

## **SPECIAL EDUCATION CITIZEN COMPLAINT (SECC) NO. 18-65**

### **PROCEDURAL HISTORY**

On June 15, 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 June 18, 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 July 11, 2018, OSPI received the District's response to the complaint and forwarded it to the Parent on July 12, 2018. OSPI invited the Parent to reply with any information he had that was inconsistent with the District's information.

On July 24, 2018, OSPI received the Parent's reply and forwarded the reply to the District on July 25, 2018.

On July 26, 2018, OSPI requested additional information from the District, and the District provided some of the requested information on July 31, 2018. OSPI forwarded the additional information to the Parent on July 31, 2018.

On August 1, 2018, OSPI requested additional information and documentation from the Parent, and the Parent provided the requested information on August 2, 2018. OSPI forwarded the additional information to the District on August 3, 2018. On August 6, 2018, OSPI spoke with the Parent on the phone to ask for clarification on the additional information the Parent provided.

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

### **OVERVIEW**

During the 2017-2018 school year, the Student attended a District elementary school and was eligible for special education and related services under the category autism. At the start of the school year, the Student's amended March 2017 individualized education program (IEP) was in place and the IEP provided the Student with goals, specially designed instruction, and related services in social emotional/behavioral, reading comprehension, written expression, occupational therapy, and speech/language. Progress reporting was required on his social emotional goals every trimester, his reading and written expression goals monthly with formative data, and his occupational therapy and speech goals monthly. In September 2017, the school did not have a speech language pathologist (SLP) and thus, the Student did not receive speech services for the first month of the school year. In October 2017, the District hired an SLP and the Student attended two weekly speech sessions to make up for the missed time. Also in September and early October

2017, the Parent requested that the District schedule an IEP meeting. The principal and the Parent discussed having informal meetings with the Student's teachers instead of a formal IEP meeting, and the Parent agreed to withdraw his request for an IEP meeting. A meeting with the Student's special education teacher was not scheduled until November 16, 2017, and then the special education teacher missed the meeting. The Parent met with the Student's general education teacher several times, and while the Parent had several brief conversations with the special education teacher throughout the year, they did not meet until the Student's annual IEP meeting in March 2018. The Parent received progress reporting at each trimester and the progress reporting inconsistently provided formative data.

The Parent alleged that the District failed to implement the Student's IEP, specifically his speech services, and failed to provide the Student with accommodations and progress reporting. The Parent also alleged that the District failed to set up an IEP meeting after the Parent requested meetings. The District admitted in part and denied in part the allegations in the complaint.

### **SCOPE OF INVESTIGATION**

This decision references events that occurred prior to the investigation time period, which began on June 16, 2017. These references are included to add context to the issues under investigation and are not intended to identify additional issues or potential violations, which occurred prior to the investigation time period.

### **ISSUES**

1. Did the District follow procedures for implementing the Student's individualized education program (IEP) during the 2017-2018 school year, including providing speech services, accommodations, and progress reporting?
2. Did the District follow procedures for responding to the Parent's request(s) to schedule an IEP meeting consistent with WAC 392-172A-03100 during the 2017-2018 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 and if the IEP team determines that the student must take an alternate assessment instead of a particular regular state or district-wide assessment of student achievement, a statement of why: the student cannot participate in the regular assessment and the particular alternate assessment selected is appropriate for the student; (g) Extended School Year (ESY) services, if necessary for the student to receive a free and appropriate public education

(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.

IEP Implementation: At the beginning of each school year, each district must have in effect an IEP for every student within its jurisdiction who is eligible to receive special education services. A school district must develop a student's IEP in compliance with the procedural requirements of the IDEA and state regulations. 34 CFR §§300.320 through 300.328; WAC 392-172A-03090 through 392-172A-03115. It must also ensure it provides all services in a student's IEP, consistent with the student's needs as described in that IEP. The initial IEP must be implemented as soon as possible after it is developed. 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.

Related Services: Related services means transportation and such developmental, corrective, and other supportive services as are required to assist a student eligible for special education to benefit from special education, and includes speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in students, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. Related services also include school health services and school nurse services, social work services in schools, and parent counseling and training. 34 CFR §300.34(a); WAC 392-172A-01155(1).

Program Accommodations & Modifications: An IEP must include a statement of the program accommodations and modifications that will be provided to enable the student to: advance appropriately toward attaining his or her annual IEP goals; be educated and participate with other students, including nondisabled students in educational activities; and participate, if appropriate, in general education classroom, extracurricular, and nonacademic activities. 34 CFR §300.320(4); WAC 392-172A-03090(1)(d).

Progress Reports: 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 the use of quarterly or other periodic reports concurrent with the issuance of report cards. 34 CFR

§300.320(a)(3); WAC 392-172A-03090(1)(c). 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).

Parent Request for IEP Meeting: IEP 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. When a parent requests an IEP meeting to discuss issues of a free appropriate public education (FAPE) the school district must schedule the meeting at a mutually agreeable time and place, and appropriately invite the parent to the meeting. 34 CFR §§300.322 and 300.328; WAC 392-172A-03100. If a parent requests an IEP meeting because the parent believes that a change is needed in the provision of FAPE to the student or the educational placement of the student, and the school district refuses to convene an IEP meeting to determine whether such a change is needed, the district must provide written notice to the parents of the refusal, including an explanation of why the district has determined that conducting the meeting is not necessary to ensure the provision of a FAPE to the student. Individuals with Disabilities Education Act (IDEA), 64 Fed. Reg. 12,475, 12,476 (March 12, 1999) (Appendix A to 34 CFR Part 300, Question 20).

## **FINDINGS OF FACT**

### **Background Facts: 2016-2017 School Year**

1. During the 2016-2017 school year, the Student attended a District elementary school and was eligible for special education and related services under the category autism.
2. On January 10, 2017, the Parent signed consent for the Student to be reevaluated.
3. On February 27, 2017, the Student's reevaluation group met and determined that the Student continued to be eligible for special education and related services. The evaluation report recommended that the Student receive specially designed instruction in reading comprehension, written expression, and social emotional/behavioral, and related services in speech/language and occupational therapy.
4. On March 28, 2017, the Student's individualized education program (IEP) team met and developed the Student's annual IEP.
5. On May 17, 2017, the Parent agreed, by email, to amend the Student's IEP. The Student's amended March 2017 IEP included the following nine (9) annual goals:
  - Social emotional/behavioral: When given a social situation, [the Student] will join another peer's play and maintain play activities and/or behavior for a minimum of 10 minutes improving socialization skills from the current level of joining play with peers in 1 out of 3 opportunities and engaging in play for 2 minutes to joining play with peers in 2 out of 3 opportunities and

- engaging in play for 5 minutes as measured by special education team data across 5 consecutive data days (trimester progress reporting).
- Social emotional/behavioral: When given a social situation, [the Student] will initiate play with a peer and maintain play activities and behavior for a minimum of 5 minutes with a highly preferred activity improving socialization skills from the current level of inviting a peer to play in 1 out of 3 opportunities and engaging in play for 1 minute to inviting a peer to play in 2 out of 3 opportunities and engage in play for 5 minutes as measured by special education data across 5 consecutive data days (trimester).
  - Occupational therapy: When given access to a classroom or therapy room computer, a graphic organizer (such as a word web or outline), and two or three topics to choose from, [the Student] will compose a paragraph with 5 sentences, improving class work production and technology use, from composed paragraph with 3 sentences using therapy room computer with some assistance for set-up and editing, to compose paragraph with 5 sentences on 3 of 3 tries over 3 consecutive sessions, as measure by therapist's probes (monthly).
  - Speech/language: When given target vocabulary words [the Student] will identify word associations/categories and state how words are related improving vocabulary understanding from 30% accuracy to 80% accuracy as measured by SLP data and observation (monthly).
  - Speech/language: When given simple 1-3 sentence stories [the Student] will answer WH comprehension questions related to the text improving auditory comprehension skills from 10% accuracy to 70% accuracy as measured by SLP data and observation (monthly).
  - Reading comprehension: When given instructional reading nonfiction passage [the Student] will correctly identify at least 1 main ideas improving his reading comprehension skills from identifying 0 main ideas to identifying 1 main idea as measured by reading assessment data, special education teacher data (monthly, formative data).
  - Reading comprehension: When given instruction level reading materials [the Student] will use & demonstrate understanding of target vocabulary words from the text improving his understanding of target vocabulary words from the text from 0% accuracy to 70% accuracy as measured by monthly assessments (monthly, formative data).
  - Reading comprehension: When given a reading passage at his instructional level [the Student] will correctly answer up to 6 comprehension questions pertaining to Who, What, Where, When, Why, and How Questions improving his skills at finding the answer by going back into the text from answering 1/6 correct to answering 4/6 correct as measured by reading assessment data, special education teacher data (monthly, formative data).
  - Written expression: When given a composition task, [the Student] will write a paragraph on a given topic improving his ability to express his own thoughts and ideas from 1 written paragraph to writing 3 on-topic paragraphs as measured by special education team data across 3 consecutive days (monthly, formative data).

The amended March 2017 IEP provided for the following specially designed instruction and related services in the special education setting:

- Social emotional/behavioral: 20 minutes, 5 times per week (special education teacher)
- Reading comprehension: 30 minutes, 5 times per week (concurrent) (special education teacher)
- Written expression: 30 minutes, 5 times per week (concurrent) (special education teacher)
- Speech/language: 30 minutes, 1 time per week (speech language pathologist (SLP))
- Occupational therapy: 30 minutes, 1 time per week (occupational therapist (OT))

However, the IEP stated that the Student would spend a total of 160 minutes per week in a special education setting and that he would spend 91.11% of his time in the general education

setting.<sup>1</sup> The IEP also included thirty minutes of paraeducator support, twice a day, in the general education setting as a supplementary aid/service and numerous accommodations and modifications.

6. At the end of May and beginning of June 2017, the District provided the Parent with progress reporting for the Student's annual IEP goals. According to the Parent's reply to the District's response to this complaint, the Parent did not receive the May and June 2017 progress reporting until the end of the 2016-2017 school year.

#### **Timeline for Complaint Begins on June 16, 2017**

7. On June 29, 2017, the Parent emailed a District teacher who was on special assignment and served as a student services liaison (student liaison), regarding the Student's progress reporting and report card. The Parent asked questions about the adequacy of the progress reporting and stated that he wanted to meet to plan for the following year.
8. On July 11, 2017, the student liaison responded to the Parent's June 29 email and stated that staff was not on contract during the summer, but that as soon as she heard back, she would "be able to get their schedules for when they are back under contract and able to meet."

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

9. The District's 2017-2018 school year started on September 8, 2017. The Student continued to attend the same District elementary school and the amended March 2017 IEP continued to be in place.
10. On September 13, 2017, the Parent emailed the Student's special education teacher and asked what her schedule was for working with the Student that year.
11. On September 15, the special education teacher responded and stated that she worked on reading with the Student daily from 2:20-2:50 p.m. and on writing from 2:50-3:20 p.m., and that social emotional/behavioral was being coordinated with another individual.<sup>2</sup>
12. On September 15, 2017, the Parent emailed the principal and asked to schedule an IEP meeting as soon as possible to discuss how much general education time the Student was missing when he was receiving his specially designed instruction, the Student's reading and writing levels, and how to help the Student catch up to his peers. The Parent also stated that

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<sup>1</sup> It is unclear why the IEP stated that the Student would only receive 160 minutes of specially designed instruction in the special education setting when the service matrix actually indicates that the Student would receive between 310 and 460 minutes per week in the specially education setting. It is also unclear, based on the documentation in this complaint, whether the reading comprehension and written comprehension services were actually provided concurrently.

<sup>2</sup> The District's response to this complaint does not identify the specific individual that was providing the Student's specially designed instruction in social emotional/behavioral.

he was "happy with" the Student's general education teacher and that he wanted "things to go better this year."<sup>3</sup>

13. On September 18, 2017, the Parent emailed the special education teacher and asked if the Student's mother could stop by on September 25, 2017 and visit the Student's classroom. On September 21, the special education teacher responded that it was fine for the Student's mother "to stop by & visit our classroom."

14. According to the District's progress reporting, dated September 29, 2017, the Student made the following progress toward seven of his IEP goals:

- Social emotional: The Student made sufficient progress to achieve the goal to join in and maintain play with peers. The comments stated that the first week of school was challenging for the Student and that he "stayed by himself at recess," but that by the end of the month the Student joined play with other students and initiated conversations with adults.
- Social emotional: The Student demonstrated emerging skill in the area of initiating play. The comments stated that the Student "had difficulty feeling comfortable with initiating conversations with his peers," but would initiate conversations with adults.
- Occupational therapy: The Student made sufficient progress to achieve the goal of improving class work production and technology use when composing a paragraph. The comments stated that the Student demonstrated good beginning keyboard skills and continued to work on composing five sentence paragraphs.
- Reading comprehension: The Student made sufficient progress to achieve the goal of identifying main ideas and the comments stated that the Student was able to identify the main idea in one book with assistance and independently in another book, and noted that sample work was attached.
- Reading comprehension: The Student made sufficient progress to achieve the goal of understanding target vocabulary words. The comments stated that the Student had a dedicated vocabulary journal and had difficulty communicating multiple meanings of the word "pen" and "swell." The comments noted that sample work was attached.
- Reading comprehension: The progress reporting stated that The Student demonstrated emerging skill in answering reading comprehension questions. The comments stated that the Student was able to answer who, where, and when questions, but had difficulty with what, why, and how questions. The comments also stated that sample work was attached.
- Written expression: The Student made sufficient progress to achieve the goal of writing paragraphs. The comments stated that the Student was writing one paragraph and that it was "difficult for him to elaborate with more details." The comments also noted that sample work was attached.

15. According to the Parent's reply, the District did not provide the progress reporting at monthly intervals and did not provide supporting data for many of the goals. The Parent stated that he received the September (and October and November) progress reporting during a

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<sup>3</sup> According to documentation provided by the Parent, during the 2016-2017 school year, the Parent raised a number of concerns, including that the Student was not being provided with accommodations, that the Parent's communication with and access to the Student's teachers was unreasonably limited, and that the Parent did not receive progress reporting as outlined in the Student's IEP. In its opening letter, OSPI advised the Parent that it could not investigate allegations from the 2016-2017 school year as they are outside the one-year timeline and that such allegations could potentially be addressed by requesting a due process hearing.

parent/teacher conference with the general education teacher during the first week of December 2017.

16. On October 3, 2017, the Parent emailed the principal and again asked to schedule an IEP team meeting to "evaluate how things are going, discuss what services are looking like this year, how the IEP is working for [the Student], and if we need to make any changes."
17. Also on October 3, 2017, according to the Parent's reply, the Parent visited the Student at lunch and spoke with the principal. According to the Parent, the principal encouraged the Parent to cancel the meeting because the IEP team was not the "appropriate venue," and in an effort to "smooth out relationships," the Parent agreed.
18. Later on October 3, 2017, the Parent emailed the principal that "per our discussion, cancel the IEP request" and that "maybe sometime next week after school (or before) Mom and I could meet with [the general education teacher] and [the special education teacher] to just discuss how [the Student] is doing, together or separately fine." The principal responded, by email, and stated that she would let the teachers know that the Parent wanted to meet.
19. On October 4, 2017, according to the District's documentation, the Student started receiving speech services. According to the District's response, "staffing challenges at the start of the school year prevented the District from delivering these services during the month of September." In October 2017, the Student attended two 30-minute speech sessions per week to make up the time missed in September.<sup>4</sup>
20. On October 9, 2017, the Parent emailed the Student's special education teacher and stated that he wanted to meet with her sometime that week or the following week to discuss how the Student was "doing so far this year with his goals" and asked the teacher to let him know a date and time that worked.
21. On October 18, 2017, the Parent emailed the special education teacher and stated that they needed "to meet very soon as previously requested" and that he wanted to "get a good understanding of [the Student's] scope of services this year." The Parent stated that the communication from the classroom was good, but the Parent stated he did not know if the Student had been receiving speech and occupational therapy services. The Parent stated that initially he had requested an IEP meeting, but that the principal had suggested it would be best to meet more informally. The Parent again asked for dates that worked to meet and suggested October 25, 26 or 27, 2017.
22. On October 24, 2017, the Parent emailed the principal and stated that he was "not sure what's going on, but have not heard back from [the special education teacher] regarding our many meeting requests." The Parent stated that he had "been trying...to get this year off on a better footing, but not responding to such requests in a timely manner is not acceptable." The Parent

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<sup>4</sup> According to the District, the SLP and OT's service logs are not available because they are maintained in the working files of staff who are currently out for the summer.



stated that there did not seem to be any issues in the Student's general education class or with the Student being provided accommodations, but that it was important to meet and discuss the Student's special education services. The Parent also stated that he had not yet received any progress reporting.<sup>5</sup> The Parent asked the principal to help facilitate the meeting.

23. On October 25, 2017, the special education teacher emailed the Parent and stated that she was available to meet that day after school, or in the morning on October 26 or 27. The special education teacher also stated that she was glad the Student's mother had joined the Student's reading and writing "group to observe for about an hour on Sept. 26" and referenced previous communications with the Parent on September 13, 15, 18 and 21, 2017 (by email) and three other times in person.<sup>6</sup>
24. On October 26, 2017, the Parent responded to the special education teacher's email and stated that the next day, October 27, worked to meet. The special education teacher emailed back, later in the day, and stated she was sorry but she actually could not meet the next day because there was a staff meeting. The special education teacher then suggested October 30 or 31, 2017 in the afternoon.
25. On October 30, 2017, the Parent emailed the special education teacher and principal and stated that he could make October 31 work, but that he was very busy and asked if there was another day that week they could meet. The Parent also stated "but if that's the only option then we'll do tomorrow."
26. According to the District's progress reporting, dated October 31, 2017, which the Parent stated he received at the beginning of December 2017, the Student made the following progress toward seven of his IEP goals:
  - Social emotional: The Student made sufficient progress to achieve the goal to join and maintain play with peers. The comments stated that the Student was "doing parallel play with other students during lunch recess for more than 5 min."
  - Social emotional: Initiating play was an emerging skill for the Student. The comments stated that the Student "had difficulty feeling comfortable with initiating conversations with his peers" but will initiate conversations with adults. Additionally, the Student was meeting with a "Comprehensive Life Resources counselor at the school for 30 min. to assist with this skill development."
  - Occupational therapy: The Student made sufficient progress to achieve the goal of improving class work production and technology use when composing a paragraph. The comments stated

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<sup>5</sup> In his October 24, 2017 email, the Parent stated that in the past, there had been a "general unwillingness to hold any regular meetings with us (even monthly or bimonthly) so we wrote that in there to mitigate," presumably the Parent was referring to the fact that the IEP included monthly progress reporting for several of the Student's annual goals.

<sup>6</sup> According to the Parent's reply, the District's references to several informal meetings between the Parent and the special education teacher are a mischaracterization of events. The Parent stated that on these occasions, he passed the special education teacher in the hallway and that they had non-substantive conversations that lasted less than a minute. Additionally, the Parent stated that while the Student's mother did visit the Student's classroom in September 2017, those visits should not take the place of substantive meetings.

that the Student showed good progress and was close to meeting his goal, and that the Student needed some help with editing.

- Reading comprehension: The Student made sufficient progress to achieve the goal of identifying main ideas and the comments stated that the Student was able to identify the main idea independently, and noted that sample work was attached.
- Reading comprehension: The Student made sufficient progress to achieve the goal of understanding target vocabulary words. The comments noted that the Student was working on the multiple meanings of "grade" and "contraction," and that sample work was attached.
- Reading comprehension: The Student demonstrated emerging skills in answering reading comprehension questions. The comments stated that the Student was able to answer who, what, where, and when questions, but had difficulty with why and how questions. The comments also stated that sample work was attached.
- Written expression: The Student made sufficient progress to achieve the goal of writing paragraphs. The comments stated that the Student wrote ten sentences with assistance, that he had difficulty formulating paragraphs, and that sample work was attached.

27. On October 31, 2017, the special education teacher responded to the Parent's email from the previous day and stated that they could meet that week on November 1 in the afternoon or November 3, 2017 in the morning.

28. On November 2, 2017, an SLP from a different District elementary school emailed the Parent and stated that she was reaching out to "share the good news about the new Speech Language Pathologist (SLP)...who has been assigned to serve students at [the Student's elementary.]" The SLP also stated that the Student started receiving speech services on October 4, 2017, and that "we have been seeing him for Speech two times per week since that time in order to make up the sessions which he missed in September. At this time, all of his IEP-required minutes have now been met for September and October." The SLP wrote that, per the Parent's request, she was providing the Parent with the name and contact information for the District's director of student services and that the Parent should "feel free to contact her [the director] regarding your [staffing] concerns" and that the Parent's "feedback [would] be valuable in helping to impress upon our leadership that buildings need to be adequately staffed in a timely manner in order to meet student needs."

29. According to the Parent's reply, November 2, 2017 was the first time he had been notified that the Student did not receive speech services in September 2017 and that the services were made up in October 2017. The Parent also stated that he did not receive monthly progress reporting so he did not know "what if anything was worked on with the [S]tudent by an SLP professional or if any progress was made during that time where, according to the [D]istrict, the [S]tudent was seen twice every week."

30. On November 3, 2017, the Parent emailed the special education teacher and stated, "I'm sorry, I missed this email, I appreciate the time options. Next week, I'm available any day of the week before or after school, preferably after school. Please just name what day works best for you, and I will clear my calendar that day."

31. On November 7, 2017, the Parent emailed the special education teacher and stated that he was contacted by someone "who is a therapist that serves kids like [the Student] in our district (referred by you??)." According to the Parent's email, this individual suggested "pulling [the Student] out of class to do one-on-one sessions" and the Parent stated that "before we pull him out of class more I definitely need to talk to you about this and see what you have in mind, and what she'll be working on with him that coincides with his school...work." The Parent also asked what the Student was working in occupational therapy and speech, and stated that he got an email and a call about the Student not getting speech services for over a month. The Parent asked who was in charge of coordinating the Student's services and why the Parent "cannot and do not have access to that person?" The Parent stated that this is why he wanted to meet with the special education teacher and while he "passed [the special education teacher] in the hallway a few times, we have never this year had a chance to discuss [the Student's] services and progress." The Parent also asked, "why can't the speech and OT folks do a short progress write-up every month as we agreed upon in the IEP?"
32. According to the Parent, after being called by the "therapist", he called and left voicemails for the special education teacher several times over the course of the next two weeks. The Parent stated that he never received a call back from the special education teacher.
33. The District was on break November 10, 2017.
34. On November 14, 2017, the Parent emailed the special education teacher and principal and stated "So no meeting??"
35. On November 15, 2017, the special education teacher emailed the Parent back and stated, "Yes, I think it would be good to have a meeting" and suggested times on November 16 and 20, 2017. The Parent responded and stated that November 16, 2017 worked for him to meet.
36. On November 16, 2017, based on the documentation in this complaint, the Parent went to the Student's school at the scheduled time and the special education teacher did not show up for the meeting. According to the Parent, when he arrived, the office paged the special education teacher and the Parent also went to her classroom to look for her, but could not locate the teacher. The Parent stated that he believes the teacher likely forgot and left school early, but that he never received an explanation or apology for the missed meeting.
37. On November 17, 2017, the Parent emailed the special education teacher and stated "I did show up yesterday...at the time mentioned" and then stated that November 20 or 21, 2017 after school worked to meet. The Parent stated that he was:  
really regretting cancelling the iep [sic] meeting I set 2 months ago then cancelled per [the principal's] request (she suggested I meet with you and you would be accessible). I honestly do not even know if [the Student] is getting speech and OT services, or what anyone is working on. If you're too busy to meet, please give me a call (but set up a time beforehand, I can't always talk or answer).
38. Also on November 17, 2017, the Parent emailed the principal and stated that he had tried to be patient but that the "parental accessibility issues are still a big issue obviously." The Parent

stated that he wanted a case manager who was in charge and also stated that the Student's general education teacher was great and that "unlike last year we feel [the Student] is being accommodated, doing most of the coursework other students are doing, and most importantly making progress." The Parent stated that with regard to special education, he had no idea what was going on.

39. The District was on break November 23-24, 2017.

40. On November 27, 2017, the Parent forwarded the November 2 email from the SLP at the other elementary school to the principal and stated that "it's not so much that he didn't have services for a period (happened last year too), it's that I got a call from a person I've never met or spoke to almost 2 months after school starts." The Parent also stated that he got a referral from a therapist, which was apparently initiated by the special education teacher, and that he was "never...able to even discuss with her what, when or why?"

41. Also on November 27, 2017, the Parent emailed the principal and recapped his requests for a meeting "since you [principal] and I have a different recollection":

Sept 15 I requested IEP meeting with entire team to do an initial check in. Only reason I requested formal meeting is I was doubtful I would get a meeting otherwise in a timely manner. Oct 3 IEP meeting requested again w[ith] team, cancelled request same day after we spoke briefly, was told by you I could meet with [the special education teacher]. Oct 9 Requested meeting to discuss services and progress w[ith] [the special education teacher] directly after hearing nothing back.

The Parent then stated that he had been trying to schedule a meeting since then, that during the week of October 30, 2017, he was too busy with work to meet, but that since then he had been mostly available. The Parent also stated that he had not yet received a monthly progress report and that "what started the mistrust is that clearly [the Student] was missing a majority of in-class work for much of last year, and made little academic progress during that time." The Parent ended the email with "I'm sorry you cannot understand why we are frustrated. Arguing over dates is a waste of time. We could work together to help [the Student] and improve his outcome, or we can continue as things are going."

42. Later on November 27, 2017, the principal responded to the Parent's email and thanked him for clarifying. The principal stated that she asked the special education teacher to send progress reporting as soon as possible and that the OT had already completed a report, so that would be included as well.

43. On November 28 and 29, 2017, the principal and the Parent emailed several times and the emails are summarized as follows:

- The Parent emailed and asked if "at this point in the year wouldn't we be expecting the trimester report?" The Parent then stated that his patience was about up and that he had requested a "team meeting over 10 weeks ago." The Parent stated that he was cancelling the meeting scheduled for the following day<sup>7</sup> because he was "not interested in working with people who

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<sup>7</sup> There is no documentation in this complaint that indicates when a November 29, 2017 meeting was scheduled.

have no desire to work with me” and that “after winter break we’ll re-visit the IEP and figure out a better way to measure and communicate progress, what we have is not working.”

- The principal responded, “I’m not understanding. I thought this is what you asked for.”
- The Parent replied that he wanted educators who he could work with on some reasonable level and again expressed his frustration over how long it took to schedule a meeting.
- The principal responded that the Parent had cancelled the meeting scheduled for the following day and the meeting that was set in October. The principal stated, “let me know what date will work for you.”
- The Parent replied that “facilitating a meeting well beyond the point of frustration is not acceptable” and stated that one topic to discuss could be “why it has become impossible for anyone on the special ed team to communicate how [the Student] is doing in his program?” The Parent stated that he hoped the principal was “willing to look internally and make some changes, unless just blaming parents comes easier.”
- The principal responded that he was willing to “partner” with the Parent to bring resolution to his concerns.

44. According to the District’s progress reporting, dated November 28 and 29, 2017, which the Parent stated he received in early December 2017, the Student made the following progress toward seven of his IEP goals:

- Social emotional: The Student made sufficient progress to achieve the goal to join and maintain play with peers. The comments stated that the Student was “doing parallel play with other students during lunch recess for more than 5 min. for 2 days so far this month” and gave examples of the Student joining in with other students.
- Social emotional: The Student was demonstrating emerging skill in initiating play. The comments stated that the Student had difficulty feeling comfortable with initiating conversations with peers, but will initiate conversations with adults. The comments also stated that for the first time the Student “initiated conversation with 4 students asking permission to touch the slime that they were touching during indoor recess...He interacted with them for over 5 min.”
- Occupational therapy: The Student made sufficient progress to achieve the goal of improving class work production and technology use when composing a paragraph. The comments stated that the Student had made good progress on the goal and showed “increased familiarity with the keys and is able to locate keys more efficiently when typing,” and that the Student did still need help with editing and creating a pre-writing graphic organizer.
- Reading comprehension: The Student made sufficient progress to achieve the goal of identifying main ideas and the comments stated that Student identified main ideas with support, and that sample work was attached.
- Reading comprehension: The Student made sufficient progress to achieve the goal of understanding target vocabulary words. The comments stated that the Student was working with homophones (e.g., there and their) and the meaning of “our” and “idea.” The comments also stated that sample work was attached.
- Reading comprehension: That the Student was demonstrating emerging skill in answering reading comprehension questions. The comments stated that the Student was able to answer who, what, where and when questions, but had difficulty with why and how questions. The comments also noted that sample work was attached.
- Written expression: The Student made sufficient progress to achieve the goal of writing paragraphs. The comments stated the Student wrote two paragraphs about being thankful

and wrote about the questions of “who, what, when, where.” The comments also stated that sample work was attached.

45. The District’s first trimester ended November 30, 2017.
46. On November 30, 2017, the Parent emailed the Student’s special education teacher and stated that the general education teacher mentioned that the special education teacher wanted to meet during academic conferences the following week. The Parent stated that he did want to meet and discuss the Student’s report card and class, but that he “would prefer to start with the trimester report and talk in the new year.” The Parent then stated that he was frustrated about the accessibility of staff and communication.
47. On December 5, 2017, the Student’s special education teacher emailed the Parent, and copied the principal and general education teacher, and stated that the Student’s progress reporting and work samples were in a folder on the general education teacher’s desk. The special education teacher stated that she hoped the Parent would “enjoy [his] time learning more about [the Student’s]...classroom work with [the general education teacher.]”
48. On December 6, 2017, the Parent met with the general education teacher for a parent/teacher conference.
49. According to the Parent’s reply to this complaint, he did not receive copies of any of the Student’s progress reporting until the trimester reporting period in early December 2017. The Parent also stated that the District did not provide actual data as specified in the goals, that the progress reporting was inadequate/vague and inconsistent, that some of the work the Student was doing was below his level (e.g., some of the vocabulary words), and that some goals were not being addressed (e.g., comments to initiating play goal often focused on the Student initiating conversation). The Parent also stated that he felt the “monthly write-ups...allow[ed] the District to skip formative trimester reports.”
50. On December 7, 2017, the Parent emailed the special education teacher some feedback and questions (based on his review of the progress reports), including:
  - Whether the special education teacher was working with the classroom teacher on vocabulary?
  - Asked for a list of words the Student had learned, information about how the Student was being tested, and how the data was collected.
  - Why the Student was being taught certain words and stated that the Student needed to be “working on vocabulary that correlates to his grade level, unless you think he can’t understand the word leash, or bye vs by (which he’s used in speech and writing for years).”
  - Asked how progress is tested for the Student’s social emotional goals and whether the general education teacher provided feedback regarding how the Student was doing.
  - Asked whether they had tried to get the Student to “play a one-on-one game with another kid in the last year?”
  - Asked what the purpose was of the Student seeing a counselor and stated that he had been “asking [the teacher] about this for months I never gave permission to her to see him on a regular basis (pending discussing and understanding) I just gave permission to evaluate him.”

- Asked if the progress reporting was complete and stated that he “was expecting more, not just a backtracking of the missed monthly.”
- Stated that the “writing example show me that you don’t work together with the Gen ed class on too much.”

51. Later on December 7, 2017, the Parent emailed the special education teacher again and stated:

And apologies if I seem tough with the questions, honestly these are all things I wanted to talk about last year on a regular basis, and of course the last 3 months. If you think these questions are legitimate and would prefer to discuss over the phone, I’m happy to do a quick five minute phone conversation, just need to set up a time beforehand, I’m pretty busy with work nowadays. My main concern, is all the time spent out of the class benefiting his academic performance. I just feel you and the teacher may be working on different things at different levels.

52. According to the District’s progress reporting, dated December 15, 2017, the Student made the following progress toward all nine of his IEP goals:<sup>8</sup>

- Social emotional: The Student made sufficient progress to achieve the goal to join and maintain play with peers. The comments provided examples of the Student joining in with other student’s games for two to over five minutes at a time.
- Social emotional: The progress reporting stated the Student demonstrated emerging skill in initiating play. The comments stated that the Student initiated conversations with adults and attempted to initiate conversations with multiple groups of students, but “spoke too softly and students didn’t recognize that he was talking to them.”
- Occupational therapy: The Student made sufficient progress to achieve the goal of improving class work production and technology use when composing a paragraph. The comments stated that the Student created a “5 sentence paragraph with help for editing and creating an outline as a pre-writing task.”
- Speech language: The Student made sufficient progress to achieve the goal of identifying word associations/categories. The comments stated the Student had done a “nice job as he works on identification categories” and when provided with picture cues, the Student provides the category. The comments also stated that the Student had more difficulty with word order and naming the category without a visual cue.
- Speech language: The Student demonstrated emerging skill in answering reading comprehensions questions related to the text. The comments stated that the Student responded “well to questions when presented with pictures to go along with them. He sequences 1-3 part stories using pictures and first retells the story using the words ‘first’, ‘then’, and ‘last.’” The comments also noted that the Student was most successful respond to “what” and “where” questions in relation to the story.
- Reading comprehension: The Student made sufficient progress to achieve the goal of identifying main ideas and the comments stated that Student identified main ideas with support, and that sample work was attached.

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<sup>8</sup> The Parent stated in his reply that the District did not provide the progress reporting at monthly intervals and that the District did not provide the supporting data for the goal. It is unclear, based on the documentation in this complaint, specifically when the Parent received the progress reporting for December 2017 and January and February 2018.

- Reading comprehension: The Student made sufficient progress to achieve the goal of understanding target vocabulary words. The comments stated that the Student worked on contractions.
- Reading comprehension: The Student demonstrated emerging skill in answer reading comprehension questions. The comments stated that the Student was able to answer who, what, where and when questions, but had difficulty with why and how questions. The comments also noted that same work was attached.
- Written expression: The Student made sufficient progress to achieve the goal of writing paragraphs. The comments stated the Student work a paragraph and a half about Christmas and created a five paragraph story with "lots of support from his para-educator."

53. The District was on break December 18, 2017 through January 1, 2018.

54. On January 31, 2018, according to the District's documentation, the Parent met with the Student's general education teacher. According to the Parent, they met to discuss the Student's progress and to discuss getting work for the Student to do while he and his family were out of town on vacation. Based on the Parent's February 1, 2018 email, the special education teacher stopped in at the meeting.

55. According to the District's progress reporting, dated January 31 and February 2, 2018, the Student made the following progress toward eight of his IEP goals:

- Social emotional: The Student made sufficient progress to achieve the goal to join and maintain play with peers. The comments stated that the Student did "parallel play for one day of this 1<sup>st</sup> week back" and the Student joined "jumping rope with 5 other students...play[ed] a computer game with 4 other students consecutive for 3 days."
- Social emotional: The progress reporting stated that initiating play was an emerging skill for the Student and that the Student was "very docile with his interactive play this month."
- Occupational therapy: The Student made sufficient progress to achieve the goal of improving class work production and technology use when composing a paragraph. The comments stated that the Student was close to meeting the goal to produce a "5-sentence paragraph with help to make a word web-style outline and help for editing." The comments also stated that they would work on increasing the Student's independence with the steps of the task.
- Speech language: The Student made sufficient progress to achieve the goal of identifying word associations/categories. The comments stated the Student had concentrated on responding to "wh" questions and made "excellent progress." The comments also stated that the Student worked on responding to questions in a given category, giving opinions to a scenario, understanding sarcasm and inference, and being able to stay calm and predict. The comments stated that the activity "taps into his social language skills."
- Reading comprehension: The Student made sufficient progress to achieve the goal of identifying main ideas. The comments stated that the Student compared and contrasted books he read, and was able to identify the main idea with some support. The comments also stated that sample work was attached.
- Reading comprehension: The Student made sufficient progress to achieve the goal of understanding target vocabulary words. The comments stated that the Student worked on the meanings of "tugboat, rope, dock, strong, safely, team, bump, soft pads (on tugboat)" and comparisons between words.
- Reading comprehension: The Student demonstrated emerging skill in answering reading comprehension. The comments stated that the Student was able to answer who, what, where



and when questions, but had difficulty with why and how questions. The comments also noted that same work was attached.

- Written expression: The Student made sufficient progress to achieve the goal of writing paragraphs. The comments stated the Student continued to work on the five paragraph story with support from the paraeducator and a three paragraph letter with support from the special education teacher.

56. According to the District's progress reporting, dated February 28 and March 6, 2018, the Student made the following progress toward seven of his IEP goals:

- Social emotional: The Student made sufficient progress to achieve the goal to join and maintain play with peers. The comments stated that the Student engaged in some parallel play and inconsistently responded verbally to other students.
- Social emotional: The progress reporting stated that initiating play was an emerging skill for the Student and that the Student did not attempt to initiate play with other students.
- Occupational therapy: The progress reporting stated that the Student met the goal.
- Reading comprehension: The Student made sufficient progress to achieve the goal of identifying main ideas and the comments stated that the Student was able to identify the main idea with some support. The comments also stated that sample work was attached.
- Reading comprehension: The Student made sufficient progress to achieve the goal of understanding target vocabulary words. The comments stated that the Student worked on the meaning of "parts of a kite – sail, spar, string, tail, fabric, and strips."
- Reading comprehension: The Student demonstrated emerging skill in answering reading comprehension questions. The comments stated that the Student was able to answer who, what, where and when questions, but had difficulty with why and how questions. The comments also noted that same work was attached.
- Written expression: The Student made sufficient progress to achieve the goal of writing paragraphs. The comments stated the Student was "slowly starting to write a paragraph again."

57. On March 6, 2018, the special education teacher left the Parent a voicemail and the Parent responded by email regarding scheduling an IEP meeting. The Parent stated, "since I don't get monthly reports anyhow, we may as well just take that off and hope for better trimester reports." The Parent also stated that he thought the special education teacher mentioned that there were too many goals on the Student's IEP and asked what she recommended "we drop and focus on?" The Parent also stated that he was concerned with the Student's ability to work independently.

58. The District's second trimester ended on March 16, 2018.

59. On March 19, 2018, the Parent emailed the special education teacher and stated that he had left her a voicemail and asked if they were still meeting on March 22, 2018. The Parent asked if they were "changing or adjusting any goals on the IEP?" The Parent also asked when he would get progress reporting and asked "isn't that a big part of this IEP discussion?"

60. Later on March 19, 2018, the special education teacher responded and stated "so glad that we got to talk today via the telephone." The special education teacher confirmed that they were meeting on March 22, 2018.

61. On March 22, 2018, the Student's IEP team, including the Parent, met and developed his annual IEP. According to the present levels stated in the IEP, the Student met some of the reading, social emotional, and occupational therapy annual goals from his March 2017 IEP and made "emerging" to good progress on the other goals (reading, writing, social emotional, and communication). The Student's March 2018 IEP included the following seven (7) annual goals:

- Social emotional/behavioral: when given a social situation, [the Student] will join another peer's play and maintain play activities and/or behavior for a minimum of 10 minutes improving socialization skills from the current level of joining play with peers in 2 out of 3 opportunities and engaging in play for 5 minutes to joining play with peers in 2 out of 3 opportunities and engaging in play for 10 minutes as measure by special education team data across 5 consecutive data days.
- Social emotional/behavioral: when given a social situation, [the Student] will initiate play with a peer and maintain play activities and behavior for a minimum of 5 minutes with a highly preferred activity improving socialization skills from the current level of inviting a peer to play in 1 out of 20 opportunities and engaging in play for 1 minute to inviting a peer to play in 2 out of 3 opportunities and engage in play for 5 minutes as measured by special education data across 5 consecutive data days.
- Reading comprehension: when given instruction level reading materials [the Student] will use & demonstrate understanding of target vocabulary words from the text improving his understanding of target vocabulary words from the text at his reading level from 5% accuracy to 70% accuracy as measured by monthly assessments.
- Reading comprehension: when given a reading passage at his instructional level [the Student] will correctly answer up to 2 comprehension questions pertaining to Why, and How Questions at his instructional reading level improving his skills at finding the answer by going back into the text from answer 1/6 correct to answering 4/6 correct as measured by reading assessment data, special education teacher data.
- Written expression: when given a composition task, [the Student] will write a paragraph on a given topic improving his ability to express his own thoughts and ideas from 1 and partial of a 2<sup>nd</sup> written paragraph to writing 2 on-topic paragraphs independently as measured by special education team data across 3 consecutive data days.
- Speech/language: when given a variety of visual and verbal cues [the Student] will respond to "wh" questions (what/when/where/why/who) improving oral expression from 10% accuracy to 80% accuracy as measured by SLP data and observation.
- Speech/language: when given a variety of visual and verbal cues [the Student] will provide oral definitions of words improving use and understanding of vocabulary from 10% accuracy to 80% accuracy as measured by SLP data and observation.

The March 2018 IEP provided the Student with the following specially designed instruction in the general education setting:

- Social emotional/behavioral: 20 minutes, 5 times per week (special education staff)

The March 2018 IEP also provided the Student with the following specially designed instruction and related services in the special education setting:

- Reading comprehension: 30 minutes, 5 times per week (concurrent) (special education teacher)
- Written expression: 30 minutes, 5 times per week (concurrent) (special education teacher)
- Speech/language: 30 minutes, 1 time per week (SLP)
- Occupational therapy: 30 minutes, 1 time per week (OT)

However, the IEP stated that the Student would spend a total of sixty (60) minutes per week in a special education setting and that he would spend 96.67% of his time in the general education setting.<sup>9</sup> The IEP also included thirty minutes of paraeducator support, twice a day, in the general education setting as a supplementary aid/service and numerous accommodations and modifications.

62. According to the District's prior written notice, the Parent requested that the District go back to trimester reporting on all of the Student's IEP annual goals. The IEP team agreed to this change, but due to a clerical error, it was not recorded in his March 2018 IEP.

63. On June 8, 2018, the District provided the Parent with progress reporting on the Student's March 2018 IEP annual goals:

- Social emotional: The Student made sufficient progress to achieve the goal to join and maintain play. The comments stated that the Student had joined and maintained play activities for 10 minutes in 2 out of 3 opportunities numerous times.
- Social emotional: The Student demonstrated emerging skill in initiating play. The comments stated that the Student initiated play with a peer twice during the trimester that was observed by an adult.
- Reading comprehension: The Student demonstrated emerging skill in understanding reading level vocabulary. The comments gave examples of vocabulary words the Student worked on and stated that the Student needed to work on academic vocabulary words in different content areas (e.g., science, social studies, and math) and that he needs to work on how the words and meanings change when a prefix or suffix is added.
- Reading comprehension: The Student demonstrated emerging skill in answering why and how questions at his instructional reading level. The comments stated that the Student had difficulty answering these questions in six different books.
- Written expression: The Student demonstrated emerging skill in writing paragraphs independently. The comments stated that the Student "writes a paragraph on a topic with events and detail sentences...for a paragraph and sometimes another 3 or 4 sentences." The comments also stated that during occupational therapy sessions the Student had been practicing handwriting and computer use for producing classwork and "has shown growth in these skills." The comments noted that occupational therapy was being used to support the Student's work toward his written expression goal.
- Speech/language: The Student made sufficient progress to achieve the goal of responding to "wh" questions. The comments stated that the Student's progress had been consistently good and that he maintains "approximately 90% accuracy." The comments noted that the Student had the highest accuracy with who, what, and where questions, and had difficulty with why and how questions.
- Speech/language: The Student made sufficient progress to achieve the goal of providing oral definitions of words. The comments stated that the Student had improved his vocabulary skills and was able to categorize words and provide oral definitions with 80% accuracy. The

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<sup>9</sup> It is unclear why the IEP stated that the Student would only receive 60 minutes of specially designed instruction in the special education setting, when the service matrix actually indicates that the Student would receive between 210 and 360 minutes per week in the special education setting. It is also unclear, based on the documentation in this complaint, whether the reading comprehension and written comprehension services were actually provided concurrently.

comments noted that at times it was difficult for the Student to understand an alternate meaning of a word.

64. On June 15, 2018, the District's school year ended.

## CONCLUSIONS

**Issue 1: IEP Implementation (Speech Services & Accommodations)** – The Parent alleged that the District failed to implement the Student's IEP, including not providing speech services for seven or eight weeks and not providing the Student with the accommodations in his IEP. At the beginning of each school year, a district must have in effect an IEP for every student within its jurisdiction who is eligible to receive special education services. The district must ensure that it provides all services, including modifications and accommodations, consistent with the student's needs as described in the IEP.

Speech Services: The Student's May 2017 IEP amendment provided for thirty (30) minutes of speech services per week. According to the District's response, the Student did not receive speech services during September 2017 due to a delay in hiring a speech language pathologist (SLP) at the Student's school. The District stated that an SLP was hired in October 2017, and the Student attended two 30-minute speech sessions per week in October 2017 to make up for the missed time in September. Based on the documentation in this complaint, the Parent was not notified that the Student was not receiving speech services in September or that the sessions were made up in October until the beginning of November 2017, despite the Parent asking about the Student's services and progress reporting several times throughout September and October. While the delay in notifying the Parent did not impact the Student accessing his speech services, the lack of communication impacted the Parent's frustration and increasing lack of trust in the school. The District admits that it failed to initially provide speech services and OSPI finds that the District has substantiated that it ultimately provided the Student's required speech services. No corrective actions are required; however, if a similar situation arises in the future, OSPI strongly recommends that the District immediately notify parents of any delays in providing services and ensure that a plan is developed, with input from parents, to make up the services.

Accommodations: In investigating this complaint, OSPI finds that the Parent's allegations regarding accommodations and modifications were directed at the 2016-2017 school year. The one-year timeline for this complaint begins on June 16, 2017; therefore, OSPI will not address any issues regarding the implementation of the Student's IEP prior to that date. The District's response stated that "to the best of the knowledge of the staff who worked with Student during 2017-18, all accommodations in his IEP were consistently implemented or available to him." The documentation does not indicate that the Parent raised concerns about specific accommodations during the 2017-2018 school year. Therefore, OSPI finds that the District has substantiated that the Student received the accommodations and modifications required by his IEP during the 2017-2018 school year.

**Issue 1: IEP Implementation (Progress reporting)** – The Parent also alleged that the District failed to provide progress reporting as outlined in the Student's IEP. A student's IEP must include

a statement indicating how the student's progress towards 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. The purpose of progress reporting is to provide parents with sufficient information regarding a student's progress towards his or her annual IEP goals. Here, the Student's amended March 2017 IEP provided that the Student would receive progress reporting on his social emotional goals every trimester, his reading and written expression goals monthly with formative data, and his occupational therapy and speech goals monthly. The Student's March 2018 IEP returned to providing the Student progress reporting at each trimester for all of the annual goals.

Frequency: The District provided progress reporting on the social emotional goals on a trimester basis as required. However, the documentation also shows that the District did not provide monthly progress reporting for the Student's reading, written expression, and occupational therapy goals (e.g., the Parent received the progress reporting for September, October, and November 2017 at the Student's Parent/teacher conference with the general education teacher in December 2017). Additionally, while the District acknowledges it did not initially provide progress reporting regarding the Student's speech goal due to staffing issues, the District states in its response that progress was reported at least once per trimester. However, the District's documentation does not show that progress reporting for both of the Student's speech goals was provided on December 1, 2017 at the end of the first trimester, but instead progress reporting for one speech goal was recorded on December 1 and progress reporting for the other speech goal was recorded on February 2. Additionally, the District fails to recognize that progress reporting for the Student's speech goals was required to be provided monthly; therefore, providing it on a trimester basis was insufficient. The documentation in this complaint shows that the District did not consistently provide progress reporting at the frequency required by the Student's IEP.

Formative data: The Parent also stated that the progress reporting provided was often inadequate or inconsistent, and that in some cases, the goals were not being addressed (e.g., the comments on the Student's goal to initiate play only discussed the Student initiating conversation). Generally, the IDEA does not require that districts provide parents with the data tracking sheets teachers use to collect data on a student's progress, when reporting progress toward a student's IEP goals. However, the purpose of progress reporting is to provide parents with sufficient information regarding a student's progress towards his annual IEP goals, so that the parent understands the amount of progress the student has made toward attaining the goal.

Here, although the District provided the Parent with progress reporting regarding the Student's annual goals, the large majority of the progress reporting did not contain enough information to inform the Parent about the Student's actual progress toward obtaining the goals. For example, one of the Student's reading comprehension goals stated that the Student would improve his understanding of target vocabulary words from 0% accuracy to 70% accuracy as measured by monthly assessments. However, the September 2017 through February 2018 comments to the progress reporting merely list examples of a few words that the Student worked on and provided no data about his percentage of accuracy. It is not clear from the progress reporting what, if any, progress the Student made on this goal. Or, for example, while the comments for the Student's

written expression goal mention the Student's different writing projects (e.g., a 5 paragraph story or a 10 sentence letter), there is no information about whether the Student was improving from writing one paragraph to consistently writing three paragraphs as measured over three consecutive data days, as outlined in the Student's goal. Further, in February 2018, the comments state that the Student was "slowly starting to write a paragraph again" with no explanation on the apparent regression. Additionally, in this case, the Student's amended March 2017 IEP specified that for the Student's reading comprehension and written expression goals progress reporting would include formative data. However, the Parent stated that he never received data on the Student's progress and the District did not provide evidence that it included formative data with the Student's progress reporting. The District also agreed to and failed to consistently provide sample work for one of the Student's reading comprehension goals.

The District created an obligation to provide monthly reporting and share data with the Parent, and the District failed to do so. The District will ensure that during the 2018-2019 school year, the Parent is provided with progress reporting as written in the Student's IEP and that meets the requirements of the IDEA. The District will meet with the Parent to amend the Student's IEP to ensure that the progress reporting frequency is correctly stated in the IEP, and the District will develop guidance on progress reporting requirements.

**Issue 2: IEP Meeting Requests** – The Parent alleged that the District ignored his requests for an IEP meeting. IEP meetings must be held periodically, but not less than annually to develop a student's IEP. When a parent requests an IEP meeting, the school district must schedule the meeting at a mutually agreeable time and place. If the district believes that a meeting is unnecessary, the district must provide written notice to the parents of the refusal to meet and include an explanation of why the district has determined that a meeting is not necessary to ensure the provision of a free appropriate public education (FAPE) to the Student.

Here, the Parent requested an IEP meeting on September 15 and October 3, 2017. On October 3, 2017, the Parent spoke with the principal, agreed that a full IEP meeting was unnecessary, agreed that he could meet with the Student's teachers informally, and withdrew his request for an IEP meeting with the understanding that a meeting would be set up with the special education teacher. On October 9, 18, and 24, 2017, the Parent emailed the special education teacher and the principal in an attempt to set up a meeting and did not receive a response until October 25, 2017. Between October 25 and November 15, 2017, the Parent and the special education teacher emailed back and forth, and finally scheduled a meeting for November 16, 2017. On November 16, 2017, the Parent arrived for the meeting, but the special education teacher was not at the school. After that, the Parent became frustrated and felt as though the District was restricting his access to the school and the Student's teachers. The District's response stated that the Parent met with the special education teacher informally several times; however, the Parent states that these references are to the Student's mother visiting the classroom or very brief conversations with the teacher while passing her in the hall. While the Parent did meet with the Student's general education teacher in December 2017 and January 2018, it does not appear that the Parent had a substantive meeting with the Student's special education teacher until the annual IEP meeting in March 2018.

Based on the documentation in this complaint, the District did not properly respond to the Parent's request for an IEP meeting. The District failed to provide the Parent with written notice of why it felt an IEP meeting was unnecessary. Further, the Parent agreed to withdraw his request for an IEP meeting with an understanding that a meeting would be set up with the Student's special education teacher. It took a month and a half after the Parent first emailed the special education teacher to schedule a meeting and then the teacher failed to attend the scheduled meeting with no notice or explanation. While OSPI acknowledges that there were challenges aligning schedules on both sides, the District failed to properly respond to the Parent's request for an IEP meeting and should have facilitated a meeting with the special education teacher much sooner. The District will develop guidance on the proper procedures for responding to a request for an IEP meeting.

### **CORRECTIVE ACTIONS**

By or before **September 21, 2018, October 5, 2018, November 2, 2018, December 14, 2018,** and **March 15, 2019**, the District will provide documentation to OSPI that it has completed the following corrective actions.

#### **STUDENT SPECIFIC:**

1. By or before **September 28, 2018**, the District will schedule an IEP meeting at a mutually agreeable time for the Parent and District to amend the Student's IEP to ensure that the progress reporting frequency is correctly recorded in the IEP. The IEP team will also review the service matrix page of the IEP to ensure that there are no misunderstandings regarding the minutes of specially designed instruction, where the Student is receiving services, and whether the reading and writing instruction is concurrent. The IEP team will also discuss the following topics related to progress reporting to ensure that everyone is in agreement and understands expectations for:
  - The frequency and format of progress reporting;
  - Whether the progress reporting will include formative data or work samples, and generally what the Parent can expect that to consist of; and,
  - Parent and District expectations for the level of detail included within the progress reporting.

The team will amend the Student's IEP, at a minimum, to correct the service matrix page and ensure that the frequency of progress reporting is properly recorded. By **October 5, 2018**, the District will submit: 1) a copy of the meeting invitation; 2) a copy of the IEP; 3) a copy of any related prior written notices; 4) a copy of the agenda or notes on the topics discussed at the meeting; and, 5) any other related information.

2. During the 2018-2019 school year, the District will provide the Parent with accurate, complete, and on time progress reporting as written in the Student's IEP. By or before **December 14, 2018** and **March 15, 2019**, the District will provide OSPI with the following: 1) a copy of the progress reporting; 2) a copy of any formative data and/or sample work provided to the Parent; and, 3) documentation of how and when the Parent was provided progress reporting.

If the Student's IEP team determines that more frequent progress reporting is required, the District will immediately notify OSPI and new dates for submission will be provided.

**DISTRICT SPECIFIC:**

By or before **September 21, 2018**, the District will develop written guidance on the procedures for responding to a parent's request for an IEP meeting, the procedures for monitoring student progress toward annual IEP goals, and the procedures for providing parents with progress reporting on student progress toward IEP goals. The guidance will be provided to the principal and all certificated special education staff, including educational staff associates (ESA) at the school identified in this complaint. ESAs include school psychologists, physical therapists, speech language pathologists, school counselors, and other service providers. The guidance will include examples.

By **September 21, 2018**, the District will submit a draft of the written guidance to OSPI. OSPI will approve the guidance or provide comments by October 5, 2018 and provide additional dates for review, if needed.

By or before **October 26, 2018**, 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 **November 2, 2018**, 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.

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

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



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

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