

SPECIAL EDUCATION CITIZEN COMPLAINT (SECC) NO. 17-24

PROCEDURAL HISTORY

On April 13, 2017, the Office of Superintendent of Public Instruction (OSPI) received a Special Education Citizen Complaint from the parent (Parent) of a student (Student) attending the Sumner 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 April 14, 2017, 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 May 5, 2017, OSPI received the District's response to the complaint and forwarded it to the Parent on May 8, 2017. OSPI invited the Parent to reply with any information she had that was inconsistent with the District's information.

On May 17, 2017, OSPI received the Parent's reply and forwarded that reply to the District on May 18, 2017.

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

OVERVIEW

During the 2015-2016 school year, the Student attended seventh grade at a District middle school and was eligible for special education services under the category of autism. The documentation does not include progress reporting for the 2015-2016 school year.

During the 2016-2017 school year, the Student attended eighth grade at the same District middle school. In mid-November 2016, the District held a meeting to develop the Student's annual individualized education program (IEP), but the only attendees were the Parent and the Student's special education case manager. After the meeting, the Student's special education case manager began collecting and monitoring data on the Student's annual goals. Based on the November 2016 meeting, the District changed the Student's writing services, from 150 weekly minutes in the general education setting to 15 weekly minutes in the special education setting. However, the District did not begin implementing the Student's 15 minutes per week of writing services until January 2017. In December 2016, the District began providing the Parent with progress reporting. The Parent alleged that the District did not follow procedures for developing/revising the Student's IEP, implementing the Student's IEP, monitoring progress and providing progress reporting, following IEP team meeting procedures, and removing services from the Student's IEP. The District acknowledged it did not follow several procedures, and proposed corrective actions.

ISSUES

1. Did the District follow procedures for developing/revising the Student's individualized education program (IEP)?
2. Did the District follow procedures for implementing the Student's IEP?
3. Did the District follow procedures for monitoring progress and providing progress reporting to the Parents?
4. Did the District follow IEP team meeting procedures for the Student?
5. Did the District follow procedures for removing services from the Student's IEP and/or schedule?

LEGAL STANDARDS

IEP Development: The IEP meeting serves as a communication vehicle between parents and school personnel, and enables the IEP team to make informed decisions regarding the: student's needs and appropriate goals; extent to which the student will be involved in the general education curriculum and participate in the general education environment, and state and district-wide assessments; and services needed to support that involvement and participation, and to achieve the agreed-upon IEP goals. The IEP team must consider the parents' concerns and the information they provide regarding their student in developing, reviewing, and revising IEPs. 64 Fed. Reg. 48 12473 (March 12, 1999) (Appendix A to 34 CFR Part 300, Question 9). 34 CFR §§300.321, 300.322, 300.324 and 300.328; WACs 392-172A-03095, 392-172A-03100, and 392-172A-03110.

The parent is an integral part of the IEP development process. The district must consider the parent's concerns and any information s/he provides. The district is not required, however, to adopt all recommendations proposed by a parent. The team must work toward consensus on IEP content, but if team members are unable to reach consensus it remains the district's responsibility to ensure that the IEP includes the special education and related services that are necessary to provide the student with a free appropriate public education. An IEP may therefore be properly developed under IDEA procedural requirements, yet still not provide the student all of the services that the parent believes are necessary components of the student's educational program. 64 Fed. Reg. 48 12473-74 (March 12, 1999) (Appendix A to 34 CFR Part 300, Question 9).

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. 34 CFR §300.324(b); WAC 392-172A-03110(3).

Specially Designed Instruction: Specially designed instruction means adapting, as appropriate to the needs of an eligible student, the content, methodology, or delivery of instruction: to address the unique needs of the student that result from the student's disability; and to ensure access of the student to the general curriculum, so that the

student can meet the educational standards within the jurisdiction of the public agency that apply to all students. 34 CFR §300.39(b)(3); WAC 392-172A-01175(3)(c). A need for special education is not limited strictly to academics; it also may include physical education, transition services, behavioral progress, and the acquisition of appropriate social and/or organizational skills. 34 CFR §300.39; WAC 392-172A-01175.

IEP Team Member Excusal: Parents and districts can agree in writing that an IEP team member's participation is not necessary and that the team member may be excused from attending an IEP meeting, in whole or part, if the team member's area of curriculum or related services is not being modified or discussed in the meeting. If the meeting involves a modification to or discussion of the team member's area of the curriculum or related services and the parties both consent in writing to the excusal of the team member, the excused team member must submit written input into the development of the IEP in prior to the meeting. 34 CFR §300.321(e); WAC 392-172A-03095(5).

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. 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. 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.

Progress Reports: The purpose of progress reporting is to ensure that, through whatever method chosen by a school district, the reporting provides sufficient information to enable parents to be informed of their child's progress toward the annual IEP goals and the extent to which that progress is sufficient to enable the child to achieve those goals. *Amanda J. v. Clark County Sch. Dist.*, 267 F.3d 877, 882 (9th Cir, 2001) (parents must be able to examine records and information about their child in order to "guarantee [their] ability to make informed decisions" and participate in the IEP process). IEPs must include a statement indicating how the student's progress toward the annual goals will be measured and when the district will provide periodic reports to the parents on the student's progress toward meeting those annual goals, such as through quarterly or other periodic reports concurrent with the issuance of report cards. 34 CFR §300.320(a)(3); WAC 392-172A-03090(1)(c).

FINDINGS OF FACT

Background Information

1. During the 2015-2016 school year, the Student attended seventh grade at a District middle school and received special education services under the category of autism.
2. The District completed the Student's evaluation in effect for the 2015-2016 school year on September 30, 2014. The review of existing data noted the Student had

been receiving specially designed instruction for communication, social/emotional skills, and writing skills. Additionally, the review of existing data noted the Student had been receiving supplementary aids and services for occupational therapy and speech language therapy. The areas of evaluation included medical-physical, general education, social/emotional, academics, communication, and an observation of the Student.¹ The evaluation report recommended the Student's continued support for social skills, targeting skills such as making inferences, problem solving, and self-advocacy. The report also recommended that the Student's services for social skills include skills for executive functioning, such as organization, planning, and monitoring. Additionally, the report recommended the Student receive support for written language, with a focus on writing conventions. The report recommended accommodations, such as a graphic organizer, computer, and breaking up assignments/materials into manageable pieces. Regarding communication, the report stated the Student's expressive and receptive skills were well within the average/above-average range, noting his needs were based on social deficits, not communication deficits, and recommended discontinuing the Student's speech services. The report did not address the Student's potential needs in the area of occupational therapy.

3. On November 13, 2015, the Student's IEP team, including the Parent, developed the individualized education program (IEP) in place for the Student during the 2015-2016 school year. The team considerations stated the Parent wanted to see a focus on improving the Student's executive functioning skills. The present levels of performance stated the Student was doing "extremely well" in his general education classes and had made improvements on his social skills. The Student's IEP provided seven annual goals with trimester progress reporting, including:
 - Social Skills: (Executive Functioning/Online Resource) The Student will independently use his online account to check his email daily, get necessary information, and utilize other functions, improving from not doing so, to using his online account with no more than 2 adult prompts per week, across 3 consecutive school weeks.
 - Social Skills: (Perspective Taking/Inference Environment), The Student will identify the clues in his environment, including nonverbal language, tones, and others' emotions and interpret what is happening, improving from not doing so, to 80% of time, across 10 opportunities and 3 data compilations.
 - Social Skills: (Perspective Taking/Inferences Flexibility) The Student will independently accept others' different perspectives and refrain from insisting on his perspective, improving from not doing so, to doing so 80% of time, across 10 opportunities and 3 data compilations.
 - Social Skills: (Perspective Taking/Self-Advocacy) The Student will accurately identify a self-advocacy situation and assert himself, improving from 3/5 opportunities to 4/5 opportunities.
 - Social Skills: (Problem Solving) The Student will engage in appropriate problem-solving strategies that match the size of the problem, improving from not engaging in

¹ The Student's communication assessment consisted of a file review and an informal social language task. The areas of assessment did not include an assessment of the Student's fine motor skills.

problem-solving strategies, to engaging in appropriate problem-solving strategies 80% of the time, across 3 data compilations.

- Social Skills: (Executive Functioning) When given a long-term assignment, the Student will complete timeline for daily/weekly expectations, improving from needing numerous adult reminders, to needing no more than one reminder (other than whole class reminders).
- Writing Conventions: The Student will write with correct conventions, improving from a rubric score of 2, to a rubric score of 3 or more in 4/5 opportunities.

Additionally, the Student's November 2015 IEP provided several accommodations/modifications, including:

- Access/use of executive functioning aides, such as organizational check list, graphic organizer, list of rubrics, and computer
- Allowance of late assignments
- Behaviorally related: provide positive reinforcement and clear expectations
- Content related: pre-teach skills, give advanced warning of changes with explanations, use social mapping/social stories
- Environmental: preferential locker, alternate passing period
- Support services: fulltime paraeducator for first 5 weeks of school with level of continuing support to be determined, daily anecdotal email sent home to family
- Testing related: clarification and verification of instructions, increased time on tests

The Student's IEP also provided the following specially designed instruction:

- Written language skills – 150 minutes per week, in the general education setting, and
- Social skills – 30 minutes per week, in the general education setting.

Timeline for Investigation Begins on April 14, 2016

4. June 23, 2016 was the last day of the 2015-2016 school year.
5. The documentation in this complaint did not include any progress reporting for the 2015-2016 school year. According to the Parent, she did not receive any progress reporting during the 2015-2016 school year.
6. According to the Parent, she met with the District assistant superintendent to express her concerns about the Student's services during the summer of 2016.
7. On September 6, 2016, the middle school assistant principal emailed several members of school staff, attaching a schedule for the Student's paraeducator support. The assistant principal stated the Student's paraeducator would also communicate to the Parent how the Student did during the school day, including any organizational issues.
8. September 7, 2016 was the first day of the 2016-2017 school year, and the Student began attending eighth grade at the same District middle school. The Student's schedule consisted of the following general education classes: family & consumer science, language arts, algebra, science, state history, and technology.

9. On September 8, 2016, the middle school assistant principal emailed the Parent, copying the Student's special education case manager and the Student's paraeducator on the email. The assistant principal stated the Student's paraeducator would support the Student in all of his classes, except for science class, in which another paraeducator would support the Student, as that paraeducator had expertise in science. The assistant principal also stated the Student's paraeducator would communicate with the Parent, including information about each class, homework, issues pertaining to transitioning amongst six daily classes, and any other concerns. The assistant principal then asked the Parent for her input. The Parent responded, stating the Student needed paraeducator support for executive functioning issues, understanding what was expected, social anxiety, and wearing his glasses.
10. For the month of September 2016, the documentation included seven emails from the Student's paraeducator to the Parent. The emails from the Student's paraeducator generally provided information about each class period and the Student's assignments.
11. For the month of October 2016, the documentation included seven emails from the Student's paraeducator to the Parent. The emails from the Student's paraeducator generally provided information about each class period and the Student's assignments.
12. According to the Parent, on November 7, 2016, the Student's special education case manager telephoned the Parent, asking to hold the Student's annual IEP team meeting in the next few days in order to comply with the timelines. Also according to the Parent, after she replied that it was not possible to meet in the next few days, the Student's special education case manager responded that they could meet later, and it was common practice to "backdate" IEPs with an earlier date. According to the Parent, the Parent replied that if an IEP had an incorrect date, she would handwrite the correct information on the IEP. Also according to the Parent, she and the Student's special education case manager then scheduled the Student's annual IEP team meeting for November 14, 2016.
13. On November 10, 2016, the District created an IEP for the Student. The Parent did not participate in developing this IEP. The IEP includes signatures from the Student's special education case manager, one of the Student's general education teachers, and an illegible signature on the District representative line. However, according to the Parent, she was not aware of such a meeting. The IEP team considerations stated, "Concerns of the parent include" without completing the sentence. The present levels of performance section of the IEP did not include information about the Student's progress on his November 2015 IEP goals. The Student's IEP then provided for the same seven annual goals verbatim, but designated progress reporting as quarterly. The service matrix listed the following specially designed instruction:

- Written language skills – 75 minutes per week, in the special education setting,²
- Social skills – 30 minutes per week, in the general education setting.

14. Also on November 10, 2016, the District issued first quarter report cards for all students. The Student's report card stated:

- Family & Consumer Science
Career/Community: Approaching the standard for this point in the year
Consumer/Resources: Meeting the standard for this point in the year
Communication/Relationships: Meeting the standard for this point in the year
Human Development: N/A
- Language Arts
Reading: Meeting the standard for this point in the year
Writing: Meeting the standard for this point in the year
Language: Approaching the standard for this point in the year
Speaking & Listening: Meeting the standard for this point in the year
- Algebra
Number Systems & Geometry: N/A
Linear Equations & Inequalities: Exceeding the standard for this point of year
Quadratics: N/A
Exponents: N/A
Data, Statistics & Probability: N/A
- Science
Properties & Interactions of Matter: Meeting the standard for this point in the year
Forces & Motion: N/A
Energy: N/A
Waves & Their Applications: Meeting the standard for this point in the year
Astronomy: N/A
Science & Engineering Practices: Meeting the standard for this point in the year
- State History
Content Knowledge: Meeting the standard for this point in the year
Evaluation Skills: Meeting the standard for this point in the year
- Technology
Knowledge: Meeting the standard for this point in the year
Application: Exceeding the standard for this point of year
Employability Skills: Exceeding the standard for this point of year

15. According to the Parent, on November 14, 2016, she met with the Student's special education case manager, without other school or District staff in attendance. Also according to the Parent, the Student's special education case manager stated it would be difficult for her to write the Student's IEP because she had not met the Student. Additionally, according to the Parent, the Parent informed the Student's special education case manager that she had not received progress reporting regarding the Student's annual goals, and she did not think a special education teacher had worked with the Student for the past two years. According to the District, prior to the November 14, 2016 meeting, the Student's special education case manager thought that the District has assigned another individual to be the

² This is a reduction of 75 weekly minutes and a change of location from the Student's November 2015 IEP, which provided the Student with 150 weekly minutes for writing in the general education setting.

Student's case manager, and after meeting with the Parent on November 14, 2016, the Student's special education case manager began monitoring the Student's progress.

16. On November 15, 2016, the Student's special education case manager emailed the Parent, stating she was meeting with both of the Student's paraeducators the next day (the Student's main paraeducator and the paraeducator for the Student's science class) to discuss the Student's special education social goals and how to gather data. The Student's special education case manager also stated she had not yet had an opportunity to talk with the school writing specialist,³ but the school's assistant principal thought the school writing specialist could pull the Student from one of his class periods to work on his annual writing goals.
17. On November 20, 2016, the Parent emailed the District special education director and District assistant superintendent, stating that similar to the 2015-2016 school year, the Student had not received any special education services for the 2016-2017 school year. The Parent recounted the non-conforming IEP meeting with the Student's special education case manager on November 14, 2016, and stated she and the Student's special education case manager revised the Student's IEP to add 15 minutes of specially designed instruction for writing in a special education setting. The Parent stated that the plan was for the school writing specialist to pull the Student from his general education language class and provide specially designed instruction for writing, but the Parent did not think this was sufficient specially designed instruction.
18. On November 21, 2016, the District assistant superintendent emailed the Parent, stating he was meeting with the District special education director the next day, and they would discuss the Parent's concerns.
19. On November 22, 2016, the District issued progress reporting for four of the Student's seven annual goals as listed in the November 2016 IEP. The progress reporting did not include information for the other three annual goals as listed in the November 2016 IEP, but did provide progress reporting for three additional writing goals.⁴ The progress reporting stated:
 - Social Skills (Executive Functioning/Online Resource): The Student had made insufficient progress on his goal to use his online account to check his email daily and independently. The comments stated that according to his teacher and the Parent's feedback, there was no evidence the Student used his online account/email on a daily basis without adult prompting.
 - Social Skills (Perspective Taking/Inference Environment): No progress was reported for the Student's goal to identify the clues in his environment, including nonverbal language, tones, and others' emotions and interpret what is happening.

³ According to the District, the school writing specialist is classified not certificated staff.

⁴ The Student's new writing goals are included in the Student's December 13, 2016 IEP amendment. According to the Parent, she received the progress reporting on November 28, 2016.

- Social Skills (Perspective Taking/Inferences Flexibility): No progress was reported for the Student's goal to accept others' different perspectives, and refrain from insisting on his perspective.
- Social Skills (Perspective Taking/Self-Advocacy): No progress was reported for the Student's goal to identify a self-advocacy situation with accuracy and assert himself.
- Social Skills (Problem Solving): The Student had made insufficient progress on his goal to engage in appropriate problem-solving strategies that matched the size of the problem. The comments stated the Student's paraeducator had not seen evidence of the goal in class.
- Social Skills (Executive Functioning): The Student had emerging skill on his goal to complete a timeline for daily/weekly expectations when given a long-term assignment. The comments stated the Student's paraeducator had not observed evidence of long-term planning.
- Writing Conventions:⁵ The Student had made sufficient progress to achieve, within the timeframe, his goal to write with correct conventions, improving from a rubric score of 2 to a rubric score of 3 or more in 4/5 opportunities. The comments stated the Student continued to work on writing conventions, but did not give a rubric score.
- Written Language: The Student had emerging skill at his goal to edit a sentence with five or more spelling, grammar, or punctuation errors. The comments stated Student completed a "think sheet" daily in English class, and had received two level 2s and one level 3 (with level 3 being the standard).
- Written Language: The Student had emerging skill at his goal to include concrete details with sentence starters, content, organization, and structure, improving from a level 2 to a level 3 on a rubric. The comments stated the Student received level 2s and level 3s on his content/organization/structure assessments from September through November.
- Written Language: The Student had emerging skill on his goal to make necessary revisions, while including parts of the initial draft that were correct, improving from a level 2 to a level 3 on a 4-point writing rubric. The comments stated that on his most recent writing task, the Student re-wrote his essay, leaving out some of the content that was at standard, while changing content that needed revision.

20. For the month of November 2016, the documentation included six emails from the Student's paraeducator to the Parent. The emails from the Student's paraeducator provided general information about each class period and the Student's assignments.

21. On December 2, 2016, the District special education director emailed the Parent, stating he had not forgotten about the Student, and planned to follow up with the school assistant principal by email that weekend, and by telephone early the next week.

22. On December 13, 2016, the District amended the Student's IEP. The amendments included adding the following three additional annual goals for writing:

- Written Language: When given a sentence with five or more spelling, grammar, or punctuation errors, the Student will edit the sentence, improving knowledge of conventions on bi-monthly assessments from a level 2 to a level 3.

⁵ The progress reporting listed this goal as a social goal, rather than its previous designation as a writing goal.

- Written Language: When given a prompt, the Student will include concrete details with sentence starters, content, organization, and structure, improving from a standards-based rubric level 2 to a level 3.
- Written Language: When given a completed writing assignment, the Student will make necessary revisions, while including parts of initial draft that were correct, improving from a level 2 to a level 3 on the 4-point writing rubric.

Additionally, the amended service matrix stated:

- Written language skills – 15 minutes per week, in the special education setting,⁶
- Social skills – 30 minutes per week, in the general education setting.

The prior written notice associated with the IEP amendment stated the District amended the Student's IEP to reflect the correct amount of written language minutes.

23. The District's winter break began on December 19, 2016, and school resumed on January 3, 2017.
24. For the month of December 2016, the documentation included three emails from the Student's paraeducator to the Parent. The emails from the Student's paraeducator generally provided information about each class period and the Student's assignments.
25. On January 22, 2017, the Parent emailed the school assistant principal, stating that the Student was not getting his 15 minutes of weekly services from the school writing specialist. The Parent stated the writing specialist had pulled the Student out of class for writing services once, but had not done so for seven weeks.
26. On January 27, 2017, the District issued semester report cards for all students. The Student's report card stated:
- Family & Consumer Science
 Career/Community: Meeting the standard for this point in the year
 Consumer/Resources: Meeting the standard for this point in the year
 Communication/Relationships: Meeting the standard for this point in the year
 Human Development: Meeting the standard for this point in the year
 - Language Arts
 Reading: Meeting the standard for this point in the year
 Writing: Meeting the standard for this point in the year
 Language: Meeting the standard for this point in the year
 Speaking & Listening: Meeting the standard for this point in the year
 - Algebra
 Number Systems & Geometry: Meeting the standard for this point in the year
 Linear Equations & Inequalities: Exceeding the standard for this point in the year
 Quadratics: N/A

⁶ Based on the Parent's November 20, 2016 email to the District, it appears that the Parent and special education case manager intended the Student's November 10, 2016 IEP to provide 15 minutes rather than 75 minutes of writing services in the special education setting. The Student's November 2015 IEP provided the Student with 150 weekly minutes for writing in the general education setting.

Exponents: N/A
Data, Statistics & Probability: N/A

- Science
Properties & Interactions of Matter: Exceeding the standard for this point in the year
Forces & Motion: N/A
Energy: Meeting the standard for this point in the year
Waves & Their Applications: Meeting the standard for this point in the year
Astronomy: N/A
Science & Engineering Practices: Meeting the standard for this point in the year
- State History
Content Knowledge: Meeting the standard for this point in the year
Evaluation Skills: Meeting the standard for this point in the year
- Technology
Knowledge: Exceeding the standard for this point in the year
Application: Exceeding the standard for this point of year
Employability Skills: Exceeding the standard for this point of year

27. On January 23, 2017, the middle school assistant principal emailed the Parent, stating that the writing specialist had been out of town, but was now back in the building, and would work with the Student for 30 minutes per weekly session to make up the missed time. The assistant principal then asked whether during the second semester, the Parent preferred for the Student's pullout sessions to occur during the Student's fitness class, or during his technology class. According to the Parent, the 30 minute weekly sessions never occurred, which the Parent thought was for the best, based on the Student's anxiety about missing core classes for any extended time.

28. On January 26, 2017, the District issued progress reporting for the Student's annual goals. The progress reporting stated:

- Social Skills (Executive Functioning/Online Resource): The Student had made insufficient progress on his goal to use his online account to check his email daily and independently. The comments stated there was no evidence of this goal recorded by the paraeducators.
- Social Skills (Perspective Taking/Inference Environment): The Student had made sufficient progress to achieve, within the timeframe, his goal to identify the clues in his environment, including nonverbal language, tones, and others' emotions, and interpret what is happening. The comments stated in 3/3 opportunities, the Student met this goal, and if the trend continued, the Student would show mastery by his next reevaluation/IEP.
- Social Skills (Perspective Taking/Inferences Flexibility): The Student had made sufficient progress to achieve, within the timeframe, his goal to accept others' different perspectives, and refrain from insisting on his perspective, improving from not doing so, to doing so 80% of time, across 10 opportunities and 3 data compilations. The comments stated that the paraeducator had observed opportunities over the span of 2 months, and in 13/17 opportunities, the Student showed flexibility by accepting different perspectives.
- Social Skills (Perspective Taking/Self-Advocacy): The Student had made sufficient progress to achieve, within the timeframe, his goal to identify a self-advocacy situation with accuracy and assert himself, improving from 3/5 opportunities to 4/5

opportunities. The comments stated the Student was able to advocate and appropriately assert himself in 10/10 observed opportunities.

- Social Skills: (Problem Solving) The Student had made sufficient progress to achieve, within the timeline, his goal to engage in appropriate problem-solving strategies that matched the size of the problem. The comments stated that in 21/22 observed opportunities, the Student met this goal. The comments further stated that data was reported from all 6 classes, but the majority of opportunities were observed in his science class, where group work happened often, and problem solving was encouraged.
- Social Skills: (Executive Functioning) The Student had sufficient progress to achieve, within the timeframe, his goal to complete a timeline for daily/weekly expectations when given a long-term assignment. The comments stated in 7/10 opportunities, the Student showed long-term planning skills.
- Writing Conventions: The Student had made sufficient progress to achieve, within the timeframe, his goal to write with correct conventions, improving from a rubric score of 2 to a rubric score of 3 or more in 4/5 opportunities. The comments stated the Student scored a level 3 for conventions on his last several writing tasks.
- Written Language: The Student had emerging skill at his goal to edit a sentence with five or more spelling, grammar, or punctuation errors. The comments stated the Student scored a level 2 on his most recent English “think sheet,” and he continued to miss corrections.
- Written Language: The Student had made sufficient progress to achieve, within the timeline, his goal to include concrete details with sentence starters, content, organization, and structure, improving from a level 2 to a level 3 on a rubric. The comments stated the Student’s semester grade in content, organization, and structure was a level 3.
- Written Language: The Student had emerging skill on his goal to make necessary revisions, while including parts of the initial draft that were correct, improving from a level 2 to a level 3 on the 4-point writing rubric. The comments stated the Student’s English teacher reported that the Student revised his latest writing task, without assistance, and made the necessary corrections, without rewriting the entire paragraph, and was beginning to understand the concept of editing. The comments further stated the Student would be writing several multi-paragraph essays during third quarter that would require revisions.

29. For the month of January 2017, the documentation included five emails from the Student’s paraeducator to the Parent. The emails from the Student’s paraeducator generally provided information about each class period, and the Student’s assignments.

30. For the month of February 2017, the documentation included five emails from the Student’s paraeducator to the Parent. The emails from the Student’s paraeducator generally provided information about each class period and the Student’s assignments.

31. On March 23, 2017 the Student’s special education teacher emailed the Student’s paraeducator, asking if he had data on any of the Student’s social skills goals. The Student’s paraeducator responded, stating the Student was “doing amazing” in classes and even socially, as he was interacting more with other students.

However, the Student's paraeducator stated he did not have data, because the Student had not displayed the behaviors written in his goals.

32. On March 23, 2017, the District issued progress reporting for the Student's annual goals. The progress reporting stated:

- Social Skills (Executive Functioning/Online Resource): The Student had emerging skill toward his goal to use his online account to check his email daily and independently. The comments stated the Student had checked his online grade four times that month.
- Social Skills (Perspective Taking/Inference Environment): The Student had made sufficient progress to achieve, within the timeframe, his goal to identify the clues in his environment, including nonverbal language, tones, and others' emotions and interpret what is happening. The comments stated the Student met the goal in 2/2 occasions in his science class.
- Social Skills (Perspective Taking/Inferences Flexibility): The Student had made sufficient progress to achieve, within the timeframe, his goal to accept others' different perspectives, and refrain from insisting on his perspective, improving from not doing so, to doing so 80% of time, across 10 opportunities and 3 data compilations. The comments stated in 3/3 opportunities, the Student met this goal in his science class.
- Social Skills (Perspective Taking/Self-Advocacy): The Student had made sufficient progress to achieve, within the timeframe, his goal to identify a self-advocacy situation with accuracy and assert himself, improving from 3/5 opportunities to 4/5 opportunities. The comments stated there were no observed opportunities for the Student to demonstrate self-advocacy during the progress-monitoring period.
- Social Skills: (Problem Solving) The Student had made sufficient progress to achieve, within the timeline, his goal to engage in appropriate problem-solving strategies that matched the size of the problem. The comments stated the Student was observed to meet this goal in 3/3 opportunities.
- Social Skills: (Executive Functioning) The Student had sufficient progress to achieve, within the timeframe, his goal to complete a timeline for daily/weekly expectations, when given a long-term assignment. The comments stated the Student demonstrated ability to plan ahead during "Career Essay," when he researched two careers over the course of 4 weeks, then compiled his research into a multi-paragraph essay, for which he received a level 3.
- Writing Conventions: The Student had made sufficient progress to achieve, within the timeframe, his goal to write with correct conventions, improving from a rubric score of 2, to a rubric score of 3 or more in 4/5 opportunities. The comments stated the Student had been working with the school writing specialist on this goal, and demonstrated an increased use of conventions. The comments further stated the Student completed three separate writing tasks during this progress period, which all included a grade for writing conventions/language, and received level 3s on all tasks.
- Written Language: The Student had made sufficient progress to achieve, within the timeframe, his goal to edit a sentence with five or more spelling, grammar, or punctuation errors. The comments stated the Student's English class did not do "think sheets" for a majority of the progress period, due to "Essay Boot Camp," but the Student completed a short unit on compound sentences and interrogative mood, scoring a level 3 at the end of the unit. The comments further stated the school writing specialist reported that the conventions on the Student's essays were at grade level.

- Written Language: The Student had made sufficient progress to achieve, within the timeline, his goal to include concrete details with sentence starters, content, organization, and structure, improving from a level 2 to a level 3 on a rubric. The comments stated the Student received level 3s on his last 3 writing assignments in content, organization, and structure.
- Written Language: The Student had made sufficient progress to complete, within the timeline, his goal to make necessary revisions, while including parts of the initial draft that were correct, improving from a level 2, to a level 3 on the 4-point writing rubric. The comments stated the Student was able to do in-class revision, editing his first draft of the "Career Essay," using the editing tools available on the Chromebook, as well as reading it to himself in class, and this was a teacher-guided editing assignment.

33. For the month of March 2017, the documentation included nine emails from the Student's paraeducator to the Parent. The emails from the Student's paraeducator generally provided information about each class period and the Student's assignments.

34. On April 7, 2017, the District issued third quarter report cards for all students. The Student's report card stated:

- Skills for Life
Social, Mental, & Emotional Health: Meeting the standard for this point in the year
Physical Health: N/A
- Language Arts
Reading: Meeting the standard for this point in the year
Writing: Meeting the standard for this point in the year
Language: Meeting the standard for this point in the year
Speaking & Listening: Exceeding the standard for this point in the year
- Algebra
Number Systems & Geometry: Meeting the standard for this point in the year
Linear Equations & Inequalities: Exceeding the standard for this point in the year
Quadratics: Meeting the standard for this point in the year
Exponents: Meeting the standard for this point in the year
Data, Statistics & Probability: N/A
- Science
Properties & Interactions of Matter: Exceeding the standard for this point in the year
Forces & Motion: N/A
Energy: Meeting the standard for this point in the year
Waves & Their Applications: Meeting the standard for this point in the year
Astronomy: N/A
Science & Engineering Practices: Meeting the standard for this point in the year
- Fitness
Health/Fitness Academics: Meeting the standard for this point in the year
Fitness Demonstrated: Meeting the standard for this point in the year
Motor Skills: N/A
Social, Emotional, Safety: Meeting the standard for this point in the year
- Technology
Knowledge: Meeting the standard for this point in the year
Application: Meeting the standard for this point of year

Productivity: Meeting the standard for this point of year

35. For the month of April 2017, the documentation included eight emails from the Student's paraeducator to the Parent. The emails from the Student's paraeducator generally provided information about each class period and the Student's assignments.
36. On April 13, 2017, the Parent filed this complaint.

CONCLUSIONS

1. Developing/Revising IEP: The District acknowledges that it did not follow procedures for developing/revising the Student's IEP. Here, the District failed to schedule and hold the Student's annual IEP team meeting with the required attendees. Further, the documentation suggests that the District acknowledges the practice of backdating IEPs, which is very concerning. Additionally, the District significantly changed the Student's writing services, from 150 weekly minutes in the general education setting to 15 weekly minutes in the special education setting, without any evaluation or explanation. OSPI accepts and modifies the District's proposed corrective actions for training staff, as set forth below.
2. IEP Implementation: The District states that the Student's general education teachers provided his specially designed instruction, but also acknowledges that a special education teacher did not provide monitoring of the Student's specially designed instruction until November 2016. However, the District does not address who (if anyone) specially designed the Student's instruction. Additionally, after the District revised the Student's IEP to include 15 weekly minutes of writing services in the special education setting, the documentation does not indicate those services occurred until late January 2017, when the school writing specialist, whom OSPI notes can provide, but not design, the Student's specially designed instruction, returned to school. This deficiency, however, totals to a loss of less than two hours. Given that the Student is currently on track to achieve his IEP goals, within the timeline for the IEP, and is meeting or exceeding standard in his general education classes, compensatory services are not ordered. However, OSPI does accept and modifies the District's proposed corrective actions for training staff, as set forth below.
3. Progress Reporting: The District acknowledges that it did not provide the Parent with the Student's progress reporting until November 2016, but notes that the Student's paraeducator emailed the Parent with "daily notes" about the Student's school day. Although the paraeducator's notes were helpful, this is not a substitute for the progress reporting. OSPI accepts and modifies the District's proposed corrective actions for training staff, as set forth below.
4. IEP Team Meeting Procedures: The District acknowledges it did not follow IEP team meeting procedures for the Student.

5. Removing Services: The Parent states that the District removed the Student's speech/communication services and fine motor skill services without a formal evaluation. However, the Student's September 30, 2014 evaluation included a file review of the Student's communication skills, a communication skills assessment, and a recommendation that the Student's IEP team discontinue the Student's communication services. In contrast, the September 2014 evaluation did not include an assessment of the Student's fine motor skills, or a recommendation to discontinue those services, yet the Student's subsequent November 13, 2015 IEP did not provide the Student with his former supplementary aides and services for fine motor skills. However, the District's September 30, 2014 evaluation and the Student's November 13, 2015 IEP are both outside of the timelines for this complaint. OSPI notes that the Student's tri-annual evaluation is due September 2017. Given the Parent's concerns, OSPI recommends the Student's reevaluation include assessments for the Student's fine motor and communication skills.

CORRECTIVE ACTIONS

On **July 7, 2017**, **October 6, 2017**, and **November 6, 2017**, the District will provide documentation to OSPI that it has completed the following corrective actions.

STUDENT SPECIFIC:

None.

DISTRICT SPECIFIC:

OSPI accepts and modifies the District's proposed corrective actions as follows:

The District will examine its IEP compliance issues, including whether the proper systems are in place, at the District, building, and individual levels. The District will immediately require building administrators and special education staff to complete monthly IEP compliance reports, which will report and correct any finding of "backdated" IEPs. Based on these monthly reports, the District's special education directors will meet with building principals monthly to review the reports and check for areas needing improvement. Additionally, the District will increase professional development and understanding of IEP compliance. According to the District, an initial training based on OSPI's "IEP Review Checklist," and other pertinent materials occurred on May 30, 2017. Through meeting with building principals and increased professional development, the District will ensure that all IEP procedures are followed and that the practice of "backdating" IEPs is eliminated.

By or before **July 7, 2017**, the District will provide OSPI with a copy of its June 2017 IEP compliance reports, as received from building administrators, and information about when District special education directors met with building administrators to review the reports.

By or before **October 6, 2017**, the District will again provide OSPI with a copy of its September 2017 IEP compliance reports, as received from building administrators, and

information about when District special education directors met with building administrators to review the reports.

By or before **November 6, 2017**, the District will again provide OSPI with a copy of its October 2017 IEP compliance reports, as received from building administrators, and information about when District special education directors met with building administrators to review the reports.

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

Dated this ____ day of June, 2017

Douglas H. Gill, Ed. D.
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.)