

SPECIAL EDUCATION CITIZEN COMPLAINT (SECC) NO. 21-62

PROCEDURAL HISTORY

On August 3, 2021, the Office of Superintendent of Public Instruction (OSPI) received a Special Education Citizen Complaint from the parent (Parent) of a student (Student) attending the Kent School District (District). The Parent alleged that the District violated the Individuals with Disabilities Education Act (IDEA), or a regulation implementing the IDEA, with regard to the Student's education.

On August 4, 2021, 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 18, 2021, the District requested an extension of time for the submission of its response. On August 19, 2021, OSPI granted the District's request for an extension.

On August 31, 2021, OSPI received the District's partial response to the complaint and forwarded it to the Parent on September 1, 2021. OSPI invited the Parent to reply.

On September 2, 2021, OSPI received the District's complete response to the complaint and forwarded it to the Parent on September 2, 2021. OSPI invited the Parent to reply.

On September 14, 2021, OSPI received the Parent's reply. OSPI forwarded that reply to the District the same day.

On September 10, 2021, OSPI determined that additional information would be helpful to the investigation and contacted the District. OSPI received the requested information from the District on September 17, 2021. OSPI forwarded that information to the Parent on September 17, 2021.

On September 20, 2021, the Parent provided OSPI with additional information. OSPI provided the District with a copy of this additional information the same day.

On September 20, 2021, OSPI determined that additional information would be helpful to the investigation and contacted the District. OSPI received the requested information from the District on September 20 and 21, 2021. OSPI forwarded that information to the Parent on September 21, 2021.

On September 21, 2021, OSPI determined that additional information would be helpful to the investigation and contacted the District. OSPI received the requested information from the District on September 24 and 25, 2021. OSPI forwarded that information to the Parent on September 29, 2021.

On September 23, 2021, OSPI's investigator conducted a phone interview of the occupational therapist (OT).

On September 23, 2021, OSPI's investigator conducted a phone interview of special education teacher 1.

On September 24, 2021, OSPI's investigator conducted separate phone interviews of both special education teacher 2 and special education teacher 3.

On September 27, 2021, OSPI's investigator conducted a phone interview of the speech language pathologist (SLP).

On October 1, 2021, the Parent provided OSPI with additional information. OSPI provided the District with a copy of this additional information the same day.

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

SCOPE

This decision references events that occurred prior to the investigation period (the 2020-2021 school year). These references are included to add context to the issues under investigation and are not intended to identify additional issues or potential violations, which occurred prior to the investigation period.

ISSUES

1. Did the District follow proper procedures for implementing the Student's individualized education programs (IEPs) during the 2020–2021 school year?
2. Did the District follow proper procedures for reporting the Student's progress on the Student's IEP goals during the 2020–2021 school year?
3. Concerning the start of the 2020–2021 school year, did the District follow proper IEP development procedures for determining how the Student's occupational therapy and speech language pathology minutes would be provided to the Student?
4. In the following, specific regards, did the District follow proper IEP development procedures for the January 15, 2021 IEP:
 - a) Did the District follow proper procedures under WAC 392-172A-03090(1) for notifying the Student of the transfer of rights under the IDEA to him upon reaching the age of majority?
 - b) Did the District follow proper procedures under WAC 392-172A-03095(2)(a) for ensuring the Student's participation in the development of the January 15, 2021 IEP?
 - c) Did the District follow proper IEP team member excusal processes under WAC 392-172A-03095(5)?
 - d) In determining the Student's baseline for the math goals in the January 15, 2021 IEP, did the IEP team utilize sufficient, relevant data on the Student's needs resulting from the Student's disability?
 - e) In developing the adaptive, reading, and writing goals in the January 15, 2021 IEP, did the District follow proper procedures for ensuring the Parent's participation, and basing decision on sufficient, relevant data on the Student's needs?

- f) In developing the postsecondary goals, transition services, and courses of study section of the January 15, 2021 IEP, did the District follow proper procedures for ensuring the Parent's participation, and basing decision on sufficient, relevant data on the Student's needs?
5. Did the District follow proper procedures for determining whether the Student required recovery services for any COVID-related disruptions to the Student's education during the 2020-2021 school year?

LEGAL STANDARDS

Provision of Special Education During the 2020–2021 School Year: During the 2020–2021 school year, there was an expectation that individualized education program (IEP) services would be delivered in conformity with the IEP, while adjusting delivery methods to comply with state and local health/safety guidelines. As a result of COVID-19, Guidance dated March 21, 2020 from the U.S. Department of Education Office for Civil Rights (OCR) and Office for Special Education and Rehabilitative Services (OSERS) indicated, "there may be exceptional circumstances that could affect how a particular service is provided."

Districts were instructed to consider a multiple modality approach to ensure students had equitable access. This encompassed remote and hybrid instruction. There was no single correct approach, and the actions taken to provide services were permitted to vary district by district. Districts were instructed to collaborate with students and families when developing strategies to support student learning and know that materials and strategies may also need to be differentiated or modified to support some learners and situations. School districts determined at a local level the degree to which in-person, online, or remote services would be made available, taking into consideration the health, safety, and equity needs of students receiving special education services and maximizing inclusion. Furthermore, districts that implemented remote learning models were not required to serve students with disabilities in-person unless it is determined necessary by the IEP team and health and safety requirements can be met. *Questions and Answers: Provision of Services to Students with Disabilities During COVID-19 in the 2020-21 School Year* (OSPI).

IEP Implementation: Each district must 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. "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).

Progress Reporting: The purpose of progress reporting is to ensure that, through whatever method chosen by a school district, the reporting provides sufficient information to enable parents to be informed of their child's progress toward the annual IEP goals and the extent to which that progress is sufficient to enable the child to achieve those goals. *Amanda J. v. Clark County Sch. Dist.*, 267 F.3d 877, 882 (9th Cir, 2001). 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).

IEP Development: When developing each child's individualized education program (IEP), the IEP team must consider the strengths of the child, the concerns of the parents for enhancing the education of their child, the results of the initial or most recent evaluation of the child, and the academic, developmental, and functional needs of the child. 34 CFR §300.324(a). WAC 392-172A-03110.

Notification of Transfer of Rights: Beginning not later than one year before the student reaches the age of eighteen, the IEP must include a statement that the student has been informed of the student's rights under the act, if any, that will transfer to the student on reaching the age of majority. WAC 392-172A-03090(1)(l).

Student Participation in Discussion of Postsecondary Goals and Transition Services: The student must be invited to the IEP team meeting when the purpose of the meeting will be the consideration of the postsecondary goals for the student and the transition services needed to assist the student in reaching those goals. WAC 392-172A-03095(2)(a). If the student does not attend the IEP team meeting, the school district must take other steps to ensure that the student's preferences and interests are considered. WAC 392-172A-03095(2)(b).

IEP Team Member Excusal: Parents and districts can agree in writing that an IEP team member's participation is not necessary and that the team member may be excused from attending an IEP meeting, in whole or part, if the team member's area of curriculum or related services is not being modified or discussed in the meeting. The district must ensure that the IEP team includes "[n]ot less than one regular education teacher of the child (if the child is, or may be, participating in the regular education environment)." 34 CFR §300.321; WAC 392-172A-03095.

Parent Participation in IEP Meetings: Parental participation in the IEP and educational placement process is central to the IDEA's goal of protecting the rights of students with disabilities and providing each student with a FAPE. *Doug C. v. State of Hawaii*, 61 IDELR 91 (9th Cir. 2013); *Shapiro v. Paradise Valley Unified Sch. Dist.*, 317 F.3d 1072, 1078 (9th Cir. 2003); *Amanda J. v. Clark Cnty. Sch. Dist.*, 267 F.3d 877, 887 (9th Cir. 2001).

Basis for IEP Team Decisions: IEP team decisions should be based on relevant, sufficient data on the student's needs resulting from the student's disability. See *generally* WAC 392-172A-03090; see also WAC 392-172A-03100; WAC 392-172A-03110.

Recovery Services: Recovery services are intended to mitigate the impact of COVID-19 school facility closures and pandemic generally 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 because of COVID-related reasons. 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 during the 2020-2021 school year 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 pandemic on the student's overall progress and engagement, including progress toward their IEP goals. *Questions and Answers: Provision of Services to Students with Disabilities During COVID-19 in Fall 2020* (OSPI, August 26, 2020).

FINDINGS OF FACT

Background: 2019–2020 School Year

1. At the start of the 2019–2020 school year, the Student was eligible for special education services under the category of other health impairment, was in the eleventh grade, and attended a District high school. At that time, the Student's May 2019 individualized education program (IEP) was in effect.
2. On June 10, 2020, the Student's IEP team developed a new IEP for the Student. The June 2020 IEP included the following measurable annual goals:
 - **Social/Emotional 1:** ability to "use appropriate tone of voice, body orientation, facial expressions, and sarcasms [when presented with] social communication opportunities [with a] non-preferred communicative partner."
 - **Social/Emotional 2:** ability for Student to determine whether Student's response is appropriate "by looking at Student's communicative partner's non-verbal behavior/social cues."
 - **Adaptive 1:** ability to complete forms requiring personal information.
 - **Adaptive 2:** ability to "independently record all assignments and due dates in [an academic] planner."
 - **Adaptive 3:** ability to improve "independence in goal-setting and planning [by using] the 'Get Ready, Go, Done' method."
 - **Behavior 1:** ability to complete assignments without the need of adult proximity or multiple reminders.
 - **Behavior 2:** ability to demonstrate "appropriate emotions and social responses...when given social interactions with peers and adults."
 - **Math 1:** ability to accurately measure the length of various objects using a ruler or tape measure.
 - **Math 2:** ability to convert fractions to decimals using a calculator.
 - **Math 3:** ability to estimate cost of purchase of "multi-item purchase."
 - **Reading 1:** ability "to read aloud improving reading fluency skills from 68 correct words per minute to 80 correct words per minute as measured by monthly reading probes."
 - **Reading 2:** ability to "correctly answer...comprehension questions...from 75% accuracy [at a] 5th grade [reading] level to 75% accuracy [at a] 6th grade [reading] level."
 - **Reading 3:** ability to read 4-5 syllable words, increasing skills "from 12 words read correctly to 22 words read correctly."
 - **Written Expression 1:** "when given a written expression story starter with 1 minute think time and 3 minutes to write Student will continue writing the story improving written expression skills from 20 correct writing sequences to 30 correct writing sequences."
 - **Written Expression 2:** ability to utilize word prediction software while writing paragraphs, "improving...written expression from 10 spelling errors in a paragraph to 2 or less spelling errors in a paragraph."

- **Written Expression 3:** ability to “increase percentage of words spelled correctly improving written expression from 75% of words spelled correctly to 85% of words spelled correctly.”
- **Speech Language:** ability to use “word retrieval strategies...improving vocabulary and expressive language skills from 2 word retrieval strategies with 90% accuracy...to 5 word retrieval strategies with 90% accuracy.”

Progress on the goals in the June 2020 IEP was to be reported via a copy of the goal page each quarter.

The June 2020 IEP provided the Student with the following specially designed instruction, provided by a special education teacher in a *special education setting* concurrently:

- **Reading Fluency:** 50 minutes 1 time a week
- **Reading Comprehension:** 150 minutes 1 time a week
- **Behavioral Instruction:** 30 minutes 5 times a week

The June 2020 IEP provided the Student with the following specially designed instruction, provided by a special education teacher in a *special education setting* non-concurrently:

- **Social/Emotional:** 123 minutes 1 time a week
- **Adaptive Skills:** 123 minutes 1 time a week
- **Basic Reading Skills:** 246 minutes 1 time a week
- **Math Problem Solving:** 246 minutes 1 time a week
- **Written Expression:** 54 minutes 3 times a week
- **Written Expression:** 30 minutes 1 time a week
- **Written Expression:** 54 minutes 1 time a month

The June 2020 IEP provided the Student with the following related services in a *special education setting* non-concurrently:

- **Occupational Therapy:** 25 minutes 3 times a month (to be provided by special education staff)
- **Speech Language:** 25 minutes 3 times a month (to be provided by special education staff)

The June 2020 IEP also provided the Student with numerous accommodations.

The June 2020 IEP read, in part: “Three times per month, Student will be pulled out of his writing class to receive speech/language and [occupational therapy] services (typically one day per week, three weeks of each month).”¹

3. On August 5, 2020, the assistant principal emailed the Parent, stating, in part: “[While the Student’s 2021-2022 schedule is still not yet firmly established], it is our intent to provide [speech]and [occupational therapy] services virtually and we’ll be in touch during the first week of school to make arrangements for those meeting times.”

¹ According to the Parent’s complaint, though: “[This statement in the June 2020 IEP] was never agreed upon by me or by the language arts teacher. It would not make sense to pull Student from a class where he needs the most help. [This statement] was meant to be a placeholder only [that the District and I were to revisit prior to or near the start of the 2020-2021 school year once we had a better idea of what the Student’s 2020-2021 schedule would look like].”

4. On August 25, 2020, the Parent emailed the assistant principal, stating, in part: "After looking at Student's IEP transition assessment I do see where we spoke about him really needing classes that will help him with functional skills. One was a...class called Home and Family Life, which may be more at his level."

2020–2021 School Year

5. The District's first day of school was September 3, 2020.
6. At the start of the 2020–2021 school year, the Student continued to be eligible for special education services under the category of other health impairment, was in the twelfth grade, and attended a District high school. At that time, the Student's June 2020 IEP was in effect.
7. According to the District:

[It] began the 2020-2021 school year in a full[y]-remote state, with services being provided exclusively via distance learning due to COVID-19 protocols. Per instructions from OSPI, the District provided special education students, including the Student, with specially designed instruction and related services, as outlined in their [respective] IEPs, to the extent possible given the remote setting.
8. During the 2021–2022 school year, the Student had three different schedules (**schedule 1**, **schedule 2**, and **schedule 3**).

Schedule 1 lasted from September 3, 2020 through January 28, 2021, and coincided with the first semester.

According to the District, **schedule 1** for the Student was as follows:

- **Period 1:** Drama 1 (taught by a general education teacher)
- **Period 2:** Math (taught by a special education teacher)
- **Period 3:** Writing (taught by a special education teacher)
- **Period 4:** Language Arts / Reading 2 (taught by a special education teacher)
- **Period 5:** Home and Family Life (taught by a special education teacher)²
- **Period 6:** Theater Tech³ (taught by a general education teacher)
- **Period 7:** Advisory (taught by a special education teacher)^{4 5}

² According to the District, the Home and Family Life course focused "on independent living skills including home and community safety, shopping, food prep, nutrition, and home care tasks."

³ On or about September 2, 2020, Theater Tech was changed to 'Computer Essentials 1' at request of Parent. But on or about September 18, 2020, the Parent requested that this class be changed back to Theater Tech.

⁴ According to the District, "the advisory class is a class that puts students together with the same advisor and group of classmates for four years. Together they explore post-high school options for education and training. They take interest inventories, explore careers, [and] learn about financial aid."

⁵ In the various schedules, the advisory class was listed as Period 8. But the District explained there was no Period 7. So, for ease of understanding, in the instant decision, OSPI will refer to the advisory class as Period 7.

According to the District:

During [schedule 1], each class met 2 – 3 times each week:

Periods 1, 2, and 3 met [on] Monday, Tuesday, and alternating Wednesdays.

Periods 4, 5, and 6 met [on] Thursday, Friday, and alternating Wednesdays.

[With the exception of 'advisory Wednesdays']⁶, Periods 1 – 6 met for 70 minutes each time they met during [schedule 1].

On 'advisory Wednesdays,' each academic class met for 50 minutes. [On 'advisory Wednesdays', the advisory [class] meets...for...45 minutes.

...

During [schedule 1], all...classes were held remotely, via Microsoft Teams...In addition to their morning classes, students were able to meet individually and in small groups with teachers in the afternoons, and often had assigned work to complete [during] those 'asynchronous' [afternoon] hours.

9. According to the District's attendance record for the Student, during **schedule 1**, the Student did not participate during asynchronous learning for five different class periods.⁷

10. In its response, the District provided the following information on the provision of specially designed instruction to the Student during the 2020–2021 school year:

Math: In the remote learning environment, a lot of Student's math instruction was provided via MobyMax, an online instruction and assessment tool that allows teachers to customize instruction based on individual students' needs. Students were instructed to work on MobyMax in the afternoons (asynchronous times) and this was also communicated to the Parent via email. Synchronous instruction consisted of whole group instruction and problem solving. At times, [the special education teacher] or a para[educator] pulled Student into a separate [Microsoft] Teams channel to provide individualized instruction based on his [IEP] goals.

Reading: Student's reading instruction was based mainly on a research-based scripted curriculum, Read to Achieve.

Writing: Students wrote daily in a variety of forms...At times, either [the special education teacher] or a para[educator] pulled Student into an individual Teams channel to work with him specifically on his IEP goals. A unique afternoon program was designed for Student, based on his needs and goals. While other students were expected to be working asynchronously, Student met with a para[educator] to work on Handwriting and Spelling.

⁶ There were 10 'advisory Wednesdays' during **schedule 1**: September 23, 2020; September 30, 2020; October 14, 2020; October 21, 2020; November 4, 2020; November 18, 2020; December 2, 2020; December 9, 2020; January 6, 2021; and, January 13, 2021.

⁷ In both the complaint request, as well as additional information submitted during the course of the investigation, the Parent expressed a concern that the District's attendance information was not accurate—particularly when it came to asynchronous work during the fourth quarter of the school year.

11. The District's response included a speech language pathologist (SLP) service provider log (SLP log).

According to the SLP log, during the first semester, the SLP worked with the Student on the following goals in the June 2020 IEP: **speech language pathology** and **social emotional 1–2**. The SLP log contains data on the Student's progress on **speech language pathology** and **social emotional 1–2** from throughout the fall 2020 semester.^{8 9}

According to the SLP log, the SLP provided the Student with the following services in September 2020:

- September 10: The SLP worked with the Student for 25 minutes as a push-in service during the Student's language arts class.
- September 14: The SLP worked with the Student for 25 minutes as a push-in service during the Student's writing class.
- September 17: The SLP worked with the Student for 35 minutes as a push-in service during either the Student's language arts class or writing class.
- September 22: The SLP worked with the Student for 45 minutes as a push-in service during the Student's writing class.
- September 29: The SLP worked with the Student: (a) for 25 minutes as a push-in service during the Student's writing class; and, (b) for an additional 25 minutes in a 1:1 setting.

12. The District's response included an occupational therapist (OT) service log (OT log). According to the OT log, during the fall 2020 semester, the OT worked with the Student on the following IEP goals in the Student's June 2020 IEP: **written expression 2** and **adaptive 3**.

The OT log contained some data on the Student's progress on written **expression 2** and **adaptive 3** from throughout the fall 2020 semester.

According to the OT log, the OT provided the Student with the following services in September 2020:

- September 10: The OT worked with the Student for 30 minutes as a push-in service during the Student's language arts class.
- September 11: The OT worked with the Student for 30 minutes as a push-in service during the Student's Home and Family class.
- September 14: The OT worked with the Student as a push-in service during the Student's writing class, and subsequently "sent [the] teacher an email with suggestions for different student interaction and feedback," for a total service time of 70 minutes.
- September 16: The OT worked with the Student for 30 minutes as a push-in service during the Student's Home and Family class.
- September 21: The OT worked with the Student for 60 minutes as a push-in service during the Student's writing class.

⁸ As part of said data, the SLP log contained a chart for each of these three goals that represented the Student's performance from mid-to-late October through early December 2020.

⁹ According to the District, a copy of the SLP log was not provided to the Parent outside of the instant complaint process.

- September 22: The OT worked with the Student for 30 minutes as a push-in service during the Student's writing class.¹⁰
- September 29: The OT worked with the Student for 25 minutes as a push-in service during the Student's writing class.

13. The District's response included a MobyMax report, which represented a summary of asynchronous math services provided to the Student from September 7, 2020 through January 31, 2021.

According to this report, between the above dates, the Student received an average of one minute each week in "fact fluency"¹¹ and an average of four minutes each week in "math."¹²

The District further explained:

MobyMax...provides online Math instruction and practice tailored to a student's individual skills and needs...Student was assigned to work 30 minutes x 2 – 3 days each week. He worked that much on one day during the semester, far less on two other days, and not at all on most days...Out of the estimated 90 sessions that Student should have completed, he did 1 ½ [sessions].

14. On September 8, 2021, the occupational therapist emailed the speech language pathologist, stating, in part: "We are related services, so pushing in to the class, supporting the teacher via activities and technology supports for Student, and when needed pull him for small group sessions."

15. On September 15, 2021, the SLP emailed the Parent and the OT, stating, in part:
[Speech and occupational therapy] services will be delivered in Student's writing class during 3rd period from 11:20-11:45 on Tuesdays. During these past couple weeks, he has done so awesome! We are both very impressed with what a great role model he is for the rest of the class. As needed, we will pull him from class in another breakout room with another student during that same time.

16. According to the SLP log, on September 17, 2020, the OT, SLP, assistant principal, and assistant director met to discuss the provision of occupational therapy and speech language therapy services to the Student.

Concerning said meeting, the SLP log noted:

[The District] will propose seeing Student individually with SLP and OT from 1:00 p.m. – 1:50 p.m., where he will receive 25 minutes of speech language pathology services and 25

¹⁰ In an email dated September 24, 2021, the OT provided the Parent with an update on the Student's performance during the time the OT worked with the Student on September 22, 2021.

¹¹ According to the District, "fact fluency is the rate at which a student is able to correctly answer basic math facts in addition, subtraction, multiplication, and division."

¹² The report stated the Student completed a total of 79 minutes of asynchronous instruction in math from September 7, 2020 through January 31, 2021. But it does not appear that the one minute each week of asynchronous instruction in 'fact fluency' was included in this summary.

minutes of occupational therapy services. Student will continue to be pulled from writing to receive his related service speech language pathology minutes per his IEP until Parent is in agreement with the plan.

17. On September 17, 2021, the Parent emailed the assistant principal, stating that the computer skills class would not work and that this class should be changed to theater tech.

According to an email between the assistant principal and the counselor, it appears this schedule change request was made on September 18, 2021.

18. In an email thread, dated September 18, 2021, in response to the Parent's concerns that the Student should not have been pulled from his writing class in order to receive speech language pathology and occupational therapy services, the District proposed, and the Parent agreed, to the following: a 50-minute timeslot, three times a month, Tuesdays from 1–1:50 pm, during which the SLP and OT would both meet with Student, each provider administering 25 minutes of services to the Student.¹³

19. The SLP log included an entry, dated September 22, 2020, that read, in part:
Pending receipt of amended IEP for service minutes and prior written notice, OT and SLP will proceed with seeing Student on Tuesdays from 1:00 p.m. – 1:50 p.m. for 25 minutes each, 3 times a month. At this time, OT and SLP will continue to push into the Student's writing class to see what supports they are able to provide him and staff [to help Student meet] his IEP goals.

20. September 23 and 30, 2020 were 'advisory Wednesdays' during **schedule 1**.

21. According to emails, dated September 29, 2021, between the counselor, the assistant principal, and special education teacher 1, the SLP and OT change to the Student's schedule was officially changed in the IEP online program on that date, and a prior written notice was provided to the Parent regarding the same.

22. According to the SLP log, the SLP provided the Student with the following services in October 2020:

- October 6: The SLP worked with the Student for 25 minutes as a push-in service during the Student's language arts class.
- October 13: The Student arrived to the joint SLP-OT session late. Each provider worked with the Student for approximately 13.5 minutes in a 1:1 setting.
- October 20: The SLP worked with the Student for 25 minutes in a 1:1 setting.
- October 27: The SLP worked with the Student for 25 minutes in a 1:1 setting.

23. According to the OT log, the OT provided the Student with the following services in October 2020:

- October 5: The OT co-taught the Student's writing class.
- October 12: The OT co-taught the Student's writing class.

¹³ This agreement was subsequently memorialized in a prior written notice, which stated the new understanding would be implemented, starting September 29, 2021.

- October 13: The OT worked with the Student for 25 minutes in a 1:1 setting.
- October 20: The OT worked with the Student for 25 minutes in a 1:1 setting.
- October 26: The "OT participated in [the] Student's writing class via Microsoft Teams."
- October 28: The OT worked with the Student for 27 minutes in a 1:1 remote setting.

24. On October 6, 2020, the assistant principal emailed the inclusive education specialist and special education teacher 2, stating, in part:

Can you please connect with special education teacher 2?... We have questions about differentiating for Student...Special education teacher 2 is concerned that she's not meeting his needs because he's functioning much higher than the other students in his class. We could use some ideas for differentiation or other curriculum. We don't have another class that he could enter and his mom really wants him to have this writing class because it's his lowest skill area.

25. On October 13, 2020, the OT shared a writing sample the Student had completed during the Student's session with the OT with special education teacher 2.

26. October 14 and 21, 2020 were 'advisory Wednesdays' during **schedule 1**.

27. On October 21, 2020, the Parent emailed special education teacher 1 and the assistant principal, stating, in part:

The Moby Max math test Student took today was way above his [current skill] level. He could hardly do any of it. Most of what I saw him doing was closer to 5th grade math...Some of the story problems he could do a little more so [as they were] addition and subtraction. But most were 3 – 5 step problems and included fractions and division. None of it [was] simple.

28. According to the SLP log, the SLP provided the Student with the following services in November 2020:

- November 3: The SLP worked with the Student for 25 minutes in a 1:1 setting.
- November 10: The SLP worked with the Student for 25 minutes in a 1:1 setting.
- November 17: The SLP worked with the Student for 25 minutes in a 1:1 setting.
- November 23: According to the District: "November 23rd was a week where Student was observed during writing class from 11:30 am – 11:55 am...November 23rd was additional time [beyond the minimum that was called for in his IEP for any particular week] that was spent supporting the Student."

29. According to the OT log, the OT provided the Student with the following services in November 2020:

- November 3: The OT worked with the Student for 25 minutes in a 1:1 setting.
- November 10: The OT worked with the Student for 25 minutes in a 1:1 setting.
- November 17: The OT worked with the Student for 25 minutes in a 1:1 setting.
- November 23: The OT co-taught the Student's writing class.

30. The District's response included a November 2, 2020 writing sample, completed by the Student, which, according to the District, related to one of the Student's IEP writing goals.

31. November 4, 2020 was an 'advisory Wednesday' during **schedule 1**.

32. The end of the first quarter was November 6, 2020.

33. November 18, 2020 was an 'advisory Wednesday' during **schedule 1**.

34. The District's response included a progress report with entries from the first part of November 2020 that related to the goals in the Student's June 2020 IEP goals. It read, in part:

- **Social Emotional 1:** Sufficient progress: Skill demonstrated "in 4/5 opportunities independently when speaking with a non-preferred communicative partner and 5/5 opportunities independently when speaking with a preferred communicative partner."
- **Social Emotional 2:** Mastered: "Student can determine if his response is appropriate by looking at his communicative partner's non-verbal behavior/social cues in 80% of opportunities independently. He can verbally state if his response is appropriate or inappropriate with 90% accuracy independently."¹⁴
- **Adaptive 1:** Sufficient Progress: "Student has these all down very well except his address."
- **Adaptive 2:** Emerging Skill: "In...virtual school environment, 'Student has not used a planner because there isn't anything to keep track of.'"
- **Adaptive 3:** Sufficient Progress.¹⁵
- **Behavior 1:** Sufficient Progress: "In a virtual environment, Student shows up to class and participates in discussions. Answers questions and does work assigned with zero prompts and reminders."
- **Behavior 2:** Sufficient progress.¹⁶
- **Reading 1:** Sufficient Progress: "Student read 55 words per minute on his last fluency test."
- **Reading 2:** Sufficient Progress: "Student scored a 4/5 or 80% on his last comprehension quiz."
- **Reading 3:** Not been provided instruction on this goal.
- **Written Expression 1:** Not provided instruction on this goal.¹⁷
- **Written Expression 2:** Emerging skill: "Student currently has 4-5 spelling errors in a paragraph with use of software supports."
- **Written Expression 3:** Sufficient progress.¹⁸

¹⁴ The progress report entries for **social emotional 1-2** were dated November 3, 2020.

¹⁵ OSPI notes: the more detailed November 3, 2020 entry for **adaptive 3** suggests the Student had either mastered this goal or come close to mastering it. For example, the goal was for the Student to utilize the 'Get Ready, Go, Done' method in completing "2/3 steps." And the November 3, 2020 entry notes the Student was able to "complete...2/3 steps of this method," but that the Student required reminders to slow down to demonstrate said level of proficiency.

¹⁶ Both the general education teacher and special education teacher 1 noted the Student participated well in their respective classes—that the Student was attentive, engaged, and participated in class activities.

¹⁷ OSPI notes, though: this entry does not appear to be accurate. For example, the progress report also included an October 19, 2020 note that read: "formative assessment, untimed writing prompt, 29/30 correct writing sequences." Additionally, there is a November 10, 2020 note that read: "forms and keyboarding were used to collect summative data sample of 21/30 correct writing sequences."

¹⁸ Said progress report also contains an October 7, 2020 note that pertains to **written expression 3**. It read, in part: "formative assessment, writing prompt, 85% words spelled correctly." There is also a November 20, 2020 entry that pertains to **written expression 3** that read: "sufficient progress."

- **Math 1:** Sufficient progress: "Student did pretty well with this. He needs more work on the 1/4 and 1/8 marks. He should achieve this goal by IEP review."
- **Math 2:** Emerging skills: "Student was having a hard time with remembering how to divide the top by the bottom number. Though I'm very positive he will achieve this goal by his IEP review."
- **Math 3:** Emerging Skill: "Student has a hard time with multiple parts to word problems. When it's a simple single step, he gets that right every time. He knows how to figure out the operation (add, subtract, multiply, divide) but when there is more than one operation he gets confused as to what the next operation is."¹⁹
- **Speech Language:** Sufficient progress: "Student can complete word-retrieval strategy activities with an average of 73% accuracy independently."

35. In her complaint, the Parent raised several concerns with the November 2020 progress report, including, in part:

- **Reading 1:**
 - "[The November 2020 progress report] shows that the probe wasn't being done monthly and may have only been done for the quarterly progress report."
- **Written Expression 1:**
 - The progress data that is present for this goal is not "valid since the goal [was] specifically based on a timed response [and the progress data that was reported around November 2020 shows said data was the result of an] untimed response."
 - "This goal was written...as a handwriting-based goal...By changing the goal to typing-based versus hand writing-based, the teacher changed the goal."
- **Written Expression 3:**
 - "As with [Written Expression 1], the issue is [progress was gathered via provision of a] typing [assessment] and the goal was based on hand writing...a computer [permits] word prediction software as well as word correction and other assistive tech, which provided false positives."
- **Math 1:**
 - "[To measure progress on this goal], the teacher had Student pick various items in our apartment and measure them and then show the teacher the tape measure. I was present during the progress testing and don't see where it was possible for the teacher to accurately see what Student was showing him on [the] tape measure."
 - "The teacher never had Student work on this goal during the first quarter expect for the progress monitoring assessment."
- **Math 3:**
 - "I was present during the [progress report] testing [for this goal]. Only 5 problems were given. 2 of the 5 problems were single-step, single purchase items, not multi-step or multi-item purchases. So the test wasn't even testing for what the progress report states."
 - "Student only got 1 of the 5 problems correct."

36. According to the District's response, the District provided the Parent with a copy of the November 2020 progress report on November 23, 2020.

The District's response does include an email, dated November 23, 2020, wherein special education teacher 1 and the assistant principal discuss the need to send the Parent a copy of

¹⁹ The dates for the progress report entries for **math 1-3** are November 13, 2020.

the Student's November 2020 progress report in the immediate future, and, attached to said email thread, is a copy of the Student's November 2020 progress report.

37. The District was on break November 26–27, 2020.
38. According to the SLP log, the SLP provided the Student with the following services in December 2020:
 - December 1: The SLP worked with the Student for 25 minutes in a 1:1 setting.
 - December 8: The SLP worked with the Student for 25 minutes in a 1:1 setting.
 - December 15: The SLP worked with the Student for 25 minutes in a 1:1 setting.
39. According to the OT log, the OT provided the Student with the following services in December 2020:
 - December 1: The OT worked with the Student for 25 minutes in a 1:1 setting.
 - December 7: The OT co-taught the Student's writing class.
 - December 8: The OT worked with the Student for 25 minutes in a 1:1 setting.
 - December 15: The OT worked with the Student for 25 minutes in a 1:1 setting.
40. December 2, 2020 was an 'advisory Wednesday' during **schedule 1**.
41. In an email thread, dated December 7, 2020, the assistant principal and the program specialist provided the following information to the Parent on progress reporting procedures, based on concerns and questions articulated by the Parent:

The dates entered [on progress reports] are not consistent across the District. Some people enter the date that they are completing the progress report, others use the date of the last day of the quarter.

...

The data [entered] would come from the person providing instruction on that area of specially designed instruction but I don't know if the data is given to special education teacher 1 to enter into IEP Online or if each teacher enters the information for the students in their classes.

...

The person entering the data would likely choose the abbreviation for progress made.

...

Special education teacher 3 fills in progress on reading goals.

Special education teacher 2 fills in progress on writing goals.

The occupational therapist fills in OT/adaptive goals.

The speech language pathologist fills in SLP-related goals.

Special education teacher 1 fills in math and any other goals.
42. The SLP log noted the SLP had a conversation with both the Parent and the OT on or about December 8, 2020 that related, in part, to the following: the Student's progress on his occupational therapy and speech language pathology goals; the Parent's concerns that the Student's "impulsivity is causing Student to have challenges in social communication

opportunities with peers; and, the fact that Parent was desirous of Student learning his own address, how to spell Parent's name, and remembering Parent's phone number."

43. Over the course of four separate meetings, the Student's IEP team developed a new IEP for the Student: December 17, 2020; January 5, 2021; January 8; and, January 15.

According to the Parent, the general education teacher attended two of the four meetings. According to the District, the general education teacher attended the December 17, 2020 and January 5, 2021 IEP meetings, but "was unable to attend the [IEP] meetings on January 8 and 15, 2021."

44. December 9, 2020 was an 'advisory Wednesday' during **schedule 1**.

45. In a December 15, 2020 email to the OT and SLP, the Parent informed said individuals of some of the Student's spelling challenges ("mixing up his 't' and 'ch' sound"). Additionally, the Parent provided said individuals a copy of a writing sample the Student had completed "2-3 weeks ago" with the support of dictation software.

46. On December 16, 2020, the assistant principal emailed the Parent a draft IEP for the Parent to review and consider prior to the IEP meeting scheduled for December 17, 2020.

47. On December 16, 2020, the Parent emailed several District staff members, expressing a concern that the Student's proposed IEP writing goals "seem to focus on Student continuing to use assistive tech as much as possible [as opposed] to learning anything related to functional skills without assistive technology or even [the ability to] handwrite...anything at all."

In a separate email on December 16, 2020, the Parent emailed several District staff members, stating she thought "Student being able to fill out a variety of forms [was] great" for one of the adaptive goals, but that it was important certain, specific information be a part of that: social security number; place of birth; and, Parent's phone number.

48. The Student's IEP team met on December 17, 2020. The District's response included meeting notes from said meeting and according to those notes, the Student attended and participated, as follows:

Student – could go better, I guess. Able to make more friends, chat with others, help freshman, has gotten some students to talk more.

...

It appears that the Student's family did not receive the Parent and Transition Surveys that were emailed. Those will be re-sent and special education teacher 1 can add that information to the IEP.

...

The assistant director suggested that when talking about the Transition plan is [a] great place to talk about [Student's needs and goals in the areas of] writing.

According to the December 17, 2020 IEP meeting notes, the following topics were discussed: the Student's present levels of performance; appropriate IEP goals for the Student; and, graduation pathway courses for the Student.²⁰ Furthermore, according to the December 17, 2020 IEP meeting notes: the general education teacher was able to attend, and participate, in this meeting.

According to a Microsoft Teams meeting invitation, the general education teacher and the Student were both invited to attend the December 17, 2020 IEP meeting.

49. According to the District's response: the Student attended the December 17, 2020 IEP meeting, "but chose not to attend the remaining meetings" on January 5, 8, and 15, 2021; but, the Student signed the finalized IEP "to document participation" in its creation.^{21 22}
50. According to the January 2021 IEP, *see infra*, on December 19, 2020, the Student was informed that the IDEA procedural safeguards rights would transfer to him when he turned 18, and that the Student was provided with an explanation of these procedural safeguards on this date, December 19, 2020.

According to the Parent's complaint: "This isn't correct as Student wasn't at the IEP. I requested to please update if possible to indicate that Student wasn't told but was discussed with Parent. My Student has never been told anything about this and [this] statement [in the January 2021 IEP] is misleading."

According to the District's response:

Special education teacher 1 was the Student's IEP case manager during the...2020-2021 school year, which means he would have been the facilitator of the Student's IEP team meetings...It is special education teacher 1's standard practice to briefly discuss student and parent IDEA procedural rights at the start of every IEP meeting he runs. Page 3 of the Student's June 2021 IEP...indicates the Student was informed of these rights in December 2019. This is the only written evidence the District has that the Student was informed of the transfer of rights; special education teacher 1 has no specific recollection of discussing procedural rights with the Student outside of the IEP meeting setting.

51. The District was on break December 21, 2020–January 1, 2021.

²⁰ According to a December 17, 2020 email from the assistant principal to special education teacher 1, the following topics were not discussed as the December 17, 2020 IEP meeting: transition; goals; accommodations; modifications; and, services.

²¹ The District's response also stated: "Based on the observations of special education teacher 1, it is believed the Student was generally present at the same location as the Parent when she attended all of the meetings via remote connection, and that the Student thus could have participated if he so desired."

²² According to the District: "Nothing about the Student's program or services changed immediately following the 12/17/20, 1/5/21, and 1/8/21 IEP meetings. The IEP was complete after the 1/15/21 meeting and the prior written notice was written then."

52. According to the SLP log, the SLP provided the Student with the following services in January 2021:

- January 12: The SLP worked with the Student for 25 minutes in a 1:1 setting.
- January 19: The SLP worked with the Student for 25 minutes in a 1:1 setting.
- January 26: The SLP worked with the Student for 25 minutes in a 1:1 setting.

53. According to the OT log, the OT provided the Student with the following services in January 2021: three 25 minutes sessions in a remote 1:1 setting—January 12, 19, and 26.

54. On January 3, 2021, the Parent emailed the assistant principal, stating, in part: “Declining on the parent transition survey [the District offered me to complete in late December 2020] as this [type of information] is included in the [independent transition assessment that has already been completed].”²³

Separately on January 3, 2021, the Parent emailed the assistant director, expressing a concern that the June 2020 IEP written expression goals had been developed with the idea of handwriting, but that, in practice, the goals had been worked on in the context of “Microsoft Word with assistive technology [and] dictation [software].”

55. The District’s response included an ‘Excused Team Members’ document, dated January 5, 2021, that stated the general education teacher was an “excused participant” for an IEP meeting scheduled for January 8, 2021, because the general education teacher was “unable to attend” said meeting. The January 5, 2021 ‘Excused Team Members’ form was not signed by either the Parent or any District staff member.

56. The District’s response included a separate ‘Excused Team Members’ document, dated January 5, 2021, that stated the general education teacher was an “excused participant” for an IEP meeting scheduled for January 15, 2021, because the general education teacher was “unable to attend” said meeting.

The January 5, 2021 ‘Excused Team Members’ form further read: “We agree to excuse the attendance of the team member(s) above at the IEP meeting specified at the top of this form because this member’s area of the curriculum or related services is not being modified or discussed at this IEP meeting.”

The January 5, 2021 ‘Excused Team Members’ form was not signed by either the Parent or any District staff member.²⁴

²³ In its response, the District stated: “We do not have any records of receiving th[e] completed [transition] document from either the Parent or the Student.”

²⁴ In relation to the January 5, 2021 ‘Excused Team Members’ form, the Parent’s complaint noted: “Yes, this is correct...and I know the general education teacher was present at two of the [IEP] meetings [in December 2020 and January 2021, but this document] is not signed.” In its response, the District asserted: “As the Parent notes, this [document] is factually correct, though unsigned, and accurately represents the

57. According to the SLP log, on January 5, 2021, an "IEP meeting [took place] during [the regularly]-scheduled [SLP] therapy time."

According to a Microsoft Teams meeting invitation, the Student had been invited to attend and participate in the January 5, 2021 IEP meeting.

According to documentation provided during this investigation, the general education teacher did not attend the January 5, 2021 IEP meeting.

58. The Student's IEP team met on January 5, 2021. The District's response included partial notes from the meeting on January 5, 2021. According to these notes, the following topics were discussed: goals; accommodations and modifications; and, services.²⁵

According to the assistant principal:

I took notes at the January 5, 2021 meeting and listed Student as being in attendance. I would not have done that unless Student was there. The Parent was on the Student's laptop in the Teams meeting. The Student was seated next to her for part of the meeting, but up and moving around their apartment for part of the time too.

59. On January 5, 2021, the Parent emailed the assistant principal, stating, in part: "Transition Programs: Does the District know of any transition programs that have programs that align with Student's interests (such as theater tech, video, music, art-related, etc)?"

60. January 6, 2021 was an 'advisory Wednesday' during **schedule 1**.

61. On January 7, 2021, special education teacher 1 emailed the Parent, stating, in part:

Yesterday, I sent you a Teams invite to meet at 3:00 pm about Student's writing goals with the OT and the SLP and I. I didn't hear back from you so I called at 3:05 to see if you could make it. I left a voice message. The OT, SLP, and I met at that time anyway and discussed Student's writing goals. I wrote 2 drafts of new goals based on our discussions about Student.

Today I called at 9:49 and left you another voicemail. I am also sending you this email.

Can you meet today sometime after 1:00 pm? I will have a half hour to 45 minutes to speak with you about Student's writing goals. I welcome your input in crafting appropriate writing goals for Student.

62. In an email, dated the morning of January 8, 2021, the Parent provided the Student's IEP team with a word document that outlined several of her outstanding concerns for the Student's IEP. It included detailed information, in part, on the Parent's understanding of the Student's ability in the areas of: reading; writing; adaptive; and, math.

understanding reached by the IEP team...The fact that the written excusal was not signed is a technical violation at best, and understandable since the meeting occurred virtually."

²⁵ According to a January 7, 2021 email from the Parent to the executive director of the inclusive education, the January 5, 2021 IEP meeting was "almost 2 hours" long.

63. The Student's IEP team met on January 8, 2021. The assistant principal stated: "I do not seem to have notes for the January 8, 2021 IEP meeting and I am not sure why. As the meetings progressed, we just worked our way through the IEP, section by section."

According to a Microsoft Teams meeting invitation, the general education teacher was invited to attend the January 8, 2021 IEP meeting.

64. The District's response included an assignment completed by the Student on January 8, 2021 that related to the Student's writing goal of completing "8-sentence grammatically correct paragraph[s]."

65. January 13, 2021 was an 'advisory Wednesday' during **schedule 1**.

66. On January 13, 2021, the Parent emailed the SLP and OT, stating, in part: "Special education teacher 2 emailed me Student's new [writing] goals. Goal #1 is the same, which is ok...[But for goal #2] she should probably put in a grade level [delineation, and I don't know how she arrived at the baseline of 20% for spelling ability]."

67. On January 15, 2021, special education teacher 2 emailed the program specialist, stating, in part:

I forgot I sent changed the percentages [for Student's second writing goal] – [I] sent [Parent] an email yesterday:

For the second [writing] goal, Student took a 5-word spelling test (1st grade level) in Period 3. Actually, baseline was higher. He misspelled 2/5 words. The wording can be changed to 3/5 correctly-spelled words to 5/5 correctly-spelled words, or 60% to 100% accuracy. Student can start with first grade sight words and move up from there.

68. On January 15, 2021, the Student's IEP team developed a new IEP for the Student.

The following individuals attended the January 15, 2021 IEP meeting: assistant director (district representative); Parent; general education teacher; special education teachers 1–3; assistant principal; OT; SLP; Student; and, the inclusive program specialist.^{26 27}

According to the January 2021 IEP, the Student was 17 years of age as of January 15, 2021. The January 2021 IEP included the following statement: "The student must be informed at

²⁶ On the 'Review IEP Invitation' document for the January 15, 2021 IEP meeting, the Student is not listed as an invited attendee. (The Parent is listed as an invited attendee.) However, a 'Contact Attempt Report' in the District's response stated both the Parent and the Student were invited to attend the January 15, 2021 IEP meeting on the following dates: December 11 & 17, 2020; and, January 5, 2021. (The same 'Contact Attempt Report' stated the Student and Parent replied to each such attempt that they would attend the January 15, 2021 IEP meeting.)

²⁷ The cover page for the January 15, 2021 IEP included in the Parent's complaint has a checkmark on the 'excused' box next to the general education teacher's name, and electronic signatures for both the Parent and multiple District staff members appear on the same page.

least one year prior to turning 18 that the IDEA procedural safeguards (rights) transfer to him/her at age 18 and be provided with an explanation of these procedural safeguards.” And the following assertion: “Date [Student was] informed [of the transfer of rights]: December 19, 2020.”

The January 2021 IEP reflected some input from the general education teacher in two places: ‘General Education Teacher Report’; and, ‘Adverse Impact Summary.’ However, the input from the general education teacher in these two sections appears to be exactly the same as that found in the June 2020 IEP.

The ‘Present Levels of Educational Performance and Measurable Annual Goals’ portion of the January 2021 IEP included data on the Student’s performance on the following measurable goals in the June 2020 IEP: **social emotional 1–2; speech language; adaptive 1–3; behavior 1–2; math 1–3; reading 1–2; written expression 1–3**. The only June 2020 IEP measurable annual goal that does not appear to have a present level recorded in the January 2021 IEP is **reading 3**.

The January 2021 IEP included the following measurable goals:

- **Social/Emotional 1:** ability to “pause and wait 10 seconds...before reacting to a social situation.”
- **Social/Emotional 2:** ability to “use a learned compensatory memory strategy [such as] chunking, visualization, mnemonics, memory pegs, associations, [or] categories...to recall up to 5 pieces of auditory or visual information.”
- **Adaptive 1:** ability to complete forms requiring personal information.²⁸
- **Adaptive 2:** ability to “independently record all alarms, items, and reminders in [an] electronic device.”
- **Adaptive 3:** ability to improve “independence in goal-setting and planning [by using] the ‘Get Ready, Go, Done’ method.”²⁹
- **Behavior 1:** ability to complete assignments without the need of adult proximity or multiple reminders.³⁰

²⁸ The substance of **adaptive 1** was the same for both IEPs (June 2020 and January 2021). The only difference was the baselines in the respective IEPs. For example, in the June 2020 IEP, the baseline for **adaptive 1** was: the ability to complete two items in a form independently. In the January 2021 IEP, the baseline for **adaptive 1** was: the ability to complete five items independently. (For each IEP, the objective for **adaptive 1** was: the ability to complete seven items independently.)

²⁹ The substance of **adaptive 3** was the same for both IEPs (June 2020 and January 2021). The notable difference was the baselines in the respective IEPs. For example, in the June 2020 IEP, the baseline for **adaptive 3** was: the Student did not use the ‘Get Ready, Go, Done’ method on any occasion when given a new assignment or task. In the January 2021 IEP, the baseline for **adaptive 3** was: the ability to use the ‘Get Ready, Go, Done’ method on two of three occasions when given a new assignment or task.

³⁰ The baseline and objective for **behavior 1** was the same in both the June 2020 IEP and the January 2021 IEP: for the Student to transition from “needing adult proximity and multiple reminders to completing [assignments] with 2 or less reminders per class period.”

- **Behavior 2:** ability to demonstrate “appropriate emotions and social responses...when given social interactions with peers and adults.”³¹
- **Math 1:** ability to accurately measure the length of various objects using a ruler or tape measure “to the nearest 1/8 inch and centimeter improving math problem solving from 0% accuracy to 80% accuracy.”
- **Math 2:** ability to convert fractions to decimals using a calculator.³²
- **Math 3:** ability to estimate cost of purchase of “multi-item purchase.”³³
- **Reading 1:** ability “to read aloud improving reading fluency skills from 51 correct words per minute to 71 correct words per minute.”
- **Reading 2:** ability to “read and restore correct vocabulary terms...improving reading comprehension skills from 12 correct restorations to 22 correct restorations as measured by three weekly reading probes.”³⁴
- **Reading 3:** ability to “underline vowel sounds and make a slash between syllables, improving [ability to] read...multisyllable words from 2 of 5 correct to 4 of 5 correct.”
- **Written Expression 1:** ability to “write an 8-sentence grammatically correct paragraph which includes an original topic sentence focused on an interesting idea, supported by descriptive sentences that have a logical progression and a clear conclusion summary.”
- **Written Expression 2:** ability to complete “a life skill’s form (such as a job application or doctor’s office intake form) “with functionally correct answers (understandable by the reader).”
- **Written Expression 3:** “ability to legibly handwrite correctly spelled words...from 60% correctly spelled words to 100% correctly spelled words.”
- **Speech Language:** ability to use “word retrieval strategies...improving vocabulary and expressive language skills from 2 word retrieval strategies with 90% accuracy...to 5 word retrieval strategies with 90% accuracy.”

Progress on the goals in the January 2021 IEP was to be reported each quarter. According to the January 2021 IEP, each of the IEP goals was to support, in part, the Student’s postsecondary goals.

In relation to occupational therapy, the January 2021 IEP noted, in part: “Per Student and Parent, Student has challenges with memory and recall. He is able to state his phone number, but does not know his mother’s phone number. Both Student and Parent report he has difficulty with directions and remembering where he is supposed to be.”

³¹ The baseline and objective for **behavior 2** was the same in both the June 2020 IEP and the January 2021 IEP: for the Student to display appropriate emotions and responses [when given social interactions with peers and adults] from 2/6 opportunities to 5/6 opportunities.”

³² The substance of **math 1 and 2** were the same for both IEPs. Furthermore, the baseline (“0% accuracy”) and objective (“80% accuracy”), remained the same for each goal in both IEPs.

³³ The only change in math 3 in the two different IEPs was as follows: the June 2020 IEP read, in part: “when given real world word **multi-step problems**.” (emphasis added). Whereas the January 2021 IEP read, in part: “when given real world **single-step problems**.” (emphasis added).

³⁴ In her complaint, the Parent stated: “[I am] unsure if [the] goal [language] of ‘3 weekly reading probes’ means 3 times a week or 3 different weeks during the quarter the probe was done.”

The 'Age-Appropriate Transition Assessment' section of the January 2021 IEP included a detailed summary of an independent transition assessment that had been completed in the spring of 2019. It read, in part:

Job shadow activities can allow Student to explore a range of career opportunities...It is strongly recommended that Student be involved in the planning process to apply and increase his self-determination skills...Student would benefit from meaningful, worksite learning experiences, within the school and business communities...[Student will need] direct instruction and ongoing structured opportunities to reflect upon his own performance, strengths, challenges, and preferences for the job...Current-stated interests [include an] art and communication pathway includ[ing] theater technician, digital design, and television broadcasting...Student [also] needs instruction and hands-on learning in independent living areas.

...

[Self-reported strengths include]: responsibility; willing to learn; confident; completes tasks on time and accurately; flexible and adaptable; works well with others; works hard; gaming; assembling; consulting people/helping others; teaching/training others; and, constructing things.

...

[Self-reported job preferences include jobs that permit the following]: meet new people; sit to do my work; is outdoors; work around other people; work by myself most of the time; help people; and, move around while I work.

As part of the independent transition assessment, the Student was administered the "O-NET Interest Profiler at My Next Move" (a website), which showed the Student was particularly interested in jobs in the following domains: artistic; social; and, enterprising.

The 'Secondary Transition' portion of the January 2021 IEP read, in part:

Education/Training

[Goal]

Upon leaving public school, Student will continue on the job training within the community utilizing Student's art and social skills (transition outreach program following Student's senior year).

Transition Services

Participation in TOP³⁵ which will allow for community-based work experience at multiple local businesses.

Continued instruction toward Student's reading, writing, and math goals for use in future employment.

Employment

[Goal]

³⁵ According to the District: "The Transition Outreach Program (TOP) is a program within the District that many of our students in support center and adaptive skills center attend after finishing at a traditional high school. Students may not officially graduate from their traditional high school in order to continue to benefit from free public education until age 21, at TOP. "

Upon leaving public school, Student will obtain paid employment utilizing artistic and social skills strengths.

Transition Services

Career exploration in the arts field through [District] elective classes.³⁶

The 'Secondary Transition' portion of the January 2021 IEP also included a course of study section, which listed classes for the Student's 9th through 12th grade years.³⁷

The service matrix in the January 2021 IEP was the exact same as that in the June 2020 IEP; in other words, the services, service providers, frequency, and setting for both specially designed instruction and related services was the same in the January 2021 IEP as for the June 2020 IEP.

69. The Parent's complaint articulates five concerns with the postsecondary goals and transition services portion of the January 2021 IEP:

- **Concern 1:** "[Should the 'Course of Study' subsection] be updated to accurately reflect the number of quarters Student attended class versus semester?"
- **Concern 2:** The specially designed instruction-individual skills class needs to be removed from the twelfth-grade course of study as this is currently not a part of Student's schedule.
- **Concern 3:** "Does the IEP team plan on identifying any other agencies that may be responsible for providing...transition services and if so when will a meeting be held [that includes said other agencies]?"
- **Concern 4:** "Since the Student's interests are arts and possibly social, does the IEP have any recommendations for transition programs that include Student's interests?"
- **Concern 5:** "The outside transition assessment...recommended Student do shadow 'training.' There's been no discussion regarding this and Student hasn't even participated in any online version of this."

In its response, the District stated:

I don't recall that the parent voiced these concerns in any of our meetings last year; many of them I've never heard before and we've communicated a lot during the last 3+ years.

Concern 1: I don't believe that I've ever heard this concern from the parent. At the high school level, all classes are semester-long, so our communication and planning is based on semesters, rather than quarters. I have had a lot of communication with this parent over the last 3+ years, and this has never come up, so I don't know why she's thinking we should change the records to reflect quarters.

Concern 2: The Individual Skills for Academic Success class **IS** on the student's schedule this semester. It is also listed in the IEP course of study.

Concern 3: So far we've offered attendance at the Skills, Inc. Manufacturing Internship for ½ of his school day this year and the idea of attending the Transition Outreach Program

³⁶ According to January 2021 IEP, the District was the agency responsible for providing all transition services.

³⁷ Except for the course of study classes for the Student's twelfth grade year, the 'Secondary Transition' portion of the January 2021 IEP is the same as that found in the June 2020 IEP.

(TOP) after he leaves [his current school]. I've also provided information to the family about a paid internship program offered by Youth Source specifically for youth with IEPs.

Typically we also help families connect with DVR in the 2nd semester of the student's senior year.

Concern 4: We can certainly look for some transition programs that match the student's interests. The arts isn't an interest that [other] students have had in the past so I'm not familiar with any, but we'll look.

Concern 5: One of the reasons we recommended that the student have the Individual Skills class this year was to allow his teacher to address some of his needs that aren't normally addressed during academic classes. This includes the job shadowing (online versions) and work on using a planner.

70. In its response, the District stated the following in regard to the discussion of the postsecondary goals and transition services section of the January 2021 IEP in the winter of 2020-2021:

One of the big topics of discussion was whether...the Student would graduate in June 2020 or follow a different pathway. He had many choices open to him.

1. Graduate in June 2020 and move into some kind of job training program or college. Although he was credit deficient (by 2.0 credits), the WA state legislature was allowing generous waivers so students impacted by Covid-19 could still graduate. This Student could certainly have graduated if that's what the family wanted.

2. Leave [his current school] in June 2020 and enroll at TOP for job training and independent living skills. He could continue at TOP for three years.

3. Remain at [his current school] another year and participate in an Aerospace Manufacturing Internship program for ½ of his school day, then continue at [his current school] for Math, Reading and Writing instruction. The Student's mother was not interested in this program, even though the school team felt like this was the best choice. We explained that the job skills that the Student would learn in this program would be transferrable to any future career, but since the Student is not interested in manufacturing as a career, she did not want to explore this option.

4. The final option was for the Student to remain at [his current school] for another year. The Parent wanted this option so the Student could continue working on his goals and could wrestle for one more year.

The Parent chose this last option and the school team agreed that we would continue working on helping the Student develop more independence and that we'd continue talking about transition opportunities during his second senior year.

...

With the planned graduation date now June of 2022, we will certainly discuss the student's postsecondary plans and transition services this fall and winter.

71. In her complaint request, the Parent alleged the following goals in the Student's January 2021 IEP were not developed with sufficient, relevant data on the Student's needs, and that her input was not properly considered. More specifically, Parent alleged:

- **Adaptive 1:** "The idea for this goal is for Student to be able to fill out a variety of forms – to understand them and what's needed and how to complete them. Information that Student needs to learn include[s] our address in full, my cell phone number, our landline number, his place of birth, my birth date, [and] how to spell my first name and middle name and date of birth."³⁸
- **Adaptive 2:** "Due to remote learning, there has not been anything for Student to record and there is never any homework to remember either...You cannot rely on electronics all the time. What are you supposed to do when the phone dies, or the computer is not working?...Student needs to be able to use both electronic and non-electronic ways for organizing, remembering things, etc."³⁹
- **Math 1:** "[I] disagree with [the] teacher's statement that Student is doing well with regards to measurements. If he's struggling with 1/4 and 1/8 inch[es] that means he only understands maybe the 1/2 inch so that's not very good...In addition, Student is not able to find the correct language or words to use when saying the measurements. Goal also states from 0% and no baseline testing was done."
- **Math 2:** "During the progress test [Student] was not able to do [this] on his own without help [and] no baseline testing was done."
- **Math 3:** "Student can do simple one step [problems] for addition and subtraction. For multiplication, it depends on wording...Division Student is unable to determine in word problems...Baseline is listed as 0% and the teacher did not do any baseline assessment."
- **Reading 3:** "This goal should have been removed and [a goal related to Student's ability to complete MAZE tests should have been added]."⁴⁰
- **Written Expression 1:**
 - "[This goal was created] based off of writing, not typing."⁴¹
 - "Writing 8 sentences is a huge jump his prior goal."

³⁸ OSPI notes: **adaptive 1** in the January 2021 IEP read, in part: "When given a blank application type form requiring personal information (full name, address, phone number, date of birth, email address, parent/reference name and contact information), Student will write information into the form from memory improving adaptive skills."

³⁹ In its response, the District stated: "The notes from the January 5 IEP meeting include the discussion about the use of a paper vs. electronic planner. The Parent really wanted the Student to work on using a paper planner only, but the school team felt that the Student should try out some electronic planners, since he has a school-issued laptop and a cell phone. Throughout the spring, the Parent continued to dismiss the electronic planner and only wanted the Student to use a paper one. This fall we're continuing to support the Student in using both forms to find out what system works best for him."

⁴⁰ According to special education teacher 3, "MAZE tests are tests that [asses] reading comprehension."

⁴¹ OSPI notes: **written expression 1** in the January 2021 IEP stated, in part: "when given a writing prompt and software supports." Presumably, then, **written expression 1** was created with the Student's typing skills in mind. To that extent, then, OSPI understands the Parent's concern to be: Student should also have a written expression goal that relates, at least in part, to the Student's ability to handwrite a paragraph.

- **Written Expression 3:** The relevant teacher “put that Student is already at 60% for 50 sight words. What grade level? And where did [this] baseline come from? If [the teacher] did not do any testing prior to developing the goal, then [this] is not [a] valid [baseline].”

72. Concerning the Student’s participation in the January 15, 2021 IEP meeting, the Parent’s reply read, in part:

I don’t think I ever said [Student] wasn’t involved [in the January 15, 2021 IEP meeting]. Student was able to attend some of the series of annual IEP meetings in part [during December 2020 through January 2021]. The longest he could stay and stay focused was maybe an hour at the most.

73. On January 19, 2021, special education teacher 1 emailed the Parent a copy of the finalized January 2021 IEP and a related prior written notice.

74. According to emails dated January 21 and 25, 2021, on or about January 25, 2021, the assistant director and the Parent met “to discuss compensatory services for Student.”

In her response, the Parent stated:

I had a very short conversation with then Asst Director of IE...in late January 2021 re: possible comp and/or recovery services, however all I was told was that they couldn’t and wouldn’t tell me anything at that time and were waiting on more info from OSPI at the time. That’s all the conversation was about.

According to the District, there was no prior written notice related to the discussion of compensatory services on or about January 25, 2021, because “the purpose of the discussion was to discuss compensatory services generally.”

75. On January 26, 2021, the Parent emailed the OT and the SLP “copies of some of the sheets that I’ve been having Student work on for math.” The math sheets appear to pertain, in part, to the following: counting money and shopping problems; addition and subtraction work problems; reading a calendar—elapsed time; and, “mixed arithmetic (2 – 3 digits).”

76. The end of the first semester was January 28, 2021.

77. On January 29, 2021, the OT emailed the psychologist, stating, in part:

At the time of the evaluation [in 2019], Student demonstrated...challenges when having to write a sentence both pen to paper, as well as on the computer without word prediction software supports. His actual writing during the eval, though, presented with letters formed the correct direction, size and legible. His writing method, tripod grasp with a neutral wrist supported on the table top was also normal.

78. In emails with various District staff members in late January 2021, the Parent articulated, in part, the following concerns: (1) “maybe retest[ing] Student for writing and including grammar and spelling – as well as math”; and, (2) the January 2021 IEP writing goals focused on typing skills and the Student’s use of assistive typing technology, as opposed to handwriting and grammar rules and spelling.

79. **Schedule 2** lasted from February 1 through April 16, 2021. According to the District, **schedule 2** for the Student was as follows:

- **Period 1:** Drama 2 (taught by a general education teacher)
- **Period 2:** Math (taught by a special education teacher)
- **Period 3:** Writing (taught by a special education teacher)
- **Period 4:** Language Arts / Reading 2 (taught by a special education teacher)
- **Period 5:** Home and Family Life (taught by a special education teacher)
- **Period 6:** Theater Tech 2 (taught by a general education teacher)
- **Period 7:** Advisory (taught by a special education teacher)

Except for the dates for the 'advisory Wednesdays,' the logistical information for **schedule 2** was the same as that for **schedule 1**.⁴²

80. According to the District's attendance record for the Student, during **schedule 2**, the Student did not participate during asynchronous learning for seven different class periods.

81. According to the SLP log, during the second semester, the Student worked with the Student on the following goals: **social emotional 1–2**; and, **speech language**. The SLP log included information on the Student's progress on these three goals from throughout the second semester.⁴³

82. According to the SLP log, the SLP worked with the Student in the following manner during February 2021:

- February 2: The SLP worked with the Student for 25 minutes in a 1:1 setting.
- February 9: "Completed Clinical Evaluation of Language Fundamentals (5th Edition) testing for re-evaluation."
- February 23: "Completed Test of Pragmatic Language and Clinical Evaluation of Language Fundamentals (5th Edition) for re-evaluation."⁴⁴

83. According to the OT log, the OT provided the Student with the following services in February 2021: three 25 minutes sessions in a remote 1:1 setting—February 2, 9, and 23.

84. On February 1, 2021, the inclusive education specialist commented in an internal email on some concerns that had been provided by the Parent at an earlier date. These comments read, in part: "[We] probably need to set up just a transition meeting, not an IEP meeting, just a meeting to talk about what Student is interested in."

⁴² During this investigation, the District stated: during schedules 1–2, students "often had assigned work to complete in [the] asynchronous [afternoons]."

⁴³ In part, it included: a chart with data points dated late April 2021 through late May 2021 that related to the Student's progress on **social emotional 1**; and two charts with data points dated late February 2021 through mid-May 2021 that related to the Student's progress on **social emotional 2** and **speech language**, respectively.

⁴⁴ According to the SLP log, no session took place on or about February 16, 2021 because the District was on "mid-winter break."

85. February 3, 2021 was an 'advisory Wednesday' during **schedule 2**.
86. On February 8, 2021, the speech language pathologist emailed the Parent "a copy of Student's SLP and OT progress [report]." (In relation to those goals that the SLP and OT worked with Student on, the February 8, 2021 partial progress report included the same information as relayed in the more complete progress report provided to the Parent on February 22, 2021. *See infra.*)
87. The District's response included a "Money Word Problem – Worksheet" completed by the Student. Upon knowledge and belief, this assignment was completed on or about February 9, 2021.
88. February 10, 2021 was an 'advisory Wednesday' during **schedule 2**.
89. On February 14, 2021, special education teacher 1 emailed the assistant principal, stating, in part:
- The Adaptive forms goal should have been deleted. I don't know why it didn't get deleted but the OT goal is current and Judy posted progress.
- The Behavior ones were written to be in person. I wrote as much in them due to virtual and what Parent said in her email about them being null due to her sitting next to him giving him prompts and reminders.
90. The District was on break February 15–19, 2021.
91. On February 22, 2021, special education teacher 1 emailed the Parent, stating, in part: [Attached is Student's end of second quarter progress report.] I apologize this should have gone out last week. I was under the impression there was a different protocol in place, but due to COVID and everything being so different I was incorrect.
- The adaptive forms goal should have been deleted. I don't know why it didn't get deleted but the occupational therapy goal is current and the occupational therapist posted progress.
- ...
- The Behavior ones were written to be in person. I wrote as much in them due to virtual and what you had shared in your email about them being null due to you sitting next to him giving him prompts and reminders.
- The second quarter progress report attached to special education teacher 1's February 22, 2021 email had entries from February 2021 and read, in part, as follows:
- **Social/Emotional 1:** Not provided instruction on this goal: "[Student and provider] have recently discussed using this strategy when Student is in situations where he feels upset or escalated. Student...is open to trying this strategy but is unsure if it will be successful when he is really upset of if he's in situations with certain people."
 - **Social/Emotional 2:** Not provided instruction on this goal: "We have began [sic] using chunking and repetition to recall functional information. Student is able to correctly recall his home address verbally and in written form using these 2 strategies with 90-100% accuracy independently."

- **Adaptive 1:** "This goal is in collaboration with the occupational therapist and [progress] is reported above under the same occupational therapy goal."
- **Adaptive 2:** "Instruction has not been provided on this goal yet."
- **Adaptive 3:** Emerging Skill: "Limited to no new data to report. Student demonstrates ability to verbalize goals/plans he will be doing and states what he needs to do. He demonstrates wanting to do the task immediately, rather than planning the steps and materials/time he will need to perform the task."
- **Behavior 1:** "This goal is geared towards in-class instruction. There is no way to measure it during virtual instruction."
- **Behavior 2:** "This goal is geared towards in-class instruction. There is no way to measure it during virtual instruction."
- **Math 1:** Sufficient Progress: "50%: There are discrepancies that can't be counted as exact due to differences in settings from laptops and printers the sheet couldn't be exactly measured. However, 50% of the questions were correct."
- **Math 2:** Emerging Skill: "Student forgets how to divide the top by the bottom to get the answer. Once Student is reminded how to do it, he is at 95% accuracy."
- **Math 3:** Sufficient Progress: "70% currently (75% if counting a half correct problem)."
- **Reading 1:** Sufficient Progress.
- **Reading 2:** Sufficient Progress.
- **Reading 3:** Sufficient Progress.
- **Written Expression 1:** Sufficient Progress: "Student work samples show Student can write 6-sentence paragraphs that have sequential progression and a conclusion."
- **Written Expression 2:** Emerging Skill: "We have started working on abbreviation, personal information and emergency contact information, which will be used for filling in forms this quarter...When filling in personal information, Student correctly enters his full name, his phone number, and most of his address."
- **Speech Language:** Not provided instruction on this goal.

The progress report did not include an entry or data for written expression 3.

92. In her complaint, the Parent raised several issues with the February 2021 progress report, including the following:

- **Reading 1:** Parent believes the progress report entry indicated the monthly assessment probes had not been conducted.
- **Math 1:** "Student never once has [worked on measuring objects to the specificity of] centimeters including [during] the progress monitoring assessment. The goal also states to the nearest 1/8 inch and the testing only when to 1/4 inch."
- **Math 2:** "Student was unable to complete this portion at all...I was present during the testing. [I] am unsure [how the] statement that Student can do [it] 95% [of the time] if reminded [is accurate, as] Student refused to do this for his progress monitoring testing."
- **Written Expression 3:** Parent noted that the February 2021 progress report did not include any information for **written expression 3**.
- **Adaptive 1:** "[The statement that] this goal overlaps with [**written expression 2**, which the occupational therapist is assisting the Student with is somewhat accurate but] one of the

differences is that for **written expression 2** Student is to work on a variety of forms...whereas the form that Student is to work on with **adaptive 1** is specifically job application forms.”⁴⁵

93. According to the SLP log, the SLP worked with the Student in the following manner during March 2021:

- March 9: The SLP worked with the Student for 25 minutes in a 1:1 setting.
- March 23: “Collaboration with OT and Parent.”
- March 30: The SLP worked with the Student for 25 minutes in a 1:1 setting.⁴⁶

94. According to the OT log, the OT provided the Student with the following services in March 2021: three 25 minutes sessions in a remote 1:1 setting—March 9, 16, and 29.

95. March 3, 2021 was an ‘advisory Wednesday’ during **schedule 2**.

96. According to the District’s response, beginning March 15, 2021, a “paraeducator...under the direction of special education teacher 2” worked with the Student on a joint-spelling and handwriting goal on Mondays and Thursdays from 2–2:30 pm.

The District’s response also contained a service log related to the aforementioned sessions (spelling and handwriting log). According to the spelling and handwriting log, in March 2021: (a) the Student was provided with two hours of specially designed instruction on this goal area (March 15, 22, 25, and 29, 2021); and, (b) the Student did not attend the half-hour session scheduled for March 18, 2021.

According to the District:

[The foregoing sessions were to: meet some of the Student’s needs that were not addressed during regular class time [and they would have provided Student with an] additional 60 minutes each week of specially designed instruction in writing, beyond what already took place in synchronous and asynchronous instruction, [from mid-March 2021 through the end of the school year]. The Student attended a few times (meeting via Microsoft Teams) but did not attend most scheduled meetings. We shifted the appointment time once in hopes that he would attend more frequently, but he did not.⁴⁷

97. March 17, 2021 was an ‘advisory Wednesday’ during **schedule 2**.

98. The District’s response included a writing prompt completed by the Student on or about March 22, 2021, and emailed to special education teacher 2 on or about that date.

⁴⁵ In her complaint, the Parent also stated certain goals in the January 2021 IEP were not worked on during the second quarter of the 2020–2021 school year, including, in part: **reading 1; reading 3; and, math 1–3**.

⁴⁶ According to the SLP log, no session took place on or about March 2, 2021, because the “SLP had [a] scheduling conflict [and it was] elementary parent/teacher conference week.”

⁴⁷ According to the spelling and handwriting log, the Student did not attend any of these ‘extra’ sessions outside of March 2021.

99. The District's response included a March 23, 2021 writing exercise, completed by the Student, which, according to the District, related to one of the Student's IEP writing goals.
100. On March 23, 2021, the Parent emailed the assistant principal, stating, in part: "Student can barely do simple single digit division...He's not able to do 4th or 5th grade math, and definitely not on his own."
101. According to the SLP log, the SLP provided the Student with the following services in April 2021:
- April 13: The SLP worked with the Student for 25 minutes in a 1:1 setting.
 - April 20: The SLP worked with the Student for 25 minutes in a 1:1 setting.
 - April 27: The SLP worked with the Student for 25 minutes in a 1:1 setting.
102. According to the OT log, the OT provided the Student with the following services in April 2021: three 25 minutes sessions in a remote 1:1 setting—April 13, 21, and 28.
103. According to the spelling and handwriting log, in April 2021: (a) the Student did not attend any of the seven half-hour sessions that were scheduled to occur; and, (b) on or about April 19, 2021, the "meeting time [was] changed from 2:00 pm – 2:30 pm to [a] new time, 1:00 pm – 1:30 pm, to better accommodate Student's schedule."
104. The District was on break April 5–9, 2021.
105. According to the District, the week of April 12–16, 2021 "was entirely asynchronous."

According to the District:

The week of April 12-16, teachers assigned the following work:

Math – work on MobyMax for 30 minutes, 2 times each day for a total of 60 minutes. MobyMax assesses students' Math skills then provides instruction, practice and assessments.

Home and Family Life – students were given different assignments based on their IEP goals: adaptive, SEL, and behavior. Some of the assignments included practice in filling out different forms. Students were expected to work 60 minutes each day.

Language Arts (Reading) – students were assigned stories to read and pages to complete in their Read to Achieve workbooks. Students were expected to work 50 minutes/day on that. If he had extra time, he was supposed to read for pleasure.

Writing – students were given a variety of writing assignments and expected to work at least 50 minutes each day.

106. **Schedule 3** lasted from April 18 through June 25, 2021. According to the District, during **schedule 3**, the Student's courses remained the same as those for **schedule 2**:
- **Period 1:** Drama 2 (taught by a general education teacher)
 - **Period 2:** Math (taught by a special education teacher)
 - **Period 3:** Writing (taught by a special education teacher)

- **Period 4:** Language Arts / Reading 2 (taught by a special education teacher)
- **Period 5:** Home and Family Life (taught by a special education teacher)
- **Period 6:** Theater Tech 2 (taught by a general education teacher)
- **Period 7:** Advisory (taught by a special education teacher)

According to the District, the logistical information for **schedule 3** was as follows:

- **Monday, Tuesday, Thursday, and Friday**
 - In-Person: 7:40–11:10 am (210 minutes total)
 - Three Periods – approximately 70 minutes a period.
 - Monday and Thursday: A Days: Periods 1–3.
 - Tuesday and Friday: B Days: Periods 4–6.
 - Asynchronous – Remote:
 - Student was “given assignments that should have taken approximately 30 minutes for each class [Student attended in-person earlier in the day.”
 - However, “Student was scheduled to [receive] a minimum of 60 extra minutes each week [of] asynchronous [work].”
- **Wednesdays**
 - Each Wednesday was entirely asynchronous and alternated between A Days and B Days. A Days were Periods 1–3. B Days were Periods 4–6.
 - Students were expected to devote 65 minutes to asynchronous work for each class during Wednesdays – so, each Wednesday, Students were expected to complete a total of approximately 195 minutes of 3.25 hours of asynchronous work.
 - On Advisory Wednesdays, though: the Advisory Period met for 45 minutes.
 - On A Day Advisory Wednesdays: Periods 1 and 2 were asynchronous for 55 minutes and Period 3 was asynchronous for 45 minutes.
 - On B Day Advisory Wednesdays: Periods 4 and 5 were asynchronous for 55 minutes and Period 6 was asynchronous for 45 minutes.

107. According to the District’s attendance record for the Student, during **schedule 3**, the Student: did not participate during asynchronous learning for 21 different class periods; was absent from four different web-based classes; and, for two different classes, was marked “remote learning unexcused.”

108. According to the District, “the Student generally did have excellent attendance, [up] until April [2021] when we moved into a week of asynchronous learning, followed by hybrid.”

109. The District’s response included emails from mid-April 2021, wherein District staff and the Parent worked on making a designated break space available to the Student when needed by the Student due to emotions, stress, or frustrations.

110. The District’s response included two math-related worksheets completed by the Student in late April 2021. According to the District, these were assigned to the Student as part of progress monitoring for the Student’s IEP goals. One worksheet related to converting fractions to decimals, and one worksheet related to measuring objects to the nearest quarter inch.

111. The end of the third quarter was April 20, 2021.

112. April 21, 2021 was an 'advisory Wednesday' during **schedule 3**.

113. The District's response included three charts related to **schedules 1-3** and the specially designed instruction and related services that were to be provided to the Student based on the June 2020 and January 2021 IEPs.

According to the District, two of these charts were created on April 21, 2021: "the assistant director asked the assistant principal to...look at the Student's schedule and service minutes throughout the year and calculate approximate [weekly] deficits, if any."

These charts show the assistant principal calculated the following approximate weekly deficits for the specified time periods:

- **Chart 1:** September through December 2020: 71 minutes total spread among social emotional, adaptive, and behavior; and, 30.5 minutes written expression.
- **Chart 2:** January through April 16, 2021: 71 minutes total spread among social emotional, adaptive, and behavior.⁴⁸
- **Chart 3:** April 19 through June 2021: 26 minutes total spread among social emotional, adaptive, and behavior; 16 minutes reading; and, 26 minutes math.⁴⁹

114. On April 26, 2021, the assistant director emailed the Parent, stating, in part: We have calculated the compensatory services owed due to the mismatch in Student's schedule and the specially designed instruction minutes in his IEP. A total of 39 hours of specially designed instruction across adaptive, social emotional and written expression is owed to Student. A breakdown is provided below. These compensatory services will be offered during our summer programming, details are forthcoming regarding dates and schedules [for summer programming]. [Our offer is: 13 hours in social emotional; 13 hours in adaptive skills; and, 13 hours in written expression.]

According to the Parent:

I responded the same day I received the email and asked them to please provide a detailed breakdown of how they determined the numbers the email showed, why only [those] 3 areas/goals.⁵⁰ The assistant director did respond to me and said the numbers were due to a mismatch between my son's schedule and the specially designed instruction [required by] his IEP, [but] his response did not address or answer my questions.

According to the District, the Parent did not accept the District's offer of 39 hours of compensatory education.

⁴⁸ The extent to which **Chart 2** shows a weekly deficit in the area of written expression is unclear. It appears a weekly deficit of approximately 30.5 minutes in written expression may have been calculated, but that said deficit was accounted for via the addition of "PM writing instruction starting March 15, 2021."

⁴⁹ OSPI notes: temporally, **Chart 3** could not have been created on April 21, 2021. From the documentation provided to OSPI, it is unclear when Chart 3 was created and if it was provided to the Parent prior to the instant investigation.

⁵⁰ There is an email in both the District's response and the Parent's reply that supports this statement.

115. On April 30, 2021, the SLP emailed the Parent a copy of "Student's progress for speech and occupational therapy." The progress data included in the attached progress report was the same as that provided to the Parent on May 6, 2021, *see below*.
116. According to the SLP log, the SLP worked with the Student in the following manner in May 2021:
- May 4: The SLP worked with the Student for 25 minutes in a 1:1 setting.
 - May 11: "Collaboration with OT."
 - May 18: The SLP worked with the Student for 25 minutes in a 1:1 setting.
 - May 25: The SLP worked with the Student for 25 minutes in a 1:1 setting.
117. According to the OT log, the OT provided the Student with the following services in May 2021: three 25 minutes sessions in a remote 1:1 setting—May 4, 18, and 25.
118. May 5, 2021 was an 'advisory Wednesday' during **schedule 3**.
119. On May 6, 2021, special education teacher 1 emailed the Parent the Student's third quarter progress report, which included entries from April 2021.

The third quarter progress report attached to special education teacher 1's May 6, 2021 email read, in part, as follows:

- **Social/Emotional 1:** Emerging Skill: "Student can pause and wait 10 seconds before reacting to a statement he may not agree with or like made by the SLP or OT during remote therapy sessions in 0/5 opportunities independently."
- **Social/Emotional 2:** Sufficient Progress: "For immediate recall, Student can recall 5 pieces of information using visualization/imagery, with 80% accuracy independently, 100% accuracy [when] provided a phonemic or semantic clue. He can recall 3 pieces of information (delayed recall ranging from 15 minutes to a week before) with 100% accuracy."
- **Adaptive 1:** "This goal is in collaboration with [the] OT and progress is reported above under the same OT goal."
- **Adaptive 2:** "Due to [the] virtual environment, this goal has not been worked on."
- **Adaptive 3:** Emerging Skill: "Student consistently completes 2/3 steps. Student is able to identify the goal (assignment), and [complete] it. However, [Student] requires cues and prompts to plan what he needs to do the assignment (i.e.: you will need your OT notebook, pen or pencil and specific worksheets for that day)."
- **Behavior 1:** "Classes have been...remote until last week. So far with 3 days of observations Student has done all work in class without prompts or reminders. Student's other teacher's remarks: 'Student does well on assignments while we are in class and finishes everything. He doesn't do some asynchronous work, even if I email it right away after class.' 'Doing really well: gets along with others – respectful and helpful to me.' 'I would say very good progress on this goal.'"
- **Behavior 2:** "We've been in virtual instruction until last week."
- **Math 1:** Mastered: "Student's progress on this without any prompts or reminders [is] 100%."
- **Math 2:** Mastered: "Student just needs a reminder to divide the top by the bottom. He's at 90% accuracy. He's mastered this goal."
- **Math 3:** Sufficient Progress: "Student's progress is at 90%."
- **Reading 1:** Sufficient Progress.
- **Reading 2:** Emerging Skill.

- **Reading 3:** Sufficient Progress.
- **Written Expression 2:** Emerging Skill: "Student worked on filling out a medical intake form...He wrote his street address, but not the city, state, or zip code...Student reported the lines were not big enough for him to write all of his [address] information on...Student is performing other writing tasks with OT for spelling, working on size of writing, writing within the lines, and legibility."
- **Written Expression 3:** <The third quarter progress report does not contain an entry for this goal.>
- **Speech Language:** Sufficient Progress: "Student can continue antonyms and synonyms with approximately 90-95% accuracy independently. He can independently identify 1 definition of a multiple meaning word with 100% accuracy, 2 definitions of a multiple meaning work with 70% accuracy, and 3 definitions of a multiple meaning word with 50% accuracy."

The progress report did not include entries for written expression 1.

120. In her complaint, the Parent articulated several concerns with the third quarter progress report. Many of the Parent's concerns were the same as those she had with the Student's first and second quarter progress reports. However, the Parent also articulated the following concerns with the third quarter progress report:

- **Math 2:** "The teacher has Student down as missing 1 problem however technically there were 4 more that were wrong. When converting fractions to decimals you're also suppose[d] to round to like the nearest hundredth and no rounding was done."
- **Math 3:** "Almost none of the problems on the [progress monitoring assessment] met the criteria for multi-purchase. The majority were single item single purchase or technically no purchase (example: lost money on the way)."
- **Behavior 1:** "There are comments in quotes, presumably from teachers, however the comments don't specify which teacher is saying what."

121. In an email dated May 13, 2021 from the Parent to the assistant principal, the Parent stated she was still desirous of a breakdown of how the District had calculated the discrepancy in minutes between what the Student had been provided during the 2020–2021 school year and what was required by the IEPs.

122. May 19, 2021 was an 'advisory Wednesday' during **schedule 3**.

123. On May 21, 2021, in response to an inquiry from the Parent regarding how the Student's progress data for his writing goals was obtained, special education teacher 2 emailed her, in part, a summary of special education teacher 2's data collection efforts over the 2020–2021 school year.⁵¹

124. On May 21, 2021, in response to an inquiry from the Parent regarding how the Student's progress data for his reading goals was obtained, the assistant principal emailed her, in part, a summary of special education teacher 3's data collection efforts over the 2020–2021 school

⁵¹ Said email showed special education teacher 2 collected data related to the Student's writing IEP goals, in part, on the following dates: September 16; October 19; November 10; January 29, 2021; and, April 29.

year.⁵² The assistant principal also provided the Parent with several math worksheets completed by the Student that related to the Student's math IEP goals.

125. On or about May 27, 2021, special education teacher 1 sent a Microsoft Teams meeting invitation to the Student's IEP team, including the Parent, to discuss potential recovery services for the Student. The date of the proposed meeting was not clear.
126. On May 28, 2021, the Parent emailed the assistant director, asking for information on an IEP meeting she had been invited to attend on June 8, 2021.

Later that day, the assistant director responded, stating, in part:

The purpose of the [June 8, 2021] meeting is to discuss whether recovery services are appropriate for Student. Recovery services are the purview of the IEP team and based on progress made during the school facility closure and the different learning models during the pandemic. Recovery services are similar to compensatory education in that the services are typically provided outside the school day. I am including OSPI's guidance on recovery services here.

127. According to the District's response, "the Parent has thus far refused to meet with the IEP team to discuss recovery services."⁵³

Regarding potential recovery services for the Student, the Parent's complaint related the following:

I did not see the point of discussing [recovery services] in front of the full IEP team [until the District was able to first] answer [my] simple questions [regarding how they had calculated the discrepancy between what was in the Student's IEP and what had been provided to the Student during the 2020-2021 school year.

128. According to the SLP log, the SLP provided the Student with the following services in June 2021:
- June 2: The SLP worked with the Student for 25 minutes in a 1:1 setting.
 - June 8: The SLP worked with the Student for 25 minutes in a 1:1 setting.
129. According to the OT log, the OT provided the Student with the following services in June 2021: three 25 minutes sessions in a remote 1:1 setting—June 2, 8, and 15.
130. June 2, 2021 was an 'advisory Wednesday' during **schedule 3**.
131. On June 3, 2021, special education teacher 1 emailed the Parent "worksheets for Student's IEP goals that Student did today. He did very well on them except the measurement one. He

⁵² Said email showed special education teacher 3 collected data related to the Student's writing IEP goals, in part, in the following months: December 2020 and May 2021. According to this email, the Student's reading abilities were measured utilizing "AimsWeb" and "MAIZE".

⁵³ The narrative portion of the District's response was received by OSPI on August 31, 2021.

missed 3 of 9." Said worksheets related, in part, to the following: converting fractions to decimals; money word problems; and, measuring length to the nearest quarter inch.

132. On June 10, 2021, the assistant principal provided the Parent with "additional information in response to your request for clarification [on how progress reporting data was gathered."
133. On June 16, 2021, the assistant principal emailed the Parent, and several District staff members, numerous different dates for a meeting "to determine whether recovery services are appropriate for Student."
134. On June 17, 2021, the assistant director emailed the Parent a copy of **charts 1 and 2**, see above.
135. The District's response included a paragraph composition-related writing assignment that was completed by the Student on June 17, 2021.
136. On June 18, 2021, the assistant director emailed the Parent, stating, in part:
The spreadsheet[s] are schedules from fall and winter [of this school year]. These schedules identify the gap between the minutes in the IEP and the schedule that offered the minutes [of specially designed instruction and related services]. As there is/was [a] mismatch between what the IEP prescribes and what was available within the weekly schedule, the compensatory services are offered as a remedy. Additional consideration can be made on the offer, including specificity of services, if you have additional input to share. I am happy to schedule a time for us to review.
137. The end of the 2020–2021 school year was June 25, 2021.

Summer 2021

138. On July 8, 2021, the assistant principal emailed the Parent, stating, in part: "[In relation to the Student's progress during the fourth quarter], I am attaching what I can pull from IEP Online."

The fourth quarter progress report included entries from June 2021 and read, in part:

- **Social/Emotional 1:** Sufficient Progress: "Student has made great progress with this goal since the last reporting period! Decreased impulsivity and increased mindfulness has been observed when Student is reacting to a situation in the remote learning environment. He can pause and wait 5-10 seconds before reacting to a situation he does not agree with or is unhappy about in 2/5 opportunities independently and 5/5 opportunities when provided a verbal cue."
- **Social/Emotional 2:** Sufficient Progress: "Student can immediately recall up to 5 pieces of auditory information using visualization or grouping into categories with 83% accuracy independently and 100% accuracy when provided a phonemic or semantic clue...Student can recall up to 5 pieces of information with 80% accuracy independently with delayed recall of 1 week...Student can verbally provide his home address, home phone number, and his mother's cell phone number on average 80% accuracy provided no cues and 100% accuracy provided phonemic cues."

- **Adaptive 1:** "This goal is in collaboration with OT and progress is reported above under the same OT goal."
- **Adaptive 2:** "No progress was made on this goal because the Student didn't want to learn how to use his phone to record appointments and assignments."
- **Adaptive 3:** Sufficient Progress: "With routine/familiar tasks, he demonstrates 3/3 steps...With new tasks, Student demonstrates 2/3 steps...He requires prompts for planning 'Get Ready,' identifying time frames needed to complete tasks, items needed, planning for the task. Student will benefit from continued support for this goal, however, he is demonstrating the foundational skills needed to master this goal."
- **Behavior 1:** "Student completes almost everything I task him or the class with and has improved from last quarter and completes asynchronous work. He is able to articulate what zone he is in, usually blue or Yellow. His English Language Arts report: 'I would give him a 5/6 in my room.'"
- **Behavior 2:** "Student generally displays appropriate emotions and responses with his classmates. His general education teacher reports: 'Student has achieved this goal during our...scale model presentations in tech class.'"
- **Math 1:** Sufficient Progress: "Student's progress on this last data collection was at 62.5%."
- **Math 2:** Mastered: "Student mastered this with 100%."
- **Math 3:** Mastered: "Student's progress is at 90%."
- **Written Expression 1:** Emerging Skill: "Classroom data collection shows 4/6 accurately written sentences, without a topic or conclusion sentence."
- **Written Expression 2:** Emerging Skill: "Student is demonstrating progress with this goal during remote OT sessions. He has filled out medical office forms and sample job application forms during OT sessions. He demonstrates improved size of words to fit within lines and legible writing for understanding what he is stating...Student also spells more words correct, 9/10 during sessions."
- **Written Expression 3:** Insufficient progress demonstrated to meet this annual goal and may not achieve annual goal within duration of IEP.
- **Speech Language:** Sufficient Progress: "Student can use 5 word retrieval strategies with an average of 60% accuracy independently and 80% accuracy provided assistance."

The progress report did not contain entries for reading 1–3.

139. In her complaint, the Parent articulated several concerns with the fourth quarter progress report. Many of the Parent's concerns were the same as those she had with the Student's first, second, and third quarter progress reports. However, the Parent also articulated the following concerns with the fourth quarter progress report:

- **Written Expression 1:** "[The] remarks state my son can do 4/6 accurately-written sentences but without a topic or conclusion sentence – his goal isn't writing sentences, his goal is to write a grammatically correct paragraph including a topic sentence and conclusion, so he's not even close to meeting his goal and hasn't made any progress."
- **Behavior 1:** "[The fourth quarter progress report entry does not] have any progress abbreviation to show if and what progress my son has made on this goal. [And] the comments [do not specify] who they are from or which teacher."

140. During this complaint investigation, OSPI's investigator conducted a phone interview of the OT. OSPI's investigator's notes of that interview are as follows:

General

The two goals the OT worked on with the Student during the fall 2020 semester (from the June 2020 IEP) were: **adaptive 3**; and, **written expression 2**.

The two goals the OT worked on with the Student after the January 2021 IEP was created were: **adaptive 3**; and, **written expression 2**.

Student generally had good attendance for the OT sessions – throughout the 2020-2021 school year.

The OT does not generally provide parents with a copy of the OT service provider log. In this instance, the Parent was present for most all the remote OT sessions, so Parent should have had a good idea of what was being worked on and why.

Provision of Services First Semester (June 2020 IEP)

Adaptive 3: (a) 'Get Ready, Do, Done' was a part of every session – it was 'built in' to each session as an organizational approach; (b) OT would write 3 columns that had headers of 'Get Ready', 'Do', and 'Done', respectively. Student and OT would then jointly fill said chart out for that day's assignment.

Written Expression 2: (a) At the start of the school year, OT informed whole class how to use the Cowriter word prediction software; (b) Then OT worked separately with Student – it was apparent Student did not like Cowriter so the OT transitioned Student to using Microsoft Inclusive Writing Tools; (c) During sessions, Student would share his screen with OT and use the Inclusive Writing Tools application. If Student grabbed the wrong word from the drop-down menu that prepopulated or spelled a word so incorrectly that the program was unable to predict, the OT assisted; and, (d) as far as OT knows, Student used the Inclusive Writing Tools application for other classes and settings as well.

Development of New OT-Related Goals in January 2021

The OT and IEP team decided to keep **adaptive 3**. Student was showing improvement with the 'Get Ready, Do, Done' method – Student was able to consistently complete 2/3 steps, but the OT and IEP team decided to move the goal to 3/3 steps.

The OT and IEP team decided to get rid of the June 2020-**written expression 2**, which focused on the Student's ability to use word prediction software because the Student appeared to be able to do it well, and the OT and IEP team decided to move onto more functional writing ability such as filling in forms: the January 2021-**written expression 2**.

141. During this complaint investigation, OSPI's investigator conducted a phone interview of special education teacher 1. OSPI's investigator's notes of that interview are as follows:

General

Special education teacher 1 taught both the Student's math class and the Home and Family Life class.

Concerning the Home and Family Life class: 'Last year, due to COVID, we did lots of work on social emotional needs all year. For Student, we regularly worked on the form-related goal.'⁵⁴

⁵⁴ Single parentheses denotes paraphrasing.

Math 1–3 were new goals for the June 2020 IEP. 'I was not told of math 1 – 3 until near the end of the first quarter – around progress reporting time.'

Implementation of June 2020 IEP Math Goals – Fall 2020

Math 1

'It is true that this goal was mainly worked on around progress reporting time. But Student had been able to master this goal pretty early in the 2020-2021 school year. But Parent disagreed that Student had mastered the goal.'

Math 2

'Student had trouble beginning of year remembering steps but mastered this goal by the end of the first semester. Parent really disagreed with this assessment. We had 4 meetings that were each 2 hours – and we kept this goal in the January 2021 IEP at the Parent's request.

Math 2 was only worked on once or twice – when you reminded Student to divide the top number by the bottom number, Student got most all of the problems correct. At some point, you're not doing instruction of a developing area. Parent wanted Student to be able to go out 3 decimal places and I did not think this particularly needed.'

Math 3

'This was addressed during math warm-ups. During the first quarter, this goal was only addressed incidentally. During the second quarter, this goal was worked on more regularly – it was mixed up with warm-up questions throughout the week.'

Development of Math Goals in January 2021 IEP

Concerning **math 3**: 'Student would get confused or lost when reading multi-step word problems. There was likely some overlap here with Student's needs in the area of reading comprehension. It was also changed to single-step because Parent asked for this change. This is a goal Student continues to struggle with.'

Implementation of Math 3 during Spring 2021

'I made sure single-step problems were weaved into our weekly warm-up problems.'

142. During this complaint investigation, OSPI's investigator conducted a phone interview of special education teacher 2. OSPI's investigator's notes of that interview are as follows:

General

Special education teacher 2 did not really work on goals other than those in the area of writing, though there was some incidental addressing of social emotional and behavior (example: calming and patience strategies when Student would get frustrated).

Implementation of June 2020 Writing Goals in Fall 2020

Writing 1: 'This did not work well for Student – and students' classmates who had similar needs. The relatively small amount of time to complete the writing probe was problematic for students.'

'I was new to Microsoft Teams during the 2020-2021 school year and the timing aspect of this goal was difficult to achieve but we did not a lot of writing in this class. Student did not get to 30 correct writing sequences by the end of the fall 2020 semester. Student would

take approximately 6 minutes to complete the probe even though I told the Student to only take 3 minutes.'

Writing 2: 'I did a little bit of work on this goal – for all students, but, in relation to Student, it was the OT that principally worked on this goal. I did introduce the technology.'

Writing 3: 'Student got better and better with this as the fall 2020 semester progressed – Student was really impressive with his spelling and writing.'

Development of January 2021 Writing Goals and Implementation of the same in Spring 2021

Writing 1: 'I did not understand the need for the timing component in the June 2020 IEP. Writing 1 in the January 2021 IEP was a tougher goal because the Student had done so well with writing and spelling during the fall of 2020.'

Writing 2: 'I did at least one application but the OT was the one that worked most often on this goal.'

Writing 3: 'The principal difference between this goal in the January 2021 IEP and the June 2020 IEP was that now we were going to focus on handwriting skills and writing legibly. This was done principally at the Parent's request. I recorded a video of myself completing a handwriting exercise, I researched handwriting instruction and lessons on the same (on Edtopia), and I engaged the whole class in handwriting instruction.'

Student's Progress in Spring 2021

Writing 1: 'Student did not progress. It turns out this may have been an inappropriate goal for the Student. Student would rush through the probes and/or tests.'

Writing 3: 'Student did not attend a lot of sessions in spring 2021—Student said he did handwriting but it was never shown to me.'

143. During this complaint investigation, OSPI's investigator conducted a phone interview of the special education teacher 3. OSPI's investigator's notes of that interview are as follows:

Implementation of Reading Goals in June 2020 IEP – Fall 2020

Reading 1: Directly assessed once every three weeks, 'I had to call each student into a separate, online meeting room and observe them complete the exercise.'

Reading 2: 'I would call the Students over one by one and test them..'

'We used the Read to Achieve program. We read stories throughout the school year—everyday Student was either reading to himself or to the class, or both. We would work on charts that addressed various topics: character; setting; and, plot. Worksheets were rare—we did most everything verbally. We worked on fluency most every day—reading text and taking a comprehension assessment. We would spend 2–3 weeks on each individual story. As the semester progressed, the analysis of the readings got more complex and sophisticated.'

Development of January 2021 IEP Reading Goals and Spring 2021 Implementation of the Same

Special education teacher 3's recollection as to why **reading 2** and **reading 3** were changed is a little hazy, but he states: it was not a contentious change—with the Parent—and, as he

best recalls, the changes were in alignment with the next phase of the Read to Achieve program.

During the spring 2021 semester, **reading 3** was 'definitely addressed at least once a week.'

Concerning the nature of the **reading 2** goal—specifically—what constitutes a 'word restitution'? 'I would use a clarification chart—words would be pulled from the reading and we would segment them and define them from context.'

Concerning the Advisory Class

Generally met two times each month. Worked on tasks such as: filling out financial aid forms; and, high school and beyond requirements.

'We worked on filling out forms—principally—financial aid forms, but this was incidental to any form-related IEP goals the Student had.'

Concerning Student's use of a planner: 'I suggested this to Parent and Parent bought Student a planner in May 2021.'

Special education teacher 3 did not work on **adaptive 3** during the advisory class.

Concerning the Student's postsecondary goals and transition services: 'Special education teacher 2 would best be able to speak to this and I cannot recall whether we did career interest surveys during the advisory class in 2020-2021.'

144. During this complaint investigation, OSPI's investigator conducted a phone interview of the SLP. OSPI's investigator's notes of that interview are as follows:

Implementation of June 2020 IEP

SLP worked on the following goals: **speech language**; and, **social emotional 1-2**.

Speech language: The strategies taught were varied: e.g., description; categorization; etc. Student's progress was really strong with antonyms and synonyms and visualization but Student needed more support in utilizing homophones⁵⁵ as a strategy.

Social emotional 1: Because of the remote, 1:1 setting, it was really just the SLP and the Student working together. And Student progressed really well but the SLP and the Student also developed a strong working relationship throughout the fall of 2020.

January 2021 IEP Development

Student did well with **social emotional 1** in the June 2020 IEP throughout the fall of 2020. But Student had some impulsivity needs and this was also an area of concern for the Parent, so therefore **social emotional 1** was changed in the January 2021 IEP.

In the spring of 2021, the SLP did not work with the Student on **behavior 2**—this was not one of the goals the SLP worked with the Student on.

Implementation of January 2021 IEP

⁵⁵ Homophones are words that sound similar but which have different meanings.

Social emotional 1: Student made some progress but it was limited. 'We did discuss other strategies that Student could utilize if Student did not think pausing and waiting would work in a given situation.'

Social emotional 2 and **speech language:** 'Yes, I worked on this, two examples being chunking and visualization. I also worked on **speech language**. While there was some overlap between these two goals, the difference was in the types of strategies that were taught to the Student.'

CONCLUSIONS

Issue 1: IEP Implementation – The Parent alleged the District did not follow proper procedures for implementing the Student's individualized education programs (IEPs) during the 2020–2021 school year.

Each district must ensure it provides all services in alignment with the student's IEP to provide that student with FAPE. In some instances, IEP teams determined that a student required some or all their instruction in-person to receive a FAPE; in such cases, the district must provide in-person instruction within a reasonable amount of time, given that districts also had to meet pandemic related health and safety requirements. When a school district does not perform these services exactly as called for by the IEP team, the district does not violate the IDEA unless it is shown to have materially failed to implement the relevant services. A material failure occurs when there is more than a minor discrepancy between the services provided to a student with a disability and those required by the IEP team to provide the Student with FAPE.

Here, the Student had a June 2020 and January 2021 IEP in effect during the 2020–2021 school year. In terms of whether they were materially implemented, OSPI notes the following.

First, there were three goals that appear to have only been incidentally addressed throughout the school year. For example:

- According to the progress reports, **adaptive 2** was not consistently addressed during the 2020–2021 school year—due both to challenges related to the remote learning environment—as well as the Student's potential hesitancy to engage with this goal.
- According to the progress reports, as well as OSPI's investigator's interviews with special education teacher 1 and special education teacher 2, **behavior 1–2** were not addressed until the return to partial in-person instruction on or about April 19, 2021. And even then, to the extent **behavior 1–2** were addressed, they appear to have been addressed in only an incidental manner. For example, during the interviews with OSPI's investigator, none of the service providers stated **behavior 1–2** were goals they were assigned to work with the Student on, though special education teacher 1 and special education teacher 2 said they incidentally addressed these goals.⁵⁶

⁵⁶ Under both IEPs, the Student was supposed to receive 2 hours and 30 minutes of specially designed instruction in behavior each week. And September 3, 2020 through June 25, 2021 represents approximately 36.5 weeks. So, during this time, the Student should have received approximately 91 hours of specially designed instruction in behavior. If it is assumed the Student got approximately 1/4 of the amount of specially designed instruction in behavior that the Student was supposed to get from April 19 through June

Second, both IEPs provided the Student with 25 minutes 3 times a month of occupational therapy services and 25 minutes 3 times a month of speech language pathology services, as related services. The OT and SLP service logs clearly show these portions of the IEPs were materially implemented during the 2020–2021 school year.

Third, the Student should have received approximately 75 hours of specially designed instruction in adaptive over the course of the 2020–2021 school year.⁵⁷ From the documentation provided to OSPI, as well as the staff interviews, it is likely the Student received a portion of this 75 hours, though it is difficult to determine exactly how much. For example, it appears the Student received some specially designed instruction in adaptive during: (a) the sessions with the OT (though the Student’s specially designed instruction in adaptive was to be non-concurrent with other services)⁵⁸; (b) a small portion of the advisory class that special education teacher 3 taught was devoted to the Student’s ability to fill out forms (**adaptive 1** in both IEPs); and, (c) a slightly more significant portion of special education teacher 1’s Home and Family Life class was devoted to the Student’s ability to fill out forms (**adaptive 1** in both IEPs). In sum, there was likely a discrepancy between the amount of specially designed instruction in adaptive that was supposed to be provided to the Student, and the amount of specially designed instruction in adaptive that the Student received. Therefore, some compensatory education is warranted.

In determining what amount of compensatory education is warranted, it is important to take into consideration the Student’s progress. Here, throughout the 2020–2021 school year, the Student demonstrated some progress on his adaptive goals—except for **adaptive 2**—discussed above.⁵⁹ On or about April 26, 2021, the District determined the Student required 13 hours of specially designed instruction in adaptive as compensatory education. Given the available facts, OSPI determines this to be an equitable offer. Importantly, the 13 hours of specially designed instruction in adaptive will be provided in a 1:1 setting; meaning, just the service provider and the Student, as it has been shown that a 1:1 setting can enable a student to make progress more quickly than if the same instruction was provided in a larger setting.

25, 2021, that means the Student received approximately six hours of specially designed instruction in behavior from April 19 through June 25, 2021. So, the Student would have experienced an approximate total deficit of 85 hours of specially designed instruction in behavior during the 2020–2021 school year. Therefore, some form of compensatory education in behavior is warranted, though it is notable that the fourth quarter progress report noted the Student was demonstrating strong performance in **behavior 1–2**—in other words—despite the potentially significant disparity between the specially designed instruction in behavior that was owed to the Student and the specially designed instruction in behavior that the Student actually received, it appears the Student was able to still make significant progress in this area.

⁵⁷ Both IEPs provided the Student with 123 minutes of specially designed instruction in adaptive each week. If this had been provided to the Student for approximately 36.5 weeks (the entire school year), the Student would have received approximately 75 hours of specially designed instruction in adaptive.

⁵⁸ It appears this was principally devoted to **adaptive 3** (the ‘Get Ready, Go, Done’ method).

⁵⁹ Beginning with the January 2021 IEP, **adaptive 1** was roughly synonymous with **written expression 2**.

Fourth, the Student should have received approximately 75 hours of specially designed instruction in social emotional over the course of the 2020–2021 school year. From the documentation provided to OSPI, as well as the staff interviews, it is likely the Student received a portion of this 75 hours, though it is difficult to determine exactly how much. For example, it appears the Student received some specially designed instruction in social emotional: (a) during the Student’s sessions with the SLP (though the Student’s specially designed instruction in social emotional was to be non-concurrent with other services); and, (b) in an incidental manner, in both special education teacher 1’s Home and Family Life Course and special education teacher 2’s writing class. In sum, there was likely a discrepancy between the amount of specially designed instruction in social emotional that was supposed to be provided to the Student, and the amount of specially designed instruction in social emotional that the Student received. Therefore, some compensatory education is warranted.

Here, throughout the 2020–2021 school year, the Student demonstrated some progress on his social emotional goals. On or about April 26, 2021, the District determined the Student required 13 hours of specially designed instruction in social emotional as compensatory education. Given the available facts, OSPI determines this to be an equitable offer. Importantly, the 13 hours of specially designed instruction in social emotional will be provided in a 1:1 setting; meaning, just the service provider and the Student.

Fifth, in relation to the remaining services that were to be provided to the Student under the IEPs (reading, math, and written expression), the determination of what the Student received is slightly more convoluted, and, consequently, more approximate—this is because the Student had three different schedules throughout the 2020—2021 school year—and even within those schedules, each week may have looked slightly different from the one before it. OSPI will address each remaining service area, in turn.

Reading: Under both IEPs, the Student was to be provided with approximately 6.5 hours of specially designed instruction in reading each week.⁶⁰

Schedule 1

Schedule 1 represented approximately 18 weeks, so the Student should have received approximately 117 hours of specially designed instruction in reading during this time.

In terms of an approximation of what specially designed instruction in reading the Student received during schedule 1:

- 140 minutes (two 70-minute reading classes each week) X 18 weeks = 2,520 minutes
- 50 minutes (length of reading class on advisory Wednesdays) X 5 (half the advisory Wednesdays during schedule 1) = 250 minutes

⁶⁰ Concurrent specially designed instruction in reading fluency of 50 minutes 1 time a week and reading comprehension of 150 minutes 1 time a week, for a total of 150 minutes 1 time a week. Plus: non-concurrent basic reading skills for 246 minutes 1 time a week.

- 70 minutes (length of reading class on non-advisory Wednesdays) X 4 weeks⁶¹ = 280 minutes
- 60 minutes (asynchronous work provided for the two class periods that met each week⁶²) X 18 weeks = 1,080 minutes
- 30 minutes (asynchronous work provided on Wednesdays) X 9 (half the Wednesdays during schedule 1) = 270 minutes

For a total of 4,400 minutes or 73 hours.

Schedule 2

Schedule 2 represented approximately 8.5 weeks, so the Student should have received approximately 55.25 hours of specially designed instruction in reading during this time.

In terms of an approximation of what specially designed instruction in reading the Student received during schedule 2:

- 140 minutes (two 70-minute reading classes each week) X 8.5 weeks = 1,190 minutes
- 50 minutes (length of reading class on advisory Wednesdays) X 2 (half the advisory Wednesdays during schedule 2) = 100 minutes
- 70 minutes (length of reading class on non-advisory Wednesdays) X 2.25 weeks⁶³ = 157.5 minutes
- 60 minutes (asynchronous work provided for the two class periods that met each week) X 8.5 weeks = 510 minutes
- 30 minutes (asynchronous work provided on Wednesdays) X 4.25 (half the Wednesdays during schedule 2) = 127.5 minutes

For a total of 2,085 minutes or 34.75 hours.

Schedule 3

Schedule 3 represented approximately 10 weeks, so the Student should have received approximately 65 hours of specially designed instruction in reading during this time.

In terms of an approximation of what specially designed instruction in reading the Student received during schedule 3:

- 140 minutes (two 70-minute, in-person reading classes each week) X 10 weeks = 1,400 minutes

⁶¹ There were approximately 18 weeks in schedule 1, and 10 advisory Wednesdays. So, removing the ten advisory Wednesdays leaves approximately eight weeks. And, according to schedule 1, the Student's reading class met on every other Wednesday, so, four regular Wednesdays.

⁶² During this investigation, the District stated: during schedules 1–2, students "often had assigned work to complete in [the] asynchronous [afternoons]." (And, at least for schedule 3, the District stated the students were assigned 30 minutes of asynchronous work each time a particular class met.)

⁶³ There were approximately 8.5 weeks in schedule 2, and four advisory Wednesdays. So, removing the four advisory Wednesdays leaves approximately 4.5 weeks. And, according to schedule 2, the Student's reading class met on every other Wednesday, so, approximately 2.25 regular Wednesdays.

- 80 minutes (asynchronous instruction assigned for the two 70-minute, in-person reading classes each week⁶⁴) X 10 weeks = 800 minutes
- 65 minutes (asynchronous instruction on non-advisory Wednesdays) X 3 (half the regular Wednesdays during schedule 3) = 195 minutes
- 45 minutes (asynchronous instruction on advisory Wednesdays) X 2 (half the advisory Wednesdays during schedule 3) = 90 minutes

For a total of 2,485 minutes or 41.5 hours.

Conclusion

In sum, for specially designed instruction in reading, the Student should have received approximately 237.25 hours (117 from schedule 1 + 55.25 from schedule 2 + 65 from schedule 3). The Student likely received approximately 149 hours (73 from schedule 1 + 34.75 from schedule 2 + 41.5 from schedule 3). For a discrepancy of approximately 88 hours.

According to progress reporting, at least over the first three quarters, the Student was able to make progress on his reading goals. Therefore, an appropriate level of compensatory education is 18 hours of specially designed instruction in reading. These 18 hours will be provided in a 1:1 setting or in a small group.

Math: Under both IEPs, the Student was to be provided with approximately four hours of specially designed instruction in math each week.

Schedule 1

Schedule 1 represented approximately 18 weeks, so the Student should have received approximately 72 hours of specially designed instruction in math during this time.

In terms of an approximation of what specially designed instruction in math the Student received during schedule 1:

- 140 minutes (two 70-minute math classes each week) X 18 weeks = 2,520 minutes
- 50 minutes (length of math class on advisory Wednesdays) X 5 (half the advisory Wednesdays during schedule 1) = 250 minutes
- 70 minutes (length of math class on non-advisory Wednesdays) X 4 weeks⁶⁵ = 280 minutes
- 60 minutes (asynchronous work provided for the two class periods that met each week) X 18 weeks = 1,080 minutes

⁶⁴ This would be 60 minutes (30 minutes for each time the class met every week). But, in its response, the District stated the Student received a minimum of 60 extra minutes each week of asynchronous work during schedule 3. Split among specially designed instruction in reading, written expression, and math, that is 20 additional minutes of asynchronous time each week per subject. So, 80 minutes of asynchronous work assigned each week.

⁶⁵ There were approximately 18 weeks in schedule 1, and 10 advisory Wednesdays. So, removing the ten advisory Wednesdays leaves approximately eight weeks. And, according to schedule 1, the Student's math class met on every other Wednesday, so, 4 regular Wednesdays.

- 30 minutes (asynchronous work provided on Wednesdays) X 9 (half the Wednesdays during schedule 1) = 270 minutes

For a total of 4,400 minutes or 73 hours.

Schedule 2

Schedule 2 represented approximately 8.5 weeks, so the Student should have received approximately 34 hours of specially designed instruction in math during this time.

In terms of an approximation of what specially designed instruction in math the Student received during schedule 2:

- 140 minutes (two 70-minute math classes each week) X 8.5 weeks = 1,190 minutes
- 50 minutes (length of math class on advisory Wednesdays) X 2 (half the advisory Wednesdays during schedule 2) = 100 minutes
- 70 minutes (length of math class on non-advisory Wednesdays) X 2.25 weeks⁶⁶ = 157.5 minutes
- 60 minutes (asynchronous work provided for the two class periods that met each week) X 8.5 weeks = 510 minutes
- 30 minutes (asynchronous work provided on Wednesdays) X 4.25 (half the Wednesdays during schedule 2) = 127.5 minutes

For a total of 2,085 minutes or 34.75 hours.

Schedule 3

Schedule 3 represented approximately 10 weeks, so the Student should have received approximately 40 hours of specially designed instruction in math during this time.

In terms of an approximation of what specially designed instruction in math the Student received during schedule 3:

- 140 minutes (two 70-minute, in-person math classes each week) X 10 weeks = 1,400 minutes
- 80 minutes (asynchronous instruction assigned for the two 70-minute, in-person reading classes each week⁶⁷) X 10 weeks = 800 minutes
- 65 minutes (asynchronous instruction on non-advisory Wednesdays) X 3 (half the regular Wednesdays during schedule 3) = 195 minutes
- 45 minutes (asynchronous instruction on advisory Wednesdays) X 2 (half the advisory Wednesdays during schedule 3) = 90 minutes

⁶⁶ There were approximately 8.5 weeks in schedule 2, and four advisory Wednesdays. So, removing the four advisory Wednesdays leaves approximately 4.5 weeks. And, according to schedule 2, the Student's math class met on every other Wednesday, so, approximately 2.25 regular Wednesdays.

⁶⁷ This would be 60 minutes (30 minutes for each time the class met every week). But, in its response, the District stated the Student received a minimum of 60 extra minutes each week of asynchronous work during schedule 3. Split among specially designed instruction in reading, written expression, and math, that is 20 additional minutes of asynchronous time each week per subject. So, 80 minutes of asynchronous work assigned each week.

For a total of 2,485 minutes or 41 hours.

Conclusion

In sum, for specially designed instruction in math, the Student should have received approximately 146 hours (72 from schedule 1 + 34 from schedule 2 + 40 from schedule 3). Student likely received approximately 149 hours (73 from schedule 1 + 34.75 from schedule 2 + 41 from schedule 3). Therefore, the math portion of the Student's IEPs was materially implemented and no compensatory education in math is warranted.

Written Expression: Under both IEPs, the Student was to be provided with approximately 3.5 hours of specially designed instruction in written expression each week.

Schedule 1

Schedule 1 represented approximately 18 weeks, so the Student should have received approximately 63 hours of specially designed instruction in written expression during this time.

In terms of an approximation of what specially designed instruction in written expression the Student received during schedule 1:

- 140 minutes (two 70-minute written expression classes each week) X 18 weeks = 2,520 minutes
- 50 minutes (length of written expression class on advisory Wednesdays) X 5 (half the advisory Wednesdays during schedule 1) = 250 minutes
- 70 minutes (length of written expression class on non-advisory Wednesdays) X 4 weeks⁶⁸ = 280 minutes
- 60 minutes (asynchronous work provided for the two class periods that met each week) X 18 weeks = 1,080 minutes
- 30 minutes (asynchronous work provided on Wednesdays) X 9 (half the Wednesdays during schedule 1) = 270 minutes

For a total of 4,400 minutes or 73 hours.

Schedule 2

Schedule 2 represented approximately 8.5 weeks, so the Student should have received approximately 30 hours of specially designed instruction in written expression during this time.

In terms of an approximation of what specially designed instruction in reading the Student received during schedule 2:

- 140 minutes (two 70-minute written expression classes each week) X 8.5 weeks = 1,190 minutes
- 50 minutes (length of written expression class on advisory Wednesdays) X 2 (half the advisory Wednesdays during schedule 2) = 100 minutes

⁶⁸ There were approximately 18 weeks in schedule 1, and 10 advisory Wednesdays. So, removing the ten advisory Wednesdays leaves approximately eight weeks. And, according to schedule 1, the Student's written expression class met on every other Wednesday, so, 4 regular Wednesdays.

- 70 minutes (length of written expression class on non-advisory Wednesdays) X 2.25 weeks⁶⁹ = 157.5 minutes
- 60 minutes (asynchronous work provided for the two class periods that met each week) X 8.5 weeks = 510 minutes
- 30 minutes (asynchronous work provided on Wednesdays) X 4.25 (half the Wednesdays during schedule 2) = 127.5 minutes

For a total of 2,085 minutes or 35 hours.

Schedule 3

Schedule 3 represented approximately 10 weeks, so the Student should have received approximately 35 hours of specially designed instruction in written expression during this time.

In terms of an approximation of what specially designed instruction in written instruction the Student received during schedule 3:

- 140 minutes (two 70-minute, in-person written expression classes each week) X 10 weeks = 1,400 minutes
- 80 minutes (asynchronous instruction assigned for the two 70-minute, in-person reading classes each week⁷⁰) X 10 weeks = 800 minutes
- 65 minutes (asynchronous instruction on non-advisory Wednesdays) X 3 (half the regular Wednesdays during schedule 3) = 195 minutes
- 45 minutes (asynchronous instruction on advisory Wednesdays) X 2 (half the advisory Wednesdays during schedule 3) = 90 minutes

For a total of 2,485 minutes or 41 hours.

Conclusion

In sum, for specially designed instruction in written instruction, the Student should have received approximately 128 hours (63 from schedule 1 + 30 from schedule 2 + 35 from schedule 3). Student likely received approximately 149 hours (73 from schedule 1 + 35 from schedule 2 + 41 from schedule 3). Therefore, the written expression portion of the Student's IEPs was materially implemented and no compensatory education in written expression is warranted.⁷¹

⁶⁹ There were approximately 8.5 weeks in schedule 2, and four advisory Wednesdays. So, removing the four advisory Wednesdays leaves approximately 4.5 weeks. And, according to schedule 2, the Student's written expression class met on every other Wednesday, so, approximately 2.25 regular Wednesdays.

⁷⁰ This would be 60 minutes (30 minutes for each time the class met every week). But, in its response, the District stated the Student received a minimum of 60 extra minutes each week of asynchronous work during schedule 3. Split among specially designed instruction in reading, written expression, and math, that is 20 additional minutes of asynchronous time each week per subject. So, 80 minutes of asynchronous work assigned each week.

⁷¹ On April 16, 2021, the District offered the Student approximately 13 hours of compensatory education in written expression, based on its own calculation of whether there was a discrepancy in this area. As OSPI

In conclusion, the following specially designed instruction will be provided to the Student as compensatory education: behavior – 13 hours; adaptive – 13 hours; social emotional – 13 hours; and, reading – 18 hours.

Issue 2: Progress Reporting – The Parent alleged the District did not follow proper procedures for reporting the Student’s progress during the 2020-2021 school year.

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, both IEPs (June 2020 and January 2021) stated progress would be reported each quarter.

First Quarter

The first quarter ended on November 6, 2020. On November 23, 2020, the District provided the Parent with a copy of the first quarter progress report.

A review of the first quarter progress report shows the entries for the following goals provided sufficient information to enable the Parent to be informed of the Student’s progress toward the same: **social emotional 1–2; adaptive 1–3; behavior 1–2; reading 1; written expression 1–3; math 1–3;** and, **speech language.**^{72 73 74}

did not find a discrepancy in written expression in this investigation, no compensatory education in written expression is required by this decision.

⁷² OSPI notes: for **adaptive 2** and **reading 3**, the first quarter progress report consisted of a statement that the Student had not been provided instruction on these goals.

⁷³ In her complaint, the Parent raised concerns with the entries for the following goals in the first quarter progress report: **reading 1; math 1;** and, **math 3**. These can be quickly addressed. For **reading 1**, the Parent noted: “[The November 2020 progress report] shows that the probe wasn’t being done monthly and may have only been done for the quarterly progress report.” But according to the June 2020 IEP, progress was to be reported at the end of each quarter—the June 2020 IEP did not require that the result of the monthly probes also be recorded and/or provided to the Parent. (Furthermore, during an interview with OSPI’s investigator, the reading teacher stated he conducted these probes—for the entire class—approximately every three weeks.) For **math 1**, the Parent, who was sitting near the Student when the math teacher gathered the data, simply disagreed with the math teacher’s understanding of the Student’s performance. For **math 3**, the Parent’s commentary appeared to consist of an acknowledgement that the data reported was accurate—that the Student was struggling with multi-step problems but did much better with single-step problems.

⁷⁴ In her complaint, the Parent also stated the progress reporting entries for **written expression 1** and **3** are invalid, as these goals were intended to be addressed in the context of the Student’s handwriting capabilities, but data was gathered in the context of the Student’s typing abilities. Here, OSPI makes several

The entries for two goals in the first quarter progress report included some potentially contradictory information:

- The first quarter progress report entry for **adaptive 3** noted the Student had made sufficient progress. But the more detailed notes strongly suggest the Student had either already mastered this goal, or come very close to mastering it. For example, the goal in the June 2020 IEP was for the Student to utilize 2 of 3 steps of 'Get Ready, Go, Done' method when completing an assignment. And the November 3, 2020 entry noted the Student was able to "complete...2/3 steps of this method," but that the Student required reminders to slow down.
- The first quarter progress report entry for **written expression 1** noted the Student had not been provided instruction on this goal. But the detailed progress reporting entries suggested the Student had received some instruction on this goal, even if minimal. For example, the Student was administered formal assessments on both October 19, 2020 and November 10, 2020 – and, at least for the latter date, "forms and keyboarding" were used during the assessment. (Furthermore, during OSPI's investigator's interview with the Student's writing teacher (special education teacher 2), the writing teacher stated: the Student worked on writing a lot throughout the fall 2020 semester – and, at times, specifically on correct writing sequences; and, the Student struggled with the timed requirement of this goal.)⁷⁵

Even though **adaptive 3** and **written expression 1** contained some potentially contradictory information in their respective entries, said entries did contain sufficient information to inform the Parent of the Student's progress on the same.

In fact, the only progress reporting entry in the first quarter progress report that did not contain sufficient information to inform the Parent of the Student's progress was **reading 2**. In the June 2020 IEP, the goal was for the Student to "correctly answer...comprehension questions...from 75% accuracy [at a] 5th grade [reading] level to 75% accuracy [at a] 6th grade [reading] level." And the first quarter progress report entry for **reading 2** was: "Sufficient Progress: Student scored a 4/5 or 80% on his last comprehension quiz." Since the June 2020 goal was for the Student to progress from one grade level to another grade level, and the first quarter progress report did not specify the grade level the Student was demonstrating; this gave the Parent insufficient information to

notes: (a) the wording of **written expression 1** and **3** in the June 2020 IEP does not explicitly state the goals would be worked on via handwriting. (In fact, **written expression 2** dealt with the Student's ability to utilize word prediction software); (b) during the 2020–2021 school year, districts were permitted to adjust the delivery method of services in an IEP, if needed, due to circumstances related to COVID. And, here, the Student's proficiency for **written expression 1** and **3** were measured in the context of the Student's typing ability for the first quarter because the District was in a remote setting due to COVID; and, (c) during the 2020–2021 school year, if an IEP team was going to either change the delivery method for a particular service for a lengthy period of time, or if there was confusion over the language of the goal, then the IEP team was required to change a student's IEP. And, here, that is exactly what happened. For example, in the January 2021 IEP, **written expression 1** was edited to explicitly permit the Student the use of "software supports", and **written expression 3** specified that it was related to the Student's handwriting ability.

⁷⁵ In her complaint, the Parent also states the progress reporting data for **written expression 1** in the first quarter report was not valid since it was not timed. The Parent is correct that the October 19, 2020 assessment was untimed. But the November 10, 2020 was timed, and showed the Student demonstrated 21 of 30 correct writing sequences.

determine the Student's progress. Accordingly, this specific entry represents a violation of the IDEA. Given the other issues with the progress reporting throughout the 2020–2021 school year, *see below*, the District will be required to disseminate written guidance on proper progress reporting procedures to certain staff.

Second Quarter

The Student's IEP team developed a new annual IEP for the Student on January 15, 2021. The January 2021 IEP stated the Student's progress would be reported each quarter. Here, the end of the second quarter was January 28, 2021. But the Student's progress was not reported until February 22, 2021—an approximate five-week delay. This represents a violation of the IDEA. Progress must be reported at the time specified in the IEP. And, here, an impermissibly lengthy period of time lapse between the end of the second quarter and when the Student's progress was reported. To remedy this violation, the District will be required to disseminate written guidance on proper progress reporting procedures to certain staff.

In terms of the content of the second quarter progress report, a review of the second quarter progress report shows the entries for the following goals provided sufficient information to enable the Parent to be informed of the Student's progress toward the same: **social emotional 1–2; behavior 1–2**⁷⁶; **adaptive 1–3; math 1–3**^{77 78}; **written expression 1–2; reading 1–3**⁷⁹; and, **speech language**.

⁷⁶ The second quarter progress report entries for **behavior 1–2** were as follows: "This goal is geared toward in-class instruction. There is no way to measure it during virtual instruction." Even during COVID-related disruptions, if a student is receiving instruction on a particular goal, then the district must have procedures in place to measure the student's progress. Here, though, since it does not appear the Student was receiving specially designed instruction in behavior during the relevant period (*see* staff interview notes, above, and *see* analysis of Issue 1, above), it is not a violation of IDEA progress reporting requirements that the second quarter entries for **behavior 1–2** contained no information.

⁷⁷ In relation to **math 1**, the second quarter progress report entry could have been more precise, but it did sufficiently apprise the Parent of the Student's performance on this goal. It read: "Sufficient Progress: 50%: There are discrepancies that can't be counted as exact due to differences in settings from laptops and printers [and so] the sheet couldn't be exactly measured. However, 50% of the questions were correct."

⁷⁸ In her complaint, the Parent disagreed with the second quarter progress report for **math 2**: "Student forgets how to divide the top by the bottom [on the calculator] to get the answer. Once Student is reminded how to do it, he is at 95% accuracy." According to the Parent, since the Student had to be reminded of how to perform the task, the Student did not demonstrate 95% accuracy. While this distinction may be accurate—that the Student was exceptionally accurate when given reminders—but struggled to complete the task without reminders, the Parent's observation shows the second quarter progress entry for **math 2** did include sufficient information to enable her to be informed of the Student's progress toward the goal.

⁷⁹ In relation to the second quarter progress report entries for **reading 1–3**, OSPI notes: while these entries are legally sufficient under the IDEA, they are not in conformity with best practices. For example, the entries for **reading 1–3** read: "Sufficient Progress." Best practice is to report progress in the same way the goal is

In relation to the second quarter progress report, there is one observation worth making even though it does not amount to a violation of the IDEA: the IEP team could have better clarified the difference between **adaptive 1** and **written expression 2**. For example, in the January 2021 IEP, these two goals read, respectively: (a) “when given a blank application type form requiring personal information (full name, address, phone number, date of birth, email address, parent/reference name and contact information), Student will write information into the form from memory improving adaptive skills”; and, “when given a life skills form (such as a job application or doctor office intake form) in electronic or paper format, Student will complete the form with functionally correct answers (understandable by the reader), improving his written expression and adaptive/functional skills.”

The second quarter progress report entry for **adaptive 1** essentially says (paraphrase): see the progress entry for **written expression 2**. Importantly, the second quarter progress report entry for **written expression 2** does provide detailed information. But, in her complaint, the Parent noted: “[The statement that **adaptive 1**] overlaps with [**written expression 2** is somewhat accurate but] one of the differences is that for **written expression 2**, Student is to work on a variety of forms...whereas the form that Student is to work on with **adaptive 1** is specifically job application forms.” OSPI notes that **adaptive 1** and **written expression 2** do seem similar. And it is recommended the IEP team clarify whether they are essentially the same goal (the Student’s ability to complete forms using recall of personal information), or whether there are differences (such as each goal possibly relating to a different type of form). But OSPI finds no violation.

The second quarter progress report did not include an entry for **written expression 3**. This is a violation of the IDEA. To address this violation, the District will be required to disseminate written guidance on proper progress reporting procedures to certain staff.

Third Quarter

The third quarter ended on April 20, 2021. The Parent was provided with the third quarter progress report on May 6, 2021, approximately 2.5 weeks later. While close, this does not represent a violation of the IDEA—in terms of the timeliness of the third quarter progress report.

In terms of the content of the third quarter progress report, a review of the third quarter progress report shows the entries for the following goals provided sufficient information to enable the Parent to be informed of the Student’s progress toward the same: **social emotional 1–2; adaptive**

written—meaning—the progress entry contains the same unit of measurement that is specified in the goal for the baseline and objective. For example, if the goal is: “Student will improve reading comprehension from answering 2 of 6 questions correctly to 6 of 6 questions correctly.” Then a best practices progress report entry would be something like: “Sufficient Progress: as of <date>, Student is able to answer 4 of 6 questions correctly.”

1/written expression 2⁸⁰; adaptive 2–3; behavior 1⁸¹; math 1–3^{82 83}; reading 1–3; and, speech language.

There are two violations of the IDEA progress reporting requirements for the third quarter progress report. First, there are no entries for either **written expression 1** or **written expression 3**. Second, there is no entry for **behavior 2**, even though, at the time the third quarter progress report was created, the Student had received approximately one week of partial in-person instruction. If a district is working on a goal with a student, a district must have procedures in place to report progress on that goal. (For example, here, even though only one week of partial in-person instruction had taken place by the time the third quarter progress report was created, the District was able to report progress on **behavior 1**.) To remedy this violation, the District will be required to disseminate written guidance on proper progress reporting procedures to certain staff.

Fourth Quarter

The fourth quarter ended on June 25, 2021. The Parent was provided with the fourth quarter progress report on July 8, 2021, approximately two weeks later. This represents a timely provision of the fourth quarter progress report to the Parent.

⁸⁰ OSPI’s commentary concerning the potential relatedness of **adaptive 1** and **written expression 2** for the second quarter progress report, *see above*, is equally applicable here.

⁸¹ For **behavior 1**, the Parent stated the third quarter progress report should have noted which teacher provided each comment. (For **behavior 1**, the third quarter progress report appears to include comments from four different teachers.) But the language of **behavior 1** did not require that the respective teachers be identified. More importantly, though, the comments included for **behavior 1** in the third quarter progress report did provide the Parent with sufficient information to enable her to be informed of the Student’s progress toward **behavior 1**.

⁸² For **math 2**, the Parent disagreed with the math teacher’s understanding of the Student’s ability: “The teacher has Student down as missing 1 problem however technically there were 4 more that were wrong.” The Parent also stated, “when converting fractions to decimals you’re also suppose[d] to round to...the nearest hundredth and no rounding was done.” But for **math 2**, the January 2021 IEP does not require the decimal to be rounded to the nearest hundredth, and, during his interview with OSPI’s investigator, the math teacher (special education teacher 1), stated this ability was not a strong need resulting from the Student’s disability.)

⁸³ For **math 3**, the Parent stated: “almost none of the problems on the [progress monitoring assessment] met the criteria for multi-purchase. The majority were single-item, single purchase or technically no purchase (example: lost money on the way).” **Math 3** in the January 2021 IEP read, in part: “when given real world single-step problems involving total cost of a multi-item purchase, estimation of tax, or making of change.” As OSPI understands **math 3**, based on the language of the goal, as well as progress reporting earlier in the school year, the principal purpose of **math 3** was to improve the Student’s ability to complete multi-item purchases, but the Student had challenges with this, and so a decision was made in the January 2021 IEP to break this ability down into smaller, constituent parts: single-item purchases. OSPI finds no violation.

In terms of the content of the fourth quarter progress report, a review of the fourth quarter progress report shows the entries for the following goals provided sufficient information to enable the Parent to be informed of the Student's progress toward the same: **social emotional 1–2; adaptive 1/written expression 2; adaptive 2–3; behavior 1–2; math 1–3; written expression 1⁸⁴; written expression 3;** and, **speech language**.

There is one violation of the IDEA progress reporting requirements for the fourth quarter progress report: it did not include entries for **reading 1–3**. As a remedy, the District will be required to disseminate written guidance on proper progress reporting procedures to certain staff. The District will also be required to provide the Parent with an update on the Student's progress on **reading 1–3**.

Issue 3: IEP Development: Occupational Therapy and Speech Language Pathology – The Parent alleged the District did not follow proper IEP development procedures for determining how the Student's occupational therapy and speech language pathology minutes would be provided to the Student at the beginning of the 2020–2021 school year.

When developing each student's individualized education program (IEP), the IEP team must consider the strengths of the student, the concerns of the parents for enhancing the education of their student, the results of the initial or most recent evaluation of the student, and the academic, developmental, and functional needs of the student.

Here, the June 2020 IEP provided the Student with the following related services: 25 minutes of occupational therapy 3 times a month; and, 25 minutes of speech language 3 times a month. Both services were to be provided non-concurrently. Furthermore, the June 2020 IEP read, in part: "Three times per month, Student will be pulled out of his writing class to receive speech/language and [occupational therapy] services."

The Parent, though, stated this language was a "placeholder"—that it was understood the IEP team would revisit how to best provide the Student with occupational and speech therapy before or near the start of the 2020–2021 school year. According to the Parent, the Student had significant needs in writing, and it therefore did not make sense to pull the Student from his specially designed instruction-writing class to receive his related services.

As concerns the start of the 2020–2021 school year, the information provided to OSPI during this investigation shows the following:

⁸⁴ For the fourth quarter entry for **written expression 1**, the Parent stated: "The [progress] remarks [speaks in terms of number of sentences Student can write] but his goal is to write a grammatically-correct paragraph." Here, OSPI notes: **written expression 1** did relate to the Student's ability to "write an 8-sentence grammatically-correct paragraph which includes an original topic sentence..and a clear conclusion summary." But the fourth quarter entry for **written expression 1** did sufficiently apprise the Parent of the Student's ability in this area: "Classroom data collection shows 4/6 accurately written sentences, without a topic or conclusion sentence." In other words, as of the end of the fourth quarter, the Student was successful with the constructing the body of a paragraph but struggled with, including both a topic and conclusion sentence. OSPI finds no violation.

- From September 10 through October 12, 2020, the OT and SLP provided services to the Student as a “push in” during the Student’s writing class.
- At least as of mid-September 2020, the Parent expressed concern that the Student should not be pulled from his writing class to receive his related services.⁸⁵ The Parent expressed this concern because the Student had significant writing needs.
- On September 18, 2020, the Parent and the District reached agreement on how the Student’s related services would be provided: on Tuesdays from 1–1:50 pm, the Student would meet individually with both the OT and SLP, respectively, for 25 minutes each. On or about September 29, 2021, this agreement was memorialized in a prior written notice that was provided to the Parent, and the Student’s schedule on the IEP Online program was updated accordingly.
- The agreement began to be implemented on October 13, 2020.

The foregoing facts do not represent a violation of the IDEA. The District worked with the Parent to determine how best to provide the Student with his related services. For example, the June 2020 IEP stated the Student would be pulled from his writing class to receive his related services. But the SLP and OT switched to a “push in” provider model in response to the Parent’s concerns—specifically—that the Student had significant writing needs and should not be pulled from that class. Then, when an agreement was reached to provide the Student’s related services separately from the writing class, that agreement was memorialized in a prior written notice and the Student’s schedule in IEP Online was changed.⁸⁶ In sum, it was a change made based on the Student’s needs and the Parent’s concerns; the District followed proper IEP development procedures on this issue.

Issue 4: January 15, 2021 IEP Meeting – The Parent alleged the District did not follow several IEP development procedures in relation to the January 2021 IEP.

Notice of Transfer of Rights

The Parent alleged the District did not notify the Student of the transfer of rights under the IDEA to him upon his reaching the age of majority, in accordance with WAC 392-172A-03090(1).

Beginning not later than one year before the student reaches the age of 18, the IEP must include a statement that the student has been informed of the student’s rights under the act, if any, that will transfer to the student on reaching the age of majority.

Here, the Student was 17 years old as of January 15, 2021. The January 2021 IEP included the following statement: “The student must be informed at least one year prior to turning 18 that the

⁸⁵ It is not clear if, and/or when, the Student was pulled from his writing class during the first month and a half of school to receive his related services—the SLP and OT logs clearly document the Student received related services as a “push in” from September 10 through October 12, 2020. (The SLP service log does state, on September 29, 2020, the SLP worked with Student for 25 minutes as a “push in” during the Student’s writing class, but then worked with the Student for an additional 25 minutes in a 1:1 setting.)

⁸⁶ Though, it should be clear: it is not clear the June 2020 IEP itself was ever amended to excise the sentence in that IEP that read: “Three times per month, Student will be pulled out of his writing class to receive speech/language and [occupational therapy] services.” OSPI reminds the District that under the above circumstances, it should have also taken this additional step.

IDEA procedural safeguards (rights) transfer to him/her at age 18 and be provided with an explanation of these procedural safeguards.” And the following assertion: “Date [Student was] informed [of the transfer of rights]: December 19, 2020.” In its response, the District stated the foregoing statement “is the only written evidence the District has the Student was informed of the transfer of rights”; special education teacher 1’s “standard practice [is to] briefly discuss student and parent IDEA procedural rights at the start of every IEP meeting”; and, special education teacher 1 “has no specific recollection of discussing procedural rights with the Student outside of the IEP meeting setting.”

According to the Parent’s complaint, though, the Student was not present for any meeting that may have taken place on December 19, 2020.

Importantly, outside of the above statement in the January 2021 IEP, the information provided to OSPI during this investigation does not refer to either an IEP meeting or informal conversation having taken place on December 19, 2020⁸⁷, wherein the Student could have been informed of the transfer of rights. OSPI determines though, it is very likely the December 19, 2020 date was a typographical error, and that December 17, 2020 was the intended date—as an IEP meeting did take place on December 17, 2020—and the Student participated in the same. Therefore, this does not represent a violation of the IDEA.

Student Participation in Discussion of Postsecondary Goals and Transition Services

As a preliminary matter, OSPI notes: it is possible OSPI opened an investigation into this issue on an erroneous reading of the Parent’s complaint request—it appears this specific issue was not one of the Parent’s principal concerns. For example, the Parent’s reply read, in part: “I don’t think I ever said [Student] wasn’t involved [in creation of the January 2021 IEP]...Student was able to attend some of the series of annual IEP meetings [in December 2020 and January 2021⁸⁸, though] the longest he could stay focused was maybe an hour.” Regardless, OSPI notes the following.

The student must be invited to the IEP team meeting when the purpose of the meeting will be the consideration of the postsecondary goals for the student and the transition services needed to assist the student in reaching those goals. If the student does not attend the IEP team meeting, the school district must take other steps to ensure that the student's preferences and interests in postsecondary goals and transition services are considered.

Here, it is not clear to what extent the Student contributed to a conversation concerning appropriate postsecondary goals and transition services in the winter of 2020–2021.

⁸⁷ Furthermore, the information provided to OSPI during the course of this investigation does not appear to include any relevant emails from December 19, 2020.

⁸⁸ The documentation provided to OSPI during this investigation supports a finding that the Student attended the following IEP meetings in the winter of 2020–2021: December 17, 2020; January 5, 2021; and, January 15, 2021.

For example, there was limited documentation suggesting the Student did contribute to a conversation in this area: (a) on January 5, 2021, the Parent emailed the principal, informing the principal the Student was interested in theater tech, video, music, and art, and inquiring as to whether the District knew of any transition programs that would assist the Student in exploring these areas; and, (b) as part of the Student's advisory class, he may have occasionally completed career interest surveys throughout the 2020–2021 school year.⁸⁹

There was also limited documentation suggesting the Student did not contribute to a conversation in this area: (a) according to meeting notes, graduation pathways were discussed at the December 17, 2020 IEP meeting, but transition services were not discussed⁹⁰; (b) on January 3, 2021, the Parent declined the opportunity to complete a transition survey she had been provided, instead directing the District to the independent transition assessment that had been completed in the spring of 2019⁹¹; and, (c) except for the 'Course of Study' classes listed for the Student's 12th grade year, the 'Secondary Transition' portion of the January 2021 IEP was the same as that found in the June 2020 IEP.

Given the limited—and conflicting—evidence on this issue, the fact that it was not one of the Parent's principal concerns is important, and OSPI does not find a violation. However, OSPI notes that in its response, the District stated the IEP team will discuss appropriate postsecondary goals and transition services for the Student during the current school year (2021–2022). Therefore, OSPI reminds the District of its obligations under WAC 392-172A-03095(2) in relation to these future conversations.

Team Member Excusal

The Parent alleged the District did not follow team member excusal procedures for the general education teacher's attendance at the winter 2020–2021 IEP meetings. Specifically, Parent noted the two different team member excusal forms⁹² that stated the general education teacher would be excused from attending the January 8 and 15, 2021 IEP meetings, respectively, were not signed by either herself (the Parent) or a District staff member.

The district must ensure that the IEP team includes not less than one general education teacher of the child (if the child is, or may be, participating in the general education environment). Parents

⁸⁹ According to the District, the IEP team, including the Parent, did engage in an extended conversation about the Student's most appropriate graduation pathway, as well as potential postsecondary goals and transition services, in the winter of 2020–2021. From this information, though, it is not clear how much the Student contributed to this conversation—it appears the Parent may have been the principal contributor.

⁹⁰ It is not clear if postsecondary goals and transition services were discussed at the January 5, 2021 IEP meeting.

⁹¹ Presumably, had the Parent completed this transition survey, it would have reflected her knowledge of the Student's strengths, interests, and needs in postsecondary goals and transition services.

⁹² Both were dated January 5, 2021.

and districts can agree in writing that an IEP team member's participation is not necessary and that the team member may be excused from attending an IEP meeting, in whole or part, if the team member's area of curriculum or related services is not being modified or discussed in the meeting.

Here, the fact that neither the Parent nor a District staff member signed the team member excusal forms does represent a procedural violation of WAC 392-172A-03095(5). For two reasons, though, this violation does not appear to have impacted the Student's access to FAPE: (a) the general education teacher was able to attend, and participate, in the December 17, 2020 IEP meeting; (b) during this investigation, the Parent did not contest the District's assertion that, despite the fact the team member excusal forms were not signed by either party, they accurately represented the parties' mutual understanding of which meeting the general education teacher would attend.⁹³ For these two reasons, despite the violation of the IDEA, no corrective actions are warranted. But the District is reminded of its obligations under WAC 392-172A-03095(5).

Goal Development: Math

The Parent alleged the math goals in the January 2021 IEP were developed with insufficient data on the Student's needs in math resulting from the Student's disability.

Development of the three January 2021 math goals will be analyzed in turn.

Math 1 (converting fractions to decimals) and **math 2** (measuring the length of objects using a ruler to the nearest 1/8 inch or centime) were the same in both the June 2020 and January 2021 IEPs. It appears, though, that the parties had a disagreement concerning how well the Student performed in **math 1** and **2** during the fall 2020 semester: special education teacher 1 believed the Student mastered both goals quickly, but the Parent strongly disagreed. According to special education teacher 1, **math 1** and **2** were kept in the January 2021 IEP largely at the Parent's insistence. This is permissible, as a parent is a member of an IEP team, and a parent's input on a student's needs should be considered.⁹⁴ However, both the baseline and objective remained the same for **math 1** and **2** in both IEPs. If special education teacher 1 really believed the Student had mastered, or demonstrated substantial progress, on **math 1-2** in the fall of 2020, presumably the

⁹³ The January 2021 IEP reflected some input from the general education teacher in two places: 'General Education Teacher Report'; and, 'Adverse Impact Summary.' However, the input from the general education teacher in these two sections appears to be exactly the same as that found in the June 2020 IEP.

⁹⁴ Though OSPI notes: the IEP team should work toward consensus, but the district has ultimate responsibility to ensure that the IEP includes the services that the student needs in order to receive FAPE. It is not appropriate to make IEP decisions based upon a majority "vote" and no one team member has "veto power" over individual IEP provisions or the right to dictate a particular educational program. If the team cannot reach consensus, the district must provide the parents with prior written notice of the district's proposals or refusals, or both, regarding the student's educational program and the parents have the right to seek resolution of any disagreements by initiating an impartial due process hearing.

baseline should have been slightly changed. No violation is found, but OSPI reminds the District that a goal should have an accurate, and clearly-stated baseline of the student's performance.

Math 3 in the June 2020 IEP concerned the Student's ability to complete "real world...multi-step problems involving [the] total cost of a multi-item purchase." But according to the first quarter progress report, the Student struggled with the "multi-step" portion of this goal, and, to better progress in this skill area, the Student needed to separate the task into smaller, more discrete steps. (Importantly: (a) during his interview with OSPI's investigator, special education teacher 1 agreed with the foregoing observation; and, (b) based on the documentation provided to OSPI during the course of this investigation, the Parent appears to have also acknowledged the Student struggled with the "multi-step" portion of the **math 3** goal in the June 2020 IEP.) Accordingly, in the January 2021 IEP, the IEP team amended **math 3** to break the task into smaller, more discrete steps—for example—the new language read, in part: "when given real world single-step problems." The foregoing represents generally correct IEP development procedures for the **math 3** goal in the January 2021 IEP.

The baseline for **math 3** was the same for both IEPs: 0% accuracy. While **math 3** in the January 2021 IEP was a substantively new goal, and the Student's baseline could have potentially been 0%, the first quarter progress report suggests the Student did have some ability to solve the smaller, more discrete steps of a multi-item purchase problem. Therefore, it is likely the baseline for **math 3** in the January 2021 IEP should not have been: 0% accuracy. OSPI finds no violation, but OSPI reminds the District that a goal should have an accurate, and clearly-stated baseline of the student's performance.

Except for not necessarily following best practices in terms of establishing a baseline for **math 1–3**, these goals in the January 2021 IEP were properly developed, and based on sufficient, relevant information on the Student's needs in this area.

Goal Development: Adaptive, Reading, and Writing

During this investigation, the Parent raised concerns with several of the other goals in the January 2021 IEP. Those will be analyzed in turn.

Adaptive 1: This goal in the January 2021 IEP read as follows: "when given a blank application type form requiring personal information (full name, address, phone number, date of birth, email address, parent/reference name and contact information), Student will write information into the form from memory improving adaptive skills." The Parent stated, though, that the Student's adaptive needs in this area means that he should also be required to enter the following information in forms: Parent's first and middle name; Parent's birthdate; Parent's cellphone number and the family's landline number; and, the Student's place of birth. The documentation provided to OSPI during this conversation did not evince a lot of information concerning the nature of the January 2021 conversation about developing **adaptive 1**—and the determination of which pieces of information the Student needed to be able to enter into a form. No violation is found.

Adaptive 2: A review of the documentation provided during this investigation shows the following: **adaptive 2** in the June 2020 IEP related to the Student's ability to utilize a physical planner; given the remote setting, this goal was difficult to work on during the fall 2020 semester; with the January 2021 IEP, the physical planner was replaced with an electronic planner—as the Student was going to be continuing in a remote setting; the Parent disagreed that the focus should be exclusively on an electronic planner—and, during the spring of 2021, the Parent did not necessarily encourage the Student to focus on the electronic planner, instead focusing the Student on a physical planner; and, for the 2021–2022 school year, the District is “continuing to support the Student in using both [a physical and an electronic planner] to find out what system works best for him.” No violation is found.

Reading 3: This goal concerned the Student's ability to “underline vowel sounds and make a slash between syllables, improving [ability to] read...multisyllable words from 2 of 5 correct to 4 of 5 correct.” According to the Parent, **reading 3** “should have been removed and [a goal related to Student's ability to complete MAZE tests should have been added].” (According to special education teacher 3, “MAZE tests are tests that [asses] reading comprehension.”⁹⁵) OSPI's investigator does not have an independent recollection of, during this investigation, reviewing documentation concerning the IEP team removing **reading 3** and instead including a goal related to Student's ability to complete MAZE tests. According to special education teacher 3, the creation of **reading 3** in the January 2021 IEP was not contentious, and in line with the reading program the Student's class was utilizing—and had been utilizing for the prior portion of the 2020–2021 school year. No violation is found.

Written Expression 1: This goal reads, in part: “when given a writing prompt and software supports, the Student will write an 8-sentence grammatically correct paragraph.” During this investigation, the Parent stated: “[This goal was created] based off of writing, not typing.” Presumably, **written expression 1** was created with the Student's typing skills in mind—as software supports are mentioned. To that extent, then, OSPI understands the Parent's concern to be the Student should also have a written expression goal that relates, at least in part, to the Student's ability to handwrite a paragraph. (OSPI understands the Student's handwriting abilities were an area of concern for the Student, and this was one of the reasons **written expression 3** in the January 2021 IEP explicitly incorporated this skillset.) The documentation was silent as to whether the IEP team considered whether **written expression 1** should be in relation to handwriting or typing, or whether there needed to be a separate goal for each. No violation is found.

In relation to **written expression 1** in the January 2021 IEP, the Parent also stated, “Writing 8 sentences is a huge jump from his prior goal.” But the first quarter progress report showed the Student made significant progress on **written expression 1** in the June 2020 IEP during the first part of the fall of 2020; and, the January 2021 IEP showed, at least using certain software, the Student was able to demonstrate sufficient progress on this goal. Furthermore, during her interview with OSPI's investigator, special education teacher 2 stated (paraphrased), “**Written**

⁹⁵ OSPI notes that the **reading 1** and **2** in the January 2021 IEP appear to both relate closely to the Student's ability to comprehend readings.

expression 1 in the January 2021 IEP was a tougher goal because the Student had done so well with writing and spelling during the fall of 2020.' No violation is found.

Written Expression 3: This goal concerned the Student's ability to, "when given 50 sight words and a spelling assignment the Student will demonstrate an ability to legibly handwrite correctly spelled words improving written expression skills from 60% correctly spelled words to 100% correctly spelled words." During this investigation, the Parent asserted the special education teacher 2 did not do any data gathering, so she could not have accurately come up with the 60% baseline. But: (a) data for **written expression 3** in the June 2020 IEP, which was similar, was gathered and reported at the end of the first quarter; (b) the January 2021 IEP included up-to-date information on the Student's spelling abilities— at least in the context of the Student utilizing Microsoft Word and certain word prediction software; and, (c) during her interview, special education teacher 2 recalled that Student had gotten 'better and better' and was 'really impressive' with his spelling skills as the fall 2020 semester progressed. Therefore, OSPI finds: the baseline for **written expression 3** in the January 2021 IEP was likely accurate and valid. No violation is found.

As concerns **written expression 3**, the Parent also states: the grade level of the sight words and spelling assignments should be specified in the goal. The documentation was silent regarding this aspect of **written expression 3**—to the extent such a conversation did take place. OSPI encourages the IEP team to consider whether **written expression 3** needs to be revised to include identification of the grade level of the sight words and spelling assignments the Student is working with. No violation is found.

Postsecondary Goals and Transition Services (and Course of Study)

The Parent alleged the District did not follow proper procedures for ensuring her participation in the discussion around postsecondary goals, transition services, and courses of study in the January 2021 IEP. The Parent also alleged this section of the January 2021 IEP was not based on sufficient, relevant data on the Student's needs resulting from the Student's disability.

Parental participation in the IEP and educational placement process is central to the IDEA's goal of protecting the rights of students with disabilities and providing each student with a FAPE. IEP team decisions should be based on relevant, sufficient data on the student's needs resulting from the student's disability.

Here, as discussed above, it is not entirely clear how much time was devoted in the December 2020 and January 2021 IEP meetings to discuss the Student's postsecondary and transition needs. For example: (a) according to meeting notes, graduation pathways were discussed at the December 17, 2020 IEP meeting, but transition services were not discussed⁹⁶; and, (b) except for the 'Course of Study' classes listed for the Student's 12th grade year, the 'Secondary Transition' portion of the January 2021 IEP was the same as that found in the June 2020 IEP.

⁹⁶ It is not clear if postsecondary goals and transition services were discussed at the January 5, 2021 IEP meeting.

Still, to the extent postsecondary goals and transition services were discussed during the winter of 2020–2021, OSPI did not find the Parent to have been improperly excluded from those conversations. For example: (a) on January 3, 2021, the Parent declined the opportunity to complete a transition survey she had been provided, instead directing the District to the independent transition assessment that had been completed in the spring of 2019⁹⁷; (b) on January 5, 2021, the Parent emailed the principal, informing the principal the Student was interested in theater tech, video, music, and art, and inquiring as to whether the District knew of any transition programs that would assist the Student in exploring these areas; and (c), the Student’s IEP team, including the Parent, met on four different occasions throughout the winter of 2020–2021, and, on each occasion, the meeting lasted multiple hours.⁹⁸ And there was nothing in the documentation provided to OSPI to suggest the Parent’s participation in those meetings was improperly limited. In sum, OSPI did not find the Parent was improperly excluded from any conversation regarding appropriate postsecondary goals and transition services for the Student that may have taken place during the winter of 2020–2021. No violation is found.

In terms of whether the postsecondary goals and transition services section of the January 2021 IEP is based on sufficient, relevant data on the Student’s needs resulting from the Student’s disability, OSPI notes the following.

It appears the following data potentially informed the postsecondary goals and transition services section of the January 2021 IEP: (a) the Parent’s January 5, 2021 email to the principal concerning the Student’s interests in this area; (b) any career interest surveys the Student may have completed during his advisory class prior to January 15, 2021; and, (c) the results of an independent transition assessment that had been completed in the spring of 2019. No violation is found.

During this investigation, the Parent listed five concerns she had with postsecondary goals and transition services section of the January 2021 IEP. The District stated that, prior to the instant investigation, these concerns were not communicated to it. (And, during this investigation, OSPI did not find evidence of these concerns being communicated to the District.) Therefore, OSPI recommends the Student’s IEP team discuss each of the Parent’s five concerns in this area, make a decision in response to each concern, and then provide the Parent with a prior written notice, explaining the decision that has been made in response to each concern. For the IEP team’s convenience, OSPI lists those concerns here:

- **Concern 1:** “[Should the ‘Course of Study’ subsection] be updated to accurately reflect the number of quarters Student attended class versus semester?”
- **Concern 2:** The specially designed instruction individual skills class needs to be removed from the twelfth grade course of study as this is currently not a part of Student’s schedule.

⁹⁷ Presumably, had the Parent completed this transition survey, it would have reflected her knowledge of the Student’s strengths, interests, and needs in postsecondary goals and transition services.

⁹⁸ According to meeting notes, graduation pathways were discussed at the December 17, 2020 IEP meeting, but transition services were not discussed. It is not clear if postsecondary goals and transition services were discussed at the January 5, 2021 IEP meeting.

- **Concern 3:** "Does the IEP team plan on identifying any other agencies that may be responsible for providing...transition services and if so when will a meeting be held [that includes said other agencies]?"
- **Concern 4:** "Since the Student's interests are arts and possibly social, does the IEP have any recommendations for transition programs that include Student's interests?"
- **Concern 5:** "The outside transition assessment...recommended Student do shadow 'training.' There's been no discussion regarding this, and Student hasn't even participated in any online version of this."

Issue 5: Recovery Services – The Parent alleged the District did not follow proper procedures for determining whether the Student required recovery services.

Recovery services are intended to mitigate the impact of COVID-19 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 COVID-19 pandemic. Recovery services should be determined by IEP teams on a case-by-case basis. Districts should examine the effect of COVID-19 on the special education and related services provided on the student's overall progress and engagement, including progress toward their IEP goals.

Here, in the spring of 2021, the District offered to meet with the Parent to discuss whether the Student required recovery services. The Parent, though, did not want to discuss recovery services until she had a better understanding of the District's April 26, 2021 offer of compensatory education. Now that this decision has addressed the issue of compensatory education, OSPI encourages the Student's IEP team to meet soon to determine if the Student requires additional recovery services due to any impacts of COVID on the Student's education during the 2020–2021 school year. No violation is found.

CORRECTIVE ACTIONS

By or before **October 13, 2021, October 18, 2021, October 22, 2021,** and **April 8, 2022,** the District will provide documentation to OSPI that it has completed the following corrective actions.

STUDENT SPECIFIC:

Compensatory Education

By or before **October 22, 2021,** the District and the Parent will develop a schedule for providing the following compensatory education to the Student: 13 hours of specially designed instruction in adaptive; 13 hours of specially designed instruction in behavior; 13 hours of specially designed instruction in social emotional; and, 18 hours of specially designed instruction in reading.

The District will provide OSPI with documentation of the schedule for services by or before **October 22, 2021.**

Except for the 18 hours of compensatory education in reading—which may take place in a small group setting—the compensatory education will occur in a one-on-one setting and be provided by a certificated special education teacher. The instruction will occur outside of the District's

school day and may occur on weekends or during District breaks. Because of the COVID-19 pandemic, the compensatory education may be provided remotely.

If the District's provider is unable to attend a scheduled session, the session must be rescheduled. If the Student is absent, or otherwise does not attend a session without providing the District with at least 24 hours' notice of the absence, the District does not need to reschedule. **The services must be completed no later than April 8, 2022, including those needing to be rescheduled.**

No later than **April 8, 2022**, the District shall provide OSPI with documentation that all of the compensatory education has been completed. This documentation must include the dates, times, and length of each session, and state whether any of the sessions were rescheduled by the District or missed by the Student.

The District either must provide the transportation necessary for the Student to access these services, or reimburse the Parent for the cost of providing transportation for these services. If the District reimburses the Parent for transportation, the District must provide reimbursement for round trip mileage at the District's privately-owned vehicle rate. The District must provide OSPI with documentation of compliance with this requirement by **April 8, 2022**.

Partial Progress Report to Parent

By or before **October 15, 2021**, the District will provide the Parent with an update on the Student's progress on **reading 1–3** in the January 2021 IEP.

By or before **October 18, 2021**, the District will provide OSPI with documentation showing its compliance of this portion of the corrective actions.

DISTRICT SPECIFIC:

Dissemination of Written Guidance

By **October 22, 2021**, the District will ensure that the following individuals receive written guidance on the topics listed below: special education administrators, the principal, the assistant principal, and special education-certified staff, including educational staff associates (ESAs)⁹⁹, at the school that the Student was enrolled in during the 2020-2021 school year. The guidance will include examples.

Topic 1: Proper progress reporting procedures.

By **October 13, 2021**, the District will submit a draft of the written guidance to OSPI for review. OSPI will approve the guidance or provide comments by October 16, 2021.

By **October 22, 2021**, the District will submit documentation that all required staff received the guidance. This will include a roster of the required personnel. This roster will allow OSPI to verify that all required staff members received the guidance.

⁹⁹ ESAs include school psychologists, physical therapists, occupational therapists, speech language pathologists, school counselors, school nurses, and other service providers.

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.

RECOMMENDATIONS

The IEP team to clarify whether **adaptive 1** and **written expression 2** in the January 2021 IEP are essentially the same goal (the Student's ability to complete forms using recall of personal information), or whether there are differences between the two goals (such as each goal possibly relating to a different type of form).

The IEP team to consider whether **written expression 3** in the January 2021 IEP needs to be revised to include identification of the grade level of the sight words and spelling assignments the Student is working with.

OSPI recommends the Student's IEP team discuss each of the Parent's five concerns in the area of postsecondary goals and transition services, make a decision in response to each concern, and then provide the Parent with a prior written notice, explaining the decision that has been made in response to each concern. For the IEP team's convenience, OSPI lists the Parent's concerns here:

- **Concern 1:** "[Should the 'Course of Study' subsection] be updated to accurately reflect the number of quarters Student attended class versus semester?"
- **Concern 2:** The specially designed instruction individual skills class needs to be removed from the twelfth grade course of study as this is currently not a part of Student's schedule.
- **Concern 3:** "Does the IEP team plan on identifying any other agencies that may be responsible for providing...transition services and if so when will a meeting be held [that includes said other agencies]?"
- **Concern 4:** "Since the Student's interests are arts and possibly social, does the IEP have any recommendations for transition programs that include Student's interests?"
- **Concern 5:** "The outside transition assessment...recommended Student do shadow 'training.' There's been no discussion regarding this and Student hasn't even participated in any online version of this."

REMINDERS

The student must be invited to the IEP team meeting when the purpose of the meeting will be the consideration of the postsecondary goals for the student and the transition services needed to assist the student in reaching those goals. If the student does not attend the IEP team meeting, the school district must take other steps to ensure that the student's preferences and interests in postsecondary goals and transition services are considered.

The district must ensure that the IEP team includes not less than one general education teacher of the child (if the child is, or may be, participating in the general education environment). Parents and districts can agree in writing that an IEP team member's participation is not necessary and that the team member may be excused from attending an IEP meeting, in whole or part, if the team member's area of curriculum or related services is not being modified or discussed in the meeting.

An annual IEP goal should have both an accurate, and clearly-stated baseline of the student's performance—as well as objective for the student's performance.

Dated this ___ day of October, 2021

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.)