

SPECIAL EDUCATION COMMUNITY COMPLAINT (SECC) NO. 22-87

PROCEDURAL HISTORY

On July 11, 2022, the Office of Superintendent of Public Instruction (OSPI) received a Special Education Community Complaint from an attorney (Complainant) representing the parent (Parent) of a student (Student) attending the Peninsula School District (District). The Complainant 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 July 12, 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 July 14, 2022, OSPI received additional information from the Complainant and amended the issues. On July 18, 2022, OSPI notified the District and the Complainant of the amended issues.

On July 29, 2022, OSPI received the District's response to the complaint and forwarded it to the Complainant on August 1, 2022. OSPI invited the Complainant to reply.

On August 12, 2022, OSPI received the Complainant's reply. OSPI forwarded that reply to the District on August 16, 2022.

On August 26, 2022, the OSPI complaint investigator interviewed the District special education director and director of research and assessment.

On August 30, 2022, the OSPI complaint investigator interviewed the Student's parents along with their attorney (the Complainant).

OSPI considered all information provided by the Complainant, the Parents, 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 July 12, 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.

Additionally, since the dyslexia rules are not referenced in the special education rules, the Special Education Division has no authority to enforce the dyslexia rules referenced in the complaint and the reading specialist's report. The Parents may wish to file a complaint directly with the District regarding the implementation of the dyslexia rules.

ISSUES

1. Did the District consider Parent input and the requirement that services be based on peer-review research to the extent practicable per WAC 392-172A-03090(1)(d) in developing an individualized education program (IEP) that met the Student's unique needs during the 2021–2022 school year?
2. Did the District review and revise the Student's IEP to address any unexpected lack of progress towards the annual goals during the 2021–2022 school year?

LEGAL STANDARDS

Provision of FAPE: An IEP is required to be “reasonably calculated to enable the child to receive educational benefit.” It does not require the absolute best or potential-maximizing education for that child. Rather, the district is obliged to provide a basic floor of opportunity through a program that is individually designed to provide educational benefit to a child with a disability. The basic floor of opportunity provided by the IDEA consists of access to specialized instruction and related services. *Hendrick Hudson District Board of Education v. Rowley*, 458 U.S. 176, 102 S.Ct. 3034 (1982). For a district to meet its substantive obligation under IDEA, a school must “offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances.” An IEP must “aim to enable the child to make progress”, the educational program must be “appropriately ambitious in light of [the student’s] circumstances, just as advancement from grade to grade is appropriately ambitious for most children in the regular classroom,” and the student should have the opportunity to meet challenging objectives. *Andrew F. v. Douglas County School District RE-1* 137 S.Ct. 988, 69 IDELR 174 (2017).

Special Education Services: An IEP must include a statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the student, or on behalf of the student. 34 CFR §300.320(a)(4); WAC 392-172A-03090(1)(d).

Complaint Timeline: The complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received. WAC 392-172A-05025(d).

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 and in the general education curriculum, if appropriate; the results of any reevaluations; information about the student provided to, or by, the parents; the student’s anticipated needs; or any other matters. 34 CFR §300.324(b); WAC 392-172A-03110(3).

Progress Reporting: The purpose of progress reporting is to ensure that, through whatever method chosen by a school district, the reporting provides sufficient information to enable parents to be informed of their child’s progress toward the annual IEP goals and the extent to which that progress is sufficient to enable the child to achieve those goals. *Amanda J. v. Clark County Sch. Dist.*, 267 F.3d 877, 882 (9th Cir, 2001) (parents must be able to examine records and information about their child in order to “guarantee [their] ability to make informed decisions” and participate in the IEP process). IEPs must include a statement indicating how the student’s progress toward the annual goals will be measured and when the district will provide periodic

reports to the parents on the student's progress toward meeting those annual goals, such as through the use of quarterly or other periodic reports concurrent with the issuance of report cards. 34 CFR §300.320(a)(3); WAC 392-172A-03090(1)(c).

FINDINGS OF FACT

2020-2021 School Year

1. During the 2020-2021 school year, the Student was a seven-year-old first grader who attended a District elementary school. The Student was eligible for special education services under the category of developmental delay.
2. In June 2021, the Student was reevaluated by the District. The District evaluated the Student in the areas of cognitive, academic, communication, and fine and gross motor. A review of the Student's reading levels included the following:

I-Ready

Reading (4/30/21)

Overall: 405, Grade K (Kindergarten)¹

Percentile: 16th

Phonological Awareness: Grade K

Phonics: Grade K

High-Frequency Words; Grade K

Vocabulary: Grade K

Comprehension: Literature: Grade K

Comprehension: Informational Text; Mid Grade 1

[Student] also took the I-Ready assessment in the fall and winter of 1st grade where she earned overall scores of 417 (Grade K) and 388 (Grade K). In addition, the Student was receiving intervention from the Learning Assistance Program and her scores have been 'consistently below benchmark on progress monitoring measures.'

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Grade	Lexile Bands
1	190L to 530L
2	420L to 650L
3	520L to 820L
4	740L to 940L
5	830L to 1010L
6	925L to 1070L
7	970L to 1120L
8	1010L to 1185L
9	1050L to 1260L
10	1080L to 1335L
11 and 12	1185L to 1385L

DIBELS

[Student] was given the DIBELS one minute fluency assessment at spring benchmarking period. On this assessment student scores reflect words read correctly in one minute (cwpm), as well as accuracy. In the spring of 1st grade [Student] read 43 cwpm with 69% accuracy. The 1st grade spring benchmark score is 39 cwpm with 91 % accuracy.

Kaufman Test of Educational Achievement - Third Edition (KTEA 3)

READING COMPOSITE SS = 79, 8%ile, Below Average
Letter & Word Recognition SS = 80, 9%ile, Below Average
Reading Comprehension SS = 82, 12%ile, Below Average
SOUND SYMBOL COMPOSITE SS = 83, 13%ile, Below Average
Phonological Processing SS = 89, 23%ile, Average
Nonsense Word Decoding SS = 83, 13%ile, Below Average
DECODING COMPOSITE SS = 79, 8%ile, Below Average
K Letter & Word Recognition SS = 80, 9%ile, Below Average
Nonsense Word Decoding SS = 83, 13%ile, Below Average
READING UNDERSTANDING COMPOSITE SS = 79, 8%ile Below Average
Reading Comprehension SS = 82, 12%ile, Below Average
Reading Vocabulary SS = 82, 12%ile, Below Average
FLUENCY SUBTESTS
Silent Reading Fluency SS = 79, 8%ile, Below Average
Word Recognition Fluency SS = 93, 32%ile, Average

The evaluation summary stated the following:

[Student's] cognitive skills were assessed using the Wechsler Intelligence Scale for Children, 5th Edition. Her full-scale IQ fell into the average range for her age. [Student] displayed high average levels on verbal comprehension tasks, and average levels on visual spatial, fluid reasoning, working memory, and processing speed tasks for her age.

[Student's] reading skills were assessed using the Kaufman Test of Educational Achievement, 3rd Edition. At this time, [Student] performed in the below average range on reading, sound symbol, and decoding composite...

The evaluation report stated the Student demonstrated a severe discrepancy in reading comprehension and that the Student was eligible to receive special education services under the category of specific learning disability.

3. On June 17, 2021, the District held a meeting to conduct an annual review of the Student's individualized education program (IEP). In the area of reading, which is the primary area of concern in this complaint, the IEP stated: "[Student] has been working very hard on her reading, but her reading skills have not improved as expected given her effort. She is reading Level D (the benchmark for end of the 1st grade is level J). She needs work on blending, decoding, and sight words." The Student's IEP provided annual goals in the areas of reading and communication. The reading goals were as follows:

- By 06/16/2022 when given a list of the 200 words from the Fry high frequency word list [Student] will be able to decode 100 words correctly improving Phonics skills from Baseline to 100 words as measured by data collected by school personnel.
- By 06/16/2022, when given a passage to read [Student] will be able to identify initial medial, and final phonemes in various structured activities improving knowledge of phonics from reading with 69% accuracy to reading with 90% accuracy as measured by data collected by school personnel.

The accommodations for the Student included audio feedback phones, highlighted text, tactile and visual cues, and text to speech. The IEP provided the following special education services:

- Reading: 45 minutes, 5 times weekly (provided by a special education teacher in a special education setting)
- Communication: 30 minutes, 3 times monthly (provided by a speech/language pathologist in a special education setting)

The Student's IEP did not include any specific methodology that the Student required to receive a free appropriate public education (FAPE).

4. On July 12, 2021, the one-year timeline began for this complaint.

2021-2022 School Year

5. At the beginning of the 2021-2022 school year, the Student was a second grader who attended a District elementary school and continued to be eligible for special education services under the category of specific learning disability.
6. On September 9, 2021, the 2021-2022 school year began.
7. According to the District, the Student received specially designed instruction in reading using the "Reading Mastery" program. In the general education classroom, the Student received core reading instruction in the "Reading Wonders" and "Enhanced Core Reading Instruction" (ECRI) programs. The Parents were concerned that the instruction did not target the Student's dyslexia or provide evidence-based multisensory literacy instruction in both the general education classroom and the special education classroom according to the Washington state dyslexia rules (RCW 28A.300.730) and referred to in the Washington State Dyslexia Resource Guide.²
8. In November 2021, the Parents had the Student privately evaluated by a private tutoring company. No results were provided for this investigation.

² [Washington State Dyslexia Resource Guide | OSPI \(www.k12.wa.us\)](http://www.k12.wa.us)

9. According to the complaint, the Parent requested the District use the "Barton Reading and Spelling System" (Barton) with the Student, but the District denied the request in an email. The District did not provide a prior written notice to the Parents addressing the request.
10. On December 15, 2021, the Parents met with the Student's special education teacher to discuss the request to use Barton.
11. From December 20 through December 31, 2021, the District was on winter break.
12. On January 3, 2022, the Student's special education teacher emailed the Parents about their request for Barton for the Student. The email, in part, stated: "...we are not able to support [Student] with Barton as it is not a district approved curriculum."
13. According the undated "2021-2022 Parent Report – DIBELS 8th Edition" report, the Student's reading performance was as follows:³
 - Nonsense Word Fluency – Correct Letter Sounds
 - Beginning score: 29 (Well below goal - 86)
 - Middle score: 45 (Well below goal - 103)
 - Nonsense Word Fluency – Words Recorded Correctly
 - Beginning score: 5 (Well below goal - 25)
 - Middle score: 11 (Well below goal - 36)
 - Oral Reading Fluency – Words Correct
 - Beginning score: 13 (Well below goal – 85)
 - Middle score: 24 (Well below goal – 117)
 - Oral Reading Fluency – Accuracy
 - Beginning score: 52 (Well below goal – 92)
 - Middle score: 65 (Well below goal – 96)
14. According to the I-Ready assessment, the Student's "diagnostic growth" in reading was as follows:

DOMAIN	September 21, 2021	January 20, 2022
Overall	412	411
Phonological Awareness	428	384
Phonics	387	366
High-Frequency Words	389	374
Vocabulary	457	450
Literature	387	463
Informational Text	427	443
Reading Level	.75	.75

³ No end-of-school score was available.

- 15. During January and February 2022, the Parents and District exchanged many emails about how the District was implementing dyslexia instruction in the general education and special education classrooms.
- 16. In March 2022, the District reported on the Student’s progress towards the annual goals. The progress reports, including the earlier October and December 2021 reports, were as follows:

Goals	October 26, 2021	December 9, 2021	March 17, 2022
Decoding (No baseline)	Sufficient progress: 38/100 words	Sufficient progress: 55/100 words	Sufficient progress: 75/100 words
Identifying phonemes (Baseline: 69% accuracy)	Sufficient progress: 35% accuracy ⁴	Sufficient progress: 30% accuracy	Sufficient progress: 62% accuracy

- 17. On March 23, 2022, the District conducted a meeting to review the Student’s IEP. According to a March 31, 2022 email from the special education director to the Parents, the team discussed providing the Parents with general education data regarding the Student, curriculum research on ECRI and “Reading Mastery”, and developing a draft IEP. The email described the Student’s reading program as follows:

The response to your January 19th letter is that the plan to address the reading disability of your daughter is that as a district the general education classroom provides a 90-minute reading block through a combination of Reading Wonders and ECRI while the resource room provides 45 minutes of reading instruction daily as an intervention based on the current IEP through Reading Mastery. The team will continue to look at DIBELS, I-Ready, classroom and resource room data to lead their IEP discussions about if the IEP minutes need to be adjusted based on your child's data. The team can also look at what accommodations are being successful in helping your daughter access her education. In addition, as an IEP team we can look at if the reading intervention is being delivered at the best time of the day or should this be adjusted to pre-teach a reading skill so that your daughter can be more successful in her general education class or should it be delivered as a review to reinforce the skill taught in her general education class.

The team agreed to follow up with another IEP meeting to further discuss the Parents’ concerns and develop the IEP.

- 18. In April 2022, the Parents had a private neurodevelopmental evaluation conducted. The June 3, 2022 report stated the evaluation consisted of interviews with the Parents and the Student, a review of the December 2021 private evaluation and the District’s evaluation, and assessments in the areas of behavior, reading, and writing.⁵ The results from the reading assessment were as follows:

PAL-II	Scaled Score	Percentile Rank	Classification

⁴ This goal was reported on November 21, 2022.

⁵ “Process Assessment of the Learner-Second Edition”

Phonological Awareness			
Phonemes	5	5	Low
Syllables	7	16	Low Average

Decoding			
Pseudoword Decoding Accuracy	6	9	Low Average
Pseudoword Decoding Fluency	6	9	Low Average
Morphological Decoding Accuracy	4	2	Low
Morphological Decoding Fluency	3	1	Extremely Low
Orthographic Coding			
Receptive Coding	6	9	Low Average
Working Memory			
Letters	6	9	Low Average
Rapid Automatic Naming (RAN)			
Letters	6	9	Low Average
Words	10	50	Average
Words/Digits	7	16	Low Average

The report included the following recommendation, among others:

Given [Student's] processing differences she will need an evidence-based intervention program designed for individuals with dyslexia. In determining its appropriateness for children with dyslexia, it is important that there is peer reviewed, independent research showing its efficacy with children identified as dyslexic. Training and adherence to program components with fidelity is integral to achieving similar levels of efficacy as those evidenced in the research supporting each program. Evidence-based interventions rely heavily on a structured literacy learning approach. Examples include Orton Gillingham, Barton Reading and Spelling System, Read Naturally, and Wilson Reading System. Components of an effective structured literacy program include systematic and direct instruction in (1) phonology (developing phonemic awareness through segmenting, blending, and rhyming), (2) sound-symbol association (direct teaching of phonics explicitly and systematically), (3) syllable instruction (teaching the six basic syllable types), (4) morphology (teaching base words, roots, prefixes, and suffixes), (5) syntax (grammar and mechanics of language, and (6) semantics (to promote comprehension).

19. After attempts to schedule an IEP meeting, on June 13, 2022, the team conducted an annual review of the Student's IEP. The IEP stated the Parents were concerned about the Student's rate of progress, including writing and math, and the "curriculum being implemented in both general education and special education settings." The IEP also stated:

[Parent] requested that the IEP include documentation of reports written by [private clinic] and [private evaluator] indicating that [Student] has been identified as a student with Dyslexia, Dysgraphia, and corresponding deficits in working memory, phonological awareness, phonological processing and orthographic processing.

The team developed new goals in the areas of reading and communications. The reading goals were as follows:

- By 06/19/2023, when given 20 vowel digraphs [Student] will be able to state the sounds of the digraphs improving decoding skills from 4/20 or 20% of the digraphs to 20/20 or 100% as measured by data collection and teacher made assessments.
- By 06/19/2023, when given the DIBELS 1st grade reading fluency assessment [Student] will be able to read 100 correct words per minute with 90% accuracy improving ability to read fluently from [Student] is able to read 36 correct words per minute with 82% accuracy to 100 correct words per minute with 90% accuracy as measured by data collection.
- By 06/19/2023, when given the second grade Dibels MAZE [Student] will be able to answer comprehension questions improving her ability to understand what she reads from 16% accuracy to 80% accuracy as measured by Dibels Maze assessment.

There was no indication the team discussed changing the frequency, duration, or location of the specially designed instruction. The Student's IEP did not include a specific methodology for specially designed instruction in reading.

20. The prior written notice stated, in relevant part, that the District agreed to review the private evaluation to "consider input and suggestions pertinent to the IEP, and incorporate in the draft IEP." The notice stated: "The District revised reading goals to update how progress will be measured, added a fluency and comprehension goal, and incorporated suggested accommodations."

21. According to the Student's attendance records, the Student missed 16 days of school during the 2021-2022 school year. The District stated:

Missing 16 days of school in 2nd grade equates to missing 9% of critical instruction over the course of a school year. While [Student's] attendance in 2nd grade did not fall into the "Chronic Absence" category (10% or more days absent), she is very close. Statistically, students who demonstrate chronic absence often fall behind in school, usually have difficulty with reading skills, and many find it difficult to recoup the skill loss. Chronic absences can become a habit which makes skill development and progress even more difficult over time. Also of note, the majority of her 21-22 SY absences (15) occurred from January through May and included both absences for illness and for vacation/visiting. In 1st grade she had fewer absences overall, however the majority of those absences also occurred from March through May, indicating a pattern of absences in the winter/spring timeframe.

22. According to the Parents, the Parent, who was a reading teacher in the District for ten years, tutored the Student at home one hour a day before school since December 2021 using the Barton Reading Program. The Parent stated she informed the District about the tutoring. The

Parent stated the Student has made progress in reading over the summer although there were no assessments of progress administered. The Parents noted that progress should be evident in the forthcoming evaluation of the Student.

23. The complaint included a report dated August 11, 2022 from a private reading specialist, hired by the Parents, who reviewed the Student's IEP, progress reports, and private evaluations about the Student's specially designed instruction in reading. There was no indication the private reading specialist evaluated the Student, observed the Student receiving instruction, or contacted the Student's teachers for input. The purpose of the information was to provide documentation about 1) whether the interventions provided to the Student were evidenced-based and supported by research; 2) whether the Student's dyslexia interventions were implemented with fidelity; and 3) whether the Student made progress towards her reading goals. The report is summarized as follows:

- The Student's interventions needed to be viewed in the context of a multitiered system of support (MTSS) that was provided in the general education classroom.
- The Student's needs in reading go beyond MTSS.
- The Student has demonstrated a need for a structured literacy program as described in RCW 28A.320.260.⁶ "...This requires teachers to use specific, structured literacy interventions for students with dyslexia."
- Research does not support the use of "Reading Wonders" or ECRI with students with dyslexia.
- The use of multiple methodologies can be "detrimental" for a student with dyslexia.
- The District has not implemented its reading methodologies with fidelity.
- The Student's goals are not based on a "systematic, structured literacy program and are, therefore, of limited utility in rating her actual progress." The Student was not meeting her goals.

CONCLUSIONS

Issue One: IEP Development – The complaint alleged the Student was denied FAPE because the Student's June 2021 IEP did not address her unique needs in reading and special education services were not based on peer-reviewed research to the extent practicable. An IEP must include a statement of the special education services, based on peer-reviewed research to the extent practicable, that meet a student's unique needs.

Here, the Student's IEP team met in June 2021 for an annual review of the Student's IEP to be implemented during the 2021-2022 school year. The Parents' attorney, the Complainant, filed the complaint on July 11, 2022, which started the one-year timeline OSPI has authority to investigate through the special education community complaint process on July 12, 2021. The June 2021 IEP preceded the one-year timeline and therefore, OSPI cannot render a decision on it. OSPI will address whether the District was required to review and revise the Student's IEP and if so, OSPI will determine whether the District addressed the Student's unique needs and proposed special education services based on peer-reviewed research to the extent practicable below.

⁶ [RCW 28A.320.260: Dyslexia interventions. \(wa.gov\)](https://www.wa.gov/rcw/default.aspx?title=28&chapter=320§ion=260)

Issue Two: Review and Revise the IEP – The complaint alleged the District failed to address the Student’s lack of progress in reading. A district is required to review and revise, as appropriate, the IEP at least once a year or sooner to address any lack of unexpected progress towards the goals and in the general education curriculum, if appropriate.

Here, the Student’s June 2021 IEP identified reading (and communication) as a need that required specially designed instruction. The IEP provided two goals in the area of reading. At the time the IEP was developed, the present level or baseline for identifying phonemes was 69% and the goal for the 2021-2022 school year was 90%. For the decoding goal, there was no baseline noted, but the goal was 90 words for the next school year. The Student received specially designed instruction in reading for 45 minutes, five times weekly. Although a reading methodology was not specified in the IEP, the District stated the “Reading Mastery” curriculum was used in the specially designed instruction for the Student.

The Student’s progress report showed the following:

Goals	October 26, 2021	December 9, 2021	March 17, 2022
Decoding (No baseline)	Sufficient progress: 38/100 words	Sufficient progress: 55/100 words	Sufficient progress: 75/100 words
Identifying phonemes (Baseline: 69% accuracy)	Sufficient progress: 35% accuracy ⁷	Sufficient progress: 30% accuracy	Sufficient progress: 62% accuracy

The decoding progress report showed the Student made progress towards the annual goal although she did not achieve the goal. There was no indication why the Student did not meet the goal. The DIBELS and I-Ready assessments seem to confirm the lack of progress in the general curriculum. For the identifying phonemes goal, the progress report showed a significant regression from the baseline during the first progress reporting period and further regression in the second period.

In December 2021, the Parents met informally with the special education teacher and requested the Barton program to address the Student’s regression. No IEP meeting was held, and no prior written notice was provided to the Parent related to this request. The requested reading program was later denied in January 2022 in an email. The Student’s third period report showed progress with decoding but not to the level where the Student was previously performing in June 2021; the Student did not meet the goal. The DIBELS and I-Ready assessments confirmed the lack of progress in these areas and others. The IEP team met in March 2022 to discuss the Student’s reading program, but there was no reference to the team discussing the Student’s prior regression in decoding. Also, there was no mention in documentation of the IEP meeting that the team discussed the Parents’ tutoring with the Student that began in December 2021 and what effect that might have had on the Student’s significant progress from the second progress report to the third. A district is required to consider any tutoring a student receives to determine if a student’s achievement reflects service augmentation and not what the student’s achievement would be

⁷ This goal was reported on November 21, 2022.

without such help.⁸ Lastly, the District also needed to consider the possible impact of the Student's 16 absences on the Student's progress during the 2021-2022 school year and the documentation does not indicate this was discussed either.

Based on the lack of progress in decoding during the first and second periods, the District should have conducted an IEP meeting to address the unexpected lack of progress sooner than the March 2022 IEP meeting. Additionally, the Student's IEP team should have addressed the Parent's December 2021 request for the Barton program and considered other interventions to address the Student's regression and growth during the third period in light of the Parents' tutoring, and provided a prior written notice documenting the decision. Based on the failure to timely meet and address the lack of progress and hold an IEP meeting to address the Parents reading program request, a violation is found. The District is required to convene the IEP team to consider Parents' requests and provide training to staff regarding the requirement to review and revise the IEP to address a lack of progress.

For an IEP to provide a FAPE, it must be reasonably calculated to enable a student to make progress appropriate in light of a student's circumstances. A student is not entitled to the maximum progress possible. Although special education services need to be based on research to the extent practicable, they need not be, necessarily, the choice of select experts or the parents' choice. The services and the methodology must be designed to be effective for the student. While districts have the responsibility in choosing the methodology, the district also is responsible for providing a student a FAPE. Despite the private reading specialist's recitation of research, there was no evidence that the Student's lack of progress was due solely to using the particular reading program. For example, the Student's absences may have contributed to a lack of progress. Regardless of the cause, the Student's lack of appropriate progress compels the District to consider whether possible changes to the Student's special education reading instruction, including methodology, are needed.

That being said, the private reading specialist recommended a systematic, structured literacy program be provided to the Student based on research and the Student being identified as dyslexic. However, the reading specialist did not assess the Student and had no direct contact with the Student. In addition, the reading specialist did not talk with the Student's teachers or observe any of the instruction by the Student's special education teacher which would be important in determining whether the specially designed instruction was appropriate for this specific Student. The Student's IEP team, should however, discuss the private reading specialist's recommendations.

CORRECTIVE ACTION

By or before **September 23, 2022, October 7, 2022, and October 28, 2022**, the District will provide documentation to OSPI that it has completed the following corrective actions.

STUDENT SPECIFIC:

⁸ OSEP Letter to Lillie/Felton (April 5, 1995)

IEP Meeting

By **September 30, 2022**, the District is required to conduct an IEP meeting to review the Student's progress and determine if the Student's IEP is reasonably calculated to provide the Student meaningful benefit in reading, taking into account the Student's rate of progress in light of the Parents' tutoring and the Student's absences.

By **October 7, 2022**, the District is required to provide OSPI with a copy of the meeting notice, IEP, prior written notice, and meeting minutes, if any. OSPI will review the the decisions about reading services to determine if the decisions were based on Student-specific data and was consistent with the Student's abilities and needs.

DISTRICT SPECIFIC:

By **October 21, 2022**, the District, in cooperation and collaboration with a non-District employee (e.g., the ESD or other trainer), will develop and conduct a training on the below topics. The District will provide the trainer with a copy of this decision, SECC 22-87.

The following District staff will receive training: District special education administrators and psychologists, and the following at the Student's school: principal, assistant principal, and special education certified staff (teachers). The training will cover the following topics:

- The requirement to convene a student's IEP team if a student is not making expected progress towards the annual goals and general education curriculum. Service augmentation must also be considered.
- The requirement to consider parents' input and suggestions and provide prior written notice.

The training will include examples.

By or before **September 23, 2022**, the District will notify OSPI of the name of the trainer and provide documentation that the District has provided the trainer with a copy of this decision for use in preparing the training materials.

By or before **October 7, 2022**, the District will submit a draft of the training materials for OSPI to review. OSPI will approve the materials or provide comments as needed.

By **October 21, 2022**, the District will conduct the training regarding the topics raised in this complaint decision.

By **October 28, 2022**, the District will submit documentation that required staff participated in the training. This will include 1) a sign-in sheet from the training, and 2) a 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 September, 2022

Dr. Tania May
Assistant Superintendent of 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.)