

April 29, 2019

Dear Superintendent Guerrero:

We are respectfully submitting this complaint under the Formal Public Complaints policy, 4.50.032 P¹, because Portland Public Schools (PPS) is not in compliance with Oregon standards for instruction that apply to talented and gifted (TAG) students.

We are requesting a direct response from the Superintendent without lower-level review (i.e. an immediate "step 2 appeal") because, as described below, PPS has been out of compliance with the requirements of Oregon TAG law for most of the last 20 years and because our complaint asserts a pervasive, long-term district-wide problem, requiring district-level attention. Because they are continuing in nature, we complain of PPS violations, including acts and omissions, in accordance with the two-year time limitation of OAR 581-022-2370(3)(c).

Each signatory is a parent of one or more PPS students. The names of our own children are available upon request, but our complaint is not limited to them. The names of the involved students include all students who are or should be identified as TAG or whose rate and level of learning requires above-benchmark instruction, in accordance with the PPS Formal Public Complaints policy, 4.50.032-P, para. III.A.1. There are over 5,200 students TAG-identified students in Portland Public Schools, as of October 2018, per PPS' Enrollment Characteristics reporting.

According to the National Association for Gifted Children, the research shows that:

"Gifted students need guidance from well-trained teachers who challenge and support them in order to fully develop their abilities. Many gifted students may be so far ahead of their same-age peers that they know more than half of the grade-level curriculum before the school year begins. Their resulting boredom and frustration can lead to low achievement, despondency, or unhealthy work habits. The role of the teacher is crucial for spotting and nurturing talents in school. . . . gifted students benefit from classroom interactions with peers at similar performance levels and become bored, frustrated, and unmotivated when placed in classrooms with low or average-ability students."

The administrative rules governing the Oregon Department of Education set forth the standards for regular classroom instruction that apply for all public school students in Oregon from kindergarten to 12th grade (Chapter 581, Division 22).

Among them is a set of administrative rules specific to TAG students: OAR 581-022-2500 Programs and Services for Talented and Gifted Students², adopted in 1996. The parts relevant to this complaint clearly require that:

¹ <https://www.pps.net/cms/lib/OR01913224/Centricity/Domain/4814/4.50.032-P.pdf>

² <https://secure.sos.state.or.us/oard/viewSingleRule.action?ruleVrsnRsn=145372>

1. *Each school district shall have a written plan for programs and services beyond those normally provided by the regular school program in order to realize the contribution of talented and gifted children to self and society.*

[...]

3. *The written plan shall include, but is not limited to:*

- a. *A statement of school district policy on the education of talented and gifted children;*
- b. *An assessment of current special programs and services provided by the district for talented and gifted children;*
- c. *A statement of district goals for providing comprehensive special programs and services and over what span of time the goals will be achieved;*
- d. *A description of the nature of the special programs and services which will be provided to accomplish the goals; and*
- e. *A plan for evaluating progress on the district plan including each component program and service.*

4. *The instruction provided to identified students shall be designed to accommodate their assessed levels of learning and accelerated rates of learning.*

An additional relevant rule is OAR 581-022-2330 Rights of Parents of Talented and Gifted Students³, which states the district shall:

2. *Provide an opportunity for the parents to provide input to and discuss with the district the programs and services to be received by their child.*

Our complaint is this: throughout every grade level, PPS is currently and has been for years in violation of these administrative rules concerning rate and level instruction and parent participation. PPS has failed to meet the basic academic needs of gifted and talented students, much to their academic, social and emotional detriment. PPS has further failed to implement its own compliance plans or to provide the "ongoing effort" recommended by the Department when it last released PPS from its compliance order in 2011.

The most egregious violation concerns (4) above ("*The instruction provided to identified students shall be designed to accommodate their assessed levels of learning and accelerated rates of learning.*") At every grade level and for every demographic group throughout the district, the great majority of TAG students are failing to receive regular classroom instruction at their assessed levels and accelerated rates of learning. Year after year, their academic abilities are underutilized and neglected, and they are left to endure the mentally stultifying effects without the support either of educators or like-minded peers.

PPS has been out of compliance with these mandates for years, routinely submitting the required written plans to the Oregon Department of Education but not carrying them out in good faith. In 2015, PPS submitted a new TAG compliance plan, but the school board never approved it or funded it and PPS never implemented it. PPS itself attested in 2017, 2018 and 2019 that it was not in compliance, and failed to make any assurances of compliance in 2016.

³ <https://secure.sos.state.or.us/oard/viewSingleRule.action?ruleVrsnRsn=256781>

By failing to follow through on its many compliance plans, PPS has demonstrated a lack of sincere effort to provide the critical services mandated for TAG students. PPS has consistently failed to make any programmatic changes that would improve compliance throughout district schools, such as grouping TAG students together or facilitating access to advanced classes. For instance, successful "Walk to Math" programs have been discouraged and finally eliminated. Yet Walk to Math programs truly make it possible for students to learn math at the levels and rates they are capable of, even several grade levels ahead, by ensuring that math is scheduled at the same time of day across all grades. At math time, students could simply walk to the appropriate classroom in the building and rejoin their age peers afterwards. At Beverly Cleary School, "Walk to Read" is only programmed for grade 1 and "some of" grade 3, and there is no "Walk to Math" program. Meanwhile at Laurelhurst School, "Walk to Read" has been available only within 2nd grade, with no out of grade level opportunities. 4th grade "Walk to Math" at Alameda Elementary was discontinued.

Despite many promises, Portland Public Schools has never allocated the resources necessary for the school teachers and administrators to support TAG students, and in some regards has actively worked against their interests. It has shown itself to be incapable of providing the trained staff and expert guidance necessary to support differentiation at the levels needed to educate our children.

We are further complaining about the following problems that contribute to an overall lack of rate and level instruction in our classrooms:

1. Insufficient staff at the central TAG department. This includes positions in the TAG department that have gone unfilled for many months.
2. Lack of sufficient training and resources among the TAG Teachers on Special Assignment (TOSAS) at the central TAG department and among the staff serving as TAG coordinators within schools.
3. Inadequate district budget (the PPS TAG budget is about 1/3 the state average).
4. Insufficient support from the central office for the TAG department and from the TAG department to schools.
5. A dysfunctional complaint process that prevents parents from receiving a timely response to their concerns.
6. School TAG "facilitators" who lack the expertise, training and time to provide services or even to plan services for students.
7. A lack of commitment among educators to writing and implementing individual student plans:
 - Parents are unaware that they may ask for these plans, although district policy requires them to be available.
 - Some schools actively discourage parents from requesting plans.

- There is insufficient staff and support from the central TAG office to assist schools in writing plans.
- There is no publicly published procedure for monitoring the implementation of student TAG plans or enforcing them when they are not followed.
- In some schools, parents have been asked to write their own plans. The schools that enroll these students do not provide trained staff authorized to develop these plans in consultation with parents.

We understand that written student plans are not required by state law. However, in 2016, PPS acknowledged that written plans are "best practice" and promised to work with schools to improve the process. The absence of plans is an indication of the overall laxity with which PPS is honoring its legal obligations and commitments. Many classroom teachers are currently unable to demonstrate that they are providing rate and level instruction and the district is unable or unwilling to monitor compliance through alternative measures.

8. Inconsistent and inequitable access to services and to appropriate classes from school to school at every level--elementary, middle and high.

9. Building TAG plans are outdated, blank, or evidently haven't been read by staff.

- There are no public procedures for monitoring the implementation of TAG plans or enforcing them when they are ignored.

10. Lack of any High School TAG programs or services that offer appropriately advanced options:

- High School "freshman academies" force students to stay in age-based classes without consideration of their instructional level.
- The new three-year High School science curriculum and credit structure is not adapted to TAG students' rate and level, yet most students are not permitted to take accelerated versions of the classes, even with teacher support. Only at the district's two International Baccalaureate (IB) high schools--Lincoln and Cleveland--are students given alternatives. Those students can opt for IB Chemistry or Biology rather than taking NGSS versions, exacerbating inequities.
- Options to accelerate, such as AP classes, are not equally accessible across all schools.
- Transfers between neighborhood high schools are not allowed except under unusual circumstances by petition. This prevents students from taking full advantage of the accelerated programs (such as the International Baccalaureate program) offered in only a couple of high schools.

11. Inadequate or simply nonexistent communication of critical information to families and students including communication about testing, student performance, relevant district and school meetings, rights as TAG parents, procedures (including early entry to Kindergarten, admission to ACCESS Academy, complaints) and accelerative opportunities (especially for high school students). This creates and perpetuates serious inequities.

12. An unnecessarily complex process for single subject acceleration (SSA): Single Subject Acceleration is permitted only in math, although it should be available in every subject.

Central office staff shortages, home school delays, and lack of communication with parents about procedures and timelines produce inequitable access to appropriately advanced class placements. Single Subject Acceleration is also given no structural support by the district, which means access to it is further restricted to students with parents who can transport them daily to the neighborhood middle or high school when they exceed the level of class offered by their school. Parents are required to agree to this condition in writing.

13. A consistent failure by the district to evaluate its implementation of TAG services including each component plan and service.

Summary: All these deficiencies establish a pervasive lack of instruction throughout the district for students at their rate and level in the classroom at every level: elementary, middle and high.

DISCUSSION:

In 2011, the Department released PPS from corrective action under its third Compliance Order conditioned on “sustained efforts in the following areas:

- Continued efforts to identify ALL students who demonstrate TAG potential.
- Parental involvement in writing TAG plans for identified TAG students
- TAG building plans that reflect how buildings serve TAG students with their own curricula.
- Continued provision of rate and level instruction for TAG students.
- Continued efforts to inform teachers about their TAG students, resulting in instruction aligned to their intellectual and academic needs.
- Continued efforts to provide TAG students K-12 with rich academic experiences both within and outside PPS through advanced opportunities such as high school accelerative learning options.
- Continued TAG professional development for veteran and new teachers.

The district's response was to make substantial cuts to its TAG staff and funding for services.

In July 2015, the TAG department submitted an updated TAG plan to the Oregon Department of Education. It included a 1-3 year statement of “vision and goals.” These goals, which included a “Scholar’s Program”, were not fully implemented.

On January 12, 2016, the board packet suggested that PPS planned to report that it was in compliance with all three TAG Administrative Rules.

On January 27, 2016, the Portland Talented and Gifted Advisory Committee (TAGAC) submitted a document headed “Why PPS is not in Compliance with Oregon TAG Laws.” The letter pointed out that Portland’s own 2012 survey of TAG parents revealed that 80 percent of the 1,303 parents who responded did not think their TAG students received appropriate learning opportunities and challenges.

TAGAC also reminded PPS of its continuing obligations under the 2011 compliance release letter and warned that failure to develop a corrective action plan was likely to result in a

complaint.

On February 3, 2016, PPS Staff submitted a Division 22 report to the School Board with the three TAG administrative rule assurances unchecked, stating that PPS had enlisted the assistance of the Oregon Department of Education to review documentation and provide guidance on compliance and stating that it was not indicating that it was in compliance **or** not in compliance.

The Office of Teaching and Learning drafted a “Talented and Gifted Development Plan ‘Corrective Action’ 2016.” This was never fully implemented and many of the measures that were supposed to be ongoing were not continued (for example, support, monitoring and evaluation of building TAG plans and individual TAG plans). In particular, the “Scholar’s Program”, which was the centerpiece for classroom rate and level instruction, was piloted but never implemented. The district did make efforts to improve student identification, but the problems indicated in the plan, such as the lack of a system-wide approach to identify special education or English-language learning students remain unresolved.

On January 5, 2017, Portland Public Schools submitted its Division 22 compliance form to the PPS School Board. This stated that PPS was not in compliance with the OAR on Programs and Services for Talented and Gifted Students. It also stated PPS was currently updating a “complete K-12 TAG continuum of Program[s] and Services” and that PPS “Does not have a comprehensive, standardized understanding nor the complete tools to say that PPS is currently in compliance with meeting TAG students’ rate and level needs.” Although PPS sent this report to the ODE as part of its Division 22 assurances, PPS did not undertake any subsequent action to adopt or implement this “continuum.”

On January 18, 2018, Yvonne Curtis, the Deputy Superintendent of Instruction and School Communities, again acknowledged to the PPS Board of Education that PPS was not in compliance with the Administrative Rule concerning Programs and Services for TAG students.

On January 22, 2019: Portland Public Schools again notified the school board that it is not in compliance with the Oregon TAG mandate and submitted a new draft plan for TAG services. The plan envisages a roll-out of compliance activities over multiple years (2019-2022). Even if the plan were implemented, PPS is thus admitting it had been out of compliance and will be out of compliance for years to come. The plan focuses on staff development, without specifying any steps to ensure that students receive rate and level instruction in their classrooms, disregarding the OAR that PPS specifically admitted it was not implementing.

As PPS has itself repeatedly acknowledged that it is not in compliance with the Oregon TAG mandate, we believe immediate and substantial steps must be undertaken to return to compliance. We look forward to working with you to ensure that every PPS student has an opportunity to learn.

Sincerely yours,
[Redacted]