

SPECIAL EDUCATION CITIZEN COMPLAINT (SECC) NO. 19-58

PROCEDURAL HISTORY

On August 9, 2019, the Office of Superintendent of Public Instruction (OSPI) received a Special Education Citizen Complaint from the parent (Parent) of a student (Student) attending the Richland 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 August 9, 2019, 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 August 29, 2019, OSPI spoke to the District to clarify the information requested in the opening letters sent to the District by OSPI.

On August 30, 2019, OSPI received the District's response to the complaint and forwarded it to the Parent on September 4, 2019. OSPI invited the Parent to reply with any information she had that was inconsistent with the District's information.

On September 6, 2019, OSPI received additional information from the Parent. OSPI forwarded the additional information to the District on the same day.

On September 9, 2019, OSPI received the Parent's reply. OSPI forwarded that reply to the District the same day.

On September 18, 2019, OSPI received additional information from the District. OSPI forwarded the additional information to the Parent on the same day.

On September 23, 2019, OSPI received additional information from the District. OSPI forwarded the additional information to the Parent on the same day.

On October 4, 2019, OSPI interviewed the Parent and the Student via telephone.

On October 4, 2019, OSPI requested clarifying information from the District and the District provided requested information on October 7, 2019. OSPI forwarded the requested information to the Parent on October 8, 2019.

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

SCOPE OF INVESTIGATION

This decision references events that occurred prior to the investigation period, which began on August 10, 2018. 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 period.

ISSUES

1. Did the District follow procedures for determining the Student's placement during the 2018-2019 school year, in accordance with WAC 392-172A-02060?
2. Did the District follow procedures for developing and/or amending the Student's individualized education program (IEP) during the 2018-2019 school year to address any lack of progress towards measurable annual goals during the 2018-2019 school year, including:
 - a. Procedures for determining the Student's present levels of academic and functional performance (PLAFP) when developing the IEP in place during the 2018-2019 school year, and for ensuring that the Student's IEP contained measurable annual goals based on the Student's PLAFP;
 - b. Consideration of the Student's need for positive behavioral interventions and supports, including a Functional Behavioral Assessment (FBA); and,
 - c. Consideration of the Student's need for extended school year (ESY) services for summer of 2019?
3. Did the District provide appropriate accommodations and modifications for tests and assessments?

LEGAL STANDARDS

Present Levels: Individualized education programs (IEPs) must include a statement of the student's present levels of academic achievement and functional performance, including: how the student's disability affects the student's involvement and progress in the general education curriculum. 34 CFR §300.320(a)(1); WAC 392-172A-03090(1)(a).

Measurable Annual Goals: IEPs must include a statement of the student's measurable annual goals, including academic and functional goals designed to: meet the student's needs that result from the student's disability so that he or she can be involved in and make progress in the general education curriculum; and, meet each of the student's other educational needs that result from the student's disability. Additionally, for students who take alternate assessments aligned to alternate achievement standards, the statement of measurable annual goals should include a description of the benchmarks or short-term objectives the student should meet. 34 CFR §300.320(a)(2); WAC 392-172A-03090(1)(b).

Program Modifications: An IEP must include a statement of the program 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).

Placement: When determining the educational placement of a student eligible for special education including a preschool student, the placement decision shall be determined annually

and made by a group of persons, including the parents, and other persons knowledgeable about the student, the evaluation data, and the placement options. The selection of the appropriate placement for each student shall be based upon: the student's IEP; the least restrictive environment requirements contained in WAC 392-172A-02050 through 392-172A-02070, including this section; the placement option(s) that provides a reasonably high probability of assisting the student to attain his or her annual goals; and a consideration of any potential harmful effect on the student or on the quality of services which he or she needs. 34 CFR §300.116; WAC 392-172A-02060.

Parent Participation in Determining Placement: Each school district must ensure that a parent of each student eligible for special education is a member of any group that makes decisions on the educational placement of the parent's child. The school district must use procedures consistent with the procedures described in WAC 392-172A-03100 (1) through (3). If neither parent can participate in a meeting in which a decision is to be made relating to the educational placement of their child, the school district must use other methods to ensure their participation, including individual or conference telephone calls, or video conferencing. A placement decision may be made by a group without the involvement of a parent, if the school district is unable to obtain the parent's participation in the decision. In this case, the school district must have a record of its attempt to ensure their involvement. 34 CFR §300.501; WAC 392-172A-05001. School members of the team may come to the table "with pre-formed opinions regarding the best course of action for the child as long as they are willing to listen to the parents and parents have the opportunity to make objections and suggestions." *In re: Kent School District*, 2016-SE-0111 (WA SEA 2016) citing *Nack v. Orange City Sch. Dist.*, 454 F.3d 604, 610 (6th Cir. 2006).

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.

IEP Team Member Excusal: Parents and districts can agree in writing that an IEP team member's participation is not necessary and that the team member may be excused from attending an IEP meeting, in whole or part, if the team member's area of curriculum or related services is not being modified or discussed in the meeting. If the meeting involves a modification to or discussion of the team member's area of the curriculum or related services and the parties both consent in writing to the excusal of the team member, the excused team member must submit written input into the development of the IEP in prior to the meeting. 34 CFR §300.321(e); WAC 392-172A-03095(5). As provided in 34 CFR §300.321(a)(2), the public agency must ensure that the IEP team includes "[n]ot less than one regular education teacher of the child (if the child is, or may be, participating in the regular education environment)."

IEP Team Meeting Time: IEP meetings must be scheduled at a mutually agreeable time for the parent and the district. 34 CFR § 300.322(a); WAC 392-172A-03100(2). 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 arrange for other ways for the parent or parents to participate. *Letter to Thomas*, 51 IDELR 224 (OSEP 2008).

Behavior: When considering special factors unique to a student, the IEP team must consider the use of positive behavioral interventions and supports, as well as other strategies, to address behavior in the case of a student whose behavior impedes the student's learning or that of others. WAC 392-172A-03110(2)(i).

Functional Behavioral Assessment (FBA): An FBA focuses on identifying the function or purpose behind a child's behavior. Typically, the process involves looking closely at a wide range of child-specific factors (e.g., social, affective, environmental). Knowing why a child misbehaves is directly helpful to the IEP team in developing a behavioral intervention plan (BIP) that will reduce or eliminate the misbehavior. *Questions and Answers on Discipline Procedures* (OSERS June 2009) (Question E-2). The FBA process is frequently used to determine the nature and extent of the special education and related services that the child needs, including the need for a BIP, which includes behavioral intervention services and modifications that are designed to address and attempt to prevent future behavioral violations. *Letter to Janssen*, 51 IDELR 253 (OSERS 2008).

Extended School Year Services: Extended school year (ESY) services means services meeting state standards provided to a student eligible for special education that are beyond the normal school year, in accordance with the student's IEP, and at no cost to the parents of the student. School districts must ensure that ESY services are available when necessary to provide a FAPE to a student

eligible for special education services. ESY services must be provided only if the student's IEP team determines, based on the student's needs, that they are necessary in order for the student to receive a FAPE. The purpose of ESY services is the maintenance of the student's learning skills or behavior, not the teaching of new skills or behaviors. School districts must develop criteria for determining the need for ESY services that include regression and recoupment time based on documented evidence, or on the determinations of the IEP team, based on their professional judgment and considering the nature and severity of the student's disability, rate of progress, and emerging skills, among other things, with evidence to support the need. For purposes of ESY, "regression" means significant loss of skills or behaviors if educational services are interrupted in any area specified in the IEP. "Recoupment" means the recovery of skills or behaviors to a level demonstrated before interruption of services specified in the IEP. 34 CFR §300.106; WAC 392-172A-02020. A student's IEP team must decide whether the student requires ESY services and the amount of those services. In most cases, a multi-factored determination would be appropriate, but for some children, it may be appropriate to make the determination of whether the child is eligible for ESY services based only on one criterion or factor. *Letter to Given*, 39 IDELR 129 (OSEP 2003).

FINDINGS OF FACT

Background: 2017-2018 School Year

1. During the 2017-2018 school year, the Student attended a middle school in the District and was eligible for special education services under the category intellectual disability.
2. On March 10, 2018, the Student's IEP team met to develop the Student's IEP.¹ The March 2018 IEP indicated the Student had cognitive abilities in the low range, which adversely impacted her ability to be successful in the general education setting and required all of the Student's services to be provided in a self-contained extended resource room (ERR) setting. The Student's IEP indicated the Student would spend 29% of her time in the general education setting and that she would receive the following amounts of specially designed instruction, to be provided in the special education setting:
 - Communication, 3 days monthly for 30 minutes;
 - Math, 5 days weekly for 53 minutes;
 - Reading, 5 days weekly for 80 minutes;
 - Written expression, 5 days weekly for 80 minutes;
 - Adaptive behavior, 5 days weekly for 15 minutes; and,
 - Communication (providing embedded services), 5 days weekly for 15 minutes.

¹ The Student's most recent evaluation was dated March 11, 2016. The March 2016 evaluation determined the Student required specially designed instruction in the following areas: adaptive, communication, math, reading, and written expression. The evaluation recommended all specially designed instruction be provided individually or in a small group setting to increase academic success. The 2016 evaluation further recommended the Student receive speech and language therapy and that all services be provided in an extended resource room (ERR) setting. The evaluation was signed by the Parent.

The Student's IEP provided the Student with shared paraprofessional support for five days, weekly. According to the Student's IEP, the Student did not require extended school year (ESY) services. The IEP included a transition plan.

The Student's IEP included the following accommodations and modifications:

- Dictionary/glossary/thesaurus
- Shortened assignments
- Rephrase test questions and/or directions
- Text-to speech
- Modify/repeat/model directions
- Provide individualized/small group instruction
- Provide study outline/guides
- Extra time to complete assignments
- Extra time on tests/quizzes
- Modified grading (pass/fail in general education classroom)

The March 2018 IEP indicated the Parents were to receive midterm and quarterly progress reports. The IEP included present levels of performance and annual goals for each area where the Student was receiving specially designed instruction:

Area	Present Level Related to Goal	Annual Goal
Adaptive	"[. . .] [Student] did not make her goal this year. We are still working the names and values of coins (penny, nickel, dime, quarter) and being able to add the coins together. We have tried real money and play money, so she will have the same goal as last year to be able to know her coins and add them together."	"[Student] will show an increase in her adaptive skills by correctly stating the names and values of each coin, penny, nickel, dime and quarter from 0 out of 5 attempts to 4 out of 5 attempts, by 3/9/19."
Communication (providing embedded services)	"[Student's] communication consists of telegraphic utterances. [. . .] Her responses answer the question but do not give enough information for the listener to know what she means. [Student's] communication ability is further hindered by her lack of awareness that her listener is confused. Less than 10% of her responses follow correct grammatical rules. When her sentences are repeated back to her she can repair them but she does not do so without prompting. [. . .]"	"By 3/9/19, [Student] will produce grammatically correct 4+word sentences when asking and answering classroom questions and repair as necessary by checking for listener understanding from 10% to 50% accuracy with minimal prompts for increased expressive and receptive communication."
Communication	"[Student] is able to produce s-blends in phrases with 40-100% accuracy. She is able to produce l-blends from 50-100%. Her productions are inconsistent from week to week. If she has success with correctly producing s-blends during a therapy session she will not have produced any l-blends correctly and vice versa. She continues to need prompting to remember to use her correct speech during all speech activities."	"[Student] will increase her production of the l-blend from 50% accuracy and s-blend from 40% accuracy in words in all positions to 80% or greater over three data days as measured by SLP data by 3/10/19."

Math	<p>"[Student] is able to subtract but at a very slow rate. Telling time is confusing for her with the small and large hand, but when she is able to figure out the hour from the minute hand, she is able to tell time. She can subtract three digit numbers, however, when it comes to adding three digit numbers in a column, she gets confused. Working with money is very difficult for her with knowing the difference between dimes, nickels, and she was just introduced to quarters. She knows the 5's, 10's, and 2's multiplication facts. [Student] is also working on a chart with adding in rows and columns. She can add two digits, but when it comes to three, she gets lost. [Student] has to add the first two first, write down the number, [then] add the third. None of this is easy for her, but she tries and continues on with her work."</p>	<p>"[Student] will be able to solve two and three digit addition problems in three digit columns at the second grade level from 1 out of 5 consecutive trials to 3 out of 5 consecutive trials independently with 90% accuracy by 3/9//2019."</p>
Reading	<p>"Currently [Student] exceeded her goal with knowing the first 300 sight words. She works on them every day. It always takes her a long time to pronounce words, now she is working on the next 50 (350) words. At this time she has one reading class where she spends half on the computer working with System 44 and the other half of the class working in a small group. She has the same expectations as the other students for reading and answering questions. She needs many prompts, but less than she did last year because she knows what is expected. [. . .] Right now [Student] has mastered 20 topics out of 160. Last year she had a one-on-one TA (teacher assistant) who helped her the whole hour. This year she does a great job with no help. Right now [Student] scored a BR on her SRI test. BR meaning 'Beginning Reader' and RI meaning 'Reading Inventory.'" She also took a phonics test called PI (Phonic Inventory) and scored 12 which is a pre-decoder. [Student] was also tested on the MAP (Measurement of Academic Progress) test and scored a 166, which is up by 11 points from last years 155 RIT. At the beginning of her sixth year she scored 148, so that is tremendous growth for someone that is a slow processor. That would be 18 points in a year and a half. She is slow, but steady and working with her at home contributes to her growth. Without all the intervention she</p>	<p>"By March 9, 2019, [Student] will be able to use letter sound knowledge to read common sight words and decode single and double syllable words from FRY words 300 with 70% accuracy average to words 400 with 80% accuracy average in 3 out of 4 consecutive opportunities as measured by FRY Sight Word Assessments (CCSS Essential Element EE> RF 5.3 and CCSS ELA 5.RF.3) working on second grade words."</p>

	gets, she [would] have a very difficult time improving [. . .].”	
Written Expression	<p>“[Student] has been introduced to writing in several classes every day. She has learned more about grammar and how to write sentences; however, it is difficult for her to get her thoughts on paper when it is a challenge expressing herself. Many times she speak[s] in half sentences [. . .]. Currently [Student] is working on a second grade spelling packet that has many basic sight words in it along with many comprehension skills to help fill in gaps with spelling. It is a struggle for her and I thought about placing her back in the first grade packet, but felt she needed to be challenged and work with the many strategies we taught her. She avoids writing on her own and often will erase until the class is over or she needs another eraser. She is redirected and we move on. Often her packets are not completed by Thursday when they are due and she finishes them up the next day. She tests poorly because she doesn't study the words as expected, so her grade suffers. Many of the words are repeated on the reading program, System 44. [Student] has a difficult time writing a simple sentence and often she just isn't aware what she is trying to say to get it to paper. [. . .]. Language MAP (Measurement of Academic Progress) test: 154 (1%) Tested January 31, 2017”</p>	<p>“[Student] will be able to increase her written expression by writing one dictated sentence with proper capitalization and punctuation from 1 out of 4 times at the second grade level by using her current spelling words by 3/9/2019.”</p>

3. The timeline for this complaint began on August 10, 2018.
4. On August 21 and 22, 2018, the Parent and special education teacher exchanged emails regarding the Parent's concerns about how the special education teacher was going to measure the Student's understanding, whether the Student required reteaching of materials due to having lost skills over the summer, and whether the goals may be too ambitious based on the Student's current abilities. The special education teacher responded that the Student could repeat subjects taken in the past and that she “usually test[s] all students and then place[s] them. The progress report just addressed where we are at in the spring.”

2018-2019 School Year

5. The 2018-2019 school year commenced on August 28, 2018.
6. During the 2018-2019 school year, the Student was in eighth grade and attended a middle school in the District. She continued to be eligible for special education services under the category of intellectual disability and her March 2018 IEP remained in effect.

7. During the fall of the 2018-2019 school year, the Parent and the special education teacher communicated regularly via email regarding the Student's performance in class and the Parent's concerns about the Student's progress. The Student's special education teacher responded to the Parent's emails with information regarding the Student's performance in class.
8. On December 13, 2018, the Parent emailed the special education teacher and asked to meet to discuss concerns about the Student's performance in math, and to inquire about when the Student's meeting to develop her transition plan would be scheduled. The special education teacher responded that she was available the next day to discuss the Student's performance in math and said she would let the Parent know when a meeting was scheduled to discuss transition.
9. The District was on winter break from December 24, 2018 through January 4, 2019.
10. The District's response to this complaint included a progress report for the Student, dated January 18, 2019.² According to the report, the Student was making "adequate progress" in all areas of [her] IEP. The report included narrative statements regarding the Student's progress:
 - **Communication** – "[Student's] production of l-blend and s-blend words continues to vary from session to session. We have spent time focusing on producing these words in sentences. Accuracy for both sounds varies from 30%-80% following a model. [Student] is asking and answering questions in the classroom using 4+ word sentences/questions with at least 60% accuracy. She is able to correct them with 50% accuracy, but still requires cues to do this. Overall, [Student] has demonstrated significant gains in her ability to express herself in the classroom setting since her 6th grade year."
 - **Written Language** – "[Student] continues to be codependent on other people for her writing. While I know she can produce sentences, it is a lot of work on our part to get her to work on her own. She does 2/4 and still working toward her goal."
 - **Reading** – "[Student] avoids reading out loud unless she is made to read and then she is usually upset and reads so slow that she loses the meaning of what is being read. She was just tested on the next 250 sight words last week. It is a very slow progress since we have been working on her sight words from sixth grade. [Student] just finished a whole semester learning basic phonics, prefixes and suffixes. If I make her say three syllable words she can work it out, but never by herself will she try."
 - **Math** – "[Student] is still working on solving two and three digit addition problems in three digit columns at the second grade level. Math is difficult for her and she needs a number line and has been good about finishing up her work and homework."
 - **Adaptive** – "[Student] struggles with counting change even when we go over it with 'real' money. When adding money she can add up to so far, then forgets her nickels (or fives) after so far and goes up to fifty."

² Emails included with the District's response show that while the date on the progress report is January 18, 2019, the progress report was actually completed on February 19, 2019. This appears to be a typo on the progress report.

11. On February 5, 2019, the Parent emailed the special education teacher to ask if the Student had homework. She told the special education teacher the Student reported her aide "does all her stuff in class."
12. On February 6, 2019, the special education teacher responded to the Parent's email that the Student did have homework on the odd days that week and that the Student was provided time in class to complete work. The Parent responded, thanking the special education teacher and stating she did not want the Student to "have a huge stack all of a sudden."
13. On February 19, 2019, the District speech language pathologist emailed the school psychologist, noting the Student's IEP and reevaluation were due soon and asked if a meeting had been scheduled. The school psychologist responded the same day that a meeting had been scheduled for March 5, 2019 and that verbal permission had been received from the Parent for the reevaluation. The school psychologist confirmed she would email the Parent the necessary paperwork the following day.
14. On February 19, 2019, the District sent an invitation home with the Student for a meeting scheduled for March 5, 2019 to discuss the results of the Student's reevaluation.³
15. On February 22, 2019, the Parent emailed the Student's high school case manager to confirm the case manager received the paperwork for the reevaluation.
16. On February 26, 2019, the District sent a meeting invitation to the Parent for a meeting scheduled for March 6, 2019 to discuss the development/review of the Student's IEP.⁴
17. On February 28, 2019, the school psychologist observed the Student at school during her consumer science class. The school psychologist noted, in an email to the Parent the same day, that she did not observe any behaviors that would interfere with the Student's learning.
18. On March 5, 2019, the District completed its evaluation of the Student in the following areas: academic achievement, adaptive, health information, classroom performance, and teacher reports. The same day, an IEP meeting was held to discuss the results of the evaluation and to develop the Student's IEP.⁵ The principal (district representative), general education teacher,

³ The meeting invitation documented that the Parent was also called regarding the meeting on February 19, 2019, and that an email reminder was sent to the Parent on March 4, 2019.

⁴ The meeting invitation documented that the Parent was called regarding the meeting on February 19, 2019, and the Parent was emailed on March 4, 2019. Additionally, although the Parent received meeting invites for both March 5 and 6, 2019, documents show the IEP meeting occurred at the March 5, 2019 IEP meeting.

⁵ Meeting notes from the March 5, 2019 IEP meeting documented discussion about the Student's cumulative grade point average of 3.83, and how despite the Student's grades, the Student had recently taken the "Reading Inventory Test" (RIT) where she scored "Beginner Reader" (BR), which the team noted was the

speech language pathologist, special education teacher, school psychologist, and Parent attended the meeting. The Parent arrived late to the meeting. By the time the Parent arrived, the school psychologist and general education teacher had already left.⁶ In her complaint and reply to the District's response, the Parent expressed concern that decisions about the Student's IEP were already made by the other members of the team prior to her arrival.

The evaluation report was signed by the Parent, general education teacher, special education teacher, speech language pathologist, principal, and school psychologist. The evaluation determined the Student was eligible to continue receiving special education services under the category intellectual disability, and recommended the Student continue to receive specially designed instruction in adaptive behavior, math, reading and written language, and communication.

The March 2019 IEP documented how the Student's disability impacted her ability to be successful in the educational setting and provided that all specially designed instruction be delivered individually or in a small group setting. The IEP team proposed an increase in the amount of time the Student spent in the general education setting from 28% to 38%.

The March 2019 IEP provided the Student with the following amount of specially designed instruction, to be provided in the special education setting:

- Math, 5 times weekly for 53 minutes;
- Reading, 5 times weekly for 91 minutes;
- Written expression, 5 times weekly for 53 minutes;
- Adaptive, 5 times weekly for 15 minutes; and,
- Communication, 3 times weekly for 30 minutes.

The March 2019 IEP additionally provided the Student with a shared paraprofessional support five days weekly, and speech language pathologist consult/program development one time monthly.

The March 2019 IEP included the following accommodations, modifications, and assistive technology:

- Shortened assignments (presentation)
- Rephrase test questions and/or directions (presentation)
- Dictionary/glossary/thesaurus (presentation)
- Simplify test wording (presentation)
- Read class materials orally/read aloud (presentation)
- Provide individualized/small group instruction (setting)
- Modify/repeat/model directions (setting)

same level she had scored since entering sixth grade. The notes documented the Student also scored at the kindergarten level in reading and math.

⁶ In its response, the District acknowledged it violated procedures by not having the Parent sign an IEP team excusal form prior to the meeting for the school psychologist and general education teacher.

- Take test in separate location (setting)
- Preferential seating (setting)
- Provide study outlines/guides (setting)
- Extra time to complete assignments (timeline/scheduling)
- Extra time on tests/quizzes (timeline/scheduling)
- Dictionary/glossary/thesaurus (response)
- Allow use of a calculator/math tools (response)
- Paraeducator support in general education and special education (modification to schedule)
- Modified grading (pass/fail based on effort and work completed (modification)⁷
- Chromebook (assistive technology)

The March 2019 IEP included information regarding the Student's present levels of performance and annual goals.

19. The March 2019 IEP did not include a recommendation for ESY services. In its response, the District asserted the Parent had not requested ESY services for the Student, but noted upon review of the Student's 2018 and 2019 IEPs, the Student had regressed and had not fully recouped her reading skills. In acknowledgment of the Student's regression and without specific documentation the IEP team had considered the Student's need for ESY services, the District proposed 16 hours of after school tutoring in reading.

In the Parent's reply to the District's response to this complaint, the Parent stated regression had been discussed at the March 2019 IEP meeting, but wrote she did not ask for ESY services at that time and that she,

then proceeded to tell [school psychologist] that [District] not to worry [sic] because [Student] was already enrolled in the summer program through the [agency] and that I would not ask for ESY Services this year which is the reason why there was no email on it. If someone had taken meeting minutes at the Meeting this would clearly be stated in them.

In response to the Parent's reply, the District wrote it believed the Parent's reply showed the District had acknowledged the Parent's concerns and discussed ESY services at the IEP meeting; however, it stated it would continue to make its original offer of 16 hours of tutoring available to the Parent.

20. On March 5, 2019, the District sent the Parent prior written notice (PWN), proposing to continue the Student's eligibility category of intellectual disability as a result of the Student's reevaluation.
21. On March 6, 2019, the special education teacher emailed the Parent and apologized for not getting the excusal form to the Parent at the IEP meeting to sign because the school psychologist and general education teacher left early. The special education teacher noted: "Protocol tells us to have the excusal form first before we start the meeting, which I knew and didn't get a copy from my room for you to sign. I need to send it home for you to sign and

⁷ The March 2018 IEP specified that pass/fail grading was for general education courses only. The March 2019 IEP did not specify whether modified grading should only be applied for general education courses.

return.” The special education teacher offered to hold another IEP meeting by phone to enable the Parent to speak with the psychologist and general education teacher. The same day, the Parent responded, “As I mentioned in the meeting, I am more than happy to sign the excusal form. You can send it home with [Student] and I’ll send back with her.”

22. On March 7, 2019, the Parent signed the IEP excusal form.

23. Also, on March 7, 2019, the District sent the Parent PWN, stating the IEP team was proposing to continue the Student’s IEP and reevaluation, and that the “IEP team met, reviewed and discussed [Student’s] drafted annual IEP. The team agreed to the final version of the IEP, which is attached.”

24. On March 19, 2019, the Parent emailed the special education teacher and general education teacher to ask how the Student’s understanding of material was being measured because the Student was receiving modified grading, which was based on the Student’s completion of work. The special education teacher responded:

[Student] is graded on work completed in class. She was just given a **unit spelling test** and missed 17 out of 30. So she works on those words this week for a test on Thursday and Friday. So far her spelling is graded out of 50 points and she does very well each week earning 49, 50, and last week, 48 on her entire packet. However, when given the unit test she missed many words, so she gets more reinforcement this week. Often the packets are gone over and given back when we see mistakes making it another opportunity to reteach. All of the work she gets from my classes are handled that way. She gets typing on her Chromebook, plus System 44 and Prodigy online [. . .]. Her second reading class, we have been reading novel lately [sic] and discussing plot, setting, character, etc. as well as enjoying a good novel. Reading aloud to students is one of the best ways of getting them to become readers, especially when they see the adult enjoying the novel too. Modeling is a great way to get their interest. [Student] is given i-ready tests for the *district level test*, which you received two packets on math and reading when we had the IEP. I will **send them to you again** so you can see a complete measure of her understanding in her abilities in both reading and math. It really spells everything out on her weaknesses and strengths. [Student] also wrote sentences for me this past week on grammar lessons and does quite well expressing herself; however, they are simple and often if reread, don’t make sense, but the idea is there. She puts a lot of effort by taking responsible [sic] for many tasks in class. [. . .] While she is learning all the time, we know she doesn’t always retain the knowledge she is learning, but she does work herself around the Chromebook and can look things up and look at many things that interest her. I find her very capable and it amazes me on how she helps others discovering many things on her own and sharing them.

(Emphasis in original.)

25. On March 19, 2019, the Parent responded to the special education teacher’s email that while she appreciated the thorough explanation of how the Student was doing in her class, her questions were for the general education teacher. The Parent then shared a sample of the Student’s writing that had been recently shared with her in a google document:

Book calamity jack to you cat brown we red are better rebbit have a scraper and get the sorry I’m two are doing the center to get together with afternoon and I so thanks last night

so I don't want you and over. Thanks and get some sleep I couldn't that have come. You're the man I don't want sounds awesome it have the. [sic]

26. On March 20, 2019, the special education teacher responded to the Parent that she felt the Student did a wonderful job attempting to write, and that the Student's example showed the Student had become more comfortable writing, stating:

That it doesn't make sense isn't the point at the moment. Her comfort level is more important and making sense will develop as she grows. Moving to high school, they will be thrilled in her attempt. This piece was written in a class that was 25 minutes long. I'm proud she did so much instead of being the shy [person] she can be and shut down. Remember I teach one skill at a time and she was in a hurry where she got a lot down. Thanks for sharing.

27. On May 2, 2019, the District sent a meeting invitation to the Parent for a transition planning meeting scheduled for May 3, 2019.

28. On May 3, 2019, a transition meeting was held. The Parents, four special education teachers, a general education teacher, and the school psychologist attended. At the meeting, the Student's current test scores were reviewed and transition plan for high school was developed.

Notes from the May 3, 2019 meeting mention a "self-contained/structured program," but do not go into detail. They additionally document discussion of the Student's test scores on the "Reading Inventory" (RI) (3/29/2019), "Math Inventory" (MI) (11/10/2018), "i-Ready Reading" (9/28/2018) and (4/15/2019), and "i-ready Math" (9/28/2018) and (4/16/2019), which showed the Student scored at the kindergarten level on each assessment.

29. Also, on May 3, 2019, the District sent the Parent PWN of its proposal to continue the Student's IEP "because the Student was transitioning from middle to high school." The PWN stated the action would be initiated on August 27, 2019.

30. On June 14, 2019, the District documented the Student's progress on her IEP in a progress report, which indicated the Student was making "adequate progress" on all of her IEP goals. The progress report contained the following narrative statements:

- **Communication** (3/29/19) – "New IEP. Baseline accuracy of 33% for formulating present progressive and irregular past tense sentences remains accurate. Baseline accuracy of 7% remains accurate for production of prevocalic /r/ and targeted initial r-blend sounds. IEP was just finished a few weeks ago. Progress is too soon after IEP."
- **Communication** (6/4/19) – "On recent baseline, [Student] averaged 53% accuracy when repeating initial /r/, br, fr, gr, and pr words after the SLP. When given a written model, [Student] is able to use targeted present progressive-ing words with 70% accuracy. When given the same task without the written model, [Student] demonstrated 0% accuracy independently and 25% accuracy with verbal cues. When given a correct and incorrect targeted irregular past tense verb form, [Student] is able to identify the correct form with 80% or greater accuracy. She has demonstrated the ability to create an irregular past tense sentence (from the targeted list) when given the present tense with 40% accuracy."
- **Adaptive** – "[Student] still needs to be reminded of the names and value of her coins. Continue to work on these skills."

- **Math** – “[Student] continues to make progress with her math. She uses a number line or her fingers to count sometimes, but she needs to continue to work on her math skills in the summer. iReady in math was 308 (grade K) as of 4/16/2019.”
- **Reading** – “iReady in reading was 358 (Grade K) as of 4/15/2019. She continues to BR in Reading inventory. She continues to work on her goal in iReady.”
- **Written Language** – “[Student] is getting better with her sentences and continues to work on her goal writing paragraphs.”

31. In its response to the Parent’s complaint, the District acknowledged it did not adequately determine the Student’s present levels of performance when developing the Student’s IEP to ensure the Student’s IEP contained measurable annual goals based on the present levels of performance. In its response, the District explained, “In [the District] IEP forms, the present levels of academic performance are detailed on each individual qualifying area’s goal page within the present levels of performance (PLOP) area. In reviewing the IEPs dated 3/10/18 and 3/9/10, the District made the following observations:⁸

- **Adaptive** – “The PLOPs in the 2018 IEP indicated the student experiences work avoidance for tasks that are hard or she is unsure of and never asks for help. The 2019 IEP does not indicate these continuing, but the teacher still presents a concern that the student may in the future shut down with continuing struggles in academic learning. When speaking specifically about the goals developed to support the adaptive area, the goal remained exactly the same with inconsistent growth having been demonstrated during the previous year. The goal from one year to the next maintained a 0 baseline, however, the progress reports indicate at times she was able to name and identify values of some coins, but this appears to have been inconsistent. Progress reports indicate she understands the concepts, but has difficulty consistently recalling coin names and values. Additionally, there was no indication of changes to be made in how to help the student achieve this goal.”
- **Math** – “Based on the present levels, the student did not make any significant progress from the 2018 IEP to the 2019 IEP. Additionally, the 2018 IEP gives a specific skill that the student is trying to achieve, which the student did not end up fully mastering. This determination is based on the PLOP in the 2019 IEP which states, ‘She can add two digits, but when it comes to three, she gets lost.’ The 2019 IEP includes a goal that is too vague to be measurable.”
- **Reading** – “The 2018 IEP PLOPs indicated growth. By the time progress reporting periods came in October 2018 (during the 2018-2019 school year), the student was showing regression in this area. According to the 2019 IEP and continuing progress reports this regression was never recouped. According to the 2019 IEP, the student did make progress in the curriculum having mastered from lesson 20 to 28. However, the curriculum progress did not translate to the skill-based goal for reading site words.”

⁸ In response to “the inadequacies identified in developing the IEP, failures to determine if an amendment to services or goals was necessary, and the lack of progress towards measurable annual goals,” the District proposed 10 hours of compensatory services in reading, 6 hours in written expression, 8 hours in math, and 10 hours in adaptive. The District additionally proposed to reimburse the Parent for the mileage cost for transporting the Student home after tutoring sessions. In reply to the District’s response, the Parent stated she would accept the District’s proposal for compensatory services. The District further proposed the IEP team convene by October 18, 2019 to draft a new annual IEP.

- **Written expression** – “The PLOPs indicate a regression in the area of spelling, but the team has identified growth in her writing skills (developing a sentence with correct capitalization and punctuation) and willingness and ability to write when utilizing technology to do so. While it appears she made growth in the ability to write a dictated sentence with proper capitalization and punctuation, it does not appear that she was able to do this utilizing the second grade spelling words into the 2019 school year.”
- **Communication** – “The District found services in the area of communication to be appropriately determined and provided to the Student: ‘As evidenced by the PLOPs, IEP goals, service logs, and progress reports.’”

32. During August 2019, the District interviewed staff regarding the Parent’s allegations that the Student was having “crying spells” at school due to work being “too hard.” In its response, the District acknowledged it had received emails on the subject from the Parent outside the timeframe for this complaint.⁹ The District indicated it had responded by providing the Student with a paraeducator, which remains part of the Student’s IEP, and which the District felt had been effective. The District wrote that “no staff members could recall the student crying or displaying significant withdrawal or any other types of behaviors that would cause need for [sic] the team to explore the need for an FBA.” The District did, however, note that the IEP indicated the Student would shut down on occasion: “[Student] will shut down when too much pressure is placed on her,” “...I worry about her completely shutting down as math gets more difficult,” but stated it felt the statements expressed future concerns which had not substantially impacted the Student’s ability to access her services, as noted on the Student’s IEP. In response to the Parent’s ongoing concerns, the District noted it included an FBA as part of the IEE recently requested by the Parent and agreed to by the District.

33. On October 4, 2019, the OSPI investigator interviewed the Parent and the Student via telephone regarding implementation of the Student’s accommodations and modifications. The Parent and Student confirmed all accommodations and modifications were being provided, except for the accommodations of “rephrasing test questions and/or directions” and “provide study outlines/guides.” The Student alleged that instead of explaining questions a different way, her aide would tell her which answer to circle.

34. On October 7, 2019, the District provided a statement from the Student’s special education teacher regarding the provision of tests: The special education teacher wrote:

All tests were given by the paras usually in my extra room with a small [sic] and I have copies of what she took home from my paras, worksheets, guides, tests from several different classes. I can’t give you copies of how we rephrased the questions and all directions because that was **done verbally** as they took the tests or quizzes. No one writes it for her to read when she has trouble reading (1.5 grade level), but nothing was given to her without the help of rephrasing the directions or test questions, but I have *no videos* to proof than [sic]. Often as a class, we talk about the questions, like in history or science

⁹ In her reply, the Parent acknowledged the emails she cited and requested OSPI to review were outside the timeframe of the complaint. She wrote, “I understand that these emails are not from the past year [. . .]” but, added “there were undocumented phone calls and in person conversations as well as statements from [Student] that she is crying because her work is to [sic] hard.”)

classes that we had tests on or quizzes together. I just didn't read the same question, I rephrased it a number of times and then we looked in the book. That is how I run my whole classroom (group or individual). Doing whatever it takes to get them to understand better with the skills they have.

35. Also on October 7, 2019, the District provided examples of study guides the Student received for the 2018-2019 school year. Some were filled out by the Student. Others appeared to be filled out by the Student's paraeducator and the Student.

CONCLUSIONS

Issue One: Placement – The Parent alleged the District failed to follow procedures for determining placement during the 2018-2019 school year. In particular, the Parent alleged she was not provided an opportunity to participate in decisions involving placement because she was not afforded an opportunity to meaningfully participate during the March 2019 individualized education program (IEP) meeting at which placement was discussed. The Parent further alleged the Student's amount of time in the general education setting was inappropriate considering her lack of progress, and that the District should have addressed the Student's placement earlier in the year in response to the Student's lack of progress.

When determining the educational placement of a student eligible for special education, the placement decision shall be determined annually and made by a group of persons, including the parents, and other persons knowledgeable about the student, the evaluation data, and the placement options. The selection of the appropriate placement for each student shall be based upon the student's IEP, least restrictive environment requirements, the placement options that provide a reasonably high probability of assisting the student to attain his or her annual goals, and a consideration of any potential harmful effect on the student or on the quality of services which he or she needs. Each school district must ensure that a parent of each student eligible for special education is a member of any group that makes decisions on the educational placement of the parent's child. If a parent is unable to participate in a meeting in which a decision is to be made relating to the educational placement of their child, the school district must use other methods to ensure their participation, including offering to meet by phone.

Further, at least one of the student's general education teachers must participate as a member of the IEP team, if the student is, or may be, participating in the general education environment. The general education teacher who serves on the IEP team should be one who is, or may be, responsible for implementing a portion of the IEP. Parents and districts can agree in writing that an IEP team member's participation is not necessary and that the team member may be excused from attending an IEP meeting, in whole or part, if the team member's area of curriculum or related services is not being modified or discussed in the meeting. If the meeting involves a modification to or discussion of the team member's area of the curriculum or related services and the parties both consent in writing to the excusal of the team member, the excused team member must submit written input into the development of the IEP prior to the meeting.

On March 5, 2019, an IEP meeting was held at a time agreed to by both the Parent and District. Regarding placement, the IEP team agreed to increase the Student's time in the general education setting from 28% to 38%.

In her complaint, the Parent expressed concern that the general education teacher and school psychologist left the meeting at which this decision was made before she arrived and that procedures were not followed for their excusal. The Parent additionally alleged she did not have an opportunity to fully participate in the decisions made at the meeting, including those relating to placement because procedures for excusing the general education teacher were not followed. In its response, the District acknowledged it did not follow procedures to excuse the general education teacher and school psychologist because the excusal form was emailed by the special education teacher to the Parent the next day instead of before the meeting. When the special education teacher emailed the Parent the day after the IEP meeting, the special education teacher asked the Parent if she would like to have another IEP meeting by phone with all members of the IEP team present. The Parent did not respond to the special education teacher's offer and instead stated she would sign (and did sign) the excusal form.

The District did not follow procedures to excuse the general education teacher and psychologist prior to the IEP meeting and OSPI finds the District in violation; however, the District acknowledged its error and within two days offered to hold a new IEP meeting by phone with all members present, including the general education teacher. OSPI finds the District's efforts to have remedied its initial violation and no additional corrective action is ordered.

Apart from failure to follow excusal procedures, there is no documentation that indicates the Parent was otherwise prevented from participating in the IEP meeting and discussion. The Parent signed the IEP and did not raise concerns regarding the Student's placement in emails directly following the IEP meeting. The District followed placement procedures and no violation is found.

In response to the Parent's concerns regarding the Student's overall progress and that the District should have recommended reconvening the IEP team in response to the Student's lack of progress, the District has acknowledged the Parent's concerns (see issue two below), has proposed compensatory services, and has proposed holding an IEP meeting. OSPI recommends outstanding concerns regarding the Student's placement be discussed at the proposed meeting.

Issue Two: IEP Development and Amendment – The Parent alleged the District did not follow procedures for developing and amending the Student's IEP. Specifically, the Parent alleged the District did not (a) follow procedures for determining the Student's present levels of academic and functional performance (present levels) when developing the IEP during the 2018-2019 school year, and for ensuring the Student's IEP contained measurable annual goals based on the Student's present levels, (b) did not consider the Student's need for positive behavioral interventions, including a functional behavioral assessment (FBA), and (c) did not consider the Student's need for extended school year (ESY) services for the summer of 2019.

IEP Development, Present Levels, and Measurable Annual Goals: IEPs must include a statement of the student's present levels—including how the student's disability affects the student's

involvement and progress in the general education curriculum. IEPs must also include a statement of the student's measurable annual goals, including academic and functional goals designed to: meet the student's needs that result from the student's disability so that she can be involved in and make progress in the general education curriculum; and, meet each of the student's other educational needs that result from the student's disability. 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.

The District concluded it did not adequately determine the Student's present levels when developing the IEP, or ensure the Student's IEP contained measurable annual goals based on the present levels in the areas of adaptive behavior, math, reading, and written expression. The District denied any allegations that it did not properly develop the Student's IEP regarding communication services, based on the present levels, IEP goals, service logs, and progress reports provided with its response related to communication.

The District further acknowledged it failed to determine if an IEP meeting or amendment was necessary to address the Student's lack of progress toward her measurable annual goals. In acknowledgement that it did not follow procedures for developing the Student's IEP and for responding to the Student's lack of progress, the District proposed 10 hours of compensatory services in reading, 6 hours in written expression, 8 hours in math, and 10 hours in adaptive.

The District further proposed the IEP team convene for a meeting to draft a new IEP. In addition to the Student specific corrective actions listed above, the District proposed training to the school building administrators and special education staff in the following areas: developing informative present levels, measurable annual goals, and data collection for progress monitoring.¹⁰ In her reply, the Parent accepted the District's proposed corrective actions.

OSPI finds the District in violation and adopts the District's proposed corrective actions.

Positive Behavioral Interventions and Supports and FBA: The Parent alleged the District failed to consider the Student's need for positive behavioral interventions and supports and did not consider the Student's need for an FBA. When considering special factors unique to a student, the IEP team must consider the use of positive behavioral interventions and supports, as well as other strategies, to address behavior in the case of a student whose behavior impedes the student's learning or that of other. An FBA focuses on identifying the function or purpose behind a child's behavior.

In her complaint, the Parent alleged the District did not respond to the Student's "crying spells" in response to difficult school work and that an FBA should have been conducted. The Parent

¹⁰ The District additionally proposed training in the area of documenting specially designed instruction. However, implementation of specially designed instruction was not an allegation in this complaint. Thus, while the District is free to provide staff with additional training, OSPI will not be ordering or monitoring the implementation of additional training.

referenced emails which were found to have been sent outside the timeframe for this complaint. However, she indicated she had made phone calls to District staff members about similar issues during the 2018-2019 school year. In response to the Parent's allegations, the District interviewed staff but found that "no staff members could recall the student crying or displaying significant withdrawal or any other types of behaviors that would cause need for [sic] the team to explore the need for an FBA." The documents showed the school psychologist observed the Student but did not observe any behaviors which would interfere with the Student's learning or the learning of others, which was reflected in the Student's IEP by an absence of an indication that the Student had behaviors which adversely impacted her learning or the learning of others. The documents further show other strategies have been used to support the Student with challenging work, including providing the Student with paraeducator support. Additionally, the Parent did not officially request an FBA until filing the citizen complaint.

In acknowledgment of the Parent's concerns and request for an FBA when filing the citizen complaint, the District has included an FBA as part of the independent educational evaluation (IEE) recently requested by the Parent (and agreed to by the District). OSPI finds the District has appropriately addressed these concerns outside the complaint process through the IEE. OSPI finds no violation based upon the documentation reviewed during the timeline for this complaint and is not ordering any corrective action on this allegation.

Extended School Year Services: The Parent alleged the District failed to consider the Student's need for ESY services for the summer of 2019. ESY services means services provided to a student eligible for special education that are beyond the normal school year, in accordance with the student's IEP, and at no cost to the parents of the student to help that student meet state standards and as necessary to provide FAPE. A student's IEP team determines whether a student requires ESY services.

Here, the Parent stated in her reply that the Student's regression was mentioned at the March 2019 IEP meeting, but that she told the District she did not want ESY services for the Student for summer 2019 because the Student was already enrolled in another program independent from the District. Although the District has offered services and may continue to provide services to the Student should the Parent choose to do so, OSPI finds no violation, will not be ordering or monitoring the provision of compensatory instruction in response to this allegation.

Issue Three: Accommodations – The Parent alleged the District did not implement all of the accommodations and modifications in the Student's IEPs. An IEP must include a statement of the program modifications that will be provided to enable the student to advance appropriately toward attaining 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.

On October 4, 2019, the OSPI complaint investigator interviewed the Parent and Student regarding the Parent's allegations. The Student said all accommodations in her IEP were provided to her with exception of "rephrasing test questions/directions" and "providing study outlines/guides." Regarding the issue of rephrasing test questions and directions, the Student

communicated to the investigator that she often received tests in a multiple-choice format and that when she was unable to understand a question, her paraeducator would tell her which answer to circle instead of phrasing the question in a way she could understand. A review of work samples and emails discussing the Student's performance do not show the Student being provided answers for all assignments (on the contrary, they show the Student not getting all answers correct but the Student's grades being modified for effort—which is provided for in the Student's IEP); however the Student indicated when she did not understand a question on a test or assessment, that she would not have the question rephrased to her, as provided on her IEP. Her perception was that she was given the answer. The Student additionally said she did not remember receiving test outlines or study guides. The Parent indicated she often asked for test outlines and study guides but stated they were not consistently provided. Documentation provided by the District confirmed the Student's directions on tests and quizzes was often provided orally by the Student's paraeducator. Although the District denies the allegation that answers were ever provided to the Student on tests, the Student's perception was that she was not provided her accommodation and OSPI finds the Student's account to be credible. OSPI finds the District in violation. The District will be required to hold a staffing meeting with anyone who is implementing the Student's IEP to ensure those responsible for implementing the Student's IEP understand what is required for implementation of the Student's accommodations and how to appropriately provide them.

The District provided documentation that the Student was regularly provided study guides and outlines. Although the Parent indicated she did not receive them at home, it does appear the Student was completing them at school with her paraeducator. No violation.

CORRECTIVE ACTIONS

By or before **October 31, 2019, November 8, 2019, November 15, 2019, December 6, 2019, and January 3, 2020**, the District will provide documentation to OSPI that it has completed the following corrective actions.

STUDENT SPECIFIC:

Compensatory Instruction: OSPI adopts the District's proposal for compensatory instruction, which includes 10 hours in reading, 6 hours in written expression, 8 hours in math, and 10 hours in adaptive.

By or before **October 25, 2019**, the District will work with the Parent to develop a schedule for delivering 10 hours in reading, 6 hours in written expression, 8 hours in math, and 10 hours in adaptive. Services will occur in a one-on-one setting and be provided by a certificated special education teacher. Compensatory sessions will occur outside of the District's regular school day, but may occur on weekends or over breaks. If the District's provider is unable to attend a scheduled session, the session must be rescheduled. The District will provide OSPI with documentation of the schedule for services by or before **October 31, 2019**. If the Student is absent, or otherwise does not attend a session without providing the District with at least 24 hours' notice of the absence, the District does not need to reschedule. The services must be completed no later than **December 31, 2019**.

The District must provide OSPI with documentation on **November 15, 2019** of the compensatory services provided to the Student. The District must provide documentation by **January 3, 2020** of the compensatory services provided to the Student. This documentation must include the dates, and length of each session, and state whether any of the sessions were rescheduled or missed by the Student.

The District either must provide the transportation necessary for the Student to access these services or reimburse the Parent for the cost of providing transportation for these services. If the District reimburses the Parent for transportation, the District must reimburse the Parent for round trip mileage at the District's privately-owned vehicle rate. The District must provide OSPI with documentation that it has fulfilled this requirement by **January 3, 2020**.

IEP Meeting: OSPI adopts the District's proposal to hold an IEP meeting. By or before **October 31, 2019**, the District will convene an IEP team meeting to discuss the Student's present levels of performance, annual goals, progress, placement, and any other issues the Parent and District would like to discuss.

By **October 31, 2019**, the District will submit: 1) a copy of the meeting invitation; 2) a copy of the agenda; 3) a copy of any evaluations discussed at the meeting; 4) a copy of any amended IEP; 5) a copy of any related prior written notices; and, 6) meeting notes on the topics discussed at the meeting.

Implementation of Accommodations: By **October 25, 2019**, the District will hold a staffing meeting for everyone responsible for implementing the Student's accommodations and modifications, to ensure those responsible for implementing the Student's accommodations and modifications understand what is required for implementation and how to appropriately provide them. By **October 31, 2019**, the District will provide documentation to OSPI of an agenda for the staffing meeting, and a sign-in sheet documenting who was present at the meeting.

DISTRICT SPECIFIC:

Training: OSPI adopts the District's proposal for training. By **November 29, 2019**, the District will be required to complete training to building administrators and special education staff at the middle school involved in this complaint in the following areas: Developing informative present levels of performance, measurable annual goals, and data collection for progress monitoring.

By **October 31, 2019**, the District will provide OSPI with the name of the trainer. By **November 8, 2019**, the District will provide OSPI with a draft of the training materials. OSPI will review the training materials and respond to the District with any comments, if necessary, by November 15, 2019.

By **December 6, 2019**, the District will submit documentation that required staff have participated in the training. Documentation will include 1) a sign-in sheet from the training, and 2) separate official human resources roster of all staff required to attend the training, so OSPI can verify that all required staff participated in the training.

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 October, 2019

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.)