

SPECIAL EDUCATION CITIZEN COMPLAINT (SECC) NO. 17-40

PROCEDURAL HISTORY

On May 22, 2017, the Office of Superintendent of Public Instruction (OSPI) received a Special Education Citizen Complaint from the parents (Parents) of a student (Student) attending the Tacoma School District (District). The Parents 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 May 23, 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 June 14, 2017, OSPI received the District's response to the complaint and forwarded it to the Parents on June 15, 2017. OSPI invited the Parents to reply with any information they had that was inconsistent with the District's information.

On June 21, 2017, OSPI received the Parents' reply and forwarded that reply to the District on the same day.

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

OVERVIEW

During the 2016-2017 school year, the Student attended a District elementary school and was eligible to receive special education services under the category of speech or language impairment. In September 2016, the Student's individualized education program (IEP) team met to develop her annual IEP. The team determined the Student was sufficiently progressing toward her IEP goals and reduced her speech service minutes from 30 to 20 minutes weekly. The Student's father later requested another IEP meeting, because he had not been able to attend the annual IEP meeting with the Student's mother, and disagreed with the reduction in speech service minutes. In response, the District did not implement the reduction in speech service minutes and scheduled another IEP amendment meeting for November 3, 2016. However, due to a miscommunication, the Parents were not invited to the November 3 meeting. Coincidentally, the Student's mother was at the school the morning of November 3, and learned of the meeting. The District IEP team members explained the scheduling mistake, gave the mother a copy of the draft IEP, and suggested they continue with the IEP meeting since the entire team was now present. The mother declined. The District held another IEP meeting with the Parents, two days later, at which point the IEP team amended the Student's annual IEP to reflect 30 minutes of speech services weekly. The Parents alleged that the District failed to follow procedures for developing/revising the Student's IEP when the IEP team reduced the Student's speech service minutes from 30 to 20 minutes weekly, and that the District failed to follow procedures for scheduling IEP team meetings during the 2016-2017 school year. The District denied the allegations.

ISSUES

1. Did the District follow procedures for developing/revising the Student's individualized education program (IEP) during the 2016-2017 school year?
2. Did the District follow procedures for scheduling the Student's IEP team meetings during the 2016-2017 school year?

LEGAL STANDARDS

IEP Definition: An IEP must contain a statement of: (a) the student's present levels of academic achievement and functional performance; (b) measurable annual academic and functional goals designed to meet the student's needs resulting from their disability; (c) how the district will measure and report the student's progress toward their annual IEP goals; (d) the special education services, related services, and supplementary aids to be provided to the student; (e) the extent to which the student will not participate with nondisabled students in the general education classroom and extracurricular or nonacademic activities; (f) any individual modifications necessary to measure the student's academic achievement and functional performance on state or district-wide assessments; (g) ESY services, if necessary for the student to receive FAPE; (h) behavioral intervention plan, if necessary for the student to receive FAPE; (i) emergency response protocols, if necessary for the student to receive FAPE and the parent provides consent as defined in WAC 392-172A-01040; (j) the projected date when the services and program modifications will begin, and the anticipated frequency, location, and duration of those services and modifications; (k) beginning no later than the first IEP to be in effect when the student turns 16, appropriate, measurable postsecondary goals related to training, education, employment, and independent living skills; and transition services including courses of study needed to assist the student in reaching those goals; (l) beginning no later than one year before the student reaches the age of majority (18), a statement that the student has been informed of the rights which will transfer to him or her on reaching the age of majority; and (m) the district's procedures for notifying a parent regarding the use of isolation, restraint, or a restraint device as required by RCW 28A.155.210. 34 CFR §300.320; WAC 392-172A-03090 (effective January 29, 2016).

IEP Development: Each school district must ensure that the IEP team revises the IEP, as appropriate, to address any Information about the student provided to, or by the parents, as well as the student's anticipated needs or other matters. WAC 392-172A-03110(3)(b)(iii-v). The IEP team must consider the parents' concerns and the information they provide regarding their student in developing, reviewing, and revising IEP. 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 district is not required; however, to adopt all recommendations proposed by the parents. 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 parents believes are necessary components of the

student's educational program. 64 Fed. Reg. 48 12473 (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 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. In conducting its review of a student's IEP, the IEP team must consider any special factors unique to the student. 34 CFR §300.324; WAC 392-172A-03110.

Parent Participation in IEP Meetings: A school district must ensure that one or both of the parents of a student eligible for special education are present at each IEP team meeting or are afforded the opportunity to participate, including: notifying parents of the meeting early enough to ensure that they will have an opportunity to attend and scheduling the meeting at a mutually agreed on time and place. Additionally, the notification must indicate the purpose, time, and location of the meeting and who will be in attendance. WAC 392-172A-03100; 34 CFR §300.322; 20 U.S.C. §1414. If neither parent can attend an IEP team meeting, the school district must use other methods to ensure parent participation, including video or telephone conference calls. A meeting may be conducted without a parent in attendance if the school district is unable to convince the parents that they should attend. In this case, the public agency must keep a record of its attempts to arrange a mutually agreed on time and place, such as: (a) Detailed records of telephone calls made or attempted and the results of those calls; (b) Copies of correspondence sent to the parents and any responses received; and (c) Detailed records of visits made to the parent's home or place of employment and the results of those visits. WAC 392-172A-03100; 34 CFR §§300.322. Parental participation in the IEP and educational placement process is central to the IDEA's goal of protecting disabled students' rights and providing each disabled student with a FAPE. The regulatory framework of the IDEA places an affirmative duty on agencies to include parents in the IEP process. Most importantly, a meeting may only be conducted without a parent if, "the public agency is unable to convince the parents they should attend." When a public agency is faced with the difficult situation of being unable to meet two distinct procedural requirements of the IDEA, i.e., parental participation and timely annual review of the IEP...the Supreme Court and the 9th Circuit have both repeatedly stressed the vital importance of parental participation in the IEP creation process. Delays in meeting IEP deadlines do not deny a student FAPE where they do not deprive the student of any educational benefit. *Doug C. v. State of Hawaii*, 61 IDELR 91 (9th Cir. 2013); *Shapiro v. Paradise Valley Unified Sch. Dist.*, 317 F.3d 1072, 1078 (9th Cir. 2003); *Amanda J. v. Clark Cnty. Sch. Dist.*, 267 F.3d 877, 887 (9th Cir. 2001).

FINDINGS OF FACT

2015-2016 School Year

1. During the 2015-2016 school year, the Student attended a District elementary school and was eligible to receive special education services under the category of speech or language impairment¹.
2. The Student's most recent reevaluation was completed on October 6, 2015. The reevaluation included information from the following areas:
 - Existing data on the Student
 - General education teacher report
 - Communication assessments

Based on the evaluation report, the evaluation group determined that the Student continued to qualify to receive specially designed instruction in speech due to a significant articulation deficit. The report stated the Student had difficulty with “/ing, s, z, s blends, initial r, and /vocalic r/.”

3. Also on October 6, 2015, the Student's annual individualized education program (IEP) was developed. The IEP provided for communication services 30 minutes 1 time weekly with a speech language pathologist (SLP) in a special education setting, and included two measurable annual goals:
 - By 10/5/2016, when given modeling, cues, and eventually spontaneously [Student] will improve her tongue mobility and control improving her understanding of how to make her sounds from 50% of the time in connected speech to 90% of the time in connected speech as measured by monthly therapy data.
 - By 10/5/2016, when given modeling, cues and eventually spontaneously [Student] will improve articulation of all of the target sounds improving to include, but [not] limited to /ing, s, z, s blends, l, r, and /vocalic r/ sounds from about 50% of the time in conversational speech to 90% of the time in connected speech as measured by classroom observation and monthly therapy data.
4. On November 9, 2015, the District completed progress reporting toward the Student's IEP goals that stated the Student was demonstrating an emerging skill, but might not achieve either of her annual goals within the duration of the IEP. The comments stated, “As you know, we just did the reassessment and IEP last month and [Student] is already making some improvements on knowing how and when to make her sounds. As you can hear, by stressing just one sound, the /l/ sound is almost in. Next week we will begin the initial /r/ sound for another 3-4 weeks. I'll let you know what she is responsible for on the homework sheet. All of your support at home (you and your husband) makes so much difference to [Student's] progress!!”
5. On March 11, 2016, the District completed progress reporting that stated the Student was making sufficient progress to achieve both of her annual goals. The comments

¹ The Student's October 2015 evaluation identified the Student's disability category as “communication disorders,” which is not a category of special education as defined by the Individuals with Disabilities Education Act (IDEA), but falls under the category of speech or language impairment.

stated, “[Student] has improved so much in knowing how and where to make her /r/ sounds. We are now working through the /vocalic r/ sounds, and I am sure you can hear the difference. She is trying so hard with your help!”

6. On June 3, 2016, the District completed progress reporting that stated the Student was demonstrating an emerging skill but might not achieve either of her annual goals within the duration of the IEP. The comments stated, “[Student] is trying so hard to learn how to make those /vocalic r/ sounds. The /vocalic r/ sounds continue to improve, but she is not yet self-monitoring them consistently.”
7. At the end of the 2015-2016 school year, the Student’s SLP left the elementary school, and the District hired a new SLP for the upcoming 2016-2017 school year.

2016-2017 School Year

8. The District’s 2016-2017 school year began on September 7, 2016. At that time, the Student continued to attend the same District elementary school and her October 2015 IEP was in place.
9. On September 12, 2016, the District new SLP’s notes stated that the Student’s mother had come to introduce herself and to talk about the Student’s speech progress. The SLP notes stated, “Discussed the pending IEP – will email date/time options.”
10. On September 15, 2016, the SLP’s notes stated, “Met [Student], probe artic. [sic] Skills: Overall good intel. [sic] happy girl. Intermittent errors of /r/ vocalic and // and /r/ blends. Mild /s/ sibilance at times.”
11. On September 21, 2016, the District sent the Parents an invitation to an IEP meeting on September 28, 2016 at 7:45 a.m.
12. On September 22, 2016, the SLP’s notes stated, “Consult/observe in class. Teacher, [Student] is settling in well with class, no concerns regarding intelligibility.”
13. On September 28, 2016, the Student’s IEP team, including the Student’s mother, met to develop the Student’s annual IEP. This was the first IEP meeting for the Student with the District’s new SLP. The IEP team reviewed the Student’s progress toward her prior speech goals and agreed to reduce the amount of the Student’s speech services from 30 to 20 minutes per week.
14. The September 2016 IEP included present levels of performance, which stated, “[S]he has made significant progress toward improving her speech/articulation skills...[S]tudent produces the vocal /r/ (which is /r/ sound preceded by a vowel such as /er/, /eer/ /or/, /air/, and /ire/) and /rl/ blend sounds in words with approximately 70% accuracy and in sentences with approximately 50% accuracy.” The IEP stated that the Student’s general education teacher reported the Student had exceeded end of year academic standards, in all areas, at the end of the 2015-2016 school year. The adverse impact summary stated the Student may have difficulty communicating clearly and effectively in the classroom setting, and that her reading and writing skills

may be impacted due to articulation errors. The IEP provided for speech services for 20 minutes 1 time weekly with a speech language pathologist in a special education setting, and included two measurable annual goals:

- By 9/27/2017, when given a variety of prompts and models, [Student] will produce the vocalic /r/ (which is /r/ sound preceded by a vowel such as /er/, /eer/ /or/, /air/, and /ire/) and /r/ blend sounds in words improving her correct production from approximately 70% accuracy to 80% accuracy over three consecutive data sessions as measured by SLP data and observation.
- When given a variety of prompts and models, [Student] will produce the vocalic /r/ (which is /r/ sound preceded by a vowel such as /er/, /eer/ /or/, /air/, and /ire/) and /r/ blend sounds in connected speech improving her ability to self-monitor and self-correct her articulation errors and produce the target sounds from approximately 50% accuracy to 80% accuracy over three consecutive data sessions as measured by SLP data and observation.

15. On October 1, 2016, the Student's father emailed the SLP, stating he did not agree with reducing the Student's weekly speech service minutes to 20 minutes per week. The father also stated the Student had progressed from under 50% intelligibility to 70% intelligibility over the course of five years and that "[T]he paperwork my wife signed, without my permission, was inaccurate...I respectfully request that the previous [IEP] be disqualified and that a new one be appointed that I am able to attend."

16. On October 5, 2016, the SLP's notes stated, "Contacted [Student's father] by phone, set up meeting time, October 17 @ 7:45 a.m. Sent home final IEP."

17. On October 14, 2016, the Parents emailed the SLP, copying the principal, the Student's teacher, and the Parents' advocate, and stated the Parents needed to cancel the October 17 IEP meeting and that they were requesting an independent educational evaluation (IEE).

18. On October 24, 2016, the District director of student services responded to the Parents' email requesting an IEE. The director stated that the last evaluation for the Student had been completed over a year prior, and qualified the Student for speech and language services. The director also stated that the Student's September 2016 IEP recommended a reduction in services from 30 to 20 minutes weekly based on the Student's progress toward her IEP goals, "However, at this time therapy is continuing to be provided for 30 minutes per week. We do not have an evaluation that discontinues services." The director further stated that the IEP team needed to meet again, and if the team, including the Parents, determined services needed to be reduced, the District would complete a re-evaluation to support the decision. If the Parents did not agree with the reevaluation at that time, they could request an IEE.

19. On October 27, 2016, the SLP emailed the Parents, copying the principal and the Student's general education teacher, and proposed holding the IEP meeting on November 1 or November 2, 2016.

20. On October 30, 2016, the Parents emailed the SLP, copying the principal and the Student's teacher, and stated, "At this time we would like to request copies of all your data sheets with time documented on [Student]."
21. On October 31, 2016, the Parents emailed the District members of the Student's IEP team, and stated they did not agree with the new SLP's opinions regarding the Student's progress toward her IEP goals and disagreed with reducing the Student's service minutes from 30 to 20 minutes weekly. The Parents also stated, "We have already requested an IEE once. Why we were not granted this or taken to due process, we do not understand."
22. On November 1, 2016, the director of student services responded to the Parents' email, and copied the IEP team and Parents' advocate, and stated, "[Y]our concerns appear to be related to services, rather than the evaluation. The team agrees your daughter continues to qualify for speech and language services. The District has not completed an evaluation for over a year. We are happy to schedule an IEP meeting with you and the team to discuss concerns and determine if another evaluation is needed at this time. Until we meet, services will continue at the same amount of time she received previously. Please call me... if you have questions."
23. Also on November 1, 2016, the director of student services emailed her administrative assistant, the SLP, principal, assistant principal, and assistant director of student services, and stated, "I will ask [administrative assistant] to schedule a meeting to discuss the issue so we all have the same information."
24. Also on November 1, 2016, the SLP's notes stated, "Meeting set for 8:00 11/3 by [administrative assistant to the elementary director] @ CAB."²
25. On November 2, 2016, the Parents emailed the SLP, copying the principal, assistant principal, director of student services, and assistant director of student services, and stated, "We believe that you have five days from the date of our request to provide us with the documents we have requested." The director of student services emailed the District team members only, stating that the Parents have a right to review and access records, but not to copies, in which case the District would have 45 days to comply with the Parents' request. The director further stated, "I think we are meeting tomorrow. I would suggest just holding on an answer until then." The SLP replied, thanking the director for the clarification, and stated she had already told the Parents, in an October 31 email, that she would share the documents with the Parents at the IEP amendment meeting.
26. On November 3, 2016, the District members of the Student's IEP team arrived at the IEP meeting. However, when the Parents did not arrive at the scheduled time, the staff members realized that due to a miscommunication, the Parents had not been invited to the meeting. The staff members decided to use the time to conduct a staff

² The SLP stated during the November 7, 2016 subsequent IEP meeting that this note was made in error and that she had learned the Parents had not been contacted by the administrative assistant for a November 3, 2017 meeting.

meeting and discuss the Student. At that same time, Student's mother arrived at the school for a conference regarding her other child, and was told that the Student's IEP meeting was taking place. When the mother entered the meeting, the director of student services explained that her administrative assistant was supposed to have contacted the Parents to notify them of the meeting. The director then invited the mother to participate in the meeting, but the mother declined, stating she was not prepared. The director and the Student's mother agreed to hold an IEP meeting on November 7, 2016, and gave the Parent a draft IEP to review prior to the November 7 IEP meeting.

27. The District's documentation in this complaint included a copy of the draft IEP. Attached to the draft is an "amended contact attempt report" which stated the District contacted the Parents to schedule the November 3, 2016 meeting via email on October 27 and 31, 2016, and via letter on November 1, 2016. Documentation provided by the Parents and the District showed that the Parents were not contacted via email on October 31 or via letter on November 1 regarding the November 3, 2016 IEP meeting. The Parents were contacted on October 27 via email, but the email proposed holding the meeting on November 1 or 2.
28. On November 4, 2016, the Parents emailed the District members of the IEP team and stated they had not been notified of the November 3, 2016 IEP meeting. The Parents requested "all documentation of reasonable efforts to obtain parental consent," and asked that they be contacted directly via email or phone for future attempts to schedule IEP meetings. Additionally, the Parents stated they would be bringing a parent advocate and a court reporter to the IEP meeting on November 7, 2016.
29. On November 7, 2016, the Student's IEP team, including the Parents, met to amend the Student's September 2016 IEP. Based on the meeting notes:
 - The director of student services stated the November 3, 2016 meeting had been a staffing meeting, because the Parents were not there, and not an IEP amendment meeting.
 - The SLP mistakenly thought it was an IEP amendment meeting.
 - The director of student services and the SLP apologized for the confusion.
 - The Student's father read a letter written by the Parents that stated:
 - We do not understand why the September 2016 IEP removed the /ing, s, z, s blends and r sounds. If [Student] has met 90% of goal on these sounds, can we see the data that supports this?
 - The September 2016 IEP also reduced the accuracy expectation for the Student's annual goal from 90% to 80%. We are not comfortable with her being misunderstood 20% of the time, please consider keeping her goal where it has always been at 90%.
 - The director of student services pointed out that data from the June 2016 progress reporting stated the Student was able to make all sounds except /r/.
 - The parent advocate reminded the team that the Parents has requested an IEE.
 - The director of student services stated the District would be denying the IEE in the prior written notice because, "We clarified, at the last meeting, that [Student's mother] was asked if she disagreed with the past evaluation and she said no."

30. Also on November 7, 2016, the District issued a prior written notice, proposing to change the Student's IEP by:

- Increasing her service minutes from 20 to 30 minutes of pull out SLP intervention per week.
- Adding a carryover goal for target sounds /s-z/, /l/, /ng/ which were omitted in the transition to the new IEP.
- Increasing goal mastery criteria from 80% accuracy to 90% accuracy on each goal.

The notice also stated that other relevant factors were:

- Because the Student's father contacted the SLP by email before her first scheduled speech session after the original 9/28/16 IEP meeting, sharing his concerns about shortened service minutes, none of the Student's speech sessions have been less than 30 minutes.
- Parents requested an IEE on 10/14/16; however, there is no recent evaluation to dispute. The District recommended a new evaluation be initiated and then if Parents disagree with results they can ask for an IEE. However, the Student's mother stated she had no disagreement with the last District evaluation from October 2015 and because the above requested changes will be implemented in this IEP amendment she does not want to initiate a new evaluation at this time.
- Before the meeting began, the Parents introduced a professional court reporter they invited to record the meeting. The District advised the Parents the meeting could not proceed with a court reporter and it was agreed, by Parents and District staff, to dismiss the court reporter and the meeting would proceed with notes being taken and exchanged by school staff, the assistant principal, and a friend of the Parent's attending the meeting.

The prior written notice also stated that the amended IEP would be implemented on November 7, 2016.

31. On December 9, 2016, the District's SLP completed progress reporting that stated the Student was making sufficient progress to achieve both of her annual goals. The comments stated:

[Student] has demonstrated an understanding of oral motor movements required to consistently produce accurate vocalic /r/ sounds, /r/ blend sounds, /s, z/ sounds, and /ng/ sounds in connected speech during speech sessions activities with over 90% accuracy. [Student] is positive and hardworking during speech sessions. She is producing target sounds /ng, l, r, vocalic r accurately in connected speech during speech sessions with 100% accuracy. Her production of /s, z, s blends/ is 95% accurate during speech session activities.

32. Also on December 9, 2016, the Parents emailed the SLP, other District IEP team members, and the parent advocate, stating they received the revised November 2016 IEP, but wanted to receive bi-monthly (every other month) progress reporting. The Parents stated they did not agree with the contact attempt report in the revised IEP. The Parents offered to meet again to make these changes to the IEP and asked for available dates.

33. The District was on break from December 19, 2016 through January 2, 2017.

34. On January 2, 2017, the Parents again emailed the SLP, other District IEP team members, and their parent advocate, asking when the revised IEP [with the changes from their December 9 email] would be available to sign.
35. On January 5, 2017, the SLP emailed the Parents, copying the other District IEP team members, and the parent advocate, and stated that she would plan to provide informal progress updates, sending a note home or emailing the Parents, every week. Additionally, the SLP responded to the Parents' request for documentation of "reasonable efforts to obtain parental consent," and stated there were no contact attempts to invite the Parents to the November 3, 2016 meeting, due to a misunderstanding. Lastly, the SLP proposed to hold an IEP meeting on January 11, 12, 18, or 19.
36. On January 19, 2017, the Student's IEP team, including the Parents, met to discuss the Parents' requests. The IEP team agreed that the SLP would provide the Parents with a bi-monthly (two times a month) informal progress report update, and that the District would amend the contact attempt report regarding the November 3 IEP meeting. After the meeting, the District issued a prior written notice, proposing to change the Student's IEP. The notice stated that:
- An informal progress update will be provided every other month.
 - Speech sessions will change from Monday to Wednesday to avoid frequent Monday holiday or non-student holidays.
37. On May 22, 2017, the Parents filed this citizen complaint.
38. On May 31, 2017, the SLP emailed the Parents, copying the Student's teacher, and stated, "[The Student] has done a good job with her /s/, /l/ and vocalic /r/ sounds in connected speech during speech session activities, maintaining over 95-100% accuracy on those target sounds through April and May. [The Student's] /ng/ sounds have been 90-100% accurate during speech session activities. She occasionally produces a hard /g/ sound (as in linger or finger) in words like "singer", or "ringer", but on typical "verb-ing" pairings, she is consistently using the correct /ing/ sound rather than /in/ as in Gone Fishin').

CONCLUSIONS

Issue 1: Develop/Revise IEP – The Parents alleged that the District improperly reduced the amount of the Student's service minutes from 30 minutes per week to 20 minutes per week. In developing each student's IEP, the IEP team must consider the strengths of the student, the concerns of the parents for enhancing the education of their student, the results of the initial or most recent evaluation of the student, and the academic, developmental, and functional needs of the student. An IEP may be properly developed under the IDEA procedural requirements, yet still not provide the student all of the services that the parents believes are necessary components of the student's educational program. Here, the Student's IEP team, including the Student's mother, met in September 2016 to develop her annual IEP. At the meeting, the IEP team reviewed the Student's progress, which showed the Student had made "significant" progress toward

mastering many of the letter sounds addressed in her goals. The IEP team, including the Student's mother, then agreed upon a reduction in speech service minutes from 30 to 20 minutes weekly. The documentation substantiates that the District followed procedures to develop the Student's September 2016 IEP. OSPI also notes that once the Student's father raised concerns about the reduction in services, the District agreed to hold off on reducing the services until a second IEP meeting to discuss the father's concerns could be held.

Issue 2: Scheduling IEP Meetings – The Parents alleged that the District failed to notify them of an IEP meeting and falsified a parent contact report. A school district must ensure that one or both of the parents of a student eligible for special education are present at each IEP team meeting or are afforded the opportunity to participate, including: notifying parents of the meeting early enough to ensure that they will have an opportunity to attend, and scheduling the meeting at a mutually agreed on time and place. The District's documentation shows that the Parents were invited to the Student's September 28, 2016 IEP meeting, and that the Student's mother participated in the meeting. The District followed procedures for scheduling the September 28, 2016 IEP meeting. Once the Student's father requested that changes be made to the Student's September 2016 IEP, the District contacted him by phone and scheduled an October 17, 2016 IEP meeting, but the Parents then canceled the meeting. The District followed procedures for scheduling the October 17, 2016 meeting. The District then emailed the Parents on October 27, 2016, offering to hold an IEP meeting on November 1 or 2, 2016, but the Parents did not respond. Staff then agreed that a meeting could be held on November 3, 2016, but based on documentation provided by the District, there was a miscommunication, and the Parents were not notified of the meeting. The District failed to follow procedures for scheduling the November 3, 2016 IEP meeting. However, once the District learned of the mistake, it agreed to reschedule the IEP amendment meeting for November 7, 2016 and the Parents agreed to the meeting date. The District followed procedures for scheduling the November 7, 2016 IEP meeting. On January 5, 2017, the District responded to the Parents' request for another IEP amendment meeting, and offered meeting dates on January 11, 12, 18, or 19. The IEP team, including the Parents, then met on January 19, 2017. The District followed procedures for scheduling the January 19, 2017 IEP meeting.

OSPI notes that in addition to the District's failure to invite the Parents to the November 3, 2016 IEP meeting, the contact attempt report kept by the District regarding the November 3 meeting were unclear and inaccurate. The contact attempt report stated the District had notified the Parents of the November 3 meeting on October 27 and 31, 2016, and that a letter had been sent to the Parents on November 1, 2016. While the SLP emailed the Parents on October 27, the email was about a meeting on November 1 or 2, 2016, and there is no record of the District contacting the Parents, via email on October 31, or via letter, on November 1, 2016. The District should ensure that it keeps accurate records of contacts with parents.

CORRECTIVE ACTIONS

STUDENT SPECIFIC:

None.

DISTRICT SPECIFIC:

None.

Dated this ____ day of July, 2017

Glenna Gallo, M.S., M.B.A.
Assistant Superintendent
Special Education
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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.)