

## **SPECIAL EDUCATION CITIZEN COMPLAINT (SECC) NO. 18-99**

### **PROCEDURAL HISTORY**

On October 19, 2018, the Office of Superintendent of Public Instruction (OSPI) received a Special Education Citizen Complaint from the parent (Parent) of a student (Student) attending the Eatonville School District (District). The Parent alleged that the District violated the Individuals with Disabilities Education Act (IDEA), or a regulation implementing the IDEA, with regard to the Student's education.

On October 22, 2018, OSPI acknowledged receipt of this complaint and forwarded a copy of it to the District Superintendent on the same day. OSPI asked the District to respond to the allegations made in the complaint.

On November 14, 2018, OSPI received the District's response to the complaint and forwarded it to the Parent on November 19, 2018. OSPI invited the Parent to reply with any information she had that was inconsistent with the District's information.

On November 19, 2018, OSPI determined that additional information would be helpful to the investigation and contacted the District on that same day. On November 27, 2018, OSPI received the requested information from the District. OSPI forwarded that information to the Parent on November 28, 2018.

On November 20, 2018, an OSPI Special Education Dispute Investigator interviewed the District's special education director over the phone.

On November 29, 2018, OSPI received additional information from the Parent. On that same day, OSPI forwarded this information to the District.

On December 3, 2018, OSPI received additional information from the Parent. On that same day, OSPI forwarded this information to the District.

On December 4, 2018, OSPI determined that additional information would be helpful to the investigation and contacted the District on that same day. On December 4, 2018, OSPI received the requested information from the District. OSPI forwarded that information to the Parent on December 5, 2018.

OSPI considered all of the information provided by the Parent and the District as part of its investigation.

### **SCOPE OF INVESTIGATION**

This decision references events which occurred prior to the investigation time period, which began on October 20, 2017. These references are included to add context to the issues under investigation and are not intended to identify additional issues or potential violations, which occurred prior to the investigation time period.

## ISSUE

1. Did the District provide the Student with the transition services included in his October 2017 individualized education program (IEP)?

## LEGAL STANDARDS

Graduation and Transition Planning: No student shall be denied the opportunity to earn a high school diploma solely because of limitations on the student's ability. Each school district must adopt written policies, including procedures, for meeting the unique limitations of each student. These procedures may include an extension of time the student remains in school (until twenty-one years of age), a special education program in accordance with chapter RCW 28A.155, and special accommodations for individual students or exemptions from any requirement of WAC 180-51 if such requirement impedes the student's progress toward graduation and there is a direct relationship between the failure to meet the requirement and the student's limitation. WAC 180-51-115.

Graduation with a regular high school diploma ends a student's eligibility for services under Part B of the IDEA. Once a student meets all state and local graduation requirements, a district must issue the student a diploma. RCW 28A.230.120. Transition services are not intended to extend past a student's secondary education. Rather, they are intended to end upon graduation with a regular diploma. *Letter to Moore*, 39 IDELR 189 (OSEP 2002). A student's graduation with a regular high school diploma constitutes a change in placement and the district should provide the parent with written notice, according to WAC 392-172A-05010, prior to the district's proposal to graduate the student. WAC 392-172A-02000(2)(b); *Letter to Moore*, 39 IDELR 189 (OSEP 2002); *In the Matter of Camas School District*, 106 LRP 2398, OSPI Cause No. 2003-SE-0084 (WA SEA 2003).

Transition Services: Transition services means a coordinated set of activities for a student eligible for special education that: is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the student to facilitate his or her movement from school to post-school activities, including postsecondary education, vocational education, integrated employment, supported employment, continuing and adult education, adult services, independent living, or community participation, and is based on the individual student's needs, taking into account the student's strengths, preferences, and interests; and includes: instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and if appropriate, acquisition of daily living skills and provision of a functional vocational evaluation. Transition services for students eligible for special education may be special education, if provided as specially designed instruction, or a related service, if required to assist a student eligible for special education to benefit from special education. 34 CFR §300.43(a); WAC 392-172A-01190.

Transition Requirements for IEPs: Beginning not later than with the first IEP to be in effect when a student eligible for special education turns 16, or younger if determined appropriate by the IEP team, the student's IEP must include appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where

appropriate, independent living skills; and the transition services including courses of study needed to assist the student in reaching those goals. 34 CFR §300.320(b); WAC 392-172A-03090(1)(j). Beginning no later than one year before the student reaches the age of majority under state law (18), the IEP must include a statement that the district has informed the student of the rights under IDEA Part B that will transfer to him or her on reaching the age of majority, unless an exception applies. 34 CFR §300.320(c); WAC 392-172A-03090(k).

Parent Participation in IEP Development: The IEP meeting serves as a communication vehicle between parents and school personnel, and enables them, as equal participants, to make joint, informed decisions regarding: the student's needs and appropriate goals; the extent to which the student will be involved in the general curriculum and participate in the regular education environment and State and district-wide assessments; and the services needed to support that involvement and participation and to achieve agreed-upon goals. Parents are considered equal partners with school personnel in making these decisions, and the IEP team must consider the parents' concerns and the information that they provide regarding their child in developing, reviewing, and revising IEPs. Individuals with Disabilities Education Act (IDEA), 64 Fed. Reg. 12,472, 12,473 (March 12, 1999) (Appendix A to 34 CFR Part 300, Question 9). Parents must be afforded an opportunity to participate in meetings with respect to the identification, evaluation, educational placement and the provision of FAPE to the student. 34 CFR §300.501; WAC 392-172A-05001. Each school district must ensure that a parent of each student eligible for special education is a member of any group that makes decisions on the educational placement of the parent's child. WAC 392-172A-05001(2)(a).

IEP Revision: A student's IEP must be reviewed and revised periodically, but not less than annually, to address: any lack of expected progress toward annual goals or in the general education curriculum; the results of any reevaluations; information about the student provided to, or by, the parents; the student's anticipated needs; or any other matters related to a change to a student's educational program or the provision of a free, appropriate public education. 34 CFR §300.324(b); WAC 392-172A-03110(3).

IEP Amendments: After the annual IEP team meeting for a school year, the parent of a student eligible for special education and the school district may agree not to convene an IEP team meeting for the purposes of making changes to the IEP, and instead may develop a written document to amend or modify the student's current IEP. If changes are made to the student's IEP the school district must ensure that the student's IEP team is informed of those changes and that other providers responsible for implementing the IEP are informed of any changes that affect their responsibility to the student. Changes to the IEP may be made either by the entire IEP team at an IEP team meeting, or by amending the IEP rather than by redrafting the entire IEP. Upon request, a parent must be provided with a revised copy of the IEP with the amendments incorporated. 34 CFR §300.324; WAC 392-172A-03110.

IEP Implementation: At the beginning of each school year, each district must have in effect an individualized education program (IEP) for every student within its jurisdiction who is eligible to receive special education services. 34 CFR § 300.323(a); WAC 392-172A-03105(1). A school district must ensure it provides all services in a student's IEP, consistent with the student's needs as

described in that IEP. 34 CFR §300.323; WAC 392-172A-03105. The initial IEP must be implemented as soon as possible after it is developed. 34 CFR §300.323(c); WAC 392-172A-03105(2). Each school district must ensure that the student's IEP is accessible to each general education teacher, special education teacher, related service provider, and any other service provider who is responsible for its implementation. 34 CFR §300.323; WAC 392-172A-03105(3)(a). "When a school district does not perform exactly as called for by the IEP, the district does not violate the IDEA unless it is shown to have materially failed to implement the child's IEP. A material failure occurs when there is more than a minor discrepancy between the services provided to a disabled child and those required by the IEP." *Baker v. Van Duyn*, 502 F. 3d 811 (9th Cir. 2007).

Prior Written Notice: Prior written notice ensures that the parent is aware of the decisions a district has made regarding evaluation and other matters affecting placement or implementation of the IEP. It documents that full consideration has been given to input provided regarding the student's educational needs, and it clarifies that a decision has been made. The prior written notice should document any disagreement with the parent, and should clearly describe what the district proposes or refuses to initiate. It also includes a statement that the parent has procedural safeguards so that if they wish to do so, they can follow procedures to resolve the conflict. Prior written notice is not an invitation to a meeting. Prior written notice must be given to the parent within a reasonable time before the district initiates or refuses to initiate a proposed change to the student's identification, evaluation, educational placement or the provision of a free appropriate public education. It must explain why the district proposes or refuses to take action. It must describe any other options the district considered, and it must explain its reasons for rejecting those options. 34 CFR 300.503; WAC 392-172A-05010. A student's graduation with a regular high school diploma constitutes a change in placement and the district should provide the parent with written notice, according to WAC 392-172A-05010, prior to the district's proposal to graduate the student. WAC 392-172A-02000(2)(b).

State Education Agency—Authority: A state education agency has "general supervisory responsibility" to ensure compliance with all aspects of the IDEA. *Letter to Warkomski* (Mar 30, 2001); see 34 CFR § 300.600; see also *Letter to Librera* (May 26, 2004) ("The SEA is ultimately responsible for ensuring that all Part B requirements, including eligibility, evaluation, and procedural safeguards, are met for eligible children residing within the State.").

Special Education Citizen Complaint—Remedies for Violations: If, after investigating a special education citizen complaint, OSPI finds a violation, the decision will include any necessary corrective action to be undertaken and any documentation to be provided to ensure that the corrective action is completed. WAC 392-172A-05030(8). If the decision is that a school district has failed to provide appropriate services, the decision will address: how to remediate the failure to provide those services, including, as appropriate, compensatory education, monetary reimbursement, or other corrective action appropriate for the needs of the student. WAC 392-172A-05030(8)(a).

## **FINDINGS OF FACT**

### **Background Information**

1. In its response, the District provided OSPI with its "Policy 2161," which pertains to high school graduation requirements. In part, it reads:

#### **VII. STUDENTS WITH AN INDIVIDUALIZED EDUCATION PROGRAM (IEP)**

A student with a disability may fulfill graduation requirements as follows:

A. By the age of 14, the student will participate with the IEP Team (including a special education teacher, general education teacher, parents, student and other school personnel and agency representatives who will assist the student in achieving the goals of the IEP in a discussion of transition service needs that focuses on the student's course of study;

B. As an outcome of the discussion, the IEP will include appropriate graduation requirements based on the student's individual needs and abilities consistent with their transition plan, appropriate graduation requirements. Modifications to the district's standard graduation requirements may include;

1. Attainable alternate classwork and/or individualized activities substituted for standard requirements;
2. A statement of waiver for any waived standard graduation requirements; or
3. An extension of time for the student to remain in school to complete graduation requirements. The student may remain in school up to and including the school year in which the student reaches twenty-one years of age.

C. The student will, in cooperation with their parent/guardian and the IEP team, determine:

1. The projected date by which all graduation requirements will be met; and
2. The projected date and conditions under which the student will participate in the graduation ceremony.

D. The student will have an IEP that incorporates all issues and decisions from the above procedures. Any decisions that modify the district's standard graduation requirements will be made through the IEP process. Annually or as needed. The IEP will be reviewed/ revised to accommodate the student's progress and development.

#### **2017-2018 School Year**

2. During the 2017-2018 school year, the Student attended a District high school, was in the twelfth grade, and was eligible for special education under the category of autism.
3. The District's 2017-2018 school year began on September 6, 2017.
4. On September 27, 2017, the Parent emailed the career specialist, stating, in part: "[Student] has his [individualized education program (IEP)] meeting next month and [the District] will stop services if he gets his diploma in June otherwise they are obligated to provide transition services until he is 21."

On September 28, 2017, the career specialist responded, including the school counselor on her response. The career specialist provided the Parent with: a) information on financial aid for postsecondary schooling; and b) an informational flyer for a local technical college (technical college).

On September 28, 2017, the school counselor stated, in part:

When students receive their diploma, they are no longer eligible for services at their school district. However, most students on an IEP will take this to the college and have continual support from their IEP at the college level. This transition to college should include an IEP sharing time between the high school and the college. A student then would have a case manager at the college. I am not certain of the recommendation of his current IEP team, but I hope to be at the meeting when the IEP review takes place.

On September 29, 2017, the Parent replied to the school counselor, stating:

[I] just called [the] special ed office and [Student's] IEP is due Monday. [I] told them to get a hold of you. I am aware of [the fact that if Student gets] his diploma, [then he will not receive any] more services and [that] the state doesn't help till he is 21. [I] am worried about transportation and money if he does go to tech school and if he needs his diploma to go to tech school? Lots of questions and [Student's] not sure what he wants.

5. On September 28, 2017, the District issued a "Review IEP Invitation" to the Parent and the Student. The meeting was scheduled for October 2, 2017. The following individuals were "invited to attend and participate in the...meeting:" Parent, Student, administrator, general education teacher, special education teacher.
6. On October 2, 2017, the Student's IEP team met, and a new annual IEP was created for the Student. The October 2017 IEP provided the Student with the following specially designed instruction in a *general education setting* from October 2, 2017 through October 1, 2018:
  - Transition/vocational – 15 minutes 5 times weekly (to be provided by a general education teacher)

The October 2017 IEP included the following goal in the area of vocational/transition: "By 10/01/2018, when given a situation when a problem has occurred [Student] will successfully and independently troubleshoot a solution and interact appropriately with others improving transition from 70% to 90% as measured by observation."

The "Secondary Transition" portion of the October 2017 IEP read, in pertinent part:

**I. Post Secondary Goals/Outcomes**

Content Area: Education/Training:

Upon leaving public school, [Student] will seek training in the area of computers.

Transition Services:

[Student] will apply for [Division of Vocational Rehabilitation (DVR)] eligibility and may receive services through DVR.

Staff/Agency Responsible:

DVR

Content Area: Employment:

Upon leaving public school, [Student] will gain employment in the area of computers.

Transition Services:

[Student] will apply for DVR eligibility and may receive services through DVR.

Staff/Agency Responsible:

DVR

## **II. Course of Study**

[Comprehensive course of study from ninth grade through twelfth grade, including robotics in tenth grade and AP computer science in twelfth grade]<sup>1</sup>

County Skills Center (Skills Center) – 3 classes

[Student] will need to complete his senior project through his English/CWP classes and he will also need to complete 10 hours of community services outside of school time.

The "Present Level of Educational Performance" section of the October 2017 IEP read, in pertinent part:

**General Education Teacher Report:** At this time [Student] has a paraeducator with him for 3 days a week to help with some of the transition that occur within his school day.

**Pre-Vocational/Vocational Career-Technical:** The IEP team has recommended that [Student] works on his transition activities within his general education classes his senior year.

A completed career interest survey (dated February 16, 2017) was attached to the Student's October 2017 IEP. This survey showed that the Student was most interested in industrial, mechanical, and scientific careers. It also included information on three schools that offered programs for future careers in industrial, mechanical, and scientific industries.

7. According to the District, the Student's 2017-2018 schedule was as follows:

- Monday through Friday: Student spent the first 3 periods of the day at the Skills Center<sup>2</sup> and the last 3 periods of the day at the high school.
- Monday through Wednesday: the Student worked with a paraeducator for the entirety of the school day.<sup>3</sup>

---

<sup>1</sup> The Student's transcript shows that he followed this course of study throughout his high school career.

<sup>2</sup> The Student took a course, titled "DigiPen Video Game Development." According to the District's response, the Skills Center helped the Student "transition into workplace/career situations by giving him the skills necessary to be successful in post-secondary situations."

<sup>3</sup> According to the District, "the paraeducator's help was minimal during the time she was with the Student." The "Present Level of Educational Performance" section of the Student's October 2017 IEP stated that the paraeducator was required to "help with some...transitions [during the Student's] school day." In fact, this

- Thursday through Friday: the Student did not work with a paraeducator.<sup>4</sup>

According to the District, the Skills Center provided "a program to help [Student] transition into workplace/career situations by giving [him] the skills necessary to be successful in post-secondary transitions."

8. In March 2018, the Student applied for private services through ResCare. At some point thereafter, the Student's application for private services was approved by ResCare.<sup>5</sup>
9. On March 16, 2018, the Student was admitted to the technical college for its 2018-2019 school year.
10. On June 12, 2018, the Parent emailed the special education director, stating:  
[Student] and I decided to hold his diploma [this past] Saturday. [I] left messages and emails with the [technical college] and [did not] receive a response from disability resources, nothing from ResCare, and this is what I got from DVR:

'If [Student] needs a long term support from a job coach, it would be unethical for DVR to work with him for employment, because they do not provide long-term job support. Only 3 months. That's where [Developmental Disabilities Administration] funding comes in, is [sic] the long-term job support, but [Student] will not be able to access that until he is 21...hence kids staying in school until they are 21.'

According to the District's response and a phone conversation with the OSPI investigator, upon its receipt of this email, its understanding was: the Student would walk at graduation but not receive a diploma. The Student would then return to the District in the fall to receive services. The Student's IEP team would meet over the summer to discuss what those services would be.<sup>6</sup>

11. On June 15, 2018, the Parent and the special education director met. According to the Parent, at this meeting, she asked that the District "hold his diploma because he needed transition

---

section of the IEP also stated, "The Skill Center is reporting that they do not feel [paraeducator support] is necessary anymore unless there are big assignments that [Student] will need help with."

<sup>4</sup> According to the District, it used the two days during which the Student did not receive paraeducator support "to see if the skills he was working on would generalize across all settings."

<sup>5</sup> According to the ResCare website, this company "offers daily living support services and in-home care, vocational training, job placement, pharmacy, rehab, and behavioral health services for people of all ages and skill levels." The Parent did not provide a specific date regarding when the Student's application for private services was approved.

<sup>6</sup> The District's response also stated, "[Our] understanding was that the Student would walk at graduation, but return to us in the fall. The District was surprised to learn, in September, that the family picked up the diploma after graduation."



services.” It was the Parent’s understanding that the Student “would walk at graduation and was prepared to receive [a ceremonial] booklet with nothing inside.”

According to the special education director, at this meeting:

[We] discuss[ed] option[s] for the Student after graduation. At that time there were several options given to the family for the Student. Several agencies were discussed with the family (DVR, [Washington State Developmental Disabilities Council], ResCare), transportation options were given to the family for beyond borders and other...county transportation options, the [technical college] and [another college] options [sic] were also given the names and numbers of the disability coordinators. The student at the time was accepted to the [technical college] and the special education director talked directly with the disability coordinator about the needs of the Student.

12. The District’s graduation ceremony was on June 16, 2018.
13. According to the District, by June 16, 2018, the Student had “met all of his graduation requirements to receive his [Certificate of Academic Achievement]. He completed his senior project, senior board presentation, passed all state assessments, and earned 24 credits.”
14. The Student received his diploma on or about June 16, 2018. The circumstances surrounding the Student’s receipt of his diploma are unclear. According to the Parent:

At graduation, [Student] was handed a graduation book when he walked onto the stage. The graduates left in a line into a small room, where school staff systematically handed out diplomas to each student. [Student] was handed his diploma from school staff not knowing he had a choice not to take his diploma. The graduates then walked out to the courtyard to meet their friends and family. At that point, I realized that the diploma [had been] given to [Student].<sup>7</sup>

In contrast, the District stated:

[The Student’s family] picked up the diploma after graduation. The diploma was not given to the Student at graduation. All students receive an empty cover at the graduation ceremony. The Student and/or family had to go into a separate room and stand in a long line after the graduation ceremony to pick up the diploma if they wanted to get their diploma.

15. According to the District’s response to this complaint, it has not provided the Student with any services since he graduated and received his diploma on June 16, 2018.
16. The Student’s IEP team did not meet in the springtime prior to the Student’s graduation.
17. The District’s final day of school for the 2017-2018 school year was June 20, 2018.

---

<sup>7</sup> In a different place in the record, the Parent stated, “The diploma was inside [the booklet that the Student received on the day of his graduation].”

18. The District chose not to issue a prior written notice, stating that the Student would graduate because it believed the Student would be returning to school in the fall of 2018 to receive further transition services.

### **Post-Graduation**

19. On July 12, 2018, the Student applied for private services through the DVR.

20. On September 7, 2018, the DVR approved the Student's application for private services.

21. The Student first began receiving private services through ResCare on September 24, 2018. According to the Parent, at this time, "ResCare provided a job for [Student] eight hours a week at [a technology company]."<sup>8</sup>

22. On September 28, 2018, the Parent emailed the special education director, stating, "[Student] reached out to you in an email regarding [transition] services and hasn't heard back. Just want to confirm whether transition services are available from [the District] or not?"

Later that same day, the special education director replied, stating, in part, "Since you picked up his diploma transition services are not available [through the District]."

23. On October 21, 2018, the Parent responded to the special education director, stating her concerns regarding the Student. In this email, the Parent stated:

- The Student had been approved for private services through the DVR, but that the Student's DVR representative had recently decided to close the Student's case file<sup>9</sup>;
- The Student was receiving eight hours of computer tutoring a week through ResCare;
- The Student was also receiving job coaching through ResCare;
- She was encountering "difficulty with transportation and communication with [the Student's] ResCare case manager;" and,
- The Student "was not able to attend [the technical college] due to no transportation."

24. On November 9, 2018, the Student's eligibility for private services through ResCare was terminated. According to the Parent, six weeks is the standard length of time for private services through ResCare.

---

<sup>8</sup> The Parent further stated that: a) ResCare did not provide a job coach for the Student; b) the owner of the technology company the Student worked at was unwilling to extend an offer of employment to the Student because the Student had "problems with listening, putting his head down on the table, [and] not asking for help or what to do next;" and c) the Student's ResCare case worker told the Parent that the Student needed a job coach.

<sup>9</sup> OSPI asked the Parent for clarity on this point. The Parent explained that the DVR proposed closing the Student's case file in October of 2018 because: a) the Student had previously received services through ResCare; and b) the Student did not have adequate transportation to access DVR's services. The Parent stated that the Student has not received any services through the DVR.

25. On November 11, 2018, the DVR provided the Parent with the contact information for certain job coaches. According to the Parent, she will not be able to access these services until sometime in December of 2018.

## CONCLUSIONS

### Issue 1: Transition Services

Transition Services during the 2017-2018 School Year: The Parent alleged that the Student was not provided with the transition services that he was supposed to receive. A school district must ensure it provides all services in a student's IEP, consistent with the student's needs as described in that IEP. When a school district does not perform exactly as called for by the IEP, the district does not violate the IDEA unless it is shown to have materially failed to implement the child's IEP. A material failure occurs when there is more than a minor discrepancy between the services provided to a child with a disability and those required by the IEP.

Here, the District provided the Student with the transition services listed in his October 2017 IEP. For example, the Student's transcript shows that he followed the course of study outlined in the 'Secondary Transition' section of his October 2017 IEP. Importantly, during his senior year, he attended a local Skills Center for the first half of each day. The Skills Center helped the Student "transition into workplace/career situations by giving [him] the skills necessary to be successful in post-secondary transitions." Each afternoon, the Student received 15 minutes of specially designed instruction in transition/vocational from a general education teacher. Therefore, the District provided the Student with the transition services included in his October 2017 IEP during the 2017-2018 school year.

Graduation: The Parent alleged that the District agreed to provide the Student with transition services after June 16, 2018 (the date of graduation), but that the District did not provide the Student with these services.

An IEP must be reviewed and revised, as appropriate, to address: any information about the student provided to, or by, the parents; the student's anticipated needs; or, other matters. Changes to an IEP may be made either by the entire IEP team at an IEP meeting, or by amending the IEP rather than by redrafting the entire IEP. Parents must be afforded an opportunity to participate in meetings with respect to the identification, evaluation, educational placement and the provision of FAPE to the student. Each school district must ensure that a parent of each student eligible for special education is a member of any group that makes decisions on the educational placement of the parent's child.

Further, a student's graduation constitutes a change in placement and the district should provide the parent with written notice prior to the district's proposal to graduate the student. Prior written notice must be given to the parent within a reasonable time before the district initiates or refuses to initiate a proposed change to the student's identification, evaluation, educational placement or the provision of a free appropriate public education. It must explain why the district proposes or

refuses to take action. It must describe any other options the district considered, and it must explain its reasons for rejecting those options.

Here, the District did not discuss whether or not the Student would graduate during the 2017-2018 school year at his October 2017 IEP meeting, and the District should have held an IEP meeting prior to June 16, 2018 to discuss: 1) whether the Student was ready for graduation; 2) whether the Student required transition services after June 16, 2018; and, 3) if so, what those transition services would be. Importantly, the Student's October 2017 IEP stated that specially designed instruction in transition/vocational would continue until October 1, 2018. The District should have then issued the Parent a prior written notice, documenting its decision and the reasons for it.

For example, the District was in apparent agreement with the Parent that the Student's needs had changed, and that he required transition services beyond those listed in his October 2017 IEP. Three portions of the record most support this conclusion:

- The District's response reads, in part: "[Our] understanding was that the Student would walk at graduation but return to us in the fall."
- In a conversation with an OSPI Dispute Resolution Investigator on November 20, 2018, the District stated that its understanding, as of June 12, 2018, was that: the Student would walk at graduation but not receive a diploma. The Student would then return to the District in the fall to receive services. The Student's IEP team would meet over the summer to discuss what those services would be.
- The District consciously chose not to issue a prior written notice, stating that the Student would graduate, in accordance with WAC 392-172A-02000(b), because it believed the Student would be returning to school in the fall of 2018 to receive further transition services.

Therefore, the procedures outlined above should have been followed. Given that these procedures were not followed, it appears that the Student was given his diploma by mistake and that his access to District transition services should not necessarily have been cut off.

Importantly, this conclusion is supported by the District's own policy. For example, "Policy 2161" states that, for a student that has an IEP, that student's IEP team must discuss: the student's needs and abilities; the graduation requirements that are necessary for that specific student; and, what type of transition plan the student requires. "Policy 2161" also states that a student's IEP must be updated to include the results of that discussion.

A state education agency has "general supervisory responsibility" to ensure compliance with all aspects of the IDEA. If, after investigating a special education citizen complaint, OSPI finds a violation, the decision will include any necessary corrective action to be undertaken and any documentation to be provided to ensure that the corrective action is completed. Therefore, the District will be required to hold an IEP meeting to discuss: 1) whether the Student should have been graduated when he was; 2) whether the Student required transition services after June 16, 2018; and, 3) if so, what those transition services are.

## CORRECTIVE ACTIONS

By or before **January 16, 2019, January 25, 2019,** and **February 22, 2019,** the District will provide documentation to OSPI that it has completed the following corrective actions.

### STUDENT SPECIFIC:

1. By **January 11, 2019,** the District and the Parent will hold an IEP team meeting. At this meeting, the following issues will be discussed:
  - a) Whether the Student should have been graduated when he was;
  - b) Whether the Student required transition services after June 16, 2018; and,
  - c) If so, what those transition services are.

By **January 15, 2019,** the District will: 1) amend the Student's October 2017 IEP to reflect any changes resulting from this meeting; 2) provide the Parent with a copy of the Student's amended IEP; and, 3) provide the Parent with a prior written notice that explains the changes that were made to the Student's October 2017 IEP.

By **January 16, 2019,** the District will provide OSPI with 1) a copy of any meeting invitations; 2) a sign-in sheet from the IEP meeting; 3) a copy of the amended or new IEP; 4) a copy of any related prior written notices; 5) a copy of any correspondence with the Parent regarding the IEP meeting and the decisions made at that meeting; and, 6) a copy of any other relevant documentation.

If the decision is made that the Student was improperly graduated, and that the Student did require transition services beyond those listed in his October 2017 IEP, then, on **January 16, 2019,** the District will provide OSPI with a proposed monitoring plan to ensure that the Student received the agreed-upon transition services. By January 21, 2019, OSPI will either approve the monitoring plan or inform the District of changes that will be made to the plan. OSPI will then issue an updated Corrective Action Plan (CAP) Matrix, which accounts for the monitoring plan, at that time.

### DISTRICT SPECIFIC:

1. By **February 15, 2019,** the District will provide training to all special education administrators, the principal, the assistant principal, and certified staff, including educational staff associates (ESAs), at the Student's 2018-2019 school regarding Section VII of its "Policy 2161." The training will include examples. The training can be presented by someone who is an employee of the District.

By or before **January 25, 2019,** the District will provide a draft of the training materials to OSPI. By or before January 30, 2019, OSPI will provide feedback on the training materials.

By or before **February 22, 2019,** the District will provide OSPI with a sign-in sheet that lists those individuals who attended the training. The District will also provide a roster of all special

education administrators, the principal, the assistant principal, and certified staff, including educational staff associates (ESAs), working at the Student's 2018-2019 school.

The District will submit a completed copy of the CAP Matrix documenting the specific actions it has taken to address the violations and will attach any other supporting documents or required information.

### **RECOMMENDATIONS**

OSPI notes that the school counselor provided some inaccurate information in her email to the Parent, dated September 28, 2018. This email concerned what disability services are available to students once they are in college. Upon knowledge and belief, the school counselor was referring to the American with Disabilities Act. A student with a disability who is enrolled in college should contact their university's disability coordinator. OSPI recommends that the District review this area with the school counselor.

Dated this \_\_\_\_ day of December, 2018

Glenna Gallo, M.S., M.B.A.  
Assistant Superintendent  
Special Education  
PO BOX 47200  
Olympia, WA 98504-7200

#### **THIS WRITTEN DECISION CONCLUDES OSPI'S INVESTIGATION OF THIS COMPLAINT**

IDEA provides mechanisms for resolution of disputes affecting the rights of special education students. This decision may not be appealed. However, parents (or adult students) and school districts may raise any matter addressed in this decision that pertains to the identification, evaluation, placement, or provision of FAPE to a student in a due process hearing. Decisions issued in due process hearings may be appealed. Statutes of limitations apply to due process hearings. Parties should consult legal counsel for more information about filing a due process hearing. Parents (or adult students) and districts may also use the mediation process to resolve disputes. The state regulations addressing mediation and due process hearings are found at WAC 392-172A-05060 through 05075 (mediation) and WAC 392-172A-05080 through 05125 (due process hearings.)