention strategies that can reduce the likelihood ██████████.
75. The ██████████
76. District interviews reflected an inconsistent view of the Student's ██████████ staff reported the Student was ██████████ and that they were not ██████████ some interviews reported that the Student could be s ██████████ in the school setting with the appropriate ██████████, including having a ██████████ person, a ██████████ adult," a ██████████ supervision and monitoring of the ██████████ technology and media, and the teaching of ██████████ skills, as well as a proper ██████████ plan, ██████████. Interviews reflected that ██████████ with the Student is crucial to success and that the Student ██████████.
77. Other District interviews reflected fear that the Student ██████████ This was based on ██████████ information that the Student ██████████ was in Grade ██████████
78. District interviews acknowledged a shortage of needed resources within the District, including access to ██████████ services, ██████████ other appropriate related services.

### *Analysis and Decision*

- 1. Did the District ensure that special education and related services, including specially designed instruction, were made available to the Student in accordance with the Student's Individualized Education Program (IEP)? [34 CFR § 300.34, 34 CFR § 300.323, 34 CFR § 300.39]**

Under 34 CFR § 300.39(a)(1), "special education" means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability. Specially designed instruction is defined as adapting the content, methodology, or delivery of instruction to address the unique needs of an eligible student that results from the student's disability and to ensure

access to the general education curriculum so that the student can meet the education standards of that district that apply to all students.

“Related services” include transportation and such developmental, corrective, and other supportive services required to assist a child with a disability to benefit from special education. These services include psychological services, recreation, including recreation therapeutic services, counseling services, social work services in schools, and parent counseling and training. 34 CFR §300.34.

Once a child is determined to have a qualifying disability under the IDEA, the District is obligated to develop an appropriate IEP, and the IEP team is responsible for determining what special education and related services are needed to address the child’s unique needs.

The IEPs provided to the Student during the past 12 months were inadequate to meet the Student’s needs. A further discussion of the District’s failure to provide the Student with specially designed instruction is set forth below in Allegation 2.

The District did not discuss or offer related services to the Student, such as [REDACTED] services, [REDACTED] or [REDACTED] services, despite the need as evidenced by such factors as the Student’s [REDACTED], participation in the [REDACTED] program, the results of the [REDACTED] the need for outside [REDACTED] and participation in the [REDACTED] group. There were no [REDACTED] invited to or in attendance at IEP team meetings. The contracted school psychologist’s involvement in the IEP team meetings was limited, and besides the [REDACTED], the contracted school psychologist’s input is not evidenced in any documents.

Interviews reflected that the District did not offer the needed services, in part because the District is [REDACTED] and there is a [REDACTED] shortage of needed resources to support [REDACTED] needs. However, the lack of resources is not a defense to the District’s failure to provide the specially designed instruction and related services the Student needs in order to access a FAPE. In this case, and in light of the Student’s [REDACTED] needs, which the District did not adequately address but instead used as a means of excluding the Student [REDACTED] and which framed the Student’s LRE, the District’s failure to offer special education and related services resulted in a denial of FAPE.

The allegation is **founded**, and the District is **out of compliance**.

**2. Did the District properly develop, review, and revise the IEP in compliance with the Individuals with Disabilities Education Act (IDEA) and provide written notice to the parents when changing or refusing to change the educational placement of or provision of FAPE to the Student? [34 CFR § 300.324] and [34 CFR § 300.503]**

The IDEA requires a district to identify a student’s needs and develop an IEP with specific, measurable goals designed to enable the Student to make adequate progress in the general education curriculum. Specifically, the District’s offer of FAPE by way of an IEP must ensure that the IEP is reasonably calculated to enable a student to make progress in light of their

circumstances. To do so, the IDEA requires districts to use a variety of assessment tools and strategies, including information provided by the parent, to identify the functional, developmental, and academic needs of the student in the development, review, and revision of the IEP. The development, review, and revision of the IEP is a comprehensive and collaborative IEP team process. The Idaho *Special Education Manual* (2018, p.40) mandates that “the evaluation shall be full and individualized and sufficiently comprehensive to identify all of the child’s special education and related service needs, whether or not commonly linked to the disability category.”

On September 26, 2022, the IEP team met for an eligibility meeting. The eligibility report dated September 19, 2022, reflected that the sole assessment completed by the District was a [REDACTED] for academic performance. The District did not use a variety of assessment tools and strategies, including information provided by the parent, to identify the functional, developmental, and academic needs of the student in the development, review, and revision of the IEP. This limited evaluation failed to evaluate the Student in all areas of suspected disability.

The Student had previously qualified under [REDACTED]. A review of the Student’s education file showed a history of [REDACTED]. On [REDACTED] 2022, the Student had [REDACTED]. At that time, the Student [REDACTED]. This resulted in [REDACTED], [REDACTED] (R). The [REDACTED] found the [REDACTED] Student’s disability. Despite the Student’s [REDACTED], the District failed to conduct a [REDACTED] assessment [REDACTED] as part of the evaluation process. Although the IEP team members were aware of the [REDACTED], the information was not properly incorporated into the eligibility review and IEP development process or considered by the IEP team in order to ensure the Student was offered a free appropriate public education.

On September 26, 2022, the team determined that the Student qualified for special education eligibility under the category of [REDACTED]; however, the eligibility report is void of any data-based information that addresses this disability category. There is no nexus between the information contained therein and the disability category. The section for observation was entirely blank due to the fact that the Student was not [REDACTED]. The parent input section indicated that the Student needed help with [REDACTED]. The historical background was three sentences long and spoke to generalized struggles, [REDACTED] and the Student [REDACTED]. The contracted school psychologist was part of the IEP team but did not conduct any assessments. The evaluation team assessment focused solely on [REDACTED]. The team’s description of adverse effects was generalized, stating that academic struggles lead to [REDACTED], which lead to an impact on academic performance. The need for specially designed instruction stated that the Student’s needs were in [REDACTED] also needs [REDACTED] supports to help... be [REDACTED] productive at school.”

The draft IEP dated September 19, 2022, included [REDACTED] goals. The goals were inadequate considering the Student’s significant [REDACTED]

needs and were not reasonably calculated to allow the Student to make appropriate progress in light of the Student's circumstances.

Throughout the 2022-2023 school year, failed to provide the Student FAPE. The Student had , was not , was not meetings, was not , and had . The Student progress toward the IEP annual goals. There was little to no direct instruction provided to the Student. Instead, the District relied almost exclusively on MobyMax for the majority of the 2022-2023 school year. There was a and the IEP team failed to meet its responsibility to hold subsequent IEP meetings to review and revise the Student's IEP. The January and March 2023 IEP amendments failed to fully consider the Student's specific, unique needs.

Further, the record did not contain a written notice for the draft IEP dated September 19, 2022, which resulted in the District failing to inform the Parent of its offer of FAPE and failing to provide Procedural Safeguards that could be used in the event the Parent disagreed with the District's offer.

The District failed to develop and offer an appropriate IEP to meet the Student's needs and failed to offer a free appropriate public education.

The allegation is **founded**, and the District is **out of compliance**.

**3. Did the District provide periodic progress reports towards measurable goals? [34 CFR § 300.320]**

The IDEA requires that a student's progress towards meeting annual IEP goals be measured, that the IEP include the progress monitoring schedule, and how and when a parent will be informed of such progress towards goals, including the extent to which progress is sufficient to enable the student to achieve the goals by the end of the IEP time period. The minimum threshold of frequency of written progress statements is concurrent with the issuance of report cards, but the specific manner and format in which a child's progress is reported is within the District's discretion.

The Student's September 26, 2022 IEP, as well as amended IEPs, contained information to meet the threshold requirement under IDEA. Each goal explained how progress would be monitored, how often, and that progress reports would be provided to parents each semester. The record included a progress report pursuant to the March 7, 2023 IEP that monitored the Student's progress from March 7 through the end of the school year, May 22, 2023.

While each goal explained how progress reports would be provided to the parents, the actual progress information provided was lacking. The progress report dated May 22, 2023, marked each goal with a value of 2, which indicated that the goal was "in progress." There was no A or B value assigned to any of the goals that would allow a reader to determine if the Student was on track to reach the goal in the given timeframe. The area for criteria and comments was entirely



blank. The progress reports in this record do not give any indication as to how the Student is progressing toward annual IEP goals.

Although no other progress report was included in the record for the 2022-2023 school year, the Student [REDACTED]

[REDACTED] Therefore, the District would not have been responsible for implementing the Student's IEP and issuing a progress report [REDACTED]

The Student's parents said they never received any progress reports for the 2022-2023 school year, although [REDACTED] the District would have been responsible for providing was the progress report dated [REDACTED] 2023, due to [REDACTED]. Even if the Student's parents had received the progress report, the report failed to provide adequate information to the parents regarding the Student's progress toward meeting annual IEP goals.

The allegation is **founded**, and the District is **out of compliance**.

**4. Did the District ensure the parent was involved in all decisions related to the Student's placement? [34 CFR § 300.114, 34 CFR § 300.116, 34 CFR § 300.501(c)]**

The IDEA regulations reflect the central role that parents play in the IEP development process, including placement decisions. A District violates a parent's right to participate in the IEP team process when a District independently develops an IEP before a meeting and then makes it clear to the parents that their input is either not welcome or will not effect change.<sup>13</sup> Simply adding the word "draft" to a completed IEP, which included definitive service minutes and firm placement decisions, does not shield a district from a finding of predetermination, unilateral decision-making, and prevention of parental participation.

In this matter, the facts establish that parental participation was stifled in all decisions related to the Student's IEP development, including placement. The Student's [REDACTED] placement and access to education [REDACTED] were predetermined by the District. These decisions were not the result of a comprehensive evaluation and a collaborative IEP team discussion and decisions where options were explored. Parents were not given the opportunity of equal participation.

The September 19, 2022 IEP draft predetermined placement, which was unilaterally decided by the District prior to the eligibility meeting and finalizing the IEP on September 26, 2022. Parents were presented with the eligibility report and completed draft IEP at the September 26, 2022 meeting. The date on the September 19, 2023 draft was never updated, and the parent's signature of September 26, 2023, is on the September 19, 2023 document. There is nothing in the record to suggest that despite the September 19, 2022 IEP supposedly being a draft, there was a meaningful discussion on September 26, 2022, to explore the formulation of goals, service minutes, and the Student's needs [REDACTED] or placement options

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<sup>13</sup> *W.G. v. Board of Trustees of Target Range School District No. 23*, 18 IDELR 1019 (9<sup>th</sup> Cir. 1992), *superseded by statute on other grounds, as recognized in L.M. v. Capistrano Unified School District*, 109 LRP 17056, 556 F.3d 900 (9<sup>th</sup> Cir. 2009).

that included [REDACTED] in the general education setting. There was nothing in the record that showed that the District discussed supplementary aids and services that would enable the Student to be educated in a less restrictive environment. No written notice was in the record corresponding with the September 2022 IEP team meeting.

District interviews reflected that there was an unwritten administrative directive that [REDACTED] [REDACTED]. This directive was outside of, and not part of, the eligibility and IEP team decisions. Staff interviews explained that the District was unable to obtain [REDACTED] [REDACTED] and because the District was unable to [REDACTED] it used special education to [REDACTED] [REDACTED] exclude the Student [REDACTED].

Additionally, parental participation was also hindered during the August 25, 2022 [REDACTED] when the District included both the superintendent and SRO, who were not relevant members of the IEP team with knowledge or special expertise regarding the Student. While the [REDACTED] does not serve to determine a Student's placement, the facts establish that the District's decision to place the Student in [REDACTED] was born from that meeting. [REDACTED] was conflated with the [REDACTED].

Finally, a further review of the record demonstrates an ongoing obstacle to meaningful parental participation in placement decisions. Emails during the month of February 2023 between the District and the [REDACTED] clearly stated the District had no intention of [REDACTED] specifically stating "[t]o be clear, [REDACTED] plan does not have [REDACTED]."

District interviews reflected a continuing [REDACTED] [REDACTED] which has continued to remain the primary influence of the decision not to [REDACTED].

The denial of meaningful parental participation amounts to a substantive denial of FAPE.

The allegation is **founded**, and the District is **out of compliance**.

### **Corrective Action Plan**

The District is out of compliance in four (4) of four (4) allegations and is in violation of the IDEA. The following corrective actions are ordered by the Idaho Department of Education to address the findings of noncompliance addressed in this report.

#### **Staff Training**

##### **1. SESTA Training**

The District shall participate in professional development training with Idaho Special Education Support and Technical Assistance (SESTA) prior to **March 1, 2024**, including the following:

- A. Superintendent

- B. Special education director
- C. Any past and current special education staff currently employed by the District (case managers, paraprofessionals), related service providers (SLP, OT, PT, BI), support staff (classroom aides, detention monitor, SRO), general education teachers, and coaches who were or are involved or included in the development and implementation of any aspect of the Student's eligibility and IEP
- D. Other staff, identified by the District, SESTA, or the Idaho Department of Education prior to the training, whose participation in this training could benefit the Student.

The professional development training shall consist of the following topics

- Evaluation Process
- Designing IEPs to meet the unique needs of students, including
  - Specialized instruction
  - Related services
  - Least Restrictive Environment (LRE)
    - Placement considerations
    - Continuum of services
  - Positive behavior supports and interventions
- Prior Written Notice requirements
- Progress monitoring and reporting
- Parent Participation
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- Benefits of IEP and eligibility meeting notetaking
- Team meetings
  - Invitations to
  - Mandatory members
  - Excusal requirements
- Confidentiality of education records
- Idaho requirements related to [REDACTED]

2. **Training Documentation**

The District will consult with SESTA and the Idaho Department of Education Dispute Resolution Coordinator to determine the appropriate format for the training. **It is the District's responsibility** to reach out to the SESTA Coordinator to set up training dates, times, and topics as soon as possible. Please remember that the SESTA Coordinator will need at least three weeks ahead of the training to prepare adequately. Following the training, the District will provide the agenda for the training, the training materials presented, and the sign-in sheet with original signatures of the participants to the Dispute Resolution office no later than **(TBD)**. The District shall upload the documents to the secure server and notify the Dispute Resolution office that the documents have been uploaded.

3. **Six-Month Follow-Up**

By **August 2024** (approximately six months after the SESTA staff training ordered

above), the District's Special Education Director and Superintendent shall meet with the SESTA Coordinator to review the progress and implementation of the training outlined above and discuss any next steps.

**Note:** It is the District's responsibility to initiate contact, allowing adequate time for calendaring, with the SESTA Coordinator who provided the staff training.

The District shall upload the meeting minutes from the six-month follow-up to the secure server **within seven (7) calendar days** of the meeting and **no later than August 30, 2024** (whichever date is earlier), providing same-day notification of the upload to the Dispute Resolution office.

### **Facilitated Meetings**

#### **4. Special Education Meetings**

The District shall convene several legally constituted special education meetings, as defined by the IDEA and facilitated by an Idaho Department of Education assigned facilitator. The purpose of the meetings includes:

- Update and *expedite* assessments needed to ensure a comprehensive evaluation that considers the unique needs of the Student
- Develop appropriate IEP goals and services for the Student in light of their current circumstances
- Consider the possible need for [REDACTED] assessment [REDACTED] and [REDACTED] plan [REDACTED]
- Development of a plan for providing compensatory services

The first meeting for the team to determine appropriate assessments shall be convened no later than **December 8, 2023**. An *expedited* eligibility meeting shall take place no later than **January 19, 2024**.

The District shall contact the Dispute Resolution office **at least 10 days prior to the first team meeting** to schedule a facilitator.

The special education team shall include an impartial **school psychologist assigned by the Idaho Department of Education and funded by the District**. For the purposes of this CAP, the Department-assigned school psychologist will function as a member of the special education teams and will support them in determining appropriate assessments, conducting and/or coordinating needed assessments, providing written results for the eligibility report, and recommendations regarding eligibility determination and special education goals and services.

The District shall enter into a contract with and be financially responsible for all costs associated with the services conducted by the Department-assigned school psychologist (such as time, travel, accommodations, and other reasonable costs).

## **5. Meeting Documentation**

No later than 14 days after the completion of each special education meeting, the District shall upload copies of the following documents to the secure server and notify the Dispute Resolution Coordinator:

- Invitation to the meeting
- Any updated special education documents, such as eligibility report, IEP, BIP
- Prior Written Notice of all decisions made
- Meeting Notes

## **Policy Adoption**

### **6. Documentation of Adoption:**

The District shall provide a copy of the Board Meeting Minutes to the Dispute Resolution Coordinator that demonstrates the District's Board has adopted the Idaho *Special Education Manual* (2018) and a restraint and seclusion policy by **March 15, 2024**.

## **Compensatory Services:**

### **7. Team Meeting to Develop Proposal**

Following the updated eligibility meeting and no later than **February 9, 2024**, the team shall meet to develop a plan for compensatory services. The team shall include a legally constituted IEP team, a Department-assigned facilitator, the impartial Department-assigned school psychologist, and the District's assigned SESTA coordinator.

Based on the information from the updated eligibility report, the proposed Compensatory Service Plan shall consider any and all deficient services missed by the Student since September 19, 2022 (not including the time the Student was not enrolled in the District) and include:

- Areas of specialized instruction to be provided
- Proposed dates and times that work for the Student and their family (after school, summer, Fridays)
- Location of services, taking into account where the Student currently resides (the District can consider entering into an agreement and compensating another district or Department-approved independent contractors to provide the services)
- Proposed setting of services (such as an alternative school or community-based setting)
- Required qualifications of service providers (must be highly qualified to provide the specific services)
- A reasonable number of hours to be provided, taking into account the amount of education time missed as well as the desire of the family to participate
- The expected cost of the proposed Compensatory Service Plan, including the cost for contracted services.

**8. Submission of Compensatory Services Proposal for Approval**

The Compensatory Services proposal shall be submitted to the Idaho Department of Education’s Dispute Resolution office by or before February 16, 2024, for approval. *It is the District's responsibility to inform the Dispute Resolution office that the proposal is ready for review.*

Once approved, the District shall make the compensatory services available to the Student within 14 days.

Student absence or refusal of the parent to make the Student available shall result in a waiver of service scheduled for that day. Provider absences must be rescheduled. Any compensatory services declined or not utilized by **October 15, 2024**, shall be deemed waived, provided the District demonstrates it has made a good faith effort to provide all compensatory services in a timely manner.

**9. Compensatory Services Log Submissions**

Logs of compensatory services provided to date shall be submitted to the Dispute Resolution office no later than **April 5, May 15 and August 15, 2024**; a final log shall be submitted at the completion of services and **no later than October 30, 2024**. The District shall upload these documents to the secure server and notify the Dispute Resolution office at the time of the upload.

This Final Report marks the end of the Complaint Investigator's involvement in this matter. All future inquiries should be directed to Kimberli Shaner, Dispute Resolution Coordinator, Idaho Department of Education.

Dated this 17<sup>th</sup> day of November, 2023, by:

/s/

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COURTNEY WUCETICH  
Complaint Investigator

Accepted by:

/s/

\_\_\_\_\_  
CHYNNA HIRASAKI  
Special Education Director, Idaho Department of Education