



The Department modified its findings and conclusions concerning the district's identification policies to make it clear that most of the district's identification policies and procedures meet standards, except for certain policies applicable to students who are English language learners.

The district provided the Department with copies of additional materials that it sends to parents as evidence that the district is in compliance with policies concerning the rights of parents of TAG students. The Department considered these materials which it had not reviewed at the time of the investigation. The final order acknowledges that these new materials bring the district into partial compliance with its obligations to inform parents of their rights concerning TAG. In other respects, the district is not fully meeting the requirements of the rules, and additional corrective action is required.

The district commented that the Department's surveys were not based on a truly representative sample of parents and students. The district also objected that some of the department's conclusions are based on teacher, student and parent responses that are non-evaluative and non-quantifiable. The Department's conclusions are based on information from a range of sources and not on a single factor or measure. The Department conducted surveys, reviewed district records, interviewed teachers, students and parents, observed classes and lesson plans and reviewed the district's own findings concerning the TAG instructional program at Sabin Elementary School. In developing its methodology for the investigation, the Department consulted with and received input from the district and from the complainants. Based on the totality of this information, the Department concludes that its findings are based on reliable evidence that is derived from a representative cross-section of the district.

The complainants submitted data that seemed to show TAG students at certain middle schools were making larger gains than TAG students in other middle schools. The complainants asserted that these disparities were due to a lack of specialized TAG programs at certain schools. TAG statutes and administrative rules do not prescribe a specific method of providing differentiated instruction. Districts are required to meet minimum standards but are not required to use specific programs of instruction that may or may not constitute best practices for providing TAG instruction.

The complainants also urged the Department to impose more stringent requirements in the corrective action plan. Although the district has not yet submitted its plan, the final order contains adequate directives to ensure that the district will develop a plan to bring itself into compliance with TAG statutes and rules.

### **Investigation Methodology**

The Department's investigation and compliance review focused on the following issues:

1. Whether the district is identifying TAG students at all grade levels in both academic and intellectual areas in compliance with OAR 581-022-1310.

2. Whether the district is making efforts to identify students from ethnic minorities, students with disabilities, and students who are culturally different or economically disadvantaged in compliance with OAR 581-022-1310(1).
3. Whether the District is complying with OAR 581-022-1320 by: (a) at the time of identification, informing parents of the programs and services available; (b) providing an opportunity for parents to provide input to and discuss with the district the programs and services received by their children; (c) notifying parents of their right to request the withdrawal of their children from TAG services; and (d) informing parents of their right to file a complaint under OAR 581-022-1940.
4. Whether the district is assessing each TAG student's advanced level of learning and accelerated rate of learning and providing instruction that addresses the rate and level identified in the assessments in compliance with OAR 581-022-1330.

In carrying out its investigation, the Department reviewed data and records submitted by the district, conducted surveys, held meetings with district staff and parents, observed classes and conducted interviews with parents, students, teachers and administrators. Andrea Morgan, Education Specialist and ODE TAG Specialist, led the review with the assistance of Education Specialist Roberta Hutton. Colleen Mileham, Director, Office of Educational Improvement and Innovation, and Russ Sweet, Education Specialist, also assisted with the data collection at a series of parent meetings held in the district.

#### Surveyed Schools and Selection Process

In developing its investigation process, the Department invited suggestions from the district, the complainants and other interested parties. Department staff developed a list of representative schools for on-site visits, classroom observations, and teacher surveys. A high school and middle school was selected from each of the 9 "clusters."<sup>1</sup> The list also included schools with high percentages and low percentages of TAG-identified students and a number of schools with special TAG programs. In addition, the Department selected schools whose student bodies—considered together—reflected the range of socio-economic and ethnic diversity evident in the district's student population. The final list identified 33 schools for surveys, visits and data collection. There are 97 schools in the district.

---

<sup>1</sup> The District has divided its schools into geographic clusters. Each cluster contains a high school, at least one middle school and elementary schools.

Data Collected:

- Review of all PPS TAG data submitted to ODE in the Spring Membership data collection for the 2005-06 and the 2006-07 school years
- 87 school administrator surveys
- 110 Written parent surveys
- 112 On-line parent surveys
- 481 Written teacher surveys
- 231 Written student surveys (elementary and middle school students who attended the parent meetings, and high school students)
- 10 Parent-discussion meetings at the following schools:
  - April 16, Beaumont Middle School (Grant Cluster)
  - April 18, Cleveland High School (Cleveland Cluster)
  - April 25, Wilson High School (Wilson Cluster)
  - May 2, Lincoln High School (Lincoln Cluster)
  - May 3, George Middle School (Roosevelt Cluster)
  - May 9, Marshall High School (Marshall Cluster)
  - May 10, Tubman Middle School (Jefferson Cluster)
  - May 15, Gregory Heights Middle School (Madison Cluster)
  - May 16, Mt. Tabor Middle School (Franklin Cluster)
  - May 17, Blanchard Center
- 33 School and classroom visits at the following schools:
  - April 16 da Vinci and Beaumont Middle Schools
  - April 17, Duniway Elementary and Buckman Elementary
  - April 18, Cleveland High School and Hosford Middle School
  - April 23, Rieke
  - April 25, Wilson High School
  - April 30, Sabin Elementary School, ACCESS, and Irvington, (Cleveland teachers)
  - May 1, Chapman Elementary and West/East Sylvan MS
  - May 2, Metropolitan Learning Center (K-12) and Lincoln High School
  - May 3, Rosa Parks Elementary, Sitton Elementary, and George Middle School
  - May 7: Alameda and Lent and Clark Elementary Schools
  - May 8, King Elementary and Ockley Green Elementary
  - May 9, Marshall complex schools and Lincoln High School (staff survey),
  - May 10, Beach Elementary and Tubman Middle School
  - May 14, Richmond
  - May 15, Rigler Elementary and Gregory Heights Middle School
  - May 16, Glencoe Elementary and Mt. Tabor Middle School
- District leadership meeting, May 22
- District TAG staff meeting, May 22
- Records and data developed from a recent Department review of the ACCESS program at Sabin Elementary School.

During school visits, ODE staff observed classroom instruction and reviewed student TAG files and teacher lesson plans. Interviews were conducted with 107 teachers and administrators and 125 students.

ODE staff has analyzed the data generated by the investigation and review and published a "TAG Compliance Review Survey Analysis Results." A copy of this document is enclosed with this Order as Appendix A.

ODE staff also prepared a table and statistical analysis titled "TAG Data/Poverty and Ethnicity." A copy of this document is enclosed with this Order as Appendix B.

## FINDINGS OF FACT

### Overview of Portland Public Schools' TAG Program

1. Portland Public School publishes a TAG Guide that describes the program's operation, policies and procedures and contains information about the school calendar, bulletin boards, parent communications and staff obligations.

2. The TAG Guide identifies 10 functions of the TAG Program:

- State compliance;
- Administrator and teacher support of the gifted mandate;
- Student and parent support of the gifted mandate;
- Nomination and identification of gifted students;
- Early entry into kindergarten; early entry into first grade;
- Grade acceleration;
- Credit by examination and world language testing;
- High school credit pre-ninth grade;
- Advanced Placement testing and support; and
- Support to the ACCESS alternative program.

3. According to the PPS TAG Guide, the district's TAG support staff is organized by clusters and schools.<sup>2</sup> Amy Welch serves as the Administrator of the PPS TAG Program. She also provides high school support and coordinates the early entry into Kindergarten and first grade activities. The TAG program also has four "Teachers on Special Assignment" (TOSAs). TAG staff members and responsibilities are identified below:

---

<sup>2</sup> The findings in this order reflect information received in the spring of 2007. The organizational makeup of the TAG staff is changing for the 2007-08 school year.

<b>TAG Staff</b>	<b>Grade level</b>	<b>Responsibilities</b>
Amy Welch	PPS District Program Administrator	District program over-sight High School Support Early entry into Kindergarten Early Entry into First Grade Grade Acceleration High Schools: Benson HS, Lincoln HS, MLC (9-12), Wilson
Roxanne Coleman	Elementary School TOSA	Testing coordinator Elementary literacy TAG Advisory Council Cleveland Cluster Franklin Cluster Marshall Cluster Wilson Cluster
Christine Reeder	Elementary School TOSA	Student testing Spelldown Competition Grant Cluster Cleveland Cluster Lincoln Cluster Madison Cluster Marshall Cluster Roosevelt Cluster Wilson Cluster
Pam Sesar	Elementary and Middle School TOSA	PPS TAG web page National Spelling Bee MS Language Arts MS Science/Math Jefferson Cluster
Kara Mortimer	High School TOSA	Academic All-Stars Advanced Placement HS Community Service HS English/Social Studies HS Math/Science OMSI Days Secondary Principals' Meetings Sabin & ACCESS High Schools: Cleveland, Franklin, Grant, Jefferson, Madison, Marshall, Roosevelt

4. The TOSAs work with the building TAG coordinators/principals and teachers. TOSAs assist in budget planning, identification procedures, alternative program options, parent meetings, staff development, and instructional planning for individual students. TOSAs also conduct the TAG identification testing for the district schools. The elementary level TOSAs dedicate most of their time to identification activities.

5. A cadre of eight retired teachers also conducts some of the identification testing in order to free the TAG program staff to work with teachers and students within schools.

6. Each school building has an identified TAG Coordinator. The TAG Coordinator may be the building administrator or a teacher who has the following assigned duties and activities as listed in the TAG Guide:

- Act as a liaison to the District TAG Office;
- Oversee the identification process;
- Notify parents, teachers, and students about upcoming activities for highly able students (national academic testing, scholarships, camps, etc.);
- Arrange staff development and parent meetings; and
- Act as an on-site resource for gifted education in the school.
- Specific activities include:
  - Collect teacher-initiated class lists to verify that teachers know who their TAG students are in each class;
  - Remind teachers to review the student identification and program information;
  - Organize a TAG leadership team that consists of at least 3 people, including the principal and TAG Coordinator for identification and program decisions;
  - Create, display, and maintain the building TAG bulletin board;
  - Schedule a TAG parent meeting (may be on “Back to School Night”);
  - Review program expectations with staff;
  - Place announcements in school newsletter about TAG nominations;
  - Establish a day for identification testing at the school;
  - Collect work samples from classroom teachers for any nominated students;
  - Notify parents of testing and obtain any required permissions;
  - Maintain files for current and newly-identified TAG students;
  - Oversee building TAG budget; and
  - Order school’s TAG materials.

7. The PPS TAG Guide states: “[M]ost middle and high schools will choose to not have a coordinator as there are limited funds available to each school. In which case, a member of the TAG Office [a TOSA or Ms. Welch] will work with your principal to ensure compliance.” (p. 187)

8. TAG services include differentiated instruction in the regular classroom, ability grouping for specific instruction, pull-out programs, grade acceleration, advanced courses or coursework, and enrichment activities and field trips (both during the school day and after school and on weekends). The type and content of these services vary from building to building. Although school cluster administrators provide oversight for

individual building programs, individual school building principals and staff have substantial decision-making authority over how services are specifically delivered to their students.

9. Parents and students are very aware of the “best” programs. Three of the 16 Portland schools serving grades 9-12 have the majority of the TAG students enrolled. Students unable to transfer to these schools or use the lottery system for admission have less access to specialized TAG programs.

### **Identification of TAG Students**

10. Building TAG coordinators and the TOSAs conduct the district’s identification process. The 2006-07 schedule dates and deadlines are the following:

- Parent nominations submitted to schools by November 30, 2006.
- TAG Coordinators submit parent and teacher nominations to the district TAG office by December 7, 2006.
- TAG testing is conducted according to a schedule from cluster to cluster from December 4 to April 30, 2007.
- The district scores the tests and sends the results to the schools within one week of the date of testing.
- Schools have 3 weeks after receiving test results from the district central office to review the test scores and other relevant information and make their recommendations to the TAG Office about whether a student is eligible or ineligible for TAG services.
- The district notifies families approximately two days after receiving recommendations from the schools.
- The process from testing to notification of eligibility takes one month in most cases.
- Instructional plans for each student are developed within 30 days of determining that a student is eligible.
- The district determines eligibility for students in most of the clusters before the Spring Break.
- For those students who are identified after Spring Break, the instructional plans are written in the fall of the next school year.

11. The TAG Guide lists the following assessments for use in TAG identification:

#### Intellectual Ability:

##### Cognitive Abilities Test (CogAT)

- RAVEN’s Standard Progressive Matrices, grades K-12
- Naglieri Nonverbal Ability Test (NNAT), age 6 years 3 months-16.5 years.



## Academic Achievement

- Iowa Test of Basic Skills (ITBS), grades K-12
- Woodcock-Johnson III (WJ), grades K-12
- Oregon State Assessment (paper/pencil) or TESA (Now named the Oregon Assessment of Knowledge and Skills or "OAKS")

No single score can be used for identification; however scores may be used as indicators of academic achievement.

In addition to the assessments listed in the TAG Guide, the district has informed the Department that it also considers the California Achievement Test, the Stanford-Binet, and the Wechsler Preschool and Primary Scale of Intelligence (WPPSI) for purposes of identification.

The instruments listed in the TAG Guide are appropriate nationally standardized tests. The District does not rely on a single test, measure or score to determine TAG eligibility.

A Leadership Team at each school determines eligibility. To qualify, a student must score at the 97<sup>th</sup> percentile or above on a nationally standardized test and must meet one other criterion on the Frasier Talent Assessment Profile which is an instrument that lists factors to assess a child's learning ability. In considering these criteria, the team reviews nomination forms by the teacher and parent, school history, social/emotional variables and work samples of the student in mathematics, reading or cognitive ability.

12. The district has policies and procedures in place for identifying students who demonstrate the potential to perform at the 97<sup>th</sup> percentile. Under these policies, a student will be considered as having potential to perform at the 97<sup>th</sup> percentile if he or she scores at the 96<sup>th</sup> percentile on a national standardized test and meets one of the criteria on the Frasier Talent Assessment Profile.

13. The district has a policy that applies to English language learners (ELL). The policy encourages classroom and ELL teachers to look actively for students who demonstrate TAG characteristics. Building TAG coordinators are directed to look through an ELL student's cumulative file for additional social/emotional factors to consider in the identification process. The policy states that "[s]pecial consideration is given to the unique needs of the ELL student." However, despite the "special consideration", ELL students must score at the 96<sup>th</sup> percentile on a standardized test before they can be considered as having the potential for TAG eligibility.

14. The District does not administer any non-English versions of tests to identify students who are academically gifted but not proficient in English.

15. There is a Spanish-language version of the Woodcock-Johnson test. This version is an appropriate instrument for use in identifying students who are academically gifted but not proficient in English.

16. There are Spanish-language and Russian-language versions of the OAKS assessment. These versions of the OAKS are appropriate instruments for use in identifying students who are academically gifted but not proficient in English.

17. The Appenda 3 is a Spanish-language test that is an appropriate instrument for identifying K-12 students who are academically gifted but not proficient in English.

18. There are no standardized tests available in the native language of some ELL students in the district.

19. There are marked disparities along racial, ethnic and socio-economic lines of those students who are identified as TAG eligible. See Table 1 below.

Table 1 PPS District Demographics Compared to PPS TAG Demographics

	White	Hispanic	Native American	Asian/Pacific Islander	Black	Economically Disadvantaged
PPS District Population	55.3%	14.1%	2.0%	10.5%	16.0%	44.9%
PPS TAG Population	75.0%	4.6%	1.3%	11.0%	6.8%	21.0%
TAG Population within each group	21.3%	5.6%	10%	16%	6.6%	7.2%

20. In general, schools with higher rates of poverty or high minority populations show a lower rate of students who have been identified as TAG-eligible. There is a slightly lower, but not statistically significant, rate of referrals from schools with high minority and/or high poverty populations as compared to other schools in the District. See Table 2 below.

Table 2

Percentage and totals of Poverty, Ethnicity, TAG Identification, and TAG Referrals											
Cluster	Total Student Population	Percent TAG	TAG Identified	Referral Rate	TAG Referrals	Percent Poverty	Total Students Poverty	Percent Ethnicity	Total Ethnicity	Total	Percent Available for TAG ID
Cleveland	4020	21%	846	5%	168	26%	1046	22%	866	79%	
Franklin	2667	12%	329	3%	74	34%	920	34%	895	88%	
Grant	4662	18%	823	5%	174	30%	1376	37%	1733	82%	
Jefferson	2436	7%	172	6%	143	81%	1961	78%	1891	93%	
Lincoln	4941	23%	1116	6%	215	11%	566	20%	969	77%	
Madison	1738	7%	120	7%	116	77%	1335	67%	1156	93%	
Marshall	2045	5%	99	6%	116	78%	1598	58%	1181	95%	
Roosevelt	1591	5%	72	4%	55	87%	1383	74%	1183	95%	
Wilson	4585	19%	869	4%	181	21%	956	21%	975	81%	
<b>Totals</b>	<b>28685</b>		<b>4446</b>		<b>1242</b>		<b>11141</b>		<b>10849</b>		

A more detailed analysis is contained in the "TAG Identification Data/Poverty and Ethnicity" that is enclosed with this order as Appendix A.

### **Rights of Parents of TAG Students**

21. The district distributes a Parent Handbook to parents of identified TAG students on an annual basis. The 2006-07 Parent Handbook contains a description of the Oregon TAG Education Act (ORS 343.391 to 343.413), defines key terms and concepts related to TAG, identifies TAG staff persons assigned to each school, and describes parents' rights, web resources and a school-year calendar of events. The "Parents' Rights" section of the 2006-07 Handbook states:

- Parents must be given the opportunity to provide input to and discuss the programs and services to be received by their child.
- Parents must be informed of the procedure for a complaint or appeal.
- Parents may request access to records used in the identification process along with an explanation by a knowledgeable district employee.
- Parents may, at any time, request the withdrawal of their child from talented and gifted programs and services.

22. The district also distributes to parents a pamphlet titled: "Appeals and Complaints." This publication informs parents of their right to file a complaint if they believe the district has violated a TAG-related standard under Oregon Administrative Rules and to appeal the district's decision to the State Superintendent if dissatisfied with the district's response. The pamphlet also describes the district's appeal procedure if a parent disputes the decision of the school's TAG Leadership Team that a student is not TAG eligible.

23. In addition to the annual distribution of the Parent Handbook and the "Appeals and Complaints" pamphlet, the district makes information available to parents through other methods, including a TAG website that provides information about various TAG programs and activities in the district, a TAG Parent Newsletter, a High School TAG Newsletter and a TAG bulletin board in each school. Although these sources provide valuable information to parents, they do not expressly inform parents of the right to discuss their children's TAG program with a school official or how parents can effect that right.

24. The district has developed form letters that are being sent during the 2007-08 school year to parents of elementary children at the time a child is identified as TAG eligible and at the time a student's instructional plan is developed.<sup>3</sup> The letter contains a copy of the Parent Handbook and surveys for the parents to complete to assist in designing the student's instructional plan. When the instructional plan is completed, it is sent to parents with a letter that includes this language:

**If you would like to speak to your child's teacher regarding the TAG Plan**, please phone or email him/her to make an appointment before conference time. That way your Parent/Teacher Conference can be spent discussing other important school issues, too.

The district develops instructional TAG plans for elementary students but not for middle school or high school students. For this reason, a similar form letter is not routinely sent to parents of high school or middle school TAG students.

25. In response to ODE surveys, parents in general neither agreed nor disagreed that they had been given an opportunity to develop their children's TAG plan or that they could easily discuss TAG issues with the teacher, principal or TAG coordinator. (Appendix A, Survey Analysis, page 52)

26. In response to ODE surveys, 41.5 per cent of teachers stated that they did not have a regular time to confer with parents through a meeting, phone call or email concerning their TAG eligible students and those contacts occurred "as needed." (Appendix A, Survey Analysis, page 47)

27. After ODE conducted its review, the District revised its Parent Handbook for the 2007-8 school year. This version of the Parent Handbook omits the "Parents' Rights" section that appeared in the 2006-7 Handbook. The 2007-8 Handbook contains "Appeals and Complaints" section, which states:

1. Talk to the teacher if you don't feel the level and/or rate is appropriate;
2. Talk to the Principal;
3. Contact the PPS TAG office – 503-916-3358.

---

<sup>3</sup> The Department staff did not see these form letters at the time of its on-site investigation. The district has advised the Department that the letters were being used during the 2006-07 school year.

28. During the spring, the district sends to parents of middle school and high school students a Forecasting Sheet. This sheet explains course offerings for the upcoming school year and allows students an opportunity to select elective courses. The Forecasting Sheet provides for the parents' signature and states:

I also understand that this Forecasting Sheet serves as my plan for specialized programs (TAG, ELL, SPECIAL EDUCATION, etc.). Signatures indicate understanding of the forecasting process.

### **Student Programs and Services for TAG**

29. Much of the TAG instruction within the district is carried out at the classroom level. ODE's review of instruction plans, observations of classrooms and interviews with teachers and parents revealed that many teachers are not consistently assessing the levels and rates of learning of their TAG students or are not basing instruction on these assessments. ODE conducted interviews with 107 teachers. Of these, 73 teachers either had not assessed the current level or rate of learning of TAG students in their classes or could not show that they had made any adjustment in the instruction or curriculum to match the student's ability to learn.

30. When ODE staff sat in on classes, they did not observe teachers applying differentiated instruction on a consistent basis. A majority of students who were surveyed did not believe that they were given assignments that were different from or more complex than those given their classmates. (Appendix A, page 20)

31. In response to ODE surveys, 99 out of 167 high school teachers answered "don't know" when asked to list the number of TAG-identified students in their classes.<sup>4</sup>

32. The district operates an ACCESS program to provide instruction exclusively to profoundly gifted students. The ACCESS program is housed at Sabin Elementary School and Grant High School as an alternative school program. In January 2007, the State Superintendent received a complaint from parents concerning certain aspects of the ACCESS program at Sabin, including the TAG instruction. In response, the district conducted an internal investigation and provided written findings to the Department in April 2007. The district concluded:

- Classroom instruction was similar for all students. Differentiation of instruction was not evident.
- Teachers did not demonstrate how rate and level of learning are used to inform classroom instruction.
- Although appropriate assessments had been prepared for most students, the teachers and staff did not demonstrate how the results of the assessments were used to design appropriate instructional programs for the identified students.

---

<sup>4</sup> Teachers gave this response even though they were verbally prompted by ODE staff to give an estimate if they did not know the exact number of TAG students in their classrooms.

The district submitted its findings and a proposed corrective action plan to the State Superintendent, and the findings were used in part as the basis for the Superintendent's corrective action plan. The District's Board adopted a resolution on June 11, 2007 directing the ACCESS staff to implement the corrective action plan.

33. At the elementary and middle school levels, parents and students indicated on surveys, in interviews, and at parent meetings, that certain schools have developed reputations for effectively addressing the needs of TAG students resulting in increased transfers to these schools.

## **CONCLUSIONS OF LAW and DISCUSSION**

### **Identification**

1. PPS has appropriate policies and procedures in place for the identification of TAG eligible students in most respects. The policies and procedures comply with the requirements of OAR 581-022-1310. The fact that 12 percent of the District's student population has been identified as TAG supports the conclusion that generally the District is implementing its identification policies and procedures.

2. OAR 581-022-1310(1) requires districts to "make efforts to identify students from ethnic minorities, students with disabilities, and students who are culturally different or economically disadvantaged." The rule imposes an obligation on districts to make particular efforts to identify students from these populations.

There has been improvement in the identification rates among all ethnic minorities and economically disadvantaged groups since the issuance of the State Superintendent's 2004 order. Identification rates in all of these categories are now at least 5 percent. (See Table 1)

Identification rates still are markedly lower in schools that have large populations of students who are ethnic minorities or are economically disadvantaged. For example, the Jefferson, Madison and Marshall clusters have higher numbers of students in these categories. Only 6.3 percent of the students in the Jefferson/Madison/Marshall clusters were identified as TAG-eligible. In contrast, 20.9 percent of students were identified for TAG in the Lincoln, Wilson and Cleveland clusters, which are more prosperous and have lower populations of minority students than other clusters.

However, the Superintendent does not find evidence that the district is conducting its identification assessments improperly or failing to make efforts to identify minority or low-income students. There were slightly more referrals of students for TAG assessment in the schools with smaller populations of minority and economically disadvantaged students. Among the 23 elementary schools that were surveyed, those schools with poverty levels of 55 percent or above referred students at a rate of 6.2 percent of the schools' population, while elementary schools with poverty levels of 40 percent or below referred students at a 7.6 percent rate. Similarly, the referral rate for

elementary schools with minority populations of 55 percent or above referred students at a 6.5 percent rate compared to a 7.6 percent rate for elementary students with minority populations of 40 percent or lower.<sup>5</sup> These slight differences in referral rates are not sufficient to support a conclusion that the district is not making efforts to identify students in the target populations.<sup>6</sup>

Differences in identification rates among schools, in and of themselves, do not demonstrate that a district is out of compliance with TAG statutes and rules. A number of factors that are unrelated to the district's efforts may contribute to this variation.<sup>7</sup> Except for the district's failure in some instances to employ alternative assessments for non-English speaking students and English language learners, the district's measures and criteria for identification are in compliance with TAG standards. In ODE's surveys, parents generally believed that the district assessed students for TAG identification in a variety of ways, and there was not a disparity in parent responses or parent satisfaction on this issue between richer and poorer districts.<sup>8</sup> Parent dissatisfaction focused more on the quality of the TAG services rather than the failure to identify students. In addition, unlike the methods for providing TAG services, which vary from school to school, the district administers its identification process centrally through its TOSA employees and cadre of retired teachers. There is no indication that the TOSAs fail to make efforts to identify minority students. Nor is there evidence that the TOSAs apply the identification criteria differently in the less advantaged schools.

Based on this evidence and except as described below, the Superintendent concludes that the district is making sufficient and meaningful efforts to identify students from ethnic minorities, students with disabilities, and students who are culturally different or economically disadvantaged as required under OAR 581-022-1310(1).

3. Although generally the district is employing appropriate identification practices and is generally making efforts to identify minority students, its identification practices are deficient in two respects as discussed in this section and in Conclusion of Law Number 4 below. The District does not use available tests in Spanish or Russian that could be used to identify academically gifted students who are English language learners (ELL). ELL students are more likely than most students to be from ethnic minority populations and populations that are culturally different or economically disadvantaged. Students in these categories are less likely to be identified as TAG if testing is provided in an English-only format. Although appropriate tests are not available in many languages, such tests are available in Spanish, and the OAKS test is available in both Russian and Spanish. PPS's practice of administering assessments only in English for academically talented students has the effect of excluding some ELL students whose native languages are Spanish or Russian. At the least, the practice

---

<sup>5</sup> Identification rates are most relevant in elementary schools because TAG students are generally referred and identified at the elementary level.

<sup>6</sup> See *Appendix B*, page 1.

<sup>7</sup> For example, the general quality of instruction and student performance may unfortunately be lower in certain schools. Other social and environmental factors may cause students who live in certain areas to score lower on standardized tests.

<sup>8</sup> *Appendix A*, page 43.

deprives some students of the opportunity to be considered as academically eligible for TAG instruction. Therefore, this aspect of the district's identification procedures is not in compliance with OAR 581-022-1310(1).

In its response to ODE's draft order, the district asserted that administering the Spanish language version of the Woodcock Johnson test takes too much time and may require administration on a one-on-one basis.<sup>9</sup> Although administration of the test in Spanish may present some additional burden to the district, this is the type of effort that the State Board intended districts to make in order to identify students from ethnic minorities. See OAR 581-022-1310(1).

4. Also the district's policy for identifying students with the potential to meet TAG standards is overly restrictive as it is applied to those ELL students for whom there are no standardized tests available in the students' native languages. The district's policy contains a narrow exception for potentially eligible students. Only students who score at the 96<sup>th</sup> percentile on a standardized test can be considered as having the potential to score at the 97<sup>th</sup> percentile. Under this measure, an ELL student is excluded from TAG services even if he or she can show evidence of academic ability through other sources, such as work samples, observations of teachers and extraordinary language acquisition skills. Although OAR 581-022-1310(5) allows districts to develop their own policies for identifying students with the potential to be in the 97<sup>th</sup> percentile, the district's policy is so restrictive that it prevents the district from meeting its other obligation to make efforts to identify students for whom no standardized tests are available in the students' native languages. Therefore, the district's policy does not comply with the requirement under OAR 581-022-1310(1) to make efforts to identify students from ethnic minorities.

### **Rights of Parents of TAG Students**

5. The district provides extensive information to parents about TAG programs and services at the time of identification and at regular times thereafter in compliance with OAR 581-022-1320(1).

6. OAR 581-022-1320(2) requires school districts to "provide the opportunity for the parents to provide input to and discuss with the district the [TAG] programs and services available." In order for parents to avail themselves of this opportunity, they must be informed of their right to discuss these matters and what opportunities the district will make available for the discussion to take place. The 2006-07 Parent Handbook merely reiterates the language of the rule. The Handbook does not directly inform parents of their right to discuss their child's TAG program with a district representative, and, perhaps more importantly, it does not identify who the parents are to contact or what procedure is available for the parents to discuss their child's TAG program. The survey responses of parents and students tend to show that a substantial

---

<sup>9</sup> The OAKS state assessment is also listed by the District as one of its tests for measuring academic achievement. The Spanish and Russian language version of this test can apparently be administered in to groups of students and does not require one-on-one administration.



number of parents do not believe they have opportunities to provide input or discuss their child's TAG program with the teacher or other district representative.

The Parent Handbook was revised for the 2007-08 school year, but the revisions also do not contain an explicit notice to parents of their rights under OAR 581-022-1320(2).

The district has developed form letters that are sent to parents of elementary school children along with the children's instructional plan for TAG. These form letters adequately inform parents of their right and opportunity to provide input and discuss their child's program with a district official, especially when these notices are considered in combination with other TAG-related information that the district makes available to parents. Therefore, the district is in compliance with the rule with respect to elementary TAG students and based on the condition that the district continues to issue letters containing this information to parents on an annual basis.

The district is not in compliance with OAR 581-022-1320(2) with respect to providing the required information to parents of middle and high school students. The district has not shown evidence that it provides explicit notice to parents of their right to an opportunity to discuss their children's TAG services. The vague reference to TAG programs in the Forecasting Sheets does not provide sufficient notice of the opportunity for parents to discuss their child's TAG services with the district.

7. OAR 581-022-1320(3) requires districts to notify parents of the right to withdraw their children from TAG services. The 2006-07 Handbook provides this information. The 2007-08 Handbook does not contain this information. The district's new form letter to parents of elementary TAG students contains notice of these rights. Therefore, the District is in compliance with this part of the rule with respect to elementary students but not with respect to middle school and high school students.

8. ORS 581-022-1320(4) requires districts to inform parents of their right to file a complaint that a school is in violation of TAG requirements and the appeal process available under OAR 581-022-1940. The District's "Appeals and Complaints" pamphlet contains sufficient information to meet this requirement.

### **Programs and Services**

9. PPS is not consistently providing instruction district-wide that addresses TAG students' assessed levels of learning and their accelerated rates of learning. This constitutes a violation of OAR 581-022-1330.

PPS has chosen to implement its TAG program largely at the building level. Much of the program is carried out in the regular classroom. While the district has the discretion to determine how to provide TAG services, it also has the responsibility to develop systems of accountability which ensure that administrators, TAG staff and teachers implement the programs and provide the services to which TAG-eligible students are entitled. ODE's surveys, interviews with staff and parents and classroom

observations support the conclusion that too many teachers are not providing instruction and curriculum that is tailored to their students' level and rate of learning. Although some of PPS's TAG students are receiving excellent services, the district still does not have in place a system that ensures the provision of minimally adequate TAG services for all eligible students.

Despite the fact that most teachers believed they had expertise in many concepts involved in TAG instruction, ODE staff observed repeated instances of teachers providing the same instruction to TAG and non-TAG students or not being aware of which students in their classrooms were identified as TAG. When teachers were interviewed, they could not consistently demonstrate how they had adjusted the instructional program to the learning rate or level of individual TAG students.

The observations and conclusions of ODE staff were consistent with the conclusions of the district's own review of its ACCESS program that is designed specifically for profoundly gifted TAG students. The Department did not find any evidence or basis to conclude that other schools or components of the district's educational program were more likely than the ACCESS program to provide instruction that was consistent with instructional requirements under OAR 581-022-1330.

### **ORDER AND REQUIRED CORRECTIVE ACTION**

Based on the above findings and in accordance with ORS 327.103(3), within 90 days of receiving this order, Portland Public Schools shall submit for the Superintendent's approval a plan for meeting standardization requirements. This plan must:

1. Assign responsibilities for corrective action processes and timelines to specific individuals.
2. Require that assessments for identification of academically gifted students are administered in the native language of ELL students when appropriate assessments are available in those languages.
3. Provide for and carryout policies for the identification of ELL students who have the potential to perform at the 97<sup>th</sup> percentile for academic achievement when there are no standardized tests available in the students' native language. Such policies shall permit consideration of factors to determine eligibility for ELL students who score at less than the 96<sup>th</sup> percentile on standardized English-language assessments and no standardized assessments are available in the students' native language.
4. Establish a procedure for written notice on an annual basis to all parents of middle and high school TAG students to advise parents of their right to provide input to and discuss with the district the TAG programs and services to be received by their children and how parents may exercise that right.

5. Institute a monitoring process to make TAG program policy implementation and practice consistent across the entire district. While the district may want to allow individual buildings a measure of autonomy as they serve communities with unique identities and populations, the district must demonstrate that it is upholding its responsibility to see that those buildings comply with the TAG statutes and administrative rules.

6. Develop a system to require all teachers to document (a) those students assigned to them who are TAG eligible and (b) the differential instruction for each TAG student that is based on the student's level of learning and rate of learning. Documentation need not be complex but it must be sufficient to allow the district to monitor compliance with TAG requirements.

7. Provide access for all TAG students to accelerated programs, including programs that may not be available in a student's own school.

8. Provide regular and sustained professional development for PPS staff in the following areas:

- a. Formal and informal assessment;
- b. Identification of qualified students for TAG services, particularly students from underrepresented populations;
- c. Design and implementation of effective, research-based instructional materials and strategies; and
- d. Development of differentiated instruction for various levels of TAG-identified students.

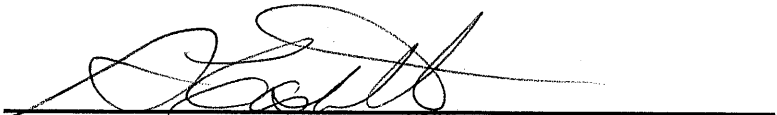
9. Document:

- a. Staff participation from all schools;
- b. Content of professional development sessions, including location, date, and length of all professional development for 2007-2008 and 2008-9; and
- c. Staff implementation and practice of professional development concepts.

10. Provide written quarterly reports to the Department that describe the district's efforts and progress in implementing the plan for meeting the standardization requirements of this order. The first report shall be due 90 days after the district submits its plan. The district shall continue to submit a quarterly progress report to the Department every 90 days thereafter until the Superintendent determines that the district has come into compliance with TAG statutes and rules as identified in and required by this order.

DATED this 27 day of February 2008.

STATE SUPERINTENDENT of PUBLIC INSTRUCTION



Susan Castillo