

- I. Twelve parents of students in the Salem-Keizer School District (District) filed an appeal with the State Superintendent of Public Instruction, Oregon Department of Education (ODE), on February 1, 1994, under the authority of OAR 581-22-805. 1 The complaint alleged violations of OAR 581-22-403, Education of Academically Talented and Individually Gifted Students. 2 The complainants' allegations are described in the letter of complaint included as Attachment A. The complaint was amended by the complainants on June 1, 1994, in a letter to Kathryn Wells Murdock which is included in Attachment B.

The following report addresses Allegations 2 through 5 of the complaint including the amendments of June 1994. Allegation 1 will be addressed by ODE under separate cover. The ODE conducted the investigation using the following standards:

- A. OAR 581-22-403 was used as extant in February 1994. This rule was revised by the State Board of Education in February 1995.
- B. OAR 581-22-403 did not contain specific documentation requirements. Because the complaint alleged that the District failed to implement certain requirements, the ODE investigation requested documentation from the District that the District did implement the requirements. Where the District could not supply documentation that implementation did occur, the ODE was not able to confirm that the requirements were met.

- II. METHODOLOGY: ODE staff and field representatives selected by ODE from Oregon school districts conducted an investigation of the allegations in two phases: file review and interviews.

- A. File Reviews: First, the investigation team comprised of seven field staff 3 and two ODE staff, reviewed 251 student records using the file review form included as Attachment C.

1. Selection of Files: The 251 files were randomly selected from a Talented and Gifted (TAG) program computer listing supplied by the District. This was done by selecting every seventh student from the listing.

In secondary schools with larger populations of students, additional students were selected because the random selection resulted in a number of students that did not fairly represent the size of the schools. The selection of additional students for these schools was also done by randomly selecting names from the school listings.

2. Review Process and Criteria: The file reviews were conducted January 17-20, 1995. Each file was reviewed by the team using the file review form included as Attachment C. Team members determined if each student's

records contained documentation of :

- a) assessments conducted to determine the student's

level of learning and rate of learning
(Item 1, Attachment C);

- b) the use of assessment data for providing programs and services (Item 2, Attachment C);
- c) the types of programs and services (modifications and adaptations) provided the student (Item 3, Attachment C); and
- d) the opportunity provided the parents of the student to participate in the selection of programs and services (Item 4, Attachment C).

B. Interviews: From the 251 files reviewed in January 1995, ODE staff selected 31 students for further investigation using an interview process.

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1. Selection of Students: The students were selected based on referrals by the team conducting the file reviews. The team members referred 66 students based on the criterion that the referred students presented an opportunity to collect information from interviews that would address the complaint issues.

Thirty-one students were selected by ODE staff in collaboration with District staff by selecting students who represented each of the District's areas, and then adding additional names for larger schools. Of the 31 interviews scheduled, 26 were used as a basis for this report. Five interviews were not included in this report because of incomplete information or documentation on the interview form. In all, over four hundred pages of narrative interview data were collected

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during the interviews.

2. Interview Process: The interviews were conducted from March 16-17, 1995. Each interview was conducted by the team using the interview forms included as Attachments

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and E. Team members determined if and how:

- a) Assessments of level of learning and rate of learning were conducted for the student (Question 1, Attachment D);
- b) Parents were provided an opportunity to participate in the selection of programs and services (Question 2, Attachment D);
- c) Academic areas were identified for programs and services based on the assessment information (Question 3, Attachment D);
- d) Programs and services (modifications and adaptations) were designed for the student that address the assessment information (Questions 4 & 5, Attachment D);

- e) Assessment methods used on an on-going basis to evaluate student progress were modified or adjusted to take into account student rate of learning (Question 6, Attachment D);
- f) The parents were aware of the programs and services provided their child (question 1, Attachment E 5); and
- g) The parents were involved in determining the programs and services being provided their child (Question 2, Attachment E).

- 3. Students interviews were conducted as part of the interview process. These interviews probed the students' understanding of the programs, and services they were receiving, the level of ease or difficulty of these programs, and what services they would suggest to make subjects more challenging. This information is used in two interviews to substantiate district compliance. The information was not used to establish the District's failure to comply.
 - 4. Progress reporting information collected as a part of the interviews is not used in determining the District' compliance.
 - 5. Interview information described in the findings refer t interview information from District staff unless otherwise indicated.
 - 6. The results of the file reviews and interviews address the District's level of implementation of OAR 581-22-40
- The level of implementation for any individual student in the District cannot be inferred from these findings.

III. FINDINGS for Allegation 2:

Allegation - "The special educational program and service options identified in the District's TAG plan are neither available nor applied consistently throughout the District."

This allegation was amended in the June 1994 letter as follows:

"... the special educational program and service options identified in the District's written plan are insufficient in type and application to [meet] the needs of all children identified as eligible for TAG."

A. ODE finds that the District is in compliance with OAR 581-22-403(2) in relation to the allegation that the

programs and services described in the District's written plan are insufficient in type and application. The administrative rule requires that the District develop a District plan for programs and services. The administrative rule does not require

that each school use all, or the same, programs and services options described in the District plan, or that a specific type or types of programs and services be available.

OAR 581-22-403(2) requires that each student be assessed for his/her level of learning and accelerated rate of learning and the programs and services be used that address the advanced level and accelerated rate of learning. Each building, therefore, is required to implement programs and services options needed, but is not required to implement the same options. Each school may use a different combination of the programs and services option described in the District plan, as long as the individual student need for advanced level of learning and accelerated rate of learning are addressed.

Likewise, the District, or an individual school, may need to implement a programs and services option that is not described in the District plan because the individual needs of a student for advanced learning or accelerated rate of learning is not addressed by the options in the District plan.

- B. The District has a written District plan for programs and services, and each school has developed a building plan for implementing the District's plan and the plans meet the requirements in OAR 581-22-403.
- C. ODE finds that the District is not in compliance with OAR 581-22-403(2) concerning the application of programs and services for all identified students. 6 In 68 of the 251 files reviewed (27%), the District did not document the programs and services that students were provided.
- D. In the interviews conducted, the District did not document, and could not describe, programs and services in the academic instructional areas for three students (12%). (This data differs from that described under Allegation 4, following, in that no programs and services were provided these students. Allegation 4 data addresses whether the programs and services provided students addressed assessment information on students' level and rate of learning.)

IV. FINDINGS for Allegation 3:

Allegation - "For the purposes of establishing the need for special educational programs and services, the [District] lacks a standard procedure for determining:

1. the assessed level of learning for each TAG identified student in all curriculum areas; and
2. the accelerated rates of learning for each TAG identified student in all curriculum areas."

This allegation was amended in the June 1994 letter as follows:

"...the District does not assess each individual TAG student's :

1. level of learning in all curriculum areas; and
2. accelerated rates of learning in all curriculum areas.

A. ODE finds that the District is in compliance with OAR 581-22-403(2) concerning the District's implementation of a

standard procedure for assessing level of learning and rate of learning as alleged in the February 1994 appeal. The rule does not require that a District have a standard procedure that it implements with all student in the District schools, but that each student be assessed. Assessment instruments and/or strategies will vary depending on the academic area being assessed and the individual characteristics of each student.

The District, however, must conduct an assessment to identify each student's level and rate of learning in the academic instructional program as alleged in the June 1994 amendment to the allegation.

B. ODE finds that the District is not in compliance with OAR 581-22-403(2) concerning the assessment of each student's level of learning and accelerated rate of learning. ODE staff did not find sufficient or consistent records of assessments in the file reviews and interviews. Data gathered concerning the assessment requirements are as follows:

1. File reviews: The results of the file review indicate that the student records did not contain documentation of assessments for rate of learning and level of learning (See Table 1.)
2. Interviews: Interviews with District staff indicate that the District did not record assessments of level of learning and/or rate of learning in six of the 26 interviews conducted. Assessments for level of learning were documented in 81% of the interviews conducted, but assessments of rate of learning were documented in only 50% of the interviews conducted. (See Table 2.)
3. Because assessments were not recorded, the District cannot demonstrate that the required assessments were conducted.
4. The District's procedures for documenting assessment information for determining level and rate of learning is, in part, the cause for the ODE finding. When file reviews and interviews were scheduled, District staff were asked to provide all records of assessment information. The records available in the files were significantly less demonstrative than the records provided by staff during interviews.

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In some cases, where records were not provided by staff during the interviews, verbal descriptions of assessment

practices were provided and, in a few of these cases, the verbal descriptions were substantiated by the types of programs and services the students were receiving. 7

V. FINDINGS for Allegation 4:

Allegation - "Contrary to OAR 581-22-403(2), the instruction provided through District programs and services does not address each TAG student's assessed levels of learning and accelerated rates of learning."

A. ODE finds that the District is not in compliance with OAR 581-22-403(2) concerning the provision of programs and services that address the assessed level and rate of learning of identified students. The District has not documented that programs and services provided students were based on assessments of the students' advanced level of learning and/or accelerated rate of learning.

1. The results of file reviews conducted indicate that student records contained documentation of programs and services based on the assessment of level of learning in 31% of the cases. Documentation of programs and services based on the assessment of rate of learning were contained in 21% of the cases. (See Table 3.)
2. Interview results indicate that school staff provided documentation of programs and services related to the assessment of level of learning or rate of learning in 40% of the interviews. (See Table 4.) 8

B. In one of the interviews conducted with District staff, program and services were not provided. The school staff explained that their philosophy was to address other needs of the primary-aged student. 9

C. In five additional interviews with District staff, assessments were not documented, and the programs and services described were courses provided generally, or broad program options with no reference to the individual student's assessment. The interviewers could not determine if the courses addressed the individual student's level and rate of learning. In one of the schools, two teachers reported that the student does need accelerated instruction in order to meet her rate of learning, but the acceleration was not provided.

VI. FINDINGS for Allegation 5:

Allegation - "District-wide, parents of identified TAG students are not offered the opportunity to exercise their right to participate in the selection of their child's TAG program and services."

A. ODE finds that the District is not in compliance with OAR 581-22-403 concerning the requirement for providing parent the opportunity to participate in the selection of programs and services for their child. The District has not documented that it provided parents the opportunity to participate.

1. Of the files reviewed, 85% did not include documentation that parents were notified of their opportunity to participate in selecting programs and services.

2. Interview information indicates that in 47% of 17 interviews 10 the District did not document that parents were provided an opportunity to participate, an

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parents indicated that they were not provided an opportunity to participate. (See Table 5.)

3. Parents and school staff reported contradictory information during six of the interviews conducted. In four of the 17 cases (24%), the District staff was able to document that the parents were provided the opportunity to participate, while the parents interviewed reported that they were not provided that opportunity. In two cases (12%), the District staff wa

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not able to document that the opportunity was provided the parents, while the parents interviewed indicated that they were provided that opportunity.

B. Interview data indicated that District staff was able to document notices offering parents an opportunity to participate in selecting programs and services, or verbal descriptions of methods used to provide the opportunity to participate were substantiated by parents in 54% of the cases.

VII. SUMMARY:

A. Concerning Allegation 2, as amended, that the programs and services options identified in the District plan are not sufficient in type, OAR 581-22-403(2) does not require that a specific type of programs and services option be included in a district plan. Therefore, the District has not failed to meet the requirements of the OAR as alleged.

B. Concerning Allegation 2, as amended, that the programs and services options identified in the District plan are insufficient in application, the District did not provided documentation that programs and services options were implemented with three students included in the investigation. Therefore, the District failed to apply the programs and services options described in the District plan as alleged.

C. Concerning Allegation 3, as amended, that the District does not assess each student's level of learning and the accelerated rat

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of learning, the District failed to document the assessments conducted. Therefore, the district failed to demonstrate

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compliance as alleged.

h D. Concerning Allegation 4, that the District does not address each

TAG student's assessed levels of learning and accelerated rates of learning, the District failed to document that assessment information was used to determine which programs and services were provided several students. Therefore, the District failed to demonstrate compliance as alleged.

E. Concerning Allegation 5, that parents of TAG students are not offered the opportunity to exercise their right to participate in the selection of their child's programs and services, the District failed to document that parents were provided the opportunity to participate in selecting programs and services as alleged.