

SPECIAL EDUCATION CITIZEN COMPLAINT (SECC) NO. 17-80

PROCEDURAL HISTORY

On November 2, 2017, the Office of Superintendent of Public Instruction (OSPI) received a Special Education Citizen Complaint from the parent (Parent) of a student (Student) attending the Tukwila School District (District) and the Parent's partner (Complainant). The Parent alleged that the District violated the Individuals with Disabilities Education Act (IDEA), or a regulation implementing the IDEA, with regard to the Student's education.

On November 2, 2017, OSPI acknowledged receipt of this complaint and forwarded a copy of it to the District Superintendent on the same day. OSPI asked the District to respond to the allegations made in the complaint.

On November 21, 2017, OSPI received the District's response to the complaint and forwarded it to the Parent and Complainant on November 22, 2017. OSPI invited the Parent and Complainant to reply with any information they had that was inconsistent with the District's information. The Parent and the Complainant did not reply.

On December 27, 2017, OSPI requested clarifying information from the District and spoke to the District director of special education.

Also on December 27, 2017, OSPI requested information from the Parent and Complainant. On December 28, 2017, OSPI received the requested information from the Parent and Complainant and forwarded the information to the District on the same day.

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

OVERVIEW

During the 2017-2018 school year, the Student attended a District high school and was eligible to receive special education and related services under the category of multiple disabilities. The Student's individualized education program (IEP) provided for monthly progress reporting regarding the Student's progress towards his annual goals. On September 11, 2017, the Student began attending school. On October 27, 2017, the District, the Parent, and the Complainant met to review the Student's IEP and the District provided its first progress reporting of the school year. The Parent and the Complainant alleged that the District failed to collect Student data and provide monthly progress reporting regarding the Student's progress toward his annual goals in accordance with the Student's IEP. The District denied the allegation.

SCOPE OF INVESTIGATION

This decision references events which occurred prior to the investigation time period, which began on September 5, 2017. These references are included to add context to the issues under investigation and are not intended to identify additional issues or potential violations, which occurred prior to the investigation time period.

ISSUE

1. Did the District provide the Parent with progress reporting consistent with the Student's individualized education program (IEP) in place during the 2017-2018 school year?

LEGAL STANDARDS

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 who is eligible to receive special education services. It must also ensure it provides all services in a student's IEP, consistent with the student's needs as described in that IEP. 34 CFR §300.323; WAC 392-172A-03105.

Progress Reports: 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

Background Information

1. On February 27, 2017, the Parent and Complainant filed special education citizen complaint (SECC) 17-13, alleging that the District failed to follow procedures for providing progress reporting consistent with the Student's individualized education program (IEP). On March 20, 2017, OSPI received the District's response to SECC 17-13. The District admitted that it failed to follow procedures to provide monthly progress reporting.
2. On April 27, 2017, OSPI issued a decision in SECC 17-13 and ordered the District to develop written guidance to be provided to all District certificated special education staff, including educational staff associates (ESAs) responsible for providing progress reporting, principals and assistant principals, which addressed the procedures for providing parents with progress reporting toward IEP goals and data collection practices. The District complied with the corrective action and on June 20, 2017, OSPI closed SECC 17-13.

2017-2018 School Year

3. During the 2017-2018 school year, the Student attended a District high school and was eligible to receive special education and related services under the category of multiple disabilities.

4. The District's 2017-2018 school year began on September 5, 2017.
5. The Student's IEP in place at the beginning of the 2017-2018 school year was developed on April 20, 2017. The IEP stated the Student was diagnosed with Autism and a genetic disorder. The IEP stated the Student's disability had an adverse impact on his ability to make progress in the general education curriculum without services, and stated that the Student's development was significantly behind his same-age peers in academic, adaptive, and social skills. The IEP provided for the following annual goals in the areas of academics, adaptive, and social skills:
 - Adaptive – KeyPad: when given a visual list of numbers in (list, phone number, lunch number) [the Student] will independently (no verbal prompt) input data/information into a ten key pad, phone dial pad, [or] calculator improving adaptive skills from independently inputting 0 out of 5 attempts (0% accuracy) to independently inputting 4 out of 5 attempts (80% accuracy) over 4 consecutive weeks as measured by weekly teacher data.
 - Adaptive – Self Correct with Choice: when given a task with 2 outcomes, one correct and one incorrect, [the Student] will self-correct when incorrect choice is first made improving adaptive skills from 0 out of 5 opportunities to 5 out of 5 opportunities as measured by 5 consecutive data points.
 - Adaptive – Recipe/Task Completion: when given a picture recipe or vocational task, [the Student] will follow the recipe or vocational task improving functional skills from 50% accuracy with prompting to 100% accuracy without prompting in 4/5 trials as measured by teacher data collection; five consecutive data points.
 - Adaptive – Keyboarding/Typing: when given a chromebook or computer, [the Student] will use keyboarding programs improving initiation skills from typing 10 wpm with 60% accuracy with adult encouragement and prompting to independently typing 30 wpm with 90% accuracy on 3/3 trials as measured by teacher data on three collection days.
 - Academics – Math: when given two or more sets of manipulatives, [the Student] will apply the concept of subtraction to find the difference in numeric value between the two sets improving math skills from 0 out of 5 attempts (0% accuracy) with prompting to 4 out of 5 attempts (80% accuracy) independently as measured by teacher data, over 4 consecutive weeks.
 - Academics – Functional Reading: when given sets of 10 words from different environmental categories (kitchen, public, safety, work related) during a preferred activity, [the Student] will when cued, comprehend words by demonstrating meaning improving reading from 0/10 opportunities to 10/10 opportunities for 4 consecutive 4 weeks as measured by weekly teacher data.
 - Academics – Functional Writing: when given a visual checklist of tasks in class or on campus, [the Student] will independently indicate completion of a task by moving a picture card, checking a box, or writing yes/no improving written language from 5/10 to 10/10 opportunities over 4 consecutive weeks as measured by teacher observation and data collection.
 - Academics – Calculation: when given 30 problems of addition and/or subtraction, [the Student] will use strategies with a calculator to compute the correct answer improving number sense for adding and subtracting from 50% accuracy for correct answers with prompting to 95% accuracy for correct answers without prompting as measured by teacher observation and classroom assessments.

- Social – Work System: when given a visual sequence of tasks to complete, [the Student] will independently complete tasks in the correct order within a reasonable time frame improving social skills from 0/5 opportunities to 5/5 opportunities as measured by weekly teacher/classroom data.
- Social – Interactions: when given a structured social interaction opportunity, [the Student] will use a device or picture symbols to initiate and respond to a greeting, closing, or question, to maintain a conversational exchange improving social interactions with peers from responding to a greeting, closing, or a question to familiar peers (i.e., “good morning/afternoon,” “good bye,” “have a good day/night”) in 80% of opportunities to appropriately initiating and responding to peers’ greeting, closing, questions in 80% of opportunities using a device or picture symbols as measured by weekly teacher/classroom data.

The Student’s April 2017 IEP also stated that progress reporting regarding the Student’s progress toward his annual goals would be provided every trimester. Additionally, the IEP included accommodations to provide “monthly written progress [reports] to parent”, convene parent meetings every eight weeks, and a 1:1 paraeducator. The IEP provided for the following specially designed instruction and related services:

- Academics: 150 minutes, five times per week – provided by a special education teacher in a special education setting
- Adaptive: 50 minutes, five times per week – provided by a special education teacher in a special education setting
- Social: 50 minutes, five times per week – provided by a special education teacher in a special education setting
- Occupational Therapy: 120 minutes, one time per month – provided by an occupational therapist in a special education setting
- Communication: 60 minutes, one time per week – provided by a speech language pathologist (SLP) in a special education setting

6. According to the District’s response to this complaint, on September 11, 2017, the Student began attending school. For part of the Student’s school day, he receives special education services in a special education classroom referred to as the “Learning Resource Center II” (LRC2).
7. Based on a telephone conversation with the District director of special education (director), a long-term special education substitute teacher taught the LRC2 program until September 25, 2017, when a permanent special education teacher began working in the District. The director further stated that the special education support staff in the LRC2 classroom previously worked with the Student during the 2016-2017 school year, and they were familiar with the Student and the Student’s program, daily activities, and tasks.
8. On October 5, 2017, the Complainant emailed the special education teacher and copied the director and the high school assistant principal. The Complainant stated he was “not requesting a full IEP meeting”, but wanted to meet to review the Student’s IEP with the special education teacher. On October 12, 2017, the special education teacher responded to the email, inquiring what days the Parent and Complainant were available to meet.

9. On October 15-17, 2017, the Complainant, the director, the special education teacher, the assistant principal, and the SLP exchanged emails and scheduled a meeting for October 27, 2017.
10. On October 19, 2017, the SLP emailed the director, the special education teacher, the assistant SLP, the assistant principal, and the occupational therapist (OT). The SLP stated that she had been taking data and had a report ready. She also stated she had contact with the Student's 1:1 paraeducator and had received additional data from him.
11. On October 23, 2017, the Complainant emailed the SLP and copied the assistant principal. The Complainant inquired if the SLP was available to meet prior to the meeting scheduled for October 27, 2017. He also asked when the SLP worked with the Student, how often she worked with the Student, and what the "time with [the Student] look[ed] like". On October 24, 2017, the SLP responded that she would be available to meet the Parent and the Complainant for ten (10) minutes prior to the start of the October 27 meeting.
12. On October 26, 2017, the SLP emailed the director, the special education teacher, the OT, the assistant principal, and the assistant SLP, inviting them to complete the attached draft document "November Monthly Update for the Student". The November monthly update stated that the documentation for the Student's October progress was to be completed by the last school day of October, and also stated that the documentation was due to Parents by November 20, 2017.
13. On October 27, 2017, District and school staff attended a meeting with the Parent and the Complainant and reviewed the Student's progress reporting. According to the District's response to this complaint, the first monthly progress reporting included "a month of gathering sufficient information" from September 25, 2017 through October 25, 2017. The response also stated the District "shared information regarding each goal and subsequent data collected toward each goal".
14. The Parent and Complainant provided the progress reporting they received at the October 27, 2017 parent meeting. The October 2017 "Monthly Update" included the following data/progress:
 - Adaptive – KeyPad: October 2017 – accurate with numbers with verbal prompting.
 - Adaptive – Self-Correct with Choice: October 2017 – 4/5 with verbal prompting.
 - Adaptive – Recipe & Task Completion: (This section was left blank.)
 - Adaptive – Keyboarding/Typing: October 2017 – second level independent on the game. He is entering his own password with verbal prompting.
 - Academics – Math: October 2017 – 5 objects, 4 /5 correct up to 5 objects, error is skipping 1 number.
 - Academics – Calculation: October 2017 – with prompting to pushing buttons. He is above 50% correct. When incorrect, he will stop or hover. Working up to the number 12. Correct up to 8 or 9.
 - Academics – Functional Reading: Student is able to copy teacher speech.

- Academics – Functional Writing: October 2017 – able to copy personal information like address[es].
- Social – Work System: able to complete 3 tasks in a reasonable time, building visual supports to increase his independence for all areas.
- Social – Interactions: He is independent with greeting, closing. Not asking questions.

15. On October 30, 2017, the special education teacher emailed the Complainant, stating that “the team has come up with some daily data sheets with a formalized schedule for the Student”. She also stated that “after a couple days of practice with the sheets we will be sending them home”. The District’s documentation in response to this complaint included “[the Student’s] schedule and data sheets” from October 30, 2017 through November 7, 2017.

16. Later on October 30, 2017, the Complainant emailed District staff, stating that “nothing resembling a progress report was mentioned or offered prior to the meeting with [the high school] staff on Friday, October 27.” The Complainant also stated that he requested to see the data that were collected during the last month and a half of school regarding the Student’s progress toward his goals, and stated that he had received “one worksheet from [the Student’s] work with a keypad.” The Complainant further stated he did not understand how “percentages could have been filled into the monthly report that was presented at the meeting, without any data”.

17. On October 31, 2017, the assistant principal responded to the Complainant’s October 30, 2017 email. The assistant principal stated that during the October 27, 2017 meeting, the Parent and Complainant were provided progress reporting and samples of how the data in the report were generated. The assistant principal stated that “the math worksheet you were shown was a sample” and that the special education teacher had explained that she also used manipulatives to show the Student the values of the numbers on the sheet and prompted the Student to “push the number to manipulate the calculator as well”.

18. The District’s documentation in this complaint included a “Monthly Update” for October/November 2017. The monthly update stated the “documentation due to parents by December 8, 2017¹.” The “monthly update” included the following data/progress:

- Adaptive – KeyPad: October 2017 – He is accurate with dialing numbers with verbal prompting.
- Adaptive – Self-Correct with Choice: October 2017 – He is able to self-correct 4 out of 5 times with verbal prompting. We are still working on his ability to correct by himself without any kind of prompting.
- Adaptive – Recipe & Task Completion: He stills needs verbal prompting to almost all task completion.

¹ It is unclear whether the District has provided the Parent and Complainant with the October/November 2017 “Monthly Update”.

- Adaptive – Keyboarding/Typing: October 2017 – second level independent on the game. He is entering his own password with verbal prompting.
- Academics – Math: October 2017 – 5 objects, 4 out of 5 correct up to 5 objects, error is skipping 1 number.
- Academics – Calculation: He is above 50% correct with promptings with pushing buttons. When correct, he will stop or hover. He is working up to the number 12. He has been correct when working up to 8 or 9.
- Academics – Functional Reading: Student is able to copy teacher speech but won't answer beforehand without verbal prompting.
- Academics – Functional Writing: October 2017 – He is able to copy personal information like address[es].
- Social – Work System: He is able to complete 3 tasks in a reasonable time we are building visual supports to increase his independence for all areas.
- Social – Interactions: He is independent with greeting, closing. Will not ask questions.

19. On November 2, 2017, the Complainant emailed the District school board. The Complainant stated that he and the Parent were “once again experiencing the same problems from last year” regarding data collection and progress reporting.

20. On November 2, 2017, the Parent and Complainant filed this citizen compliant.

CONCLUSIONS

The Parent and Complainant alleged that the District failed to collect Student data and provide monthly progress reporting regarding the Student's progress toward his annual goals in accordance with the Student's IEP. 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. The Student's April 2017 IEP stated that monthly written progress reporting would be provided to the Parent; therefore, the District should have provided the Parent with progress reporting in September 2017 and every month after. The Student began school on September 11, 2017, and on October 27, 2017, the first progress reporting regarding the Student's progress toward his annual goals was provided to the Parent and Complainant at a parent meeting. Although the District and school staff discussed the Student's progress at the October 27 meeting, when the Parent and Complainant requested to see the Student data that was collected during the last month and a half of school regarding the Student's progress toward his IEP goals, they received limited information and “samples” of how the data was collected and used for the progress reporting. Additionally, the October 2017 “Monthly Update” provided limited information regarding the Student's progress toward his annual goals in academics, adaptive, and social skills. The District needs to ensure it is providing progress reporting every month that includes sufficient information to inform the Parent about the Student's progress toward all of his annual IEP goals. The District did not substantiate that it followed procedures to provide progress reporting consistent with the Student's IEP in place during the 2017-2018 school year.

CORRECTIVE ACTIONS

By or before **February 2, 2018**, **March 2, 2018**, and **April 20, 2018**, the District will provide documentation to OSPI that it has completed the following corrective action.

STUDENT SPECIFIC:

None.

DISTRICT SPECIFIC:

The District will ensure that certificated staff, including educational staff associates (ESAs) and administrators, from the Student's high school receive training regarding procedures for providing parents with progress reporting toward IEP goals, as often as stated in a student's IEP, and data collection practices. The trainer will not be an employee of the District. The training will also include examples.

- By **February 2, 2018**, the District will notify OSPI of the name of the outside 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 **March 2, 2018**, the District will submit a draft of the training materials to OSPI for review. OSPI will approve the materials or provide comments by March 23, 2018, and additional dates for review, if needed.
- By **April 20, 2018**, the District will submit documentation that staff participated in the training. This will include a 1) sign-in sheet from the training, and 2) roster of all high school certificated staff and administrators 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.

RECOMMENDATION

OSPI recommends the District, the Parent, and Complainant meet to establish a consistent date to issue the monthly written progress reports to the Parent and Complainant.

Dated this ____ day of December, 2017



Glenna Gallo, M.S., M.B.A.
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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.)