SPECIAL EDUCATION COMMUNITY COMPLAINT (SECC) NO. 22-09

PROCEDURAL HISTORY

On January 27, 2022, the Office of Superintendent of Public Instruction (OSPI) received a Special Education Community Complaint from the parent (Parent) of a student (Student) attending the Edmonds 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 January 28, 2022, 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 January 31 and February 1 2022, OSPI received additional information from the Parent. OSPI forwarded that information to the District on February 2, 2022.

On February 2 and 9, 2022, OSPI received additional information from the Parent. OSPI forwarded the additional information to the District on February 4 and 14, 2022.

On February 15, 2022, OSPI received the District's response to the complaint and forwarded it to the Parent on the same day. OSPI invited the Parent to reply.

On February 22, 2022, OSPI received the Parent's reply to the District's response and forwarded it to the District on the same day.

On February 25, February 28, and March 2, 2022, OSPI received additional information from the Parent. OSPI forwarded the additional information to the District on February 28 and March 4, 2022.

OSPI considered all 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 January 28, 2021. 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.

ISSUE

1. Since January 28, 2021, has the District followed proper procedures to implement the Student's individualized education program (IEP)?

LEGAL STANDARD

IEP Implementation: At the beginning of each school year, each district must have in effect an individualized education program (IEP) for every student within its jurisdiction served through

enrollment who is eligible to receive special education services. The district must ensure it provides all services in a student's IEP, consistent with the student's needs as described in that IEP. Each school district must ensure that the student's IEP is accessible to each general education teacher, special education teacher, related service provider, and any other service provider who is responsible for its implementation. 34 CFR §300.323; WAC 392-172A-03105. "When a school district does not perform exactly as called for by the IEP, the district does not violate the IDEA unless it is shown to have materially failed to implement the child's IEP. A material failure occurs when there is more than a minor discrepancy between the services provided to a disabled child and those required by the IEP." Baker v. Van Duyn, 502 F. 3d 811 (9th Cir. 2007).

FINDINGS OF FACT

2020–2021 School Year

1. On January 8, 2021, the District completed an initial evaluation of the Student and determined the Student was eligible for special education services under the category of autism. At this time, the Student was in the 10th grade and attended a District high school. The Student was evaluated in the areas of cognitive function, social emotional, behavior, communication, audiology, sensory processing and speech.

   Several tests were used in the evaluation of the Student's speech and provided the following information: according to the "Comprehensive Assessment of Spoken Language" (CASL-2) "Student seemed to have difficulty with organizing his responses, especially when providing a longer answer or when trying to explain an answer."

   According to the "Informal Speech/Language Assessment Tasks":

   > When asked about the task, [Student] reported that it was hard to think of things between each picture. When asked about his communication skills, [Student] reported that he has difficulty giving presentations and trying to explain things. When asked what was helpful, he also reported that he finds it helpful to have a card to read when giving a presentation.

   The evaluation also included excerpts from a previous Student evaluation at a local hospital:

   > The examiner noted that [Student] used full sentences and complex language to communicate. It was also noted that 'his speech fluency was noticeable for a stutter including repetition of words and sounds at the beginning of his statements'. [Student's] intonation was reported to be monotone, and 'his use of language tended to be precise and idiosyncratic at times.' It was also reported that '[Student] provided long tangents in conversation about his interests and experiences that were difficult to follow. [Student] stuttered at times and he appeared to have difficulties with word finding, organizing his thoughts, and providing a cohesive narrative for the listener in conversation.'

2. On January 26, 2021, the Student's case manager updated a draft of the Student's individualized education program (IEP) and stated:

   > Student is a…sophomore and came to the District last year as a freshman with two math credits for Algebra I and Geometry from his middle school. He took Algebra II last year as a freshman and is currently enrolled in pre-calculus. He earned 6 credits last year. If he

passes all of his classes this year he will have 14 credits and will need 10 more to graduate. Student will need to take the following courses his junior and senior year:

Junior

- Academic Lab
- English 11
- Calculus
- US History
- Physics
- Band

Senior

- Academic Lab
- Civics/Economics
- English 12
- Band
- Personal Finance
- Health/PE

3. The timeline for this complaint investigation began on January 28, 2021.

4. On January 29, 2021, the Student's IEP team met to develop the Student's initial IEP. The IEP included three annual goals, one each in: social skills, learning strategies/organizational skills, and speech skills, with progress reported at the semester. The IEP included the following accommodations and modifications:
    - Closed captioning during Zoom instruction and video material
    - Extended time simplified information
    - Strategic seating
    - Teachers should wear headsets with a microphone attached during Zoom instruction for the best sound quality
    - Use of visuals to support instruction, highlighting of key words, and writing down important points
    - Check work frequently to ensure understanding
    - Extra time
    - Satisfactory/unsatisfactory grading
    - Reduced length of assignments
    - Homework assignment sheet
    - Preferential seating

    The IEP provided the Student with the following specially designed instruction:
    - Speech: 30 minutes, three times per month, in a special education setting
    - Learning strategies/organizational skills: 40 minutes, three times per week, in a special education setting
    - Social skills: 40 minutes, three times per week, in a special education setting

    The IEP also provided five minutes per month of audiology consultation and 10 minutes per month of speech language pathologist (SLP) consultation, and an occupational therapy collaboration with staff regarding sensory processing differences as a support for school personnel. The student's IEP start date was February 3, 2021.

5. Also, on January 29, 2021, the following occurred:
    - The Parent provided written consent for initial special education services for the Student.
    - The District issued a prior written notice, proposing to initiate an IEP for the Student. The reason for the proposed action was "Student was recently evaluated and qualified for services and needs an IEP." The notice stated the action would be initiated on February 2, 2021.
    - The educational audiologist emailed the Student's teachers and stated, "You are all teachers for [Student] and I am recommending that you wear a headset with a microphone as an accommodation for him. Please let me know if you do not currently have a headset I can drop some off on Monday."
    - The Parent emailed the Student's case manager (case manager 1) a copy of the Student's IEP with feedback. The Parent asked who would organize and collect data for the Student's goals and stated six months was too long to wait for progress reporting and requested progress reporting every two months. The Parent also objected to the quiet study space accommodation, stating the Student "has this at home and it doesn't help," and stated the Student has already stated he does not want the accommodation of leaving class early. The Parent also stated wearing noise dampening headphones was discussed and determined it would not help in the previous meeting because they would also dampen the voice of the teacher.

6. Following the Student's IEP team meeting, the District amended the Student's class schedule to include an "Academic Lab" class for the first period, during which the Student would receive his specially designed instruction in learning strategies/organizational skills and social skills.

7. On February 1, 2021, case manager 1 met with the Parent to discuss his concerns related to the Student's IEP and implementation of services. That same day, the case manager emailed the school psychologist and stated:

    > I just spent an hour on Zoom with Parent. He was not satisfied with the IEP in so many ways and wanted to talk through all of the issues. Many of them stem from the evaluation report. I was somewhat overwhelmed to be honest as we were going over things item by item. I am going to need some help with all of it. Some of it I can adjust and change by myself but some of it I don't think I can. I am wondering if you can review and make some comments on the parts that apply to you, I cannot lock the IEP until all of these items are addressed.

    The school psychologist responded and stated, "I just reviewed Parent's notes to the attached IEP and since this is a first for me…I am looping in my supervisor…for guidance on how to proceed."

8. On February 8, 2021, case manager 1 emailed the Student's math teacher and stated (in relevant part):

    > I just wanted to let you know that Student is now on my caseload. He now has an IEP and is eligible for an "S" grade. I see he has a 55% in your class. If you could give him an "S" in light of his recent evaluation and Autism diagnosis that would be appropriate. I am going to send his IEP at a glance out to the team now but wanted to reach out to you separately because his grade is so close to passing. Student now has my Academic Lab first period and I can prompt him to do things at your request, let me know if I can help in any way.

9. On February 12, 2021, case manager 1 emailed the Student and stated, "Would you have time to drop into my office hours this afternoon? The Zoom link is in my Academic Lab Canvas

course. I'd like to take a look at your assignments coming up in your classes and work with you on making a plan for them..."

10. On February 19, 2021, case manager 1 emailed the Student and stated, "How are you doing? Are you set up for the weekend? I'd like you to try to make yourself a list again like we did last week together. See if you can do it on your own today and set yourself up for success today." The case manager also wrote, "I assume you managed to get caught up this week. I know you said you only got about one third of last weekend's list completed. Hopefully you got that done. If not, it needs to be completed this weekend, ok?"

11. On March 4, 2021, the assistant principal forwarded an email from the Parent to case manager 1 that stated, "A few days ago I received my son's progress report. I was shocked to see that he had multiple 'no credit's' and I contacted the case manager 1 for help." The Parent asked why he was never contacted about problems with the Student's homework and participation. He stated in his last interaction with case manager 1 she agreed on encouraging the teachers to maintain close communication with the Parent, but it was not working.

12. Between March 5 and 17, 2021, the following emails were exchanged among the Parent and District staff regarding the Student struggling in classes and accommodations:
    - Case manager 1 emailed the band teacher, math teacher, history teacher, chemistry teacher, and English teacher and stated, "I want to touch base with all of you regarding Student. I see he is struggling in many of his classes. Some of you were in attendance at his initial IEP meeting at the end of first semester. I am attaching his IEP at a glance as a reminder. He is new to an IEP. There are several things we need to be doing to help him access instruction and support his learning. Review this short document and please ask me if you have any questions. Student is in my Academic Lab so if there are ever specific things you would like him to be doing, I can prompt him."[1]
    - The band teacher responded, "He's doing very well for me."
    - The assistant principal responded to the Parent, acknowledging his concerns regarding case manager 1's remarks. He clarified case manager 1 was apologetic to have had her email construed negatively regarding the Student, that was not her intention. She was frustrated and disappointed because the Student had done good work, she thought the plan was sufficient and it did not work out. He offered a meeting to discuss a resolution for March 17, 2021.
    - The English teacher responded to case manager 1 and stated, "He has been struggling to get his work turned in and to a degree of completion that meets the assignment's minimal requirements; but I just met with him one on one yesterday, and he is working on getting caught up. It sounds like the work was incomplete because he was in a rush to finish it, to get caught up. I'll be keeping tabs on him to see if his work improves as he gets caught up."
    - Case manager 1 responded to the English teacher, "He may need modified assignment requirements and definitely extended time."

13. On March 18, 2021, case manager 1 emailed the band teacher, math teacher, history teacher, chemistry teacher, and English teacher a Zoom invitation for a March 19, 2021 meeting to discuss the Student's supports. The band teacher responded that he figured out closed

[1] The IEP at a glance included the Student's service minutes, supplementary aids and services, goals, accommodations, support for personnel and assessments.

captioning and case manager 1 responded that same day, "Thank you, it will be the most outward and obvious symbol that you understand and respect the IEP."

14. On March 19, 2021, case manager 1 and the Student's teachers met with the Parent to discuss his concerns related to implementation of the Student's IEP.

15. On March 22, 2021, the assistant principal, a District administrator, and case manager 1 met with the Parent to discuss his concerns related to implementation of the Student's IEP.

16. Also, on March 22, 2021, the Parent emailed the District administrator, assistant principal, and case manager 1, thanking everyone for facilitating discussion and stating he felt his concerns had been addressed and that he would be sending some of the highlights from the meeting to serve as a record of the agreed upon goals.

    That same day, the history teacher emailed case manager 1, apologizing for missing the meeting and stated she would read the report from the Student's meeting.

    Case manager 1 responded:

    > We have to make sure we are implementing Student's IEP correctly. The important points for you are to allow him to extend time and shortened assignments. It is important to use headphones/microphone on Zoom and enabled closed captioning. It is a very obvious sign we are honoring his accommodations and recently when asked by his father, he reported I was the only one doing this…We are all going to reach out to Student and try to get him to attend office hours so that we can help him get caught up. Student reports that he tries to remember but forgets or gets distracted. We discussed setting alarms on his phone to remind him. He is looking forward to returning to in person classes and is hopeful it will help him be more engaged and productive. Let me know if you need help with any of this.

17. On March 24, 2021, the following email exchanges took place:
    - The Parent emailed case manager 1 and asked how much time is given as leniency to students turning in homework late. How much extra time is the Student allowed beyond the regular leniency? Are all teachers following the same rule? The email stated, "Please take a look at the grades, it appears this is not being followed."
    - Case manager 1 responded, "All assignments have due dates (a requirement in Canvas) but teachers will accept them late. My understanding is that with the current situation teachers are accepting late work from all kids up until the end of the semester. At the end of the semester, grades are required to be submitted by us as teachers."
    - The Parent emailed the assistant principal and stated, "You told me teachers are trying their best to help the students get through this difficult time but while I was trying to see what homework is still missing I ran across an entry from English teacher that had been changed from late to missing. The original entry contained this note, 'Hi Student, due to this being turned in outside of the grace period and lacking the thought and care expected of this assignment, I cannot give you credit for this.'" The Parent asked if teachers are "unwilling or unaware to follow IEP accommodations? Student was not given a way to make his report better, nor was his IEP followed. Please let me know what corrections you are going to make."
    - The English teacher emailed the Student and stated: "It's great to hear you are thinking about revising your Intro letter! I can't wait to learn more about you. I'm looking for more elaboration

on your ideas to practice for the reflections we will be writing this semester. For each idea you mention, I want to encourage you to explain a little more. To practice this, choose at least two bullet points from below and revise your letter. [Additional instructions]."

- The Parent responded to the English teacher's email and stated, "I truly appreciate the way you are encouraging and guiding Student to achieve better compliance in his homework. Please keep me involved as much as you can so I can help Student at home as well."

18. On March 24, 2021, the Parent asked the assistant principal for proof that the Student's teachers were fully aware of his IEP and implementing the accommodations.

19. On March 25, 2021, the Parent emailed case manager 1, the band teacher, math teacher, history teacher, chemistry teacher, and English teacher and asked if teachers could update the system to reflect when the Student had turned in assignments, because he found the 'LATE' mark on his assignments discouraging.

    That same day, the English teacher emailed the Parent, copied the band teacher, math teacher, history teacher, and chemistry teacher and stated, "I emailed our tech coach and learned how to remove 'Late' label. [link for changing the status of assignment included]."

20. On March 26, 2021, the assistant principal asked what type of "proof" the Parent was requesting and offered to hold an IEP team meeting or have the Student's teachers send the Parent an email acknowledging that they had read the Student's IEP.

21. On March 30, 2021, the history teacher emailed the Parent and case manager 1 and stated she had no problem not marking the Student's work late. She stated, "I accept work up to a month late, sometimes more depending on the circumstances and don't mark it late. In these difficult times, I'm trying to encourage students to just get the work in." The teacher noted, "[Student] has stayed after class to ask questions, and he has also worked during my Zoom office hours, so that I am available if he has questions. He is a very sweet young man, and is open to learning and happily accepts suggestions. I've encouraged him to attend my office hours as needed."

22. On March 31, 2021, case manager 1 emailed the Parent, describing how she was implementing the specially designed instruction and accommodations in the Student's IEP. She stated:

    > I teach learning strategies and organization as well as social skills, self advocacy, and emotional regulation. I also provide some time for students to work on assignments from other classes and offer help in a variety of ways. Students are allowed to go into 'breakout rooms' to work on projects together and I have a student teacher and we take turns going into breakout rooms with students to provide individual support. I have been in a breakout room with Student several times to answer his questions. He generally prefers this to talking in front of the class although he had done that successfully quite a few times. I also encourage all students to attend my daily office hours so that I can help them with assignments or just provide a listening ear. I help students to draft emails to their teachers if they need support with that as well.

23. On March 31, 2021, the following email discussions regarding the Student's accommodations took place:

- Case manager 1 emailed the Parent and stated: "I wear a headset at all times and use closed captioning when I'm talking on Zoom, and I also have it on when there is video showing. I use visuals and keep instructions step-by-step and brief. I will be sure that when we are back in person I am careful to assign Student a seat that minimizes distractions and allows for optimal acoustics and vision for students. I check in with Student as frequently as I can, and allow him as much time as he needs to complete assignments, however I assign very little work outside of class and he has completed it all for me on time. I provided two different types of assignment sheets for students to use for all of their classes and Student has tried one of them and also turns in a weekly work log each week on Wednesday. Student's teachers know I am available if they have questions for me regarding the IEP. I do grade checks of all my students and talk with them individually about how they can be more successful if that is what is needed, and I offer my support and encouragement. Sometimes I communicate with the teachers directly about students and how we can support them."
- The Parent responded to case manager 1 and stated, "Thank you for your email. I'm glad of the ways you are implementing [the] accommodations and the extra help offered to Student."
- The History teacher emailed the Parent with information on the accommodations provided, stating:
    - "With remote Zoom classes, I teach primarily with PowerPoint presentations, which include text and visuals, so the students have my written, visual and verbal account of the era and events we are studying."
    - "Students take notes on my lectures and powerpoints in class as note taking is a key way to learn and absorb the historical information. However, I also post my powerpoints on canvas so that students can go back and cover/review anything they might have missed. I also post detailed assignment instructions with each assignment on canvas."
    - "As another aid, I will now activate closed captioning in my class. [Case manager 1] is getting me a headset to be worn during the Zoom lessons."
    - "To ensure understanding, if I'm able to give some time during the Zoom lesson for individual work time, I will check in with Student regarding understanding and progress on homework. Student has come to my office hours for support and to work while having me there for questions. I will encourage him to continue to do that, as it has worked out well."
    - "As is the case with all my students, Student may turn in work after the due date with no penalty, he will receive full credit. I will accept late work up to two months late. After that I feel like it's a burden for a student and keeps them from focusing on the present work. Student can certainly revise his work if he's not satisfied with his grade."
    - "Assignments have been reduced in both length and quantity for all students during remote learning. My rule of thumb is a 3 to 1 ratio on note taking: one page of notes per three pages of texts in the textbooks. If Student finds this difficult to accomplish he can do more abbreviated notes."
- The history teacher emailed case manager 1 and stated, "I'm going through the accommodations for Student. The only thing I don't have is a headset. How important is that, and do I really need one? Student has my entire lecture and instructions both in a PowerPoint and my written assignment instructions on canvas."
- Case manager 1 responded that same day, "We have to do it. Use the close caption starting now. Back in February we were asked to request a headset if needed. I can try to get one to you."

24. On April 1, 2021, the District's director of student services (director) spoke with the Parent about his concerns related to implementation of the Student's IEP and scheduling an IEP team meeting.

25. On April 5, 2021, the Parent emailed the director and reiterated his main concerns as discussed in their April 1, 2021 call, which included:
    - "To bring your attention to the failure of the district staff to apply accommodations indicated in the IEP."
    - "To understand the level of accountability from your staff."
    - "Who is ultimately responsible for ensuring that the IEP gets followed."

    The Parent further stated in the email:

    > Frankly I still feel these awful mistakes from staff are not being treated with the seriousness it deserves. I mentioned in our conversation Student reported seeing the case manager 1 only twice a week. Are we making up the therapy hours that were not done? I request that I may observe classes from my own location, not sitting down by Student, to ensure the IEP is fully implemented.

26. The District was closed for break April 5–9, 2021.

27. On April 13, 2021, the Parent exchanged multiple emails with District staff regarding the implementation of the Student's IEP:
    - The Parent emailed the superintendent and stated, "I've tried to resolve a series of problems with the school district regarding my son's IEP. There's been a total disregard toward implementing it…It has been two months since the IEP was drafted and still hasn't been completely implemented."
    - The Parent emailed the director and requested case manager 1 be removed from the Student's case and asked why it took case manager 1 so long to request that teachers follow the IEP.
    - The Parent emailed the SLP and requested a written explanation regarding her failure to report the Student's absences from therapies.
    - The director noted the Student missed four speech therapy sessions.

28. On April 14, 2021, several emails were exchanged between the Parent and staff regarding return to in person learning and the Student's IEP:
    - Case manager 1 emailed the Parent, copied the director and a District administrator and stated, "I would like to schedule an IEP meeting for Student. It would be a good time to check in on how things are going. We will review accommodations, set a communication protocol, and develop a clear schedule. I'm wondering how Wednesday the 28th…will work. By this time each teacher would've seen Student in class in person twice. If this is a good time for you I will send out the invitation."
    - The history teacher emailed case manager 1 and stated, "I've got all of Student's IEP requirements in place, but I can't get the closed captioning to work for him. I've turned it on in my settings but he is still not seeing them. Luckily the last couple of class periods have been mostly individual work, and little lecture from me. What steps am I missing?"

29. On April 20, 2021, case manager 1 emailed the registrar, and stated the Student was no longer in her "Academic Lab" class and needed to be removed from her advisory attendance as well.

30. On April 21, 2021, the District issued a prior written notice to document communication and clarity around services being provided to the Student. The reason for the proposed action was "Document a draft schedule of when and how [Student] will be receiving his services and to offer an IEP Meeting." The notice stated the reason for the action was, "To document our efforts to provide services as outlined in the IEP." The notice stated "Not working to get clarity on a service schedule for [Student]" had been rejected because, "the team believes transparency and clarity around the services provided to [Student] is important. Reason for decline of proposed IEP meeting: Dad declined the meeting." The notice stated, "case manager 2 sent a draft service schedule document to Parent on April 21st over email, and offered to meet to ensure the team was in agreement on how and when services are being provided as well as a communication protocol."

31. On May 11, 2021, the Parent emailed all of the Student's general education teachers and case manager 1 and stated: "Now that the IEP has been in effect for over a month please provide a report to be returned by May 17 stating: How you have put accommodations into practice; Progress made; Is there room for improvement; Any accommodations not helping."

32. Between May 11 and 20, 2021, the Student's teachers responded to the Parent's May 11, 2021 email:
    - The English teacher responded and stated the return to hybrid learning appeared to help the Student and listed some of the accommodations she had been providing:
        - Zoom meetings provided with closed captioning on.
        - Assignments broken down into manageable steps usually organized in a chart or with just a few key questions to address.
        - Extended time - late work accepted until the end of the semester with no penalty.
        - Visuals are always provided on PowerPoint slides to support whatever we are working on in class. These power points can be accessed on campus for students to refer back as needed.
        - Student chooses to sit at the front of the class. "There's only one other student in the classroom that day so distractions are minimal. I make sure to close the classroom door to minimize those distractions as well."
        - "For most assignments, I give all students a good chunk of in class time to work on them to keep homework to a minimum and to allow for time for checking in. Since we switched to hybrid learning it has been a joy to see Student speaking up much more in class discussion. He is engaging well with the material when it comes to discussion, both small group and full group."
        - "He turned in a couple assignments right on time in the first few weeks of hybrid learning and stays focused on work during class time. The main area for improvement that I can see is that it seems has submitted work is beginning to taper off again. Before spring break, I made a plan with him for just a couple assignments he could turn into shows understanding for third-quarter but I haven't seen those yet. I'd be happy to work on a new plan with him."
    - The history teacher emailed the Parent and stated, "I have seen some progress with Student's work in the past couple of weeks. It's been very helpful to have him in class." The history teacher also provided the following information:
        - "He sits right in front of me and asks questions regularly, he's not shy about asking questions which is great. I went over to his desk and was able to have one-on-one, fairly quiet exchanges and Q&A. He's been working diligently and steadily in class. I definitely

feel like I've gotten to know him better and that we've been able to connect more again. He seems quite focused and engaged."
    - "He's handing in more homework but there are still holes. Rather than giving him zeros I put in an asterix for each, so as not to bring his class grade average down but he does need to get those in."
    - "I am using closed captioning in class. I have also given him written instructions in chat in case he didn't catch it all. Since kids have mostly been doing research and writing I have not used the headset much because I'm doing very little talking. Student has said the headset doesn't make that much of a difference especially when he's in class since he's right in front of me, it's the closed captions that really help. I told him to let me know anytime he'd like me to put the headset on."
    - "I've been very flexible on handing assignments in late. If he hands in his current project and most of his assignments through the end of the year, he should pass the class."
- The Parent responded that same day, reiterating the history teacher's remarks and asking additional questions: "How have you addressed Student's missing assignments, besides the already stated? Do you directly show him his deficiencies?"
- The Parent emailed the math teacher and chemistry teacher, copied the director, assistant principal, and case manager 2 and stated "Please don't forget to send your report."
- Case manager 2 emailed the Parent a list of accommodations he implemented in class each day, including:
    - Closed captioning is enabled daily during Zoom class office hours and video material.
    - Use of a headset microphone during all Zoom classes in office hours.
    - Extended time for all assignments. Student may submit an assignment before the end of the semester at no penalty and also revise and resubmit assignment if he would like to improve his score.
    - "I use visuals during instruction and highlight and annotate with bright colors to emphasize important points. Documents with those annotated notes are linked in that day's lesson page and canvas. The links of all assignments have been shortened. Assignments list may be found on canvas by clicking on the grades tab."
    - Checking for understanding regularly in class.
    - "Though not a formal accommodation on his IEP, at your request, I also remove the late designation on all assignments after they have been submitted."
- The chemistry teacher responded to the Parent and stated,
    - "I would like to confirm using a headset with mike, closed captioning, and allowing extra time for work and reduced amount of work as items from the IEP I was implementing regularly in honors chemistry class."
    - "I sent 'checking for understanding' chats to Student during individual work time. That seemed to work well. I followed up with several emails, but the chat seemed to work better and helped give me insight into Student's learning."
    - "Several missing assignments were turned in and I felt Student was making improvement and caught up. I contacted his new honors chemistry teacher as soon as I became aware his schedule is changing when the new hybrid schedule commenced and Student will be taking honors chemistry [with a different teacher]. We discuss what would be best for Student's academic success in class moving forward. I am hopeful the hybrid learning schedule with more opportunity for in person learning has been helpful to his learning."
- The Parent emailed the math teacher and again asked for an update on how he was implementing the Student's IEP.

- Parent emailed the SLP and asked for a copy of the curriculum the Student is following in speech therapy.

33. Between May 20 and 25, 2021, the Parent and the Student's teachers exchanged several emails regarding the Student's accommodations and speech services:
    - The Math teacher responded to the Parent and stated, "I'm happy to remind Student to submit his missing assignments."
    - The Parent responded: "I'm trying to get input from all of his teachers with the intent to, based on your input, proposed changes to make the IEP more practical and easier to manage for you the teachers and to ensure it is the most benefit to Student's academics. Looking at Student's grades on Canvas and some of your colleagues' reports I can see that he is making progress in some subjects while lagging behind and others, math is one that he is having a hard time catching up. What can I do to help you with Student? Can I ask you to try harder on giving me the feedback I request from you? Of the questions I asked you, the only response you could come up with was 'I am happy to remind the student to submit his missing assignments,' can you do better than that? Look at the other questions and give me your feedback."
    - The Parent also emailed the SLP and stated, "I've read the IEP and I'm trying to understand how you come to structure your therapy sessions, goals, and how you follow up."
    - The SLP responded, "We are not actually following any sort of curriculum."
    - The Parent emailed the SLP, copied the assistant superintendent of education services and superintendent and stated, "I have requested information from you about my son that is crucial to help me understand how your therapy is helping. I see you had time to contact us again to change Student's schedule but not to answer my questions. I have checked with a couple of organizations and they were surprised about your answer…'We are not actually following any sort of curriculum.' [Assistant superintendent] could you please explain to SLP that I have the right to expect an answer to matters related to my son's therapy?"
    - The SLP responded to the Parent's email and stated:
        - "Please let me know how else I can help clarify. I'm still getting to know your child, building rapport and sending homework, as I've only met with him once. I sent you the video called 'Easy Onset,' this has been what he practiced with the last therapist and I'm planning to carry it over…"
        - This is a speech goal: "his goal is for fluency, which is another term for stuttering: when given structured activities in the therapy setting student will describe and demonstrate fluency enhancing strategies improving speed fluency skills from describing and demonstrating zero out of three fluency enhancing strategies to describing and demonstrating three out of three fluency enhancing strategies as measured by SLP collected data. Therefore his baseline is: zero the goal is to identify three out of three strategies. This is his goal/plan."
        - "I am under the understanding that your son is at the beginning stages for a goal to reduce his disfluencies. I've only just joined this team, seen him one time, so I apologize if you had hopes that he was focusing on a different type of service. He does have other providers on his team, so I'm wondering if you were thinking of another goal besides speech?"
    - The Parent emailed the SLP, assistant superintendent of education services, and superintendent and stated "This says his speech goal is for fluency which is another term for stuttering…the statement is wrong at several levels. Stuttering was never considered a problem with my son, it is clever that you were trying to make fluency and stuttering the same which they are not."

34. On May 26, 2021, the SLP and Parent exchanged several emails:

- The SLP emailed the Student and Parent and stated, "We will have our speech session today at 3 PM. I sent the link to Student. Would you be OK if my manager from student services who observes staff from time to time joins our session to make sure all goes well today?"
- The Parent responded, "I'd like to observe so please send me the link."
- The SLP responded: "Great, here's the link. I would appreciate you sharing what your hopes are for his needs and communication so I can try to hear you out on where you'd like him to go for his goals for speech language etc. As far as following his IEP, I still understand that as a disfluency, so that would be my plan to work on today unless you have something else you see for a concern. Again I would like to hear what your concerns are so I can better accommodate him thank you."
- The Parent emailed the SLP after the speech session and stated: "Thank you for opening your door to dialogue. I did observe the whole session and I have just one word to describe what I saw: Wow! Your interaction with Student is so amazing! He definitely trusts you a lot, he even sings with you! All you did today was help him greatly with confidence, that's a huge plus. Having said that with all honesty and thankfulness I still have a problem with the stuttering approach. I'm going to write some observations in my next email that may help you understand my position but I want to reiterate that the work you did today with him was very helpful. Huge thank you."

35. On June 3, 2021, the Parent, SLP, and the assistant superintendent of education services exchanged several emails regarding speech services:
    - The Parent emailed the superintendent and stated, "An IEP was developed and ignored for two months, I have plenty of documentation. You still have a teacher that refuses to comply and a speech language pathologist that is ignoring directives from Student's hospital."
    - The superintendent responded that same day and stated, "Issues regarding lack of agreement need to be brought up during the IEP process that is driven by law and rule. Bringing up issues at an IEP meeting and working through collaboratively as an IEP team is the process in every state. Please work with a professional staff regarding your concerns, as this is the process."

36. On June 7, 2021, the Student's IEP team met to discuss the Student's speech services, teacher communication regarding grades, and implementation of the Student's IEP.

37. On June 8, 2021, the District issued a prior written notice, proposing to continue the Student's IEP. The reason for the proposed action was "To meet and discuss [Student's] speech services as well as teacher communication around grades and implementation of the IEP. Parent, requested the services for speech be modified." The notice stated the reason for the proposed action was, "Concerns from Parent and IEP team around speech services and communication." The notice stated under other options were considered or rejected, "To amend the IEP now. The team considered changing [Student's] speech goals," and stated this consideration was rejected because, "Per IEP team decision, there is not consensus or desire to amend [Student's] IEP now. IEP team will continue monitoring service delivery, and [Student] was recommended for an assessment revision around speech in the fall. The team rejected a change to [Student's] speech goals..." The notice also stated other factors relevant to this decision:

    > This meeting served as a chance for the IEP team to agree on potential speech strategies that focused on fluency, language acquisition, and social communication. The team agreed to modify the lessons provided to [Student] that included all areas under Fluency rather than just stuttering and cluttering for the remaining sessions. A plan was put in place to

recommend [Student] for an assessment revision around speech in the fall to determine if additional speech goals and service areas are necessary for [Student]. The team also discussed the fact that once a month updates from teachers around IEP implementation in their classrooms is reasonable, and that teachers will work to provide reasonable clarifications on questions from parents in a reasonable manner. Building admin and IEP case manager will work to facilitate and assist in family/teacher communication needs as necessary.

The notice stated the action would be initiated on June 9, 2021.

38. Also, on June 8, 2021, the Parent and case manager 2 emailed regarding the proposed speech assessment revision. The Parent stated that while he agreed to a formal revision in the fall, he requested the District "do the speech assessment before the end of the semester or immediately starting the next semester."

39. Between June 9 and 10, 2021, the following conversation occurred via email:
    - The Parent emailed the superintendent and stated he would request the Student's transfer to a nearby district where he can have the services this District is denying him.
    - The superintendent responded to the Parent and stated, "I'm sorry you're not satisfied with the IEP team efforts. I have copied [staff] to help with any remaining issues that are present and work through the IEP team to make changes."
    - The Parent responded to the superintendent: "Please tell me in all honesty don't you see any problem here with all these delays? Six months ago we started this journey and still appropriate therapy for my son hasn't been provided."
    - The assistant superintendent of education services emailed the Parent and stated, "an IEP meeting was held on June 7, in which a path forward was established, which included opening in assessment revision for SLP services. Please tell me what areas of service in your son's IEP you would like addressed or believe are not happening as written."
    - The Parent responded that the team agreed an evaluation would occur as soon as school started but then the school psychologist wrote an email that stated, "Once the school begins this fall a team member will be reaching out to begin this process and obtain consent to assess him in the area of communication. Once consent is obtained from you, the team will proceed with the evaluation followed by a feedback meeting no later than 35 school days from the date of consent." The Parent stated, "Last time the school psychologist did this it took almost 2 months. Can you ask them to expedite this, we can sign consents tomorrow and get this process rolling instead of having it take weeks?"

40. Between June 11 and 16, 2021, the following email exchanges took place regarding the Student's speech services, resulting in an IEP amendment on June 15, 2021:
    - The Parent emailed the assistant superintendent of education services and superintendent and stated, "I proposed the IEP remains untouched but speech therapy is focused on what the hospital recommended, no more time wasted on stuttering, can we agree on that?"
    - The assistant superintendent of education services emailed the Parent and stated: "I have reached out to the SLP and asked her to propose new speech language goals in an IEP amendment. She'll share these with the team by email. If any members of the team would like to meet the team will convene. If the new goals per the amendment reflect what you suggested and all team members are good with them, the amendment will be put into action."

- The Parent responded and stated, "I hope you have instructed the SLP to adhere to the hospital's recommendations for my son's therapy."
- The assistant superintendent of education services emailed the Parent and stated, "Our SLP should have a proposed IEP amendment for you to review later today, the rest of the team will also have an opportunity to review it."
- The assistant superintendent of education services also emailed the IEP team and stated: "Attached in this email is the IEP amendment. Below is the updated communication goal…Goal: When given structured opportunities to communicate, student will use speech strategies targeting higher level language and pragmatic skills improving his conversational skills of turn taking initiation of topics asking relevant questions to gain information maintaining conversations across conversational turns using nonverbal cues and taking perspective from 0% accuracy during a therapy session to 80% accuracy as measured by SLP data."
- The Parent responded that he agreed but wanted to see worksheets or strategies on how it would be implemented. The Parent also requested the Zoom link to the speech therapy session so he could observe.
- The assistant superintendent of education services responded, "For Student's next session will be working on social language skills per his goal through a program called movie time social learning. This is adapted to fit the communication needs of Student."
- The Parent emailed the SLP, assistant superintendent of education services, administrative assistant for superintendent, superintendent, school board member, case manager 2, and the director and stated, "The therapy session was awesome. You address some of Student's language difficulties very well. You challenged him to come up with his own narratives and I was so amazed he felt so comfortable with you and that his speech was more fluent than usual, I can only guess because you managed to make the session fun and with a dynamic but relaxing flow where Student felt he wanted to contribute. Challenges: as you noticed he continues to get stuck when trying to express an idea, and he often mumbles incomplete answers, he switches rapidly from one to another without giving a clear answer. His answers are short and kind of impersonal, more like a narrative or verbatim extract from the story. I feel very happy and thankful to see we are now on the right path and these problems will be addressed head-on."

41. On June 14, 2021, the District reported on the Student's progress on his IEP goals. For the Student's speech goal, the progress reported indicated: "When given structured activities in the therapy setting, [Student] utilizes skills in fluency enhancement at a rate of 1 out of 3 times."

42. On June 15, 2021, the District issued a prior written notice, proposing to change the Student's speech goal through an IEP amendment. The reason for the proposed action was "Parent has requested the speech goal be changed." The notice stated it rejected continuing the current IEP as is and decided to complete an assessment because, "Parent has requested a change to speech goal which can be done through an IEP amendment." The notice stated the action would be initiated on June 15, 2021.

43. On June 24, 2021, the 2020–2021 school year ended.

2021–2022 School Year

44. On September 8, 2021, the 2021–2022 school year began. The Student continued to eligible for special education services under the category of autism.

45. On September 9 and 15, 2021, the SLP service records show that the SLP provided a consultation, but the records do not state the amount of time.

46. On September 22–28, 2021, the Parent and District staff exchanged several emails regarding the IEP. During this time, the Parent missed a meeting with the learning support teacher, who provided the Parent with an update as follows:

> Student requested to change his diploma type and class schedule on September 15. I scheduled an IEP team meeting to be held on September 22. We held the meeting at the agreed time. At the meeting we discussed the benefits of keeping Student in academic lab and the benefits of removing him.

47. On September 22, 2021, the District issued a prior written notice, proposing to continue the Student's IEP. The reason for the proposed action was "[Student] requested to change his diploma type and class schedule." The notice stated the reason for proposing or refusing to take action was, "The team decided that [Student] is currently in his [least restrictive environment]," and that no other option was considered or rejected. The notice stated the reason for the team's decision was, "Currently [Student] is in Academic Lab and using his time to complete homework." The notice stated other factors relevant to the action were that, "Student and Parent did not show up to the meeting. Without having input from them the team decided not to change his schedule."

48. On September 28, 2021, the educational audiologist emailed the Student's general education teachers and case manager and stated:

> Although [the Student] does not have hearing loss, he has a history of listening difficulties related to history of middle ear problems that make it hard for him to concentrate in poor acoustic environments. For this reason, he has:
>
> - A seating accommodation on his 504 plan
> - Closed captioning for video material
> - Extended time
> - Simplify information using brief 'can say' sentences when explaining concepts to minimize length
> - Strategic seating away from noise and close to the instructor for optimal acoustic and visual cues
> - Teacher should wear headset with mic attached during Zoom instruction for best sound quality
> - Use of visuals to support instruction
> - Highlight key words right down important points.
>
> I met with the Student last week and he feels he may not be seated in the best location in some of his classes. I am aware that there are seating arrangements you have put in place in line with Covid protocols. Would you please check in with him to see if anything needs

to be changed? Also please note captions are required when you're presenting video material. If you have questions let me know.

49. Also, on September 28, 2021, the Parent emailed the learning support teacher, copied the assistant superintendent of education services, and stated:

> On January 29, 2021, an IEP was agreed upon but wasn't implemented until April of the same year. We spoke at length this afternoon, we discussed the pros and cons of this change to be implemented and he is determined to do whatever is necessary to get back on track. We understand the importance of the development of his social skills for what he proposes and commits to join the youth group at church to practice those skills. Furthermore he will be joining taekwondo biweekly sessions. Student knows he will be a little behind and promises to catch up with the rest of the Spanish class and I will support his efforts. Looking forward to our meeting tomorrow.

50. On September 29, 2021, the SLP service records show that the Student participated in a 40-minute group speech session.

51. On September 29, 2021, the Student's IEP team met to discuss the Parent's and Student's request to remove the Student from his "Academic Lab" class, where he received his specially designed instruction, and place him in International Baccalaureate (IB) Spanish.

52. Also, on September 29, 2021, the District issued a prior written notice, proposing to continue the Student's IEP. The reason for the proposed action was "To meet and discuss [Student's] placement by removing him from Academic Lab and putting him in IB Spanish. This change was proposed by [Student] and [Parent]." The notice stated the reason for proposing or refusing to take action was, "The team discussed and decided that [Student] should continue to receive his Special Education services in Academic Lab and not during General Education classes," and that the team considered and rejected amending the IEP and lowering the Student's services minutes. The notice stated the reason for the team's decision was, "Per IEP team discussion there is a consensus that Student is performing well academically. The IEP team decided to keep Student in the academic lab and not pursue the full IB diploma." The notice stated:

> This meeting served as a chance for the IEP team to agree on where [Student] should receive his Special Education Services. The team discussed three different pathways for [Student].
>
> 1. Keeping his IEP and schedule the same. This would lead to:
>
> - Path to graduate with Washington State Diploma
> - Nearly full IB schedule
> - Great for college application and development
> - Academically rigorous - esp. [Student's] choices
> - Well rounded
> - Sets specific time for him to receive services
> - Allows time in school to complete assignments
> - Is and remains on track to graduate
> - Has Academic Lab with his case manager for frequent check-ins

2. Changing his IEP and schedule. This would lead to:

- Path to graduate with Washington State and International Baccalaureate Diplomas
- Completely full IB course load
- Great for college application and development
- Academically the most rigorous program available
- Well rounded
- Adds two additional courses to an already significant schedule – one of which is taken as a zero period
- Adds Extended Essay an independent and outside of school demand
- Adds service hours to be completed outside of school and independently
- Eliminates the express time to receive Specially Designed Instruction
- He would receive speech and social skills by being pulled out of other classes
- Loss of instructional time in IB courses from pull out Special Education services
- He loses the time to complete other classes due to increased time demands
- He loses a large share of minutes of supervised study time and course load management

3. Revoking Special Education services: All members of the team were strongly opposed to this, and it is not a viable option for Student success. The team has decided to stay with option 1.

The notice stated, "Student and Parent did not show up to the meeting. Without having input from them the team decided not to change his schedule."

53. Between October 5 and 14, 2021, the Parent and District staff exchanged the following emails regarding the Student's IEP and participation in the IB program:
    - The learning support teacher emailed the Parent and stated: "In the IEP meeting held in your absence and again in the meeting held on September 29, you asked [to keep student in Academic Lab first period]. Subsequently you asked for [to move Student to Spanish first period for IB program]…Please look at this email and send us your questions and a time when you can meet again to finalize Student's schedule."
    - The Parent responded and stated: "Student took the weekend to make his choice. He knows what he wants, just follow his wishes."
    - The assistant principal responded copying the learning support teacher, SLP, Student, school counselor, and director of student services and stated, "We are happy to meet and record it. We have no incentive to mislead you. That is why we send prior written notices after meetings…It is a delicate situation because satisfying the IEP and an IB diploma will create sacrifices somewhere, if we spend time meeting specifically designed instruction, we are not spending time meeting IB content in class. If we spend time meeting content in IB class we are not spending time meeting specifically designed instruction. We are doing our best to partner with you to navigate the implementation of Student's IEP as it was written and agreed-upon. How would you like us to meet the specially designed instruction regarding the goals and social skills learning strategies and speech skills? Your input is critical to our success we look forward to the next meeting."
    - The Parent emailed the SLP, learning support teacher, superintendent, and assistant principal and stated, "Effective immediately Student wishes to stop the IEP. Graduating with the full IB schedule is of the most importance to Student and his academic record as mentioned in the IEP has been consistently above average."

- The assistant principal responded, "We will begin the revocation of services paperwork today. We will also change student schedule to include Spanish and facilitator transition to help him in his new class. You can expect an email…regarding revocation."
- The learning support teacher emailed the Parent, offering an IEP meeting to discuss the decision to revoke services.
- The Parent responded and stated, "Did you finally realize the huge mistake you were making by bullying us out of the IEP? When student came home he shared with me that he was surprised he had his first Spanish class instead of academic lab."
- The assistant principal responded and stated: "We moved Student to a Spanish class immediately because he wanted to move to a full IB diploma. We've never pushed for revocation. Student is still qualified for an IEP. Are you able to meet at the time learning support teacher suggested? Your input on how we move forward is essential."
- The learning support teacher emailed the Parent and stated, "We need to convene a meeting to discuss our offer of service (FAPE) or revocation of service."
- The Parent responded that same day and stated, "We can start by dropping off learning strategies and social skills lessons. The rest of the IEP can be left as it is and his speech therapy can be done during one of his Spanish classes."
- The director responded, "Thank you for your proposal. The changes you're recommending will require an assessment revision. We will need to convene an IEP team meeting and I am requesting we do so with a third-party mediator."
- The Parent responded he would not work with the mediator because he did not think they could be impartial. The Parent further stated, "I proposed changes that will ease Student's workload by getting rid of services that are not providing much benefit to him. Here are your choices: 1. Drop off the learning strategies or organizational skills and social skills sessions. 2. Add one speech therapy session so he can have one per week. 3. Leave the rest of the IEP intact. Or, deny Student of his federally mandated benefits and get over stressing us. Remember he is choosing to quit because of the pressures imposed by the team."
- The director of responded: "Reflecting on your last email I wanted to reach out with a potential next step! To keep Student moving forward in IB, one solution is to change the location of service of his learning strategies organization and social skills going to the general education setting. With this change, the team can agree to amend the IEP outside of an IEP meeting. If you are interested in making other changes including dropping a service, it will require a meeting. We are happy to hold a meeting as offered."

54. On October 20, 2021, the SLP service records show that the Student received a 40-minute individual speech session.

55. On October 21, 2021, the director emailed the learning support teacher and stated that she had connected with the Parent and the team needed to meet. She further stated:

> We are reviewing two options where we would need to conduct assessments to determine Student's present levels of performance to see if Student no longer requires specially designed instruction in the goal areas of speech learning strategies organization and social skills. If the Parent chooses to remove all services without assessments that would be revocation. The rest of the IEP accommodations left intact will likely fall under 504 accommodations.

56. On October 22, 2021, the Parent emailed the director and stated the Student had asked about his speech sessions, stating he had only received two sessions, including on October 21, 2021.

The Parent stated, "[The Student] would like to keep the speech therapy sessions only if they're conducted on a regular basis and there are not multiple cancellations."

57. On October 26, 2021, the director emailed Parent and stated:

> Based on therapy documentation, speech services were provided initially in a small group. This was adjusted to individual sessions when Student and yourself requested to be on the full IB track. In the first week of his new schedule, service was not provided. When we meet, we can discuss the possibility of a make up session. Between the start of the year now we have also had one indirect service week, a week where no services were provided. Current service will be provided during Student's Spanish class. [SLP 2] has sent a reminder email to Student and the Spanish teacher for the session tomorrow. Sessions are currently scheduled to be conducted on a regular basis. Cancellations do happen and I know [SLP 2] works hard to reduce cancellations when possible however there are unforeseen circumstances that we cannot control. In those cases, we will work with you on a plan on how to proceed.

58. On October 27, 2021, the Parent responded to the director, copied the superintendent, school board member, learning support teacher, and assistant superintendent of education services and stated, "I have an email dated September 24 from [SLP 1] where she admits her first session with Student was on September 29. Please take Student off any sessions or therapies and if you prefer just cancel the IEP entirely, we don't want any part of this."

59. On October 27, 2021, the SLP service records show that the Student received a 25-minute individual speech session.

60. On November 2, 2021, the Parent emailed the director and stated, "We gave you the choice to either leave the accommodations and get rid of the therapy counseling sessions or to get rid of the IEP completely. As I understand it, you're choosing to terminate the IEP entirely. Am I understanding correctly?"

61. Also, on November 2, 2021, the District issued a prior written notice, proposing to discontinue the Student's IEP services based on the Parent's request. The notice stated the "District proposed to [D]iscontinue implementing the following Special Education Services in Student's IEP: learning strategies/organization [specially designed instruction; social skills specially designed instruction; speech services."

    The notice stated, "The District is proposing this action because Parent requested that the District discontinue providing the services via email communication on 10.12.21 and 10.27.21." The notice further stated the team considered continuing to serve the Student's IEP and revocation of services but rejected those options because "Parent requested via email to discontinue Student's Special Education Services and declined to meet for an IEP meeting to discuss options to serve Student and/or revocate [sic]." The notice stated other factors relevant to the action were "The District proposed IEP team meetings to discuss Student's IEP and address the parent's concerns…[and mediation]. The parent has declined to participate in an IEP meeting or mediation. The District remains ready, willing, and able to implement Student's

IEP, if Parent would like to access the services at any time in the future." The notice stated the action would be initiated on November 2, 2021.

62. On November 3, 2021, the Parent responded to the prior written notice and stated that the prior written notice did not mention his concerns with the Student's speech therapy and the fact that the Student didn't receive any therapy prior to September 29, 2021.

63. On November 5, 2021, the director emailed the Parent and stated, "It is our understanding that you do not want Student to access the services provided in the IEP. The District will honor that request as described in the prior written notice dated November 2, 2021. Student can still access the accommodations in the IEP that are offered in the general education setting."

64. On November 6, 2021, the Parent responded, copied the school board member, superintendent, administrative assistant to superintendent, assistant superintendent of education services, learning support teacher, and assistant principal and stated he was not currently requesting to stop the entire IEP.

65. On January 27, 2022, the District issued a prior written notice that it was proposing to continue the discussion of special education service provision for the Student and the District proposed to start providing the Student's special education services.

    The notice stated the reason the team proposed to take action was, "The team is proposing this action to help support Student in his academic classes." The notice further stated, "On November 2, 2021 the team discontinued implementing Special Education Services for Student per family request and the team discussed keeping them in place." The reasons we rejected those options were: "Parent wanted to discuss both of the options with Student. We are having another team meeting on January 31st, 2022 to make a final decision." Other relevant factors were recorded as: "This meeting was held via Zoom. Meeting attendance: learning support teacher, assistant principal, special education teacher, math teacher, SLP 2, educational audiologist, school psychologist 2 and Parent."

66. On January 27, 2022, OSPI received this special education community complaint. In the complaint, the Parent alleged that the Student's IEP was not implemented, specifically with respect to accommodations and speech services.

CONCLUSIONS

Issue: IEP Implementation: The complaint was opened on the issue of whether the District implemented the Student's individualized education program (IEP) since January 2021, based on the Parent's allegations that the District failed to implement the Student's IEP accommodations and failed to provide specially designed instruction in speech. A district must ensure it provides all services in a student's IEP, consistent with the student's needs as described in that IEP. When a school district does not perform exactly as called for by the IEP, the district does not violate the IDEA unless it is shown to have materially failed to implement the child's IEP. A material failure occurs when there is more than a minor discrepancy between the services provided to a student with a disability and those required by the IEP.

Accommodations: The Student's initial IEP meeting was held on January 29, 2021, and the IEP was implemented on February 2, 2021. The IEP included the following accommodations: closed captioning during Zoom instruction and video material, extended time, simplified information, strategic seating, teachers should wear headsets with a microphone attached during Zoom instruction for the best sound quality, use of visuals to support instruction, highlighting of key words, and writing down important points. The IEP also included the following modifications: check work frequently to ensure understanding, extra time, satisfactory/unsatisfactory grading, reduced length of assignments, homework assignment sheet and preferential seating.

On February 8, 2021, the Student's case manager (case manager 1) emailed the Student's "IEP at a glance" to the general education teachers, with a reminder to the math teacher that the Student was eligible for an "S" grade. Case manager 1 offered to help the math teacher by prompting the Student to work on math in the Student's "Academic Lab" class with her. The educational audiologist also emailed the Student's teachers and notified them of the Student's accommodation that teachers wear a headset with a microphone.

In early March 2021, the Parent expressed concern regarding whether and how the accommodations were being implemented. For example, on March 4, 2021, the Parent sent an email, noting he was seeing several "no credit" grades for the Student and wanted to know why no one had told him the Student was struggling. On March 5, 2021, case manager 1 again emailed the general education teachers the Student's "IEP at a glance" and prompted them to review the IEP document. Based on the documentation, including emails from staff provided by the District, it is not clear the exact date when the general education teachers each reviewed the IEP. In late March 2021 and through the end of the school year, the teachers responded to the Parent's requests for documentation of the accommodations they were each providing in their classes. However, just because teachers were responding in late March to the Parent's emails does not mean they failed to provide accommodations in February and March 2021; in fact, several of the teachers' responses indicated the accommodations they provided were things they had already been providing, such as accepting work between a month late and the end of the semester and using visuals such as power points and lecture notes as the instruction was being provided in a remote model. The emails indicated that the Student's teachers were regularly providing extended time, strategic seating when in a hybrid learning environment, satisfactory/unsatisfactory grading, visuals to support learning, checks for understanding, prompting, and modified assignments or assignments broken down into steps.

While a few of the teachers struggled to get the closed captioning working for the Student and did not initially have a headset, each teacher communicated to the Parent how they were implementing the Student's accommodations. Further, teachers explained alternative accommodations—for example—the history teacher explained that his powerpoints were posted during lectures and written instructions are provided via chat and those alternatives were functioning as closed captioning, and that some of his lessons were largely work time and therefore the headset was not needed as there was not a lecture. It does appear there were some delays and initial inconsistency from some teachers in getting accommodations implemented. At the same time, the District and teachers were very responsive to the Parent's concerns, including

providing email responses, offering to meet with the Parent and holding several meetings, and providing additional accommodations such as removing the "late" label from assignments after the Parent explained this impacted the Student negatively.

While general education teachers must review the IEP once it is effective, and here it appears a few teachers were slower than others to adjust the Student's grades or figure out closed captioning, the inconsistent implementation was limited to only a few of the several accommodations in the IEP and was only an issue with a couple of the Student's teachers. The documentation supports that other teachers were largely implementing the accommodations. Case law provides that a district does not violate the IDEA unless it is shown to have materially failed to implement the student's IEP. A material failure occurs when there is more than a minor discrepancy between the services provided to a student with a disability and those required by the IEP. OSPI finds that while there was some inconsistency with a few accommodations, that is a minor deviation and not a material failure to implement the IEP. The documentation in the complaint does not support a finding that the District materially failed to provide the Student's accommodations in accordance with his IEP and OSPI finds no violation regarding accommodations.

Speech: The Student's IEP included 30 minutes/3 times per month of specially designed instruction in speech skills in the special education setting. In June 2021, the IEP team revised the Student's speech goal, at the Parent's request, but did not change the service minutes. Over the time frame addressed in this complaint (10 academic months), the Student was entitled to a total of 900 minutes of specially designed instruction in speech skills provided in a special education setting. While the District stated in its response to this complaint that the Student's specially designed instruction in speech was delivered through video conference and in-person sessions, documentation provided by the District shows the Student only received a 40-minute group speech session on September 29, 2021, a 40-minute individual session on October 20, 2021, and a 25-minute individual session on October 27, 2021, for a total of 105 minutes. The documentation also indicates that the Student received a couple speech sessions in the spring of 2021; however, the record does not clearly indicate the length of these sessions or how many there were. Emails provided by the District allude to the fact that the Student was absent from four sessions in spring 2021, but also that the speech language pathologist canceled or moved sessions. The speech language pathologist service records do not show the Student's absences. While there was some discussion and confusion around whether the Parent was revoking consent for special education services and next steps in the fall of 2021, OSPI notes that missing approximately 750-800 minutes of services represents a material failure to implement this portion of the IEP. OSPI accordingly finds the District to be in violation for not implementing the Student's speech services for the portions of the 2020–2021 and 2021–2022 school years at issue in this complaint.

During the period specified above, the Student was to receive 30 minutes of specially designed instruction in speech skills 3 times per month. Thus, the Student was not able to access approximately 12.5-13.5 hours of special education services in speech. The speech language pathologist service records do not show the Student's absences, so the presumption is that the Student is owed compensatory time for the services not provided in compliance with the IEP. The

District will be required to provide 13 hours of compensatory education in speech. The District will also be required to develop and disseminate guidance for speech language pathologists.

CORRECTIVE ACTIONS

By or before **April 15, 2022, May 2, 2022, May 31, 2022, June 24, 2022, September 2, 2022,** and **November 4, 2022,** the District will provide documentation to OSPI that it has completed the following corrective actions.

STUDENT SPECIFIC:

Compensatory Education
By **April 8, 2022,** the District will meet with the Parent to develop a schedule for 13 hours of compensatory services in speech. The speech services will be provided by a qualified speech language pathologist.

The sessions must be scheduled outside of the Student's school day and may be provided on weekends or over District breaks. If the District's provider is unable to attend a scheduled session, the session must be rescheduled. 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. Services must begin no later than the week of **May 2, 2022** and be completed no later than **October 31, 2022.**

The District will provide OSPI with documentation of the schedule no later than **April 15, 2022.**

The District must provide OSPI with an update on the speech services, including documentation, no later than **June 24, 2022** of the compensatory services provided to the Student to that point. This documentation must include the dates, times, and length of each session, and state whether any of the sessions were rescheduled by the District or missed by the Student. No later than **November 4, 2022,** the District shall provide OSPI with documentation that the compensatory services have been completed.

The District must either provide transportation necessary for the Student to access these services or must 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 on **November 4, 2022** of payments made to the Parent for travel reimbursement.

DISTRICT SPECIFIC:

Written Guidance
The District will develop written guidance to be provided to all speech language pathologists who worked in either the Student's 2020–2021 or 2021–2022 school, which will address the procedures and best practices for providing and documenting speech language services, data that should be included in the documentation, procedures for documentation of student absences, and guidance on when a student is entitled to make up sessions. The guidance will include examples.

By **May 2, 2022,** the District will submit a draft of the written guidance. OSPI will approve the written guidance or provide comments by May 6, 2022, and provide additional dates for review, if needed.

By **May 31, 2022,** the District will provide OSPI with documentation showing that the required staff members reviewed the written guidance. This review could be via emailed guidance or guidance reviewed at a team/staff meeting. Documentation provided to OSPI will include: 1) sign-in sheet for a meeting or email documentation; and, 2) a roster so OSPI can verify that staff have reviewed the guidance.

By **September 2, 2022,** the District will provide OSPI with documentation showing that **prior to the first week of the 2022–2023 school year,** any new speech language pathologists are provided the guidance and any returning staff who need a refresher are provided the guidance. This review could be via emailed guidance or guidance reviewed at a team/staff meeting. Documentation provided to OSPI will include: 1) sign-in sheet for a meeting or email documentation; and, 2) a roster so OSPI can verify that staff have reviewed the guidance.

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 March, 2022

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.)