

## **SPECIAL EDUCATION CITIZEN COMPLAINT (SECC) NO. 18-107**

### **PROCEDURAL HISTORY**

On November 6, 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 Tacoma 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 November 7, 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 26, 2018, the District requested an extension of time for the submission of its response. OSPI granted the request and requested the District submit its response no later than December 6, 2018.

On December 6, 2018, OSPI received the District's response to the complaint and forwarded it to the Parent on December 7, 2018. OSPI invited the Parent to reply with any information she had that was inconsistent with the District's information.

On December 19, 2018, OSPI received the Parent's reply. OSPI forwarded that reply to the District on the same day.

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

### **ISSUE**

1. Did the District follow procedures to ensure Parent attendance and participation at the October 30, 2018 individualized education program (IEP) meeting, including providing Parent with a copy of the evaluation report, prior written notice, and final IEP?

### **LEGAL STANDARDS**

IEP Team Meetings: Team meetings must be held periodically, but not less than annually to develop the IEP, and to revise or review it as necessary. 34 CFR §300.324; WAC 392-172A-03110. A student's parents and school personnel will develop, review, and revise an IEP for the student. 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-050005.

Invitations to Meetings: A district must ensure that parents are given an opportunity to attend and/or otherwise afforded an opportunity to participate at each IEP meeting, including notifying them of the meeting early enough to ensure they can attend and scheduling the meeting at a

mutually agreed on time and place. 34 CFR §§300.322 and 300.328; WAC 392-172A-03100. In general, districts often schedule meetings before or after school to ensure that all team members can be present. The US Department of Education's Office of Special Education Programs (OSEP) has stated that it is not unreasonable for a district to schedule meetings during their regular hours and times before and after school. However, OSEP has also stated that if a parent is unable to participate during those times, districts should be flexible in scheduling the meeting, or make arrangements for other ways for the parent or parents to participate. *Letter to Thomas*, 51 IDELR 224 (OSEP 2008). The IEP invitation should include the purpose, time, and location of the meeting; indicate who will be in attendance; and inform the parents of the provisions relating to participation by other individuals on the IEP team who have knowledge or special expertise about the student. An IEP invitation need not be in writing; however, the district must keep adequate documentation to show that all the components were included in the invitation. 34 CFR §300.322; WAC 392-172A-03100.

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: (1) Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and (2) Scheduling the meeting at a mutually agreed on time and place. The notification must: (a) Indicate the purpose, time, and location of the meeting and who will be in attendance; and (b) Inform the parents about the provisions relating to the participation of other individuals on the IEP team who have knowledge or special expertise about the student. 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. The school district must give the parent a copy of the student's IEP at no cost to the parent. 34 CFR § 300.322; WAC 392-172A-03100.

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, in this case parental participation and timely annual review of the IEP...the Supreme Court and the 9<sup>th</sup> 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).

Evaluation/Reevaluation Report: A district must provide a copy of the evaluation report and documentation of determination of eligibility to the parents, and at no cost to the parents. 34 CFR §300.306; WAC 392-172A-03040.

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 clarifies that a decision has been made. The prior written notice should document any disagreement with the parent and 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.

Copy of IEP for Parents: A district must provide parents with a copy of their student's IEP, with any amendments, at no cost to the parents. 34 CFR §§300.322(f); WAC 392-172A-03100(8). School district staff may come to an IEP meeting prepared with evaluation findings and proposed recommendations regarding IEP content, but the district must make it clear to the parents at the outset of the meeting that the services proposed by the district are only recommendations for review and discussion with the parents. Parents have the right to bring questions, concerns, and recommendations to an IEP meeting as part of a full discussion, of the student's needs and the services to be provided to meet those needs before the IEP is finalized. School districts must ensure that, if district personnel bring drafts of some or all of the IEP content to the IEP meeting, there is a full discussion with the parents, before the student's IEP is finalized, regarding drafted content and the student's needs and the services to be provided to meet those needs. Individuals with Disabilities Education Act (IDEA), 64 Fed. Reg. 12478 (March 12, 1999) (Appendix A to 34 CFR Part 300, Question 32).

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. In conducting its review of a student's IEP, the IEP team must consider any special factors unique to the student, such as: the use of positive behavioral interventions and supports for a student whose behavior continues to impede the student's learning; the language needs of a student with limited language proficiency; instruction in the use of Braille for a student who is blind or visually impaired; the communication and language needs of a student who is deaf or hard of hearing; or the student's assistive technology needs. 34 CFR §300.324; WAC 392-172A-03110. Part of the information the IEP team considers when reviewing and revising a student's IEP is the result of the most recent evaluation. When the student's service providers or parents believe that the IEP is no longer appropriate, the

team must meet to determine whether additional data and a reevaluation are needed. 34 CFR §300.303; WAC 392-172A-03015.

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.

### **FINDINGS OF FACT**

1. At the beginning of the 2018-2019 school year, the Student attended a school in the District and was eligible for special education and related services under the category of autism.
2. The District's 2018-2019 school year started on September 5, 2018.
3. On September 28, 2018, the District requested the Parent's written consent to reevaluate the Student, including conducting a functional behavioral assessment (FBA). The Parent provided written consent on October 10, 2018.
4. On October 2, 2018, the Student's special education teacher emailed the Parent and asked whether the Parent was available on October 24, 2018, for a meeting to review the evaluation, and again on October 29, 2018 or October 30, 2018, for the Student's annual IEP meeting.
5. On October 5, 2018, the Parent informed the special education teacher by email that October 26, 2018 or October 30, 2018 would work with her schedule. The evaluation review meeting was scheduled for October 25, 2018 and the annual IEP review meeting was scheduled for October 30, 2018.
6. According to the contact log included with the District's response, on October 15, 2018, the District contacted the Parent by phone and sent a letter confirming the Parent's attendance at the October 30, 2018 IEP meeting.
7. On October 17, 2018, the District sent a letter to the Parent, providing notice of the meeting scheduled for October 25, 2018, for the purpose of reviewing the FBA and the Student's eligibility for special education.
8. On October 24, 2018, the school psychologist provided the Parent with drafts of the District's reevaluation and FBA reports. The school psychologist explained to the Parent that the reports were drafts and could be revised during the evaluation review meeting.

9. On October 25, 2018, the District held an evaluation review meeting. The Parent attended with her advocate and participated in the meeting. The reevaluation meeting included a review of existing data, observations, input from staff members, parent and teacher interviews, a review of work samples, and standardized assessments as they related to the FBA. The evaluation team agreed that the Student continued to meet the eligibility requirements for the category of autism and recommended that the Student receive specially designed instruction in the areas of reading, written expression, math, adaptive/self-help skills, communication, and social/emotional behavioral. The team further recommended related services in the areas of occupational therapy (OT) and speech and language therapy, and that the Student continue to have a behavioral intervention plan (BIP). It does not appear that the Student's IEP goals or progress on goals were discussed at the meeting.
10. Following the meeting on October 25, 2018, the District sent the Parent prior written notice that it was proposing to continue the Student's eligibility for special education services under the category of autism. The District additionally sent prior written notice of its proposal to develop a BIP based on the results of the FBA.
11. On October 27, 2018, the special education teacher provided the Parent with a draft of the Student's annual IEP. The special education teacher explained that it was only a draft and requested that the Parent let him know if there was anything the Parent wanted to have changed, added, or deleted.
12. On October 28, 2018, the special education teacher provided the Parent with an updated draft of the Student's annual IEP. He informed the Parent that he had added a few accommodations and special transportation.
13. On October 30, 2018, the Parent emailed the special education teacher, stating she needed to cancel the IEP meeting scheduled for that afternoon. The Parent requested the IEP meeting be rescheduled to November 6, 2018, or some time the following week. She expressed her interest in participating in the IEP meeting. The special education teacher responded by email, and suggested the District meet that afternoon, as planned, to discuss the draft IEP for compliance reasons. He requested they schedule a second IEP meeting for November 6, 2018, during which the team could amend the Student's IEP as appropriate based on the Parent's participation.
14. After his email with the Parent on October 30, 2018, the special education teacher spoke with the Parent by phone about the meeting. According to the District's response, during that phone conversation, he "got the impression that she did not oppose that suggestion." According to the Parent's complaint, the Parent stated she was insistent the District not hold the IEP meeting without her.

15. On October 30, 2018, the District met without the Parent for the Student's annual IEP meeting.<sup>1</sup> At the meeting, the IEP team members present reviewed and agreed to implement the draft IEP. The October 2018 IEP included annual goals in math, reading, written expression, adaptive behavior, social emotional/behavior, speech/language, communication and OT. It was further agreed by those who attended the IEP meeting that the Student would continue to require placement in the self-contained autism program at his current elementary school. The IEP team agreed to reconvene with the Parent present to make any necessary revisions to the BIP.
16. Also on October 30, 2018, the school psychologist provided the Parent with final versions of the Student's reevaluation and FBA reports via email. The Parent received the documents the same day at 3:14 p.m.
17. Following the IEP meeting, held on October 30, 2018, the District sent the Parent prior written notice that stated that the District was proposing to continue the Student's IEP.
18. On November 1, 2018, the special education teacher emailed the Parent, confirming the IEP team met without her to adopt the current IEP. According to the District's response and emails reviewed, the District told the Parent that the IEP developed on October 30, 2018 would only be a "placeholder" until the District could meet with the Parent. The special education teacher offered to meet and make an addendum to the IEP to incorporate the Parent's input following another meeting.
19. On November 2, 2018, the Parent emailed the special education teacher with two possible IEP meeting dates: November 13 and November 16, 2018.
20. On November 4, 2018, the Parent emailed the special education teacher with two additional possible dates for an IEP meeting: November 28 and December 4, 2018.
21. On November 5, 2018, the District sent prior written notice to "initiate prior written notice" of the October 30, 2018 IEP meeting. Specifically, the prior written notice stated that:
  - The "[Student's IEP meeting was held on 10/30/18. A date of 10/30/18 was mutually agreed upon by IEP team members. [On] 10/30/18: Parents emailed case manager and the email was viewed on the early afternoon of the meeting date. The family could not attend the meeting due to illness. The case manager sent an email to the family requesting that the IEP continue to be held and another IEP or IEP amendment would be enacted as soon as the family was able to meet on a mutually agreed upon time. There was not a response from the family to this email by the time the IEP team had assembled to develop the IEP. The case manager made a

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<sup>1</sup> The IEP cover page for the October 30, 2018 IEP meeting listed the following participants: district representative 1, district representative 2, the Parent, the father of the Student, general education teacher, occupational therapist, special education teacher, and speech and language pathologist. However, as noted by the Parent in the complaint, neither the Parent nor the Student's father were able to attend the IEP meeting. The cover page does not contain any signatures to confirm who did attend and participate in the meeting. While documents show an IEP was developed at the October 30, 2018 meeting, OSPI cannot confirm who attended the meeting and participated in its development.

phone call to [the Parent] and his impression from the conversation was that we would proceed with the IEP and develop a new IEP with the family as soon as possible.”

- The prior written notice further stated that the Student’s IEP “was due to be reviewed to stay in compliance” and that while “the IEP team members present considered not holding the IEP” and “considered waiting for another mutually agreed upon date to hold the IEP,” the IEP team members present continued with the meeting “[t]o remain in compliance.”
- At the IEP meeting, the “IEP team members present met to develop the IEP and discussed having a meeting to amend the IEP or to develop a new IEP as soon as parents were available as to include their input in developing the IEP. The present members of the IEP team felt it was important to develop a current IEP and believed the family was in agreement to proceed and develop a new date to meet as soon as possible.”
- The prior written notice indicated that the District had tentatively set aside a date of December 4, 2018 to hold an IEP meeting “based on dates of all team members.”

22. On November 6, 2018, the special education teacher emailed the Parent a copy of the Student’s evaluation report, October 2018 IEP, and BIP. The special education teacher further notified the Parent that the Student’s IEP team meeting had been scheduled for December 4, 2018.

23. On November 11, 2018, the special education teacher provided the Parent with prior written notice related to the meeting held on October 30, 2018. More specifically, the notice stated that the District met on October 30, 2018 “for compliance purposes,” but stated that it would reconvene on December 4, 2018 to obtain input from the Parent and revise the IEP and BIP, as appropriate.

24. On December 4, 2018, prior to the scheduled IEP meeting, the special education teacher informed the Parent that the occupational therapist who had been working with the Student was unable to attend the IEP team meeting due to a family emergency. According to the District’s response, the special education teacher told the Parent that another staff member who was also a licensed occupational therapist could attend and was able to address any occupational therapy related portions on the IEP. The Parent did not want to attend without the original occupational therapist present and requested that the meeting be rescheduled at a time when the Student’s assigned occupational therapist could attend.

25. Also on December 4, 2018, the special education teacher responded to the Parent and let her know that he felt it would be best to begin the process of scheduling another meeting. He informed the Parent that the Student’s occupational therapist would be on leave until December 7, 2018, due to a family emergency, and asked the Parent if any dates during the week of December 17, 2018 worked with her schedule.

26. On December 6, 2018, the special education teacher emailed the Parent to let her know that the occupational therapist the Parent had requested attend the IEP meeting was still out tending to a family emergency and that January dates “are the most likely to stick with all the teams schedules.” The special education teacher asked the Parent if she had had a chance to look at her calendar for available dates to hold the meeting.

27. According to the District's response, the District is working with the Parent to find another mutually agreeable date for the Student's annual IEP team meeting and has not yet scheduled a meeting.

## **CONCLUSIONS**

The Parent alleged that the District failed to follow procedures to ensure Parent attendance and participation in the October 30, 2018 IEP meeting, including that the District failed to provide the Parent with a copy of the evaluation report, prior written notice, and final IEP.

Parent Participation in the IEP Meeting: The Parent alleged that the District failed to follow procedures to ensure Parent attendance and participation in the Student's October 30, 2018 annual IEP meeting.

A student's IEP must be reviewed and revised periodically, but not less than annually. 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. Parents are an important member of the IEP team and must be afforded an opportunity to participate in IEP meetings. As such, districts must provide sufficient and timely notice of the meeting and schedule IEP meetings at a mutually agreeable time for the parent and district. Districts should be flexible in scheduling or make arrangements for the parent who can't participate during normal school hours to participate in other ways, including by video or telephone conference call. A district may only proceed with an IEP meeting without a parent present when the district is unable to convince the parent to attend, which it should document with detailed records of correspondences with the parent and the outcome of those correspondences.

When faced with the challenging circumstance of being unable to simultaneously meet two procedural requirements of the IDEA, such as the requirements to afford an opportunity for parental participation and timely annual review of the IEP, preference should be given to ensuring parental participation so long as the delay in meeting IEP deadlines does not deny a student FAPE or 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).

On October 5, 2018, the District provided notice to the Parent of the October 30, 2018 IEP meeting. The meeting was scheduled to accommodate the Parent's schedule as communicated through emails between the Parent and the District that same day. The District confirmed the Parent's intention to attend the October 30, 2018 IEP meeting on October 15, 2018, by phone and with a written letter. Accordingly, sufficient notice was provided to afford the Parent the opportunity to participate in the October 30, 2018 IEP meeting.

On the day of the IEP meeting, the Parent called the District to let the District know she could not attend the IEP meeting as scheduled and requested it be rescheduled for November 6, 2018, or anytime that week so she could attend. The Parent expressed a desire to participate in the IEP meeting. Despite her request, the District stated it held the IEP meeting anyway, without the



Parent, in order to “meet compliance deadlines.” Neither the Parent’s complaint nor the District’s response suggest the Student would have been deprived of an educational benefit had the District rescheduled the meeting for November 6, 2018, as the Parent requested, to enable the Parent to attend and participate.

In its response, the District emphasized that it offered the Parent the opportunity to participate in the IEP amendment process by either emailing or discussing her input with the school principal and/or having another meeting to amend the IEP after the annual review meeting. While this may suffice in situations where a parent consents to participation in this manner, the Parent here made clear—both in email and by phone—that she wished to attend the October 30, 2018 annual review meeting. The District is reminded that the Parent is an equally participating member of the IEP team, not separate from it, and as such, the IDEA places an obligation on the District to ensure parental participation in IEP development. This includes affording the Parent an appropriate opportunity to attend and fully participate in IEP meetings. Providing the Parent the opportunity to participate informally or by using the amendment process after the annual IEP meeting does not supplant this obligation surrounding the annual review.

As an alternative, and to avoid not being in compliance with IEP procedural deadlines, the District could have considered other alternatives. Such alternatives could include scheduling the annual IEP review meeting earlier in the year to allow for changes in schedules, and/or offering the Parent an opportunity to participate by phone or conference call (although this should not replace an in-person meeting should the Parent wish to attend in person). It is unclear if these alternatives were considered; however, it is clear the District was faced with having to choose between meeting its obligation to be in compliance with IEP procedural deadlines and enabling parent participation. By holding the IEP meeting on October 30, 2018 without the Parent, despite the Parent’s request to reschedule for the following week, the District violated IDEA requirements to ensure parental participation. The District will be required to hold another IEP team meeting by which it follows proper procedures for ensuring Parent attendance and participation. The District will also be required to develop and distribute written guidance on this topic.

Copy of the Evaluation Report: The Parent alleged that the District failed to provide her a copy of the evaluations discussed at the October 30, 2018 meeting. Districts must give the parent a copy of the student’s evaluation report and IEP at no cost to the parent. While it is best practice for districts to provide a copy of evaluations and draft IEPs prior to IEP meetings to facilitate parental participation, there is no legal obligation for districts to provide a copy to a parent prior to a meeting. Here, the Parent requested a final copy of the reevaluation and FBA report to review prior to the October 30, 2018 meeting and received it on October 30, 2018 at 3:15 p.m. The Parent further reports having received multiple draft IEPs. Accordingly, the District provided the Parent a copy of the evaluation as required. No violation is found.

Prior Written Notice: The Parent alleged that the District failed to provide her with prior written notice. Prior written notice ensures that a 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 clarifies that a decision has been made. It must explain why the district

proposes or refuses to take action, must describe any other options the district considered, and must explain its reasons for rejecting those options. It is not necessary for the prior written notice to be signed. Following its IEP review meeting on October 25, 2018, the District provided prior written notice to the Parent that it was proposing to continue the Student's eligibility category as a student with autism. That same date, the District also provided prior written notice that the FBA had been completed and a BIP was needed. On October 30, 2018, after meeting without the Parent for the Student's annual review, the District provided the Parent with prior written notice that the IEP team had completed its annual review, the BIP was updated per the FBA, and that the IEP team was otherwise proposing the District continue the Student's FBA.

On November 5, 2018, the District sent an additional prior written notice to the Parent, explaining why it held the meeting on October 30, 2018 without the Parent and confirmed its intention to hold another meeting to amend the IEP or to develop a new IEP. Accordingly, the District properly provided the Parent prior written notice following its meeting on October 25, 2018 and after the IEP meeting held on October 30, 2018. No violation is found.

Copy of the IEP: The Parent alleged that the District failed to provide her a copy of the Student's IEP developed at the October 30, 2018 IEP meeting. While school districts may bring draft IEPs to IEP meetings, they must ensure that there is a full discussion regarding the drafted content of the IEP and of the student's needs and services being provided to meet those needs with the parents before the student's IEP is finalized. Here, the District provided the Parent a draft copy of the IEP from the October 30, 2018 IEP meeting but never sent her a final draft of the Student's IEP. While it was necessary to receive input from the Parent prior to finalizing the IEP, the District sent the Parent prior written notice of what was decided at the October 30, 2018 IEP meeting—i.e., that the District would implement the October 2018 IEP and amend it later if necessary—along with notification of the intent to meet again to discuss the IEP and BIP. Thus, the District should have provided the Parent a final copy of the IEP that was agreed to by the District members of the IEP team at the October 30, 2018 IEP meeting. If the District has not yet done so, it must provide the Parent a copy of the IEP developed at the October 30, 2018 IEP meeting.

### **CORRECTIVE ACTIONS**

By or before **January 14, 2019, January 25, 2019, February 11, 2019, and March 29 2019**, the District will provide documentation to OSPI that it has completed the following corrective actions.

#### **STUDENT SPECIFIC:**

By or before **January 11, 2019**, the District must provide the Parent a copy of the Student's current IEP. By or before **January 14, 2019**, the District must provide OSPI with documentation confirming that the Parent has received a copy of the Student's current IEP.

By **January 18, 2019**, the District will hold an IEP meeting with the Parent to discuss the Student's education program, and specifically the following topics:

- Student's present levels of performance.
- Student's progress on current measurable annual goals and whether there needs to be changes made to any of the measurable annual goals.

- Program accommodations and modifications provided to the Student, including the frequency and location of all accommodations and modifications, and whether there needs to be any changes made to program accommodations and modifications.
- Program accommodation/modifications and support needed for school personnel.
- What specially designed instruction, related and/or supplementary service(s) the Student will receive, including who will deliver the instruction/service(s), who will monitor the instruction/delivery of service(s), the frequency of the instruction/service(s), the location where the instruction/service(s) will be provided, and the start and end date of the instruction/service(s).
- How many minutes per week the Student will receive instruction in the general education setting.
- Whether the Student requires special transportation.
- Whether the Student will participate in general physical education or requires adaptive physical education.
- The Student's functional behavioral assessment (FBA) and behavioral intervention plan (BIP), including any progress monitoring that has been done on the FBA/BIP and/or whether there needs to be any changes made to the BIP.

By **January 25, 2019**, the District will submit to OSPI: 1) a copy of the meeting invitation; 2) a copy of any prior written notices; 3) a copy of the agenda or topics discussed at the meeting; 4) a copy of the IEP and BIP if amended; and, 5) any other related documents.

**DISTRICT SPECIFIC:**

By or before **February 4, 2019**, the District will develop written guidance on the procedures for ensuring parent attendance and participation at IEP meetings, including best practices for circumstances where the District must choose between meeting an IEP compliance deadline and enabling parent participation. The guidance will be provided to the principal and all certificated special education staff at the Student's school.

By **February 11, 2019**, the District will submit a draft of the written guidance to OSPI. OSPI will approve the guidance or provide comments by February 25, 2019 and provide additional dates for review, if needed.

By or before **March 22, 2019**, the District will provide the written guidance to the above listed individuals and ensure that the staff have an opportunity to review the guidance and ask questions. By **March 29, 2019**, the District will provide OSPI with documentation that the staff has reviewed the written guidance. The documentation will include an official human resources roster of the required staff, so OSPI can cross-reference the list with the actual recipients.

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.

## RECOMMENDATIONS

OSPI recommends the District reconsider its timeline for holding annual review IEP meetings (i.e., attempt to begin scheduling the meeting several weeks before the annual review deadline) so that it may reduce the chances of it facing a similar situation in the future. OSPI further recommends that when faced with a situation where a parent wants to participate and is unable to physically attend the meeting, that it consider making the meeting accessible to the parent by teleconferencing or by some other method, if applicable.

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

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.)