

SPECIAL EDUCATION CITIZEN COMPLAINT (SECC) NO. 20-90

PROCEDURAL HISTORY

On July 21, 2020, the Office of Superintendent of Public Instruction (OSPI) received a Special Education Citizen Complaint from the parent (Parent) of a student (Student) attending the Spokane 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 July 21, 2020, OSPI acknowledged receipt of this complaint and forwarded a copy of it to the District Superintendent on the same day. OSPI asked the District to respond to the allegations made in the complaint.

On August 10, 2020, OSPI received the District's response to the complaint and forwarded it to the Parent on August 11, 2020. OSPI invited the Parent to reply.

On August 24, 2020, OSPI received the Parent's reply. OSPI forwarded that reply to the District on August 26, 2020.

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

ISSUE

1. Did the District implement the Student's individualized education program (IEP) during the March 2020 through June 2020 school facility closures?

LEGAL STANDARDS

IEP Implementation during School Facility Closures for COVID-19: 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. It must also 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).

During the COVID-19 school facility closures, as students received general education instruction and student support services, districts must provide students with disabilities with the special education services—related services and specially designed instruction—supporting a free

appropriate public education (FAPE). The U.S. Department of Education Office for Civil Rights (OCR) and Office for Special Education and Rehabilitative Services (OSERS) indicated the “exceptional circumstances” presented during the school facility closures caused by COVID-19 “may affect how all educational and related services and supports are provided” to students with disabilities. There is not an expectation that IEP services would be delivered exactly as the IEP states. *Questions and Answers: Provision of Services to Students with Disabilities During School Facility Closures for COVID-19* (OSPI March 24, 2020); *Supplemental Fact Sheet Addressing the Risk of COVID-19 in Preschool, Elementary and Secondary Schools While Serving Children with Disabilities* (OCR/OSERS March 21, 2020) (“It is important to emphasize that federal disability law allows for flexibility in determining how to meet the individual needs of students with disabilities...during this national emergency, schools may not be able to provide all services in the same manner they are typically provided...The determination of how FAPE is to be provided may need to be different in this time of unprecedented national emergency...FAPE may be provided consistent with the need to protect the health and safety of students with disabilities and those individuals providing special education and related services to students.”)

While there was not an expectation that districts implemented a student’s IEP as written during school closures caused by COVID-19 in spring 2020, districts must have had a plan for how students with disabilities were to receive a FAPE, including the provision of special education. *Questions and Answers* (OSPI, March 24, 2020); *Questions and Answers* (OSPI, May 5, 2020). See also, *Questions and Answers on Providing Services to Children with Disabilities During the Coronavirus Disease 2019 Outbreak* (U.S. Department of Education, March 13, 2020) (“SEAs, LEAs, and schools must ensure that to the greatest extent possible, each student with a disability can be provided the special education and related services identified in the student’s IEP developed under the IDEA”).

All schools were expected to have begun providing educational services for all students by March 30, 2020, which OSPI termed “Continuous Learning 2020.” OSPI Bulletin 024-20 (March 23, 2020). OSPI described the nature of instruction that students were to receive during the COVID-19 as follows: “[School districts] should avoid assuming that continuity of education outside of a typical school building can only occur through online means. Districts will provide instruction using printed online learning materials, phone contact, email, technology-based virtual instruction, or a combination to meet student needs.” *Guidance for Long-term School Closures* (OSPI, March 23, 2020).

The individualized special education services being provided to a student during the school facility closures as part of continuous learning, were to be documented in writing using a student’s annual IEP, IEP amendment (particularly if services to be provided during the closure were significantly different from what the IEP indicated), prior written notice, or optional “Continuous Learning Plan” (CLP) or similar document. Districts had flexibility in how they chose to document decisions made in real-time. *Questions and Answers* (OSPI, April 13, 2020). Districts were encouraged to prioritize parent communication, including discussions of how special education services were to be provided during the closures. *Questions and Answers* (OSPI, May 5, 2020).

Specialty Designed Instruction: The purpose of the IDEA is to ensure that all students eligible for special education have available to them a FAPE that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living. 34 CFR §300.1; WAC 392-172A-01005. Special education includes specially designed instruction, which means adapting, as appropriate to the needs of an eligible student, the content, methodology, or delivery of instruction: to address the unique needs of the student that result from the student's disability; and to ensure access of the student to the general curriculum, so that the student can meet the educational standards within the jurisdiction of the public agency that apply to all students. 34 CFR §300.39(b)(3); WAC 392-172A-01175(3)(c).

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. 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

2019-2020 School Year

1. During the 2019-2020 school year, the Student attended a District elementary school, was in the first grade, and was eligible for special education services under the category visual impairment.
2. The District's 2019-2020 school year began on August 29, 2019.
3. The Student's June 4, 2019 individualized education program (IEP) was in effect prior to the COVID-19 school facility closures. The Student's June 2019 IEP included annual goals in the following areas:
 - **Reading** (ability to read high-frequency sight words);
 - **Writing** (ability to write complete sentences);
 - **Math** (ability to add and subtract numbers up to 10);
 - **Behavior/social** (ability to engage in play with peers);
 - **Communication 1** (ability to "correctly produced voiced and voiceless th in all positions of words")
 - **Communication 2** (ability to "correctly use the handling technique of easy onset on initial sounds of words")
 - **Visually Impaired Compensatory Skills 1** (ability to "walk a 2 block route in all directions around the school neighborhood, maintaining orientation using landmarks"); and,
 - **Visually Impaired Compensatory Skills 2** (ability to put spaces between words).¹

¹ The Student's June 2019 IEP also included three "long term benchmarks" for the related service of occupational therapy: 1) ability to copy or write 2 sentences with correct letter formation; 2) ability to copy

The Student's June 2019 IEP stated the Parent would be informed of the Student's progress on the annual goals in his June 2019 IEP via "trimester notices of progress."

The Student's June 2019 IEP provided the Student with the following specially designed instruction in a *special education setting*:

- **Reading:** 60 minutes 1 time a week (to be provided by special education staff)
- **Writing:** 60 minutes 1 time a week (to be provided by special education staff)
- **Math:** 90 minutes 1 time a week (to be provided by special education staff)
- **Behavior/social:** 30 minutes 1 time a week (to be provided by special education staff)
- **Visually Impaired Compensatory Skills:** 120 minutes 1 time a week (to be provided by special education staff)
- **Communication:** 30 minutes 1 time a week (to be provided by a speech language pathologist (SLP))
- **Visually Impaired Compensatory Skills:** 30 minutes 1 time a week (to be provided by special education staff)

The Student's June 2019 IEP provided the Student with the following related services in a *special education setting*:

- **Occupational Therapy:** 80 minutes 1 time a month (to be provided by an occupational therapist)

The Student's June 2019 IEP also stated the Student required an iPad, a "braille," and a slant board.

4. According to the District's calendar, March 11, 2020 was the end of the second trimester.
5. On March 13, 2020, the Washington Governor issued a proclamation, announcing the closures of all public and private K-12 school facilities in the state through April 24, 2020, due to the COVID-19 pandemic and resulting public health crisis.
6. According to the District's response, "in accordance with [the governor's March 13, 2020 order], March 16, 2020 was the last day that students in the District received in-person instruction."

Furthermore, according to the District's response: "On March 16, 2020, the District's special education providers sent six weeks of learning materials home to the District's special education students, including the Student."

7. The District's response to the Parent's complaint included a communication log (communication log – visual) from the teacher of the visually impaired (TVI). The communication log – visual included the following entry for March 16, 2020: "Picking up Student's iPad and other supplies. Talked about talking typer on his iPad."

or write 2 sentences "with 85% [of the] letters contained within 1 inch line with visual cues or adaptive paper, as needed"; and 3) ability to "cut out a complex shape."

8. The communication log – visual included the following entry for March 19, 2020: “Text from mom clarifying some supplies sent home. Tactile map making supplies.”
9. On March 23, 2020, OSPI issued guidance, instructing districts that while school facilities are closed and not providing traditional in-person instruction, education must continue. OSPI’s guidance outlined the expectation that “continuous learning” would begin for all students by Monday, March 30, 2020.
10. According to the District’s response, on March 25, 2020, the District and the local teachers’ union “entered into a memorandum of understanding (MOU) that outlined expectations for staff during the closure.” According to the District’s response, the March 25, 2020 MOU principally concerned: which calendar days would be classified as ‘weather-related closure dates’; and which days would be added to the calendar as ‘instructional days.’
11. The communication log – visual included the following entry for March 25, 2020: “sent video showing how to access talking typer on the iPad.”
12. According to the District’s response, on April 1, 2020, “the IEP team including the Parent agreed that the Student’s June 3, 2020 IEP review should be re-scheduled to a later date.”
13. The communication log – visual included the following entry for April 1, 2020: “text arranging dropping off a braille and paper for Student to practice braille at home. Talked about zoom lessons for instruction.”
14. On April 1, 2020, the occupational therapist emailed the resource room teacher a “weekly [occupational therapy] OT newsletter,” asking the resource room teacher to “send it with any communication you have with families. All the activities are color-coded by grade/developmental level...If you have a certain day of the week you email families, let me know and I’ll try to get a newsletter to you in advance of that day.”
15. On April 2, 2020, the resource room teacher emailed several District staff members, stating:

As you have probably noticed in PowerSchool, Student’s IEP is coming due during the month of April and during our quarantine/Stay at Home order. I called and checked in on him yesterday and spoke to Parent at great length. I mentioned I would like to wait until we return to complete Student’s IEP, as I would prefer to have a meaningful IEP built with the team, in person, to reflect where he is and where we need to take him rather than do it during this time. He has grown tremendously this year in many areas and has a recent diagnosis of Autism Spectrum Disorder, so I am proposing some changes to academics. Parent agreed and we did discuss the backlog that will more than likely happen when the pandemic is over. I wanted to get the rest of your opinions before making the decision. How do you feel about waiting?

Also - Student is doing great. He has been playing school (which mostly consists of writing his numbers and equations on his whiteboard and telling his mom she fails at the alphabet), doing all the work we have sent, and says he wants us back as his teachers because mom is not good at it. Mom says he won't let her help, takes it to his room, and brings it back done and correctly.

16. The communication log – visual included the following entry for April 3, 2020:
Response from mom about braille and zoom lessons. Mom mentioned [resource room teacher] doing zoom lessons as well. And access to StarFall app. Arranged drop off later that afternoon for supplies, talked about other apps for math and difficulty of story problems.
17. The District was on spring break from April 6 through April 10, 2020.
18. On April 6, 2020, the Governor extended the March 13, 2020 school facility closure directive through the remainder of the 2019-2020 school year.
19. Also, on April 6, 2020, OSPI issued guidance on Continuous Learning 2020, which included recommended guidelines for maximum student commitment each day, as follows: Grades K-1: 45 minutes.
20. The communication log – visual included the following entry for April 7, 2020: “Text from mom about Student’s lego building.”
21. The District’s response to the Parent’s complaint included a “phone log with summary of handwritten notes” (phone log). The resource room teacher made the following entry in the phone log on April 15, 2020:
Mom and I discussed how the iPad is not meeting Student’s needs at home and he may need a bigger screen. Offered a district laptop, but we don’t have larger than his iPad. Laptops are same size, but he might have better access to programs. He dislikes meeting with classroom on Zoom and she can’t access Lexia Core 5 or DreamBox on iPad. Mentioned the visually impaired teacher trying to get in touch and help get connected.
22. According to the District’s response, “on April 17, 2020, the District executed another [memorandum of understanding] MOU with the [local teacher’s union] that addressed the delivery of educational services to students during the extended school closure.”
23. According to the District’s response:
During the period between April 18, 2020 and May 1, 2020 special education staff contacted parents and held virtual IEP meetings to discuss the best way to meet each students’ educational needs in a virtual environment. These conversations were documented in a School Closure Tracking Form (Continuous Learning Plan).
24. The communication log – visual included the following entry for April 20, 2020: “Set up zoom lessons with Student settled for Thursdays at 2:15.”
25. On April 22, 2020, the occupational therapist emailed the resource room teacher, stating, in part:
For OT, we’ve been using a collaborative model through a weekly newsletter with fine motor activity ideas through me, and additional materials upon request. If you are comfortable with this, we will continue...but you can contact [me] if you feel it is not meeting [a particular] child’s needs and you’d like additional materials or suggestions.

26. The communication log – visual included the following entry for April 23, 2020: “during a zoom called Mom said that Student was struggling with some of the apps on the iPad. Offered to pick it up and try to fix any issues with iPad and return it to them.”
27. On April 23, 2020, the SLP emailed the Parent, stating, in part:

I am putting together plans for every student I serve. Are you comfortable with Student continuing with home activities for speech and/or language therapy practice with periodic check-ins? If so, this would be the recommendation for speech and/or language services on the learning plan...If you are comfortable with us continuing with the consult model then nothing will change, we will keep the current system in place. If you prefer a different approach for speech/language therapy services, please email me to share your thoughts.
28. The resource room teacher made the following entry in the phone log on April 24, 2020:

Mom called because Student was having trouble completing reading assignment. He had the giggles and would not work with mom. Talked him through lesson (50 minutes) asking questions and reminding him how to form letters. Also, discussed how he was treating mom. Mom and I then spoke about his mental health and how he is having a hard time with having mom as his teacher and doesn't feel comfortable during Zoom meetings with his classroom. Mentioned that I would also be hosting weekly 30-minute Zoom meetings and they would be centered on Social Emotional Learning.
29. The District's response included a copy of a “weekly OT Newsletter”, dated April 27, 2020 through May 1, 2020.
30. On April 27, 2020, the SLP emailed the Parent, asking her if she had reviewed the SLP's email of April 23, 2020.
31. According to the spring 2020 “school closure tracking form” (SCTF), on April 27, 2020, the TVI:
 - i) completed a braille lesson with the Student; and
 - ii) “talked with mom about technology and methods to accommodate classroom instruction.”
32. On April 27, 2020, the Parent texted the resource room teacher, stating, in part: “I gave Student's Department of Social and Health Services case worker your number. She's going to call you about technology for Student related to the request I put in to get a special computer for Student.”
33. The communication log – visual included the following entry for April 28, 2020: “text from mom about forgetting to text about Student's table last week. My response about looking for books for him.”
34. The communication log – visual included the following entry for April 29, 2020: “text to mom about the books Student is using and we don't have them. Discussed downloading bookshare and an app so he can get books on the iPad.”
35. According to the spring 2020 SCTF, on April 30, 2020, the TVI completed a braille lesson with the Student.

36. According to the District, sometime in late April or early May 2020, the District finalized a SCTF for the Student.² According to the spring 2020 SCTF, the Student was to be provided with the following services during the COVID closure in the spring of 2020:

- **Reading:**
 - Lexia Core 5 online reading program: 40 minutes 1 time a week;
 - Hands-on or paper/pencil word work task: 1 time a week; and,
 - Read/listen to online book and respond by writing one sentence: 1 time a week.
- **Writing:**
 - Complete "I am a sentence builder" sheet: 1 time a week; and,
 - Trace a sentence and produce one sentence to a picture prompt: 1 time a week.
- **Mathematics:**
 - DreamBox for learning online mathematics program: 40 minutes 1 time a week;
 - Hands on or paper-pencil math activity or game: 1 time a week; and,
 - Laminated 100s chart to practice counting and to practice writing numbers.
- **Behavior/Social:**
 - Complete check-in sheet: 1 time a week; and,
 - Zoom meeting with special education staff: 30 minutes 1 time a week.
- **Occupational Therapy:**
 - "Collaboration model with occupational therapist and special education teacher/case manager through...newsletters with fine motor activity ideas": 1 time a week; and,
 - "Additional [occupational therapy] materials" to be provided: "upon request."
- **Speech-language Therapy:**
 - "Up to 60 minutes of [speech-language] learning per month;"
 - Contact via email or phone: weekly;
 - Worksheets for suggested home practice targeting IEP speech and/or language goals;
 - Website for suggested home practice targeting speech and/or language goals; and,
 - Suggestions on how to practice speech/language goals during daily academic work.
- **Vision:**
 - Zoom session: weekly; and,
 - Consultations for Parent for help with technology and lessons: as needed.
- **Orientation and Mobility Services³:**
 - Zoom session with follow up activities in home and community: weekly.

37. According to the spring 2020 SCTF, on May 1, 2020, the following services were provided to the Student:

- **Reading:** "Final Sounds worksheets" (provided by the resource room teacher)
- **Reading/Writing:** "Writing sheet 'my favorite part is...'" to respond to weekly classroom book (provided by the resource room teacher)
- **Writing:** "I am a sentence builder" worksheet (provided by the resource room teacher)
- **Writing:** "Picture prompt writing with fish picture" (provided by the resource room teacher)

² According to the District, a staff member first created the file for the Student's spring 2020 SCTF on April 27, 2020, but "that does not mean the specific portion [detailing what the Student was supposed to receive during the closure] was written [on that particular day]."

³ The District explained that Orientation and Mobility Services, as referenced in the spring 2020 SCTF, "related to [the District's] vision program [for Student]."

- **Math:** "Laminated 100s chart...for daily practice of counting and writing numbers" (provided by the resource room teacher)
- **Math:** "Race to 100 game" (provided by the resource room teacher)
- **Behavior/Social:** "Mindful practice sheet" (provided by the resource room teacher)

According to the spring 2020 SCTF, on most all of the Student's reading and writing assignments, the Student was provided with "paper enlarged to 130%."

38. On May 1, 2020, the Parent responded to the SLP's email of April 27, 2020, stating, in part:

- Student "is having a lot of trouble with" virtual learning;
- Student "has no interest in virtual learning";
- Student's "stuttering pattern seems to have increased and he keeps getting stuck on moving to the next sentence in his thought"; and,
- "I figure there is not a lot to do to make adjustments because he just cannot handle the lack of person-to-person interaction."

39. According to the spring 2020 SCTF, during the week of May 4 through May 8, 2020, the resource room teacher worked with the Student: i) for "5-10 minutes [each] day" on the Lexia Core online reading program; and ii) for "10 minutes a day" on the DreamBox online mathematics program.

40. According to the spring 2020 SCTF, on May 4 and 5, 2020, a District staff member "discussed learning plans" with the Parent.

41. On May 4, 2020, the resource room teacher and the Parent exchanged emails concerning the how to access certain resources on the Student's tablet.

42. On May 5, 2020, the resource room teacher emailed the occupational therapist, the SLP, the TVI, and the orientation and mobility specialist, stating she "had a lengthy conversation with [Parent]" wherein Parent informed her that Student was having difficulty with the iPad and that Parent was "trying to get a larger computer through her caseworker from [another governmental agency]." The resource room teacher also stated:

[Parent] would like each of you to call/text her. She is not sure if she wants more services or will continue with the collaboration model. She has questions for each of you. I explained that as far as I knew, the additional services would be online therapy and she stated Student is having a hard time with online learning.

Later that day, the SLP responded, stating, in part: "Parent indicated Student has no interest in virtual learning and cannot handle the lack of person-to-person interaction. I interpreted that to mean she would like weekly home practice with materials I provide."

43. According to the spring 2020 SCTF, on May 6, 2020, the SLP emailed the Student an "articulation practice sheet."

Also, on May 6, 2020, according to the spring 2020 SCTF, the resource room teacher "delivered learning plans and [a] packet with weekly learning materials" to the Parent. According to the resource room teacher's entry in the phone log:

Delivered learning plan and weekly work packet to front door. Took my 6-year-old grandniece with me so Student could have peer interaction with same-age child. Talked with Student, mom, and dad at the front door for about 10 minutes. Asked if there was anything that they needed and we spoke about how they could come to building every Friday and pick-up work (I would be there from 10 a.m. to 1 p.m.) or I would be happy to deliver to doorstep. They elected for delivery.

44. Also, on May 6, 2020, the TVI emailed the Parent and the resource room teacher, stating, in part:

I just wanted to follow up after receiving an e-mail from the resource room teacher yesterday about Student's continued struggles with online learning. We discussed during his zoom meeting and later in a text about picking up his iPad and getting the apps he needs downloaded on it. I've worked on my iPad going through the Connect 5 and have some of them working, so I think I can improve his learning on the iPad if I can get it for a day or two. I also offered a district touch screen laptop with an external large monitor. I know you wanted to try and get the other computer first, but just wanted to offer that again in the meantime. I know we don't have that particular computer available but I can make something else work for him. Is the packet that Resource room teacher dropped off improving his ability to do school work at home? Resource room teacher that is something we can have our paras help you put together in the future if you would like. They are great at making enlarged copies of worksheets and packets.

Let me know how you would like to proceed with the laptop and/or computer, and we can schedule a time to pick up his iPad.

45. On May 7, 2020, the SLP emailed the Parent "some speech and language activities for [the] week and next."

46. According to the spring 2020 SCTF, on May 7, 2020, the TVI: i) completed a braille lesson with the Student; and ii) provided the Student with an iPad.

47. According to the spring 2020 SCTF, on May 8, 2020, the following services were provided to the Student and the teacher "delivered weekly learning materials onto [Student's] doorstep":

- **Reading:** "Lexia Skills Builders – Categorizing Pictures" assignment (provided by the resource room teacher)
- **Reading/Writing:** "Writing sheet 'my favorite part is...'" to respond to weekly classroom book (provided by the resource room teacher)
- **Writing:** "I am a sentence builder" worksheet (provided by the resource room teacher)
- **Writing:** "Picture Prompt writing with frog picture" (provided by the resource room teacher)
- **Math:** "Number writing practice sheets" (provided by the resource room teacher)
- **Math:** "Place Value: What comes before" (provided by the resource room teacher)
- **Behavior/Social:** "Mindful practice sheet" (provided by the resource room teacher)

48. The communication log – visual included the following entry for May 8, 2020: "text to mom about bookshare."

49. According to the spring 2020 SCTF, during the week of May 11 through May 15, 2020, the resource room teacher worked with the Student: i) for "5-10 minutes [each] day" on the Lexia

Core online reading program; and ii) for "10 minutes a day" on the DreamBox online mathematics program.

50. The communication log – visual included the following entry for May 11, 2020: "text to mom about returning iPad and that it was delivered."

51. On May 11, 2020, the resource room teacher emailed the Parent, stating: "Let's skip the packet this Friday for Student. This week I am really busy and have a lot of things for him."

52. On May 11, 2020, the TVI emailed the Parent, stating, in part:

Here is what I did with Student's iPad.

DreamBox the classroom code is...with that in it works. Also if you are in Clever and click on DreamBox then click on us app already installed it will take you to Dreambox and automatically run.

Lexia Core we had talked about this app during a zoom meeting but it appears that it is installed and running.

I started the individual account for BookShare and if you finish it Parent he can have access to any book through the EasyReader app on his iPad. I set up his account and got it started all you will need to do is finish the BookShare individual account and log it in on the app and search for books. They will download right to the EasyRader app. I can also assign books to him so if you let me know what he needs I can do that for you.

When I went through the connect 5 on the iPad the one thing I struggled with was Social Studies. Sometimes the pictures were pretty small. If you watch the videos with him I would pause the video take a screen shot and then enlarge the picture so he can see it. Everything else seemed to run ok.

[Another educator] recommended Headsprout as an app and it is inside Kids A-Z. I also downloaded Khan Kids app.

You had requested an app for MobyMax. I could not find one but I logged in to [another educator's] page and created a shortcut on the iPad for it. It is on the last page. So all he needs to do is touch the icon and it will take him to the right spot.

If you find something that isn't working for you, just let me know and I will pick up the iPad and work on it again.

53. According to the spring 2020 SCTF, on May 13, 2020, the SLP emailed the Student "articulation practice activities."

54. According to the spring 2020 SCTF, on May 14, 2020, the TVI completed a braille lesson with the Student.

55. According to the spring 2020 SCTF, on May 15, 2020, the following services were provided to the Student and the resource room teacher "delivered weekly learning materials onto [Student's] doorstep":

- **Reading/Writing:** "Writing sheet 'my favorite part is...'" to respond to weekly classroom book (provided by the resource room teacher)
 - **Writing:** "I am a sentence builder" worksheet (provided by the resource room teacher)
 - **Writing:** "Picture Prompt writing with airplane picture" (provided by the resource room teacher)
 - **Math:** "double digit addition with regrouping" (provided by the resource room teacher)
 - **Math:** "Place Value: What comes before" (provided by the resource room teacher)
 - **Behavior/Social:** "Mindful practice sheet" (provided by the resource room teacher)
56. According to the spring 2020 SCTF, during the week of May 18 through May 22, 2020, the resource room teacher worked with the Student: i) for "5-10 minutes [each] day" on the Lexia Core online reading program; and ii) for "10 minutes a day" on the DreamBox online mathematics program.
57. On May 19, 2020, the SLP emailed the Parent "some speech and language activities for [the] week."
58. According to the spring 2020 SCTF, on May 20, 2020, the SLP emailed the Student "articulation practice activities."
59. According to the spring 2020 SCTF, on May 21, 2020, the following services were provided to the Student:
- **Reading/Writing:** "Writing sheet 'my favorite part is...'" to respond to weekly classroom book (provided by the resource room teacher)
 - **Writing:** "I am a sentence builder" worksheet (provided by the resource room teacher)
 - **Writing:** "Picture Prompt writing with big truck picture" (provided by the resource room teacher)
 - **Math:** "I Know It math game [and] single-digit addition and subtraction" (provided by the resource room teacher)
 - **Behavior/Social:** "Mindful practice sheet" (provided by the resource room teacher)
60. According to a May 21, 2020 entry on the spring 2020 SCTF: "Parent requested no packet this week."
61. According to the spring 2020 SCTF, on May 22, 2020, the TVI completed a typing lesson with the Student.
62. According to the spring 2020 SCTF, during the week of May 26 through May 29, 2020, the resource room teacher worked with the Student: i) for "5-10 minutes [each] day" on the Lexia Core online reading program; and ii) for "10 minutes a day" on the DreamBox online mathematics program.
63. On May 16, 2020, the Parent and the resource room teacher exchanged text messages, wherein the Parent asked that no packet be sent home that week as the Parent was busy and the Student had recently broken his arm. Furthermore, the Parent confirmed that she did not "want to do a virtual IEP" development meeting and that the Parent believed her and the resource room teacher had "agreed Student needs an assessment."

64. According to the spring 2020 SCTF, on May 27, 2020, the SLP emailed the Student "articulation practice activities."⁴

65. On May 27, 2020, the TVI emailed the resource room teacher, stating, in part:

Due to Student's vision and fine motor skills he has difficulty using a typical laptop. A large touchscreen computer would let him access online curriculum during the current school closure due to COVID-19. A tablet does not allow him access to all online learning opportunities and the district provided laptops are not large enough to meet Student's needs. With the all-in-one computer he can get closer to the screen than he can with a traditional laptop. This gives him the visual access he requires for information on the screen. The touchscreen allows him to locate and touch the icon required as using a mouse is extremely difficult with his fine motor skills. An all-in-one computer will help him stay connected with his teachers and classmates to promote his social-emotional learning as well as academic learning during the school closure and beyond. This laptop will serve his needs for several years.

66. According to the spring 2020 SCTF, on May 28, 2020, the TVI had "social/emotional time [with Student, we] just chatted."⁵

67. The communication log – visual included the following entry for May 28, 2020:

Text to mom about the new iPad case and picking up the iPad and then later in the day about Student coming on to zoom. Also sent Objective Ed log in and password to mom. Later that evening text from mom about picking up Student's iPad and getting the new case on. Also some apps she wanted installed.

68. According to the spring 2020 SCTF, on May 29, 2020, the following services were provided to the Student and a paraeducator "delivered weekly learning materials onto [Student's] doorstep":

- **Reading/Writing:** "Writing sheet 'my favorite part is...'" to respond to weekly classroom book (provided by the resource room teacher)
- **Writing:** "I am a sentence builder" worksheet (provided by the resource room teacher)
- **Writing:** "Picture Prompt writing with bear picture" (provided by the resource room teacher)
- **Math:** "Ladybug Counting – single-digit addition within 10" (provided by the resource room teacher)
- **Behavior/Social:** "Mindful practice sheet" (provided by the resource room teacher)

69. According to the spring 2020 SCTF, during the week of June 1 through June 5, 2020, the resource room teacher worked with the Student: i) for "5-10 minutes [each] day" on the Lexia Core online reading program; and ii) for "10 minutes a day" on the DreamBox online mathematics program.

⁴ The District's response included an email, dated May 27, 2020, wherein the SLP provided the Parent with "some speech/language activities for [the] week."

⁵ According to the spring 2020 SCTF, this was because the Student had a broken arm and was unable to work with the braille system.

70. According to the spring 2020 SCTF, on June 1, 2020, the resource room teacher watched a "three minute video from YouTube about Growth Mindset" with the Student.
71. The communication log – visual included the following entry for June 1, 2020: "text to mom about returning the iPad. Explained that they needed to keep it to exchange the case and I would get it for her and returned the next day."
72. According to the spring 2020 SCTF, on June 2, 2020, the SLP emailed the Student "articulation practice activities."⁶
73. The communication log – visual included the following entry for June 2, 2020: "text that I dropped off the iPad."
74. According to the spring 2020 SCTF, on June 4, 2020, the TVI "went over dots in the braille cell for each letter of the alphabet" with the Student.
75. According to the spring 2020 SCTF, on June 5, 2020, the following services were provided to the Student and a paraeducator "delivered weekly learning materials onto [Student's] doorstep":
- **Reading/Writing:** "Writing sheet 'my favorite part is...'" to respond to weekly classroom book (provided by the resource room teacher)
 - **Writing:** "I am a sentence builder" worksheet (provided by the resource room teacher)
 - **Writing:** "Picture Prompt writing with duck picture" (provided by the resource room teacher)
 - **Math:** "Cup Cake Match – single-digit addition within 12" (provided by the resource room teacher)
 - **Behavior/Social:** "Mindful practice sheet" (provided by the resource room teacher)
76. According to the spring 2020 SCTF, during the week of June 8 through June 12, 2020, the resource room teacher worked with the Student: i) for "5-10 minutes [each] day" on the Lexia Core online reading program; and ii) for "10 minutes a day" on the DreamBox online mathematics program.
77. According to the spring 2020 SCTF, on June 9, 2020, the SLP emailed the Student "articulation practice activities."⁷
78. According to the District's calendar, June 11, 2020 was the end of the third trimester.
79. According to the spring 2020 SCTF, on June 12, 2020, the following services were provided to the Student and a paraeducator "delivered weekly learning materials onto [Student's] doorstep":

⁶ The District's response included an email, dated June 2, 2020, wherein the SLP provided the Parent with "some speech and/or language activities for [the] week."

⁷ The District's response included an email, dated June 7, 2020, wherein the SLP provided the Parent with "some speech and/or language activities for [the] week."

- **Reading:** "Lexi Skill Builders: Categorizing Pictures; Rhyming; Letter Matching; Nursery Rhymes; and Print Concepts" (provided by the resource room teacher)
- **Writing:** "Scholastic success with writing – practice packet for constructing and forming sentences" (provided by the resource room teacher)
- **Math:** "Summer packet of mathematics" (provided by the resource room teacher)

80. The District's response included a progress report, dated June 12, 2020. It included, in part, the following entries:

Goal: Reading

IEP was due April 23, 2020. Parents and team agreed to wait to hold IEP until this fall. The team has agreed a new evaluation is needed when we return to school to determine if goal area is still needed, and if so, which foundational reading skills need individualized instruction.

Not graded at this time due to COVID-19 School Closure on March 16, 2020. One data point was taken before the school closure: When given a list of Kindergarten high-frequency words, Student correctly read 50 out of 60 words correctly (3/6/2020: Not Mastered). Student knows all of his letters and sounds, and we were beginning blending CVC (consonant-vowel-consonant) words before the school closure.

Goal: Writing

Not graded at this time due to COVID-19 School Closure on March 16, 2020. Data as of 3/16/2020: When given a writing prompt, Student writes/forms a complete sentence or simple sentence on 2 out of 5 trials (3/6/2020: Mastered; 2/13/2020; Not Mastered; 1/23/2020: Mastered). Due to school closure, I was unable to continue assessments.

Goal: Math

Not graded at this time due to COVID-19 School Closure on March 16, 2020. Data as of 3/16/2020: When given any number from 1 to 9, Student finds the missing addend to make 10 on 8 out of 10 occasions (3/6/2020: Mastered 9/10; 2/21/2020; Not Mastered 3/10; 1/30/2020; Mastered 8/10). Due to school closure, I was unable to continue assessments. I would like to note that Student counts on from any number between 1 and 100, and constantly is adding and making equations to solve.

Goal: Behavior/Social

Not graded at this time due to COVID-19 School Closure on March 16, 2020. Unable to assess or observe after March 16, 2020. Data as of 3/16/2020: When given the opportunity to engage in play with peers, Student will play with others on 2 out of 3 trials, over three consecutive weeks (3/12/2020: Mastered; 3/5/2020; Mastered; 2/27/2020: Mastered; 2/20/2020: Not Mastered; 2/13/2020: Mastered; 2/6/2020; Mastered; 1/30; Mastered). Before the school closure, Student was the first student to arrive to his reading group every morning. He has asked me a few weeks before the closure if he could go get the whole

group by himself. So, every day he would check-in, get the entire groups' materials ready and then go pick-up the other students from their classrooms.^{8 9}

81. According to the spring 2020 SCTF, during the week of June 15 through June 29, 2020, the resource room teacher worked with the Student: i) for "5-10 minutes [each] day" on the Lexia Core online reading program; and ii) for "10 minutes a day" on the DreamBox online mathematics program.
82. The District's response included a progress report, dated June 16, 2020. It included, in part, the following entries: "Visually Impaired Compensatory Skills 2: This goal is mastered as of January 24, 2020."
83. The communication log – visual included the following entry for June 16, 2020: "text to mom about dropping off the cookies for the zoom party the next day. He would try to make it but has speech. Told mom we would be on a while and he could join us when he had a chance."
84. According to the spring 2020 SCTF, on June 17, 2020: i) the SLP emailed the Student "articulation practice activities"¹⁰; and ii) the Student participated in a "full group party [and] practiced turn-taking and conversation."
85. June 19, 2020 was the last day of the 2019-2020 school year for the District.
86. On July 21, 2020, OSPI received the Parent's complaint and opened this investigation.

⁸ A June 17, 2020 progress report also included the following goal: "Student will increase his ability to write letters with uniform size from 3/10 attempts to 10/10 attempts over 5 consecutive trials." This goal does not appear in the version of the Student's June 2019 IEP that was provided to OSPI by the District. The District was unable to clearly explain this discrepancy. The District did state, though, that the aforementioned goal was "under the goal area of visually impaired compensatory [in] the June 2019 IEP." Regardless of when this goal was added to the Student's June 2019 IEP, the June 2020 progress report included the following data point for this goal: "This goal was mastered as of January 24, 2020."

⁹ The District's response also included a progress report, dated "June 2020", that related to the Student's "long term benchmarks" for the related service of occupational therapy. The progress report stated, in part: Benchmark 1) "Not able to assess 4th quarter due to COVID-19 school closure...Student was showing this goal met as of mid-March [2020]. He is getting very close to exiting direct OT service! Such a rock star!"; Benchmark 2) "When school ended in mid-March [2020], Student was still consistently meeting this goal"; and Benchmark 3) "Progress as of March 16, 2020. Not able to assess 4th quarter due to COVID-19 school closure. Limited time for additional progress, as last reporting period ended 6 weeks earlier. This is Student's most difficult area, but he has more skills than he believes! If I am positioned as if to help him, he requires very little assistance (<25%) but if am not that close he doesn't even want to try. If you want to work on it over the summer, I would encourage you to give him grocery or target ads and let him cut out pictures, maybe circling them with a dark marker first."

¹⁰ The District's response included an email, dated June 17, 2020, wherein the SLP provided the Parent with "some speech and/or language activities for [the] week."

87. According to the District's response, "Student continued to use the District iPad [throughout the spring semester of the 2019-2020 school year. But the District does] have the large screen desk top monitor on order and it will be here before school starts [in the fall]."

88. On August 24, 2020, OSPI received the Parent's reply. The Parent's reply read, in part:
Since March 17 2020 when [District] schools closed its buildings due to the Covid-19 pandemic my son Student who is Autistic and legally blind has changed to become a different person than who he was when he was receiving FAPE and had access to in person services per his IEP.

...

The School district notes in their response that they could not meet his IEP even though they tried reaching out through virtual means. On multiple occasions I explained to his teachers, Student was not doing well with virtual engagements. He was not engaged because he could not focus on a screen but also that his attitude had changed and he was displaying aggressive behavior something never before as part of his personality. I had to cut back to only engaging with his [TVI] through zoom weekly because his behavior was getting worse by trying to have him on numerous calls. He would ask his teacher if they were coming over to work with him, when they said no he lost any interest and would become difficult. For braille he used to bring home cards filled from his weekly session but at home he would get through 1 -2 lines of braille at most. I spent the whole time trying to keep him engaged or stop him from walking away so he could hear what his TVI was saying that he never got to spend much time on actual services or school work.

In regard to his aggressive behavior I had to call his special education teacher distressed because of how he was responding to doing his special education packets. She was just as shocked as she had worked with him for a year and never had experienced the type of behavior he was demonstrating with refusing to do school work. He made it clear Mom (me) was not his teacher and being at home was not school.

...

His services were broken down to weekly emails which there were no guarantee with me teaching him and my other child at home that I had time to read them. Student did not have access to his speech or occupational therapy services from March when schools buildings closed thru June when school ended. Those would have required face to face and physical interactions to complete considering his visual impairments. There was never a time that the district considered in person medical services to meet his IEP needs even though the district had childcare and certain other services available at the school buildings.

From March to April following the governor's orders the communication and continued education for Student came in the form of packets. Much to my dismay it was expected I knew what to do with them with Student. Following the MOU signed with the teacher's union there was more instruction available but it was all virtual but only after mid-April. We struggled understanding how the platforms worked but also how to get the programs to function on his tablet and I spent more time figuring out the technology just to make sure we could access the programs. In communications I had to ask for codes to access the programs because apple technology required we use Apps and the district couldn't figure out the issues. I spent more time fighting with the technology and being frustrated over it because I had to trouble shoot so many things.

...

Everything depended on myself, taking time from my job, to just try to keep him learning. Without Speech his stuttering increased and without OT his fine motor skills fell back. Without face to face instruction he lost out on his education and his love of learning.

89. During the course of this investigation, the Parent submitted an email to OSPI's investigator that read, in part:

Unfortunately phone calls are not reflected where I told [the District] Student could not engage virtually and [wherein I] asked [the special education] director why if child care was provided onsite and behavioral or mental health was accessible onsite, why in-person speech, OT and vision services were not being provided or considered.

90. According to its website, the District will begin the 2020-2021 school year in a full-time remote setting.

CONCLUSIONS

Issue One: IEP Implementation – The Parent alleged the District did not implement the Student's June 2019 individualized education program (IEP) that was in effect during the COVID-19 closure.

During the COVID-19 closure, school districts were responsible for providing a free appropriate public education (FAPE) to students with IEPs. FAPE includes specially designed instruction, which means adapting, as appropriate to the needs of an eligible student, the content, methodology, or delivery of instruction: to address the unique needs of the student that result from the student's disability. Due to the exceptional nature of the COVID-19 closure, though, districts were not expected to deliver IEP services exactly as stated in students' IEPs.

OSPI described the nature of instruction that students were to receive during the COVID-19 closure as follows: "[School districts] should avoid assuming that continuity of education outside of a typical school building can only occur through online means. Districts will provide instruction using printed online learning materials, phone contact, email, technology-based virtual instruction, or a combination to meet student needs."

All schools were expected to have begun providing educational services for all students by March 30, 2020, which OSPI termed "Continuous Learning 2020." And OSPI guidance stated districts were to provide students with IEPs student-specific continuous learning opportunities beginning March 30, 2020. Thus, beginning March 30, 2020, the District should have begun providing the Student with opportunities to access individualized instruction.

Here, the Student did receive some student-specific services between March 16 and April 30, 2020. For example:

- On March 16, 2020, "six weeks of learning materials [were sent] home to the District's special education students, including the Student;"
- The teacher of the visually impaired (TVI): i) provided the Student with an iPad, and helped the Parent navigate the iPad; ii) provided the Student with braille paper and exercises; iii) completed a zoom meeting with the Parent and/or Student on April 23, 2020; and iv) completed braille lessons with the Student on both April 27 and 30, 2020.
- On April 24, 2020, the resource room teacher completed a reading lesson with the Student.

It was not until roughly May 1, 2020, though, that a systemic plan was created regarding what student-specific services would be provided to the Student during the spring 2020 COVID closure; prior to May 1, 2020, the student-specific services that were provided to the Student appear to have resulted from the initiative of several of the Student's individual teachers. On balance, though, given that the Student did receive some student-specific services from March 16 through April 30, 2020, OSPI finds the District did properly adhere to OSPI's COVID guidance during the foregoing time period.

On or about May 1, 2020, the Student's spring 2020 school closure tracking form (SCTF) was finalized. The Student's spring 2020 SCTF included services in several areas, including reading, writing, mathematics, behavior/social, occupational therapy, speech-language therapy, vision, and orientation and mobility services.

In terms of whether the Student's spring 2020 SCTF was properly implemented from May 1, 2020 through the end of the 2019-2020 school year, the following rule of law is instructive: when a school district does not perform exactly as called for by an 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 an IEP and those required by the IEP.

Here, the record shows the Student's spring 2020 SCTF was materially implemented from May 1, 2020 through the end of the 2019-2020 school year (June 19, 2020). For example, in accordance with the spring 2020 SCTF, during this seven-week time period, the Student was provided with the following services:

- **Reading:**
 - The resource room teacher worked with the Student for "5-10 minutes [each] day" on the Lexia Core online reading program.
 - For each of the 7 weeks, Student was provided with physical reading packets to work on.
- **Writing:**
 - For 6 of the 7 weeks, Student was provided with multiple, physical writing packets.¹¹
 - For 1 of the 7 weeks (June 12, 2020), Student was provided with a single physical writing packet.
- **Math:**
 - The Student was provided with a "100s chart to practice counting and to practice writing numbers" on May 1, 2020.
 - For each of the 7 weeks, Student was provided with physical math packets to work on.
 - For each of the 7 weeks, the resource room teacher worked with the Student for "10 minutes a day" on the DreamBox online mathematics program.
- **Behavior/Social:**
 - For 6 of the 7 weeks (May 1, 8, 15, 21, 29, and June 5, 2020), Student was provided with a single physical worksheet related to behavior and/or social skills.
 - On May 6, 2020, the Student was provided with an opportunity to socialize with a same age peer, in-person, for 10 minutes.

¹¹ May 1, 8, 15, 21, 29, and June 5, 2020.

- On May 28, 2020, the visually impaired teacher had “social/emotional time” with the Student.
- **Occupational Therapy:**
 - The Student was likely provided with “weekly OT newsletters” on April 1 and 21, 2020. The Student may have received “weekly OT newsletters” for the other five weeks, but, from the documentation provided to OSPI during the course of this investigation, this is not clear. For example:
 - The District’s response included an email, dated April 1, 2020, from the occupational therapist to the resource room teacher, wherein the occupational therapist forwarded the resource room teacher an “OT weekly newsletter” and asked the resource room teacher to forward that to the relevant students.
 - The District’s response also included a copy of an “OT weekly newsletter”, dated April 17 through May 1, 2020.
 - The District’s response also included an April 22, 2020 email from the occupational therapist which appeared to suggest the plan for students with IEPs that required OT services was to provide these students with weekly “OT newsletters.”
- **Speech-Language Therapy:**
 - On 7 occasions, the speech language pathologist provided the Student with “articulation practice sheets.”¹²
- **Vision:**
 - The TVI had a zoom meeting with the Student on or about May 6, 2020.
 - The TVI provided the Student with braille lessons on the following dates: May 7, 14, and June 4, 2020.
 - The TVI provided the Student with a typing lesson on May 22, 2020.
 - Throughout the 7 weeks, the TVI assisted the Parent and Student with using the Student’s iPad. During the 7-week time period, the TVI also maintained regular contact with the Parent.

For the foregoing reasons, OSPI finds the Student’s spring 2020 SCTF was materially implemented from May 1, 2020 through the end of the 2019-2020 school year (June 19, 2020).¹³ OSPI finds no violation.

¹² May 6, 13, 19, 27, June 2, 9, and 17, 2020.

¹³ There was, though, at least one portion of the spring 2020 SCTF that does not appear to have been implemented. For example, the spring 2020 SCTF stated the Student was to have a 30-minute behavioral/social zoom meeting with special education staff each week. From the documentation provided to OSPI by the District, it is not clear this occurred. As per the orientation and mobility services, it is not clear what was intended to be provided to the Student under the spring 2020 SCTF. For example, the spring 2020 SCTF stated the Student was to be provided with weekly Zoom sessions related to orientation and mobility, with follow-up home and community activities. From the documentation provided to OSPI by the District during the course of the investigation, it does not appear this occurred. The District’s response did state that the orientation and mobility services, as referenced in the spring 2020 SCTF, “related to [the District’s] vision program [for Student].” And the Student did receive some orientation and mobility services during the spring 2020 COVID closure, but these services appear to have related either to Visually Impaired Compensatory Skills Goal 2 (ability to put spaces between words) and/or the Student’s occupational therapy benchmarks (writing sentences with correct letter formation, copying sentences within marked lines, and

Still, during these seven weeks, the Parent articulated several concerns to District staff, including the following: i) Student had a lot of trouble engaging with learning in the remote format; ii) Student's "stuttering pattern seems to have increased"; and iii) due to the Student's vision needs, the Student required an electronic device that had a large screen that could be activated via touch.

The Parent's third concern appears to have already been addressed by the District. According to the District's response, "Student continued to use the District iPad [throughout the spring semester of the 2019-2020 school year. But the District does] have the large screen desk top monitor on order and it will be here before school starts [in the fall]."

The Student's IEP team, though, has not met to address the Parent's first and second concerns. As OSPI will be requiring the Student's IEP team to meet to ascertain the Student's baseline on the Student's June 2019 IEP goals (see below discussion), the Student's IEP team will also be required to discuss the following two concerns by the Parent: i) Student had a lot of trouble engaging with learning in the remote format; and ii) Student's "stuttering pattern seems to have increased."

Finally, districts must provide parents with progress reporting on the student's measurable annual goals. 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.

Here, the Student's June 2019 IEP stated progress on all goals was to be reported via the "annual IEP and trimester notices of progress to the Parent." The District's response did include a June 2020 progress report, but the information contained therein was rather limited. For example, OSPI notes the following:

- **Reading:**
 - Due to the COVID disruption, no data was gathered during the COVID closure. (The last entry was dated March 6, 2020.)
 - Action the Student's IEP team will need to take: ascertain a new baseline for the Student.
- **Writing:**
 - The entry for this goal is somewhat confusing. For example, it states that, as of March 6, 2020, the Student had mastered this goal because the Student was able to write a complete sentence on 2 out of 5 trials. But the June 2019 writing goal states the objective was for the Student to write a complete sentence on 5 out of 5 trials. Regardless, due to the COVID disruption, no data was gathered during the COVID closure.
 - Action the Student's IEP team will need to take: ascertain a new baseline for the Student.
- **Math:**
 - It appears the Student mastered this goal prior to the COVID closure. However, no data was gathered during the COVID closure.

cutting complex shapes), but not Visually Impaired Compensatory Skills Goal 1 (ability to "walk a 2 block route in all directions around the school neighborhood, maintain orientation using landmarks").

- Action the Student's IEP team will need to take: confirm there has been no regression in Student's performance on this goal.
- **Behavior/Social:**
 - It appears the Student mastered this goal prior to the COVID closure. However, no data was gathered during the COVID closure.
 - Action the Student's IEP team will need to take: confirm there has been no regression in Student's performance on this goal.
- **Related Service: Occupational Therapy Benchmarks:**
 - It appears the Student mastered benchmarks 1 and 2 prior to the COVID closure, but that Student struggled with benchmark 3.
 - Action the Student's IEP team will need to take: confirm there has been no regression in Student's performance on benchmarks 1 and 2, as well as determining a proper baseline for the Student for benchmark 3.
- **Missing Progress Data:**
 - The following goals had no entries in the June 2020 progress report: communication 1; communication 2; and visually impaired compensatory skills 1.
 - Action the Student's IEP team will need to take: determine the Student's baseline for these goals.

In sum, the Student's IEP team will be required to meet to address the above-noted issues with the June 2020 progress reporting.

At the IEP meeting, in accordance with OSPI's recent guidance (Questions and Answers: Provision of Services to Students with Disabilities During COVID-19 in Fall 2020), the team will also need to discuss whether the Student requires recovery services to mitigate the impact of the spring 2020 COVID-19 disruption.¹⁴

Furthermore, the District will be required to create a detailed, District-wide plan for how it will gather and report progress on IEP goals for all students with IEPs during the 2020-2021 school year, as the unique circumstances present in the spring of 2020 are likely to also be present during the 2020-2021 school year. The District will also be required to develop, and present, a training that informs certain District staff of the detailed, District-wide plan for gathering and reporting progress on IEP goals for students with IEPs during the 2020-2021 school year.

¹⁴ Recovery services are intended to mitigate the impact of the spring 2020 COVID-19 school facility closures and to enable the student to make progress on IEP goals, used if students have not been provided or were unable to access IEP services during the spring 2020 COVID-19 school closures. While the need for recovery services may not be able to be fully measured until in-person school operations resume, districts are not prohibited from providing recovery services in fall 2020 and recovery services should be determined by IEP teams on a case-by-case basis. Districts should examine the effect of COVID-19 and the special education and related services provided during the spring 2020 school building closures on the student's overall progress and engagement, including progress toward their IEP goals.

CORRECTIVE ACTIONS

By or before **October 5, 2020** and **October 16, 2020**, the District will provide documentation to OSPI that it has completed the following corrective actions.

STUDENT SPECIFIC:

IEP Meeting

By or before **October 2, 2020**, the Student's IEP team will meet to discuss the following issues:

1. The following two concerns by the Parent: i) Student had a lot of trouble engaging with learning in the remote format; and ii) Student's "stuttering pattern seems to have increased."
2. Where does the Student currently stand on the goals in Student's June 2019 IEP? For example, has the Student's ability in the June 2019 goal areas regressed, stayed the same, or progressed?¹⁵
3. In accordance with OSPI's recent guidance (Questions and Answers: Provision of Services to Students with Disabilities During COVID-19 in Fall 2020), does the Student require recovery services to mitigate the impact of the spring 2020 COVID disruption?

By **October 5, 2020**, the District will provide OSPI with the following documentation from the IEP meeting: 1) Invitation or scheduling documentation; 2) Agenda or meeting notes; 3) Information used to determine the Student's progress on IEP goals during school facility closures; 4) Updated progress report; 5) IEP or amended IEP, if applicable; 6) Plan for additional special education services, if applicable; 7) prior written notice; and, 8) any other relevant documentation.

DISTRICT SPECIFIC:

Create District Policy on Progress Reporting and Training on the Same

By **October 2, 2020**, the District will develop a detailed, District-wide plan for how it will gather and report progress on IEP goals for all students with IEPs during the 2020-2021 school year. Also by **October 2, 2020**, the District will develop a training that incorporates and summarizes this plan.

By **October 5, 2020**, the District will submit a draft of both the plan and the training materials to OSPI for review. The training materials will include examples. OSPI will approve the materials or provide comments by October 7, 2020 and additional dates for review, if needed.

By **October 16, 2020**, the District will submit documentation that staff participated in the training. This will include: 1) a sign-in sheet; and, 2) a roster of who should have attended so OSPI can verify that staff participated.

¹⁵ This question will need to be answered by gathering existing data and communicating with the Parent and the Student. It is possible the District will be required to seek consent from the Parent for a partial or complete reevaluation to determine the Student's current standing on the February 2020 goals.

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, 2020

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.)