

SPECIAL EDUCATION COMMUNITY COMPLAINT (SECC) NO. 22-150

PROCEDURAL HISTORY

On December 15, 2022, the Office of Superintendent of Public Instruction (OSPI) received a Special Education Community Complaint from the parent (Parent) of a student (Student) attending the Seattle 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 December 16, 2022, OSPI acknowledged receipt of this complaint and forwarded a copy of it to the District superintendent on the same day. OSPI asked the District to respond to the allegations made in the complaint.

On December 16, 2022, the District requested an extension of time to submit its response. On the same day, OSPI granted that request. OSPI required the response to be submitted by January 9, 2023.

On December 21, 2022, OSPI's complaint investigator conducted a telephone interview with the Parent.

On January 5, 2023, OSPI received additional information from the Parent. That information was forwarded to the District on the same day.

On January 6, 2023, OSPI received additional information from the Parent. That information was forwarded to the District on January 9, 2023.

On January 9, 2023, OSPI received the District's response to the complaint and forwarded it to the Parent on January 10, 2023. OSPI invited the Parent to reply.

On January 17, 2023, OSPI received additional information from the Parent. That information was forwarded to the District on January 18, 2023.

On January 17, 2023, the Parent requested an extension of time to submit a reply to the District's response. On January 18, 2023, OSPI granted that request. OSPI required the reply to be submitted by January 30, 2023.

On January 19, 2023, OSPI requested additional information from the District, and the District submitted the information the same day. The information was forwarded to the Parent on January 20, 2023.

On January 30, 2023, OSPI received the Parent's reply to the District's response and forwarded it to the District on the same day.

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

SCOPE OF INVESTIGATION

This decision references events that occurred prior to the investigation period, which began on December 16, 2021. These references are included to add context to the issues under investigation and are not intended to identify additional issues or potential violations, which occurred prior to the investigation period.

ISSUE

1. Per WAC 392-172A-03105, has the Student's individualized education program (IEP) been implemented properly for the 2022-2023 school year, including providing assistive technology (AT) and a 1:1 paraeducator?

LEGAL STANDARDS

IEP Implementation: At the beginning of each school year, each district must have in effect an individualized education program (IEP) for every student within its jurisdiction served through enrollment who is eligible to receive special education services. It must also ensure it provides all services in a student's IEP, consistent with the student's needs as described in that IEP. 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 [child with a disability] and those required by the IEP." *Baker v. Van Duyn*, 502 F. 3d 811 (9th Cir. 2007).

FINDINGS OF FACT

Background

1. On June 15, 2021, an out-of-state individualized education program (IEP) was drafted for the Student. It stated, in part, "Assistive Technology: Use of an iPad as deemed necessary."
2. During the 2021–2022 school year, the Student attended a private school. The Student subsequently enrolled in the District.
3. On August 29, 2022, District special education teachers 1 and 2 informed the Parent by email that interviews were being held that week for the Student's 1:1 instructional aide (IA).
4. On September 6, 2022, the Parent sent an email to special education teacher 1 (teacher 1) that stated, in part, "[The Student] usually uses Apple products at school (ipad, macbook) due to greater accessibility features & access to appropriate apps."

2022–2023 School Year

5. On September 14, 2022, the District held its first day of instruction for the 2022–2023 school year. The Student attended a District school as a sixth grader and did not have a District IEP in effect at this time. The Student was eligible for special education services.

6. Also, on September 14, 2022, at 10:25 am, the teacher of students with visual impairments (TVI) (TVI 1) sent TVI 2 the following email, "I've started going through [the Student's] paperwork. His most current IEP (out of compliance) lists an iPad and a CCTV. Do we have these available we can set aside for him for now?"

At 11 am, TVI 2 sent TVI 1 the following email, "What type of iPad and CCTV? We have both size iPads so I can give you one of those. We may have a CCTV but it depends what you have in mind and I'll need an AT (assistive technology) request form for any devices."

At 1:04 pm, TVI 1 sent TVI 2 the following email:

I would go with an iPad Pro. As for the CCTV, I'm not sure at this point. I just wanted to see what we had available that may work for now, and if we need to order something else we can...His mom is a TVI so she may know what CCTV he was using so I could reach out to her too.

7. On September 15, 2022, at 7:51 am, teacher 1 sent the Parent an email that stated in part, "Not sure when our permanent IA will be here, but should be soon."

At 4:09 pm, the Parent sent teacher 1 the following email, "Dropped off the CCTV this morning. And showed [the Student] how to turn the camera forward instead of down."

8. On September 16, 2022, at 8:05 am, teacher 1 sent the following internal email that stated in part, "not sure where we are in hiring his permanent IA but there is no sub again today. Anything on paper is going to be a challenge for him until we have his CCTV available to specific classes."

At 10:25 am, the District's program specialist sent teacher 1 an email that stated in part, "Going through our compliance records, I see that [the Student] has a skeletal transfer IEP from last year, but does not have a current [District] IEP. We want to make sure he has a compliant IEP ASAP."

At 10:54 am, teacher 1 sent a District program specialist an email that stated in part:

I have been in frequent communication with [the Student's] mom, participated on the hiring committee for his 1-1 (although this person has not been officially hired yet). . .I know he does not have a current IEP and missing the last week did not help. . .A question I have is about [the Student]. It looks like he qualified last December but an IEP was never written (or at least it isn't in IEPO). My co-worker/SPED chair [teacher 2] thinks he must have been at a private school?

9. On October 4, 2022, at 11:04 am, TVI 1 sent teacher 1 an email that stated in part, "An iPad from the vision dept. has been given to [the Student]."

At 11:08 am, teacher 1 sent TVI 1 an email that stated in part, "So I showed [the Student] the iPad today – and he was not super excited about it (I had heard he might not)."

At 3:33 pm, teacher 1 sent teacher 2 the following email that stated in part, "I'm working on [the Student's] IEP since he doesn't currently have one in place and am now realizing he qualifies in many areas: reading, writing, math, soc/beh, vision; and has services in [occupational, physical, and speech therapy], and vision. And will have a 1:1 when we hire someone."

10. On October 9, 2022, teacher 1 sent an internal District email that stated in part:

[The Student] is supposed to have a 1:1 IA to support and especially to help provide accommodations/modifications throughout in his gen ed classes. We have not been able to hire an appropriate IA after two rounds of interviews so he has been without this IA since the beginning of the school year (the exception was the first day of school when the sub job filled).

11. On October 11 and 17, 2022, the IEP team met to develop the Student's IEP. The Student was eligible for special education services under the eligibility category vision impairment. The IEP provided the Student specially designed instruction (SDI) and related services as follows:

- Speech Language Pathology: 90 minutes/Monthly (provided by speech language therapist, in a special education setting)
- Vision: 30 minutes/weekly (provided by vision teacher, in a special education setting)
- Reading: 60 minutes/weekly (provided by special education teacher, in a special education setting)
- Written Language: 60 minutes/weekly (provided by special education teacher, in a special education setting)
- Math: 60 minutes/weekly (provided by special education teacher, in a special education setting)
- Social/Behavior: 60 minutes/weekly (provided by special education teacher, in a special education setting)
- Written Language: 50 minutes/weekly (provided by special education teacher, in a general education setting)
- Math: 50 minutes/weekly (provided by special education teacher, in a general education setting)

The IEP included "[The Student] has access to multiple assistive technology devices. He has a laptop, an iPad from vision services, and also has access to a CCTV." The IEP also included accommodations, modifications, and "recommended accommodations" in several different spots on the IEP, including the following mentions:

- Accommodation: "Access to table with productivity apps and CCTV/Video Magnifier"
- Modification: "Use of iPad and/or CCTV"
- Recommended Accommodation: "Present information on a tablet"
- Recommended Accommodation: "Access to tablet...with productivity apps and CCTV/Video Magnifier"

The accommodations section of the IEP provided, in part, as follows:

Accommodations	Frequency	Locations	Duration
Access to tablet with productivity apps and CCTV/Video Magnifier	Daily	All School Settings: General and Special Education	10/11/2022 to 10/10/2023

The modifications section of the IEP provided as follows:

Accommodations	Frequency	Locations	Duration
Assistive Technology: use of iPad and/or CCTV	Daily	All School Settings: General and Special Education	10/11/2022 to 10/10/2023

The IEP also included supplementary aids and services as follows:

Service	Provider	Frequency	Location	Duration
1:1 Instructional Assistant	Instructional Assistant	335 Minutes/Weekly	Special Education	10/11/2022 to 10/10/2023
1:1 Instructional Assistant	Instructional Assistant	1640 Minutes/Weekly	General Education	10/11/2022 to 10/10/2023
Vision Services Consultation	Vision Teacher	600 Minutes/Yearly	General Education	10/11/2022 to 10/10/2023

The PWN stated, in part, “[The Student] did not have a current IEP after moving from [another state] and then attending a private school for 5th grade” and related to the accommodations the PWN stated, “Considerations: Accommodations – [the Student's] mom will give us feedback.”

12. On October 13, 2022, TVI 1 sent an email to the Student’s former TVI (from another state) that stated, in part:

It would also be really helpful to know past technology/apps used with [the Student]. His previous IEP included use of an iPad. [The Student] has let me know he’d rather use a laptop. That apps/programs were used in the past (e.g. VoiceDream apps, screen sharing, immersive reader or Read Aloud/dictation w/in MS apps, etc.)?

13. On October 24, 2022, at 9:09 am, TVI 1 emailed TVI 2 that the Student’s case manager provided the following information, “[Case manager] let me know that the school team would prefer to handle his work adaptations until his 1:1 is hired. I’ll let you know if anything changes or the adaptations become too much for the team to handle...”

At 5:02 pm, the Parent sent an email to the principal that stated in part:

My son usually relies on 1:1 para support to ensure his visual access to the curriculum throughout the school day. [Teacher 1] has provided updates on the hiring process, which has not yielded a professional who can support my son...

My son’s para support is part of his IEP. Meanwhile, I know that his teachers are trying to frequently check in with him, as well as enlarge his materials, though enlarging alone doesn’t make the work fully accessible for him. All of these accommodations and material modifications are also in his IEP. My concern is that we’re 2 months into the school year

with no para support or accommodations. These are critical supports for [the Student] to have access to academics, as well as for his social development and interactions.

14. On October 26, 2022, at 7:10 pm, the Parent sent an email to TVI 1 that stated, “[The Student] needs the macbook, not Windows. Again, that his familiar platform.”

At 8:18 pm, TVI 1 emailed the Parent in part:

If I remember correctly from the last conversation we had, we had planned for you to send me additional justifications for the MacBook in addition to familiarity. I’m happy to put in the request. If you’re able to provide any additional rationale for the need of a MacBook, that would be helpful.”

15. On October 28, 2022, at 9:27 am, the Parent emailed TVI 1 as follows:

[P]lease see below for the mac info:

Better accessibility features, built in, not extras, plug ins etc.:

He’s advancing in grade level and things are much more academic now, the macbook is far more versatile in terms of things like word processing, programs for web browsing like Google read and write, etc.

Bigger screen size, better magnification, Accessibility etc:

Bigger screen, a bigger keyboard with more space between buttons (complexity, accessibility, also familiar to student).

Much better magnification capabilities with programs like zoomtext *that need a hard drive to work*. When [the Student] uses his iPad for Google classroom and related apps he’s stuck with the native zoom features on the iPad which don’t really apply to most of the Google apps and a lot of things are left really small (not accessible).

Student’s most familiar operating system for the last 3 years

[The Student] has stated he prefers a computer over the iPad. When it comes to trying to support students in buying into their accommodations and taking ownership over their technology I feel the best place to start is by honoring with the student’s preference is. Again it is the most familiar operating system he has used.

(Emphasis in the original.)

At 10:45 am, TVI 1 sent the Parent an email that stated:

Just to clarify, the vision dept. has a specific Windows laptop (large screen, touch screen, specs that support screen reader, etc.) we order for students who need a laptop. This can be ordered for [the Student] immediately if we decide this is a good option for him. A MacBook is more difficult for the district to support since the district works with iOS and Windows operating systems, not macOS operating systems, so we typically use a Windows laptop unless a student needs the macOS operating system for a specific reason.

I can put in a request for a MacBook stating this is the operating system [the Student] is familiar with and has used for the past three years.

Please let me know if you have any questions or have additional rationale for using a MacBook over a Windows laptop and I can add it to the rest.

At 1:30 pm, the Parent sent an email to the District that stated:

I've received no response to my message from Monday, requesting an update on the para hiring status.

As a student with a sensory disability – visual impairment – without his materials modifications as specified in his IEP, my son is not currently receiving FAPE.

Since I've received no response, I can only assume you have no update on the hiring process/timeline for a paraprofessional.

In the meantime, I would like to request an IEP meeting to learn about your plan for modifying my son's school materials, per his IEP, so that he has visual access to the curriculum, just like his peers.

At 1:46 pm, the Principal emailed the Parent as follows:

Thank you for bringing this to the top, sorry, for not getting back to you earlier in the week. We are still in process of trying to find a 1:1 we have had another interview, but that did not go well. I am sending HR an email asking for any updated candidates. It is posted but it does not look like we have any new applicants. We have it in the sub system as well to see if we can get a long term sub.

At 7:17 pm, the Parent emailed the TVI 1 as follows, "For a student who is visually impaired, I would think it would be pretty important to provide the technology that the student prefers, already knows how to use, and is more comfortable with."

16. On October 31, 2022, at 8:50 am, TVI 2 emailed TVI 1 as follows, "Can you please give me justification for why the existing device is not meeting this student's vision needs especially since this is what was included in the [out of district] IEP. Also why would a window device not be provided if an iPad is insufficient."

At 10:32 am, the Student's world cultures teacher sent an internal District email that stated in part, "I am not sure when [the Student] is struggling. He seems to be doing the work okay in class, and the times I have checked in he has shared what is or isn't working but I am not sure day to day."

At 3:55 pm, TVI 1 emailed TVI 2 as follows, "[The Student] has refused to use the iPad, but stated he would use a laptop. Parent reports he's been using a MacBook for the past three years, is familiar with the MacBook keyboard, accessibility features, and operating system."

17. On November 1, 2022, at 9:11 am, TVI 1 sent an internal District email that stated in part, "It can be hard to tell how things are going overall because even if he's able to complete the work, it can be fatiguing for him and then the visual fatigue impacts his vision/activities/work (which I know is challenging right now without his 1:1)."

At 9:50 am, the Student's world cultures teacher sent an internal District email that stated in part, "Is he using his iPad?...I have not seen it out in my class."

At 1:55 pm, the Student's math teacher sent an internal District email that stated in part:
I have never seen [the Student] use his CCTV. Should we be encouraging him to bring this to class?

I have been doing my best to use his preferred font, but unfortunately a lot of the curriculum materials I use are not in a word document format, so my only options are to enlarge them or to completely retype the entire document (which would be very time consuming). I'm also struggling with some diagrams in math. We are working on coordinate planes right now which have a lot of lines and numbers on them, so I am not sure how to best support with something like that when there is so much to look at and a high level of accuracy needed.

...I am still not always sure when [the Student] is struggling because of math skills or because of vision.

At 10:13 pm, TVI 1 sent an internal District email that stated as follows:

Hopefully a 1:1 will be hired soon to support vision accommodations. Once this staff is hired, they can get work from his teachers in advance and adapt it to meet his vision needs.

...[The Student] has told me he will not use an iPad so I would recommend using his laptop to access work on Schoology.

...it's my understanding in talking with [the Student] and his mom, the CCTV has been used in the past mostly for distance information (e.g., at assemblies, to see the board/screen/posters on wall).

At 3:04 pm, the Student's world cultures teacher sent an internal District email that stated in part, "He did happily pull out his laptop to look at the images...so that seems like a decent solution for him to access at least some of the stuff in my class."

18. On November 2, 2022, TVI 2 sent an email to TVI 1 that stated in part:

It's extremely important the distinction be made to the team that the 1:1 is not for [the Student's] visual impairment. If he needs a 1:1 for attention, behavior, or work completion none of this is due to vision. We do not provide 1:1's for visual impairments and that needs to be made crystal clear to this team, including mom. Adaptations can be done by someone not assigned as a 1:1 whether that a building IA, the teacher or a member of the vision team, they are not assigned as 1:1 for this purpose.

19. On November 3, 2022, the Parent sent an email to teacher 1 that stated in part, "I know from what he brings home that his materials aren't modified.

20. On November 28, 2022, at 8:20 pm, the Parent sent the District an email that stated in part:

Hello – I wanted to check in again about hiring [the Student's] para. Any updates? Wanted to share a few thought too.

– When we last met, we discussed the job post and tweaking to make it more relevant to the support [the Student] needs. Looking recently on the [District] website. I didn't see a posting...If it is there, could you send the link?

– Is it possible to make a deadline for finding somebody? Even if it's somebody temporary? There's got to be somebody, even at [District] already, who could help out? Or are there agencies where the job post could be shared. It's practically December and [the Student's] still not getting the support he needs without somebody in this position.

...

Would appreciate any updates, or any new efforts around filling this position so that [the Student] can get the appropriate support that needs.

21. On December 6, 2022, the District's student services program supervisor sent the Parent the following email:

I am not able to purchase the Mac laptop at this time. We are obligated to utilize the district approved equipment. I am glad to read you are giving him options to diversify his tech experiences at home. Going forward we will support your student learning how to access his school with the district laptop and tech. We can revisit this in the future if we are finding it is not successful or if there are problems.

22. On December 12, 2022, the Parent responded:

You are actually wrong about that. You are not obligated to 'use what you have.' You are obligated to meet my son's individualized needs as a person with a vision disability. It's based on his NEEDS, and his right to that is protected by federal law.

As I've already stated, my son needs access to the familiar device and platform he has used for the past three years - in public school, I might add.

Also as already stated, he has moved beyond an iPad/tablet device. The reason for this has also been explained – some tools/features he requires to ACCESS the curriculum, such as zoom text – require a HARD DRIVE. One big difference between a tablet and a laptop is that iPads/tablets do not have a HARD DRIVE. So right now – being provided the same tools as his typically sighted peers - my son does not have full ACCESS to his education. There's a term for this, equity. EQUITY does not mean that all students get the same tools; EQUITY means that students with disabilities get the tools they require in order to have the same ACCESS as their typical, non disabled peers.

I realize you do not work with my son and you do not know my son. Maybe you are unaware that my son has also gone without a 1:1 paraprofessional, as specified in his IEP, since day one of this school year. Without 1:1 support, my son further lacks access to the curriculum, without that support to fill in so many of the gaps that a CVI learner experiences throughout his day. In the absence of 1:1 support, my son is also being denied the assistive technology he needs - a Macbook - in order to more independently access his educational curriculum, in the absence of the paraprofessional that [District] has failed to provide since the start of this school year.

So I am clear – are you telling me that my son is being denied ACCESS to the tools/assistive technology that he requires?

Because if he is being denied access to the Macbook that he requires in order to ACCESS his educational curriculum - then he is also being denied FAPE. Are you aware of that?

So now there are two documented instances of [District] denial of FAPE – refusing to provide the assistive technology (Macbook) my son requires as a person with a vision

disability in order to access the educational curriculum. And failure to provide the 1:1 para support that he requires in order to fully access the educational curriculum.

Let me be clear – he is being denied both of these – has been denied FAPE – since the start of the 2022/23 school year. I just want to clarify that fact for you.

...

If you need additional information on why my son requires appropriate technology, as a person with CVI, to access his educational curriculum, I would be happy to put you in touch with his past TVI, who understands the diagnosis of CVI, assistive technology for people with CVI, and how to support CVI learners. I would be more than happy to arrange that, just let me know.

The District's student services program supervisor responded to the Parent's December 12, 2022 email as follows:

I have checked with our team and your son does have access to his education with the current tech he has been issued. I have been told that he is doing well with the tech and making progress as expected.

I cannot address the [IA] that you claim is being denied. That is an IEP decision that your team has made. We have a district wide need for [IAs]. I asked and was informed that the building interview team has interviewed several candidates and has offered the position to some with no acceptance from the candidates. It appears that the school and district are putting in the good faith effort to get the position filled.

23. On December 15, 2022, OSPI received the current complaint from the Parent. The Parent alleged:

- The Student is being denied access to the assistive technology (MacBook) he requires in order to have access to his educational curriculum. This was specified in his out of state IEP that he arrived with. He also has several years experience using this technology.
- The Student has not been assigned his 1:1 paraeducator support that is specified in his IEP.

24. On December 21, 2022, the Parent was interviewed and she stated that despite the Student's IEP, the District has not provided the Student with a MacBook laptop and 1:1 paraeducator. According to the Parent, even if the MacBook is not specified in the IEP, that does not make a difference because the MacBook is the Student's most familiar technology, and it is what he needs to access FAPE.

25. On January 5, 2023, the Parent sent OSPI the following email:

Below please find some of my initial correspondence with my son's TVI [1] around the issue of getting appropriate AT for him that he has been using for the past 3 years. As the TVI, she doesn't seem to be the decision maker, or fully understand why my son needs the appropriate technology in the classroom. I have been requesting this for him from day one; for some reason, even though my son is a student with a vision disability, it seemed to take a few weeks for vision to even connect with him at school.

These initial conversations happened verbally. At first I was told that [the District] uses Windows product (not at all familiar or accessible for my son). This excuse does not hold up though, since [District] does use iPads - an APPPLE (sic) product. [TVI 1] mentioned the

difficulty of tech support for Apple products - which also does not hold up because nobody repairs their own devices, you simply call Apple tech support. Not to mention that there are rarely problems with Apple devices. [District] may be beholden to Microsoft, but my son needs what he needs, not 'what's available'...

At least when using his current school issued device at home - the same standard device used by typically sighted students - he *consistently* has difficulties, such as navigating the device (again, an unfamiliar platform, this is confounding to a person with CVI, who relies greatly on *familiar* supports, esp at school!), inadequate zoom function, much too small screen size, viewing the screen from no more than 4-6" away, NOT a comfortable or recommended reading distance. When using an iPad (at home) or macbook, my son not only knows how to navigate it, but how to adjust settings etc. for his vision differences.

The Parent provided OSPI the information below from the Student's previous out of state TVI:

The MacBook has a bigger screen, a bigger keyboard with more space between buttons, much better magnification capabilities with programs like zoom text that need a hard drive to work. We saw that when [the Student] uses his iPad for Google classroom and related apps he's stuck with the native zoom features on the iPad which didn't really apply to most of the Google apps and a lot of things were left really small. I feel like since he's advancing in grade level and things are much more academic now the computer is as much more versatile in terms of things like word processing, programs for web browsing like Google read and write, etc. Plus [the Student] has stated that he prefers a computer over the iPad. When it comes to trying to support students in buying into their accommodations and taking ownership over their technology I feel like the best place to start is by honoring what the student's preference is.

26. In its response to the Parent's complaint, the District's response stated in part:

On December 14, 2022, the District learned that an individual had been hired to serve as [the Student's] 1:1 IA...she started today, January 9, 2023.

In conversations with [teacher 1], she shared that [the Student] is doing well at [school]. He's independent in the building and wants to use the Windows laptop. He has been learning to manipulate documents using the touchscreen and is having some success. The iPad also continues to be available should he choose to use it.

27. The Student's second quarter grades were as follows:

- Advisory: Pass
- Study Skills: A
- Math: C
- World Cultures: A
- Language Arts: A
- Science: A-
- Proj Presentations A: B+

CONCLUSIONS

Issue One: IEP Implementation – In the present matter, the Parent alleged that despite the Student's IEP, the District has not provided the Student with a MacBook laptop and 1:1 IA. According to the Parent, even if the MacBook is not specified in the IEP, that does not make a difference because the MacBook is the Student's most familiar technology, and it is what he needs to access FAPE.

At the beginning of each school year, each district must have in effect an IEP for every student within its jurisdiction served through enrollment who is eligible to receive special education services. It must also ensure it provides all services in a student's IEP, consistent with the student's needs as described in that IEP. 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 child with a disability and those required by the IEP.

Assistive Technology: The Student's June 15, 2021 out-of-state IEP stated, in part, "Assistive Technology: Use of an iPad as deemed necessary." In the Student's current October 2022 IEP, an iPad is referenced on several pages as the assistive technology. Only on one page of the October 2022 IEP is a laptop mentioned and a MacBook specifically is not referred to in the IEP at all.

Although many people may use the term tablet and laptop interchangeably, the terms refer to different technologies. Tablets and laptops run on different operating systems; laptops run on the same operating systems as desktop computers. Additionally, laptops/computers have physical keyboards, while tablets have an onscreen keyboard like a cellphone. An iPad is the Apple-based version of a tablet, and a MacBook is the Apple-based version of a laptop.

During this fall, and prior to the development of the current IEP, the District provided the Student with an iPad and a laptop with a Windows operating system. When the Parent learned about the laptop, she requested a MacBook for the Student numerous times, and when asked for a justification for such a request, she provided a lengthy explanation as to why the Student should be granted a MacBook instead of the laptop. On December 6, 2022, the District confirmed that the MacBook was not going to be purchased for the Student. However, the District stated and provided documentation that the Student was provided access to both an iPad and a laptop as the assistive technology, per his IEP.

Based on the present matter's facts, the District has not materially failed to implement the Student's October 2022 IEP in regard to assistive technology. The October 2022 IEP does not specifically state that the Student must be provided a MacBook. Thus, there is no violation regarding assistive technology. If the Parent continues to feel the Student has a disability related need for a MacBook specifically, OSPI recommends the Student's IEP team meet to consider this issue.

1:1 Paraeducator Support: The Student's October 2022 IEP provided for a 1:1 IA for 335 minutes per week in special education, and 1,640 minutes per week in general education. In the present matter, many emails have been sent between the parties that establish that the Student has not been provided with a 1:1 IA for most of the present school year so far. According to the District's response, the 1:1 IA was not hired until December 14, 2022, and did not begin working until January 9, 2023. Based on these facts, the District has materially failed to implement the Student's October 2022 IEP in regard to the IA, and thus a violation is established regarding the provision of IA services.

Based on this violation, the parties will have an IEP meeting to specifically review the Student's progress data and make a determination of whether compensatory education is necessary and how much. The District will submit to OSPI documentation of that IEP meeting that informs OSPI what the parties concluded regarding the Student's progress, any decisions made regarding compensatory education, and a plan for compensatory education if the parties agree to such a remedy. Upon receiving this information, OSPI will review and either modify or approve the proposed plan.

CORRECTIVE ACTIONS

By or before **March 15, 2023**, the District will provide documentation to OSPI that it has completed the following corrective actions.

STUDENT SPECIFIC:

By **February 28, 2023**, the parties will have an IEP meeting to review the Student's progress data, discuss the impact of not having IA support, and make a determination of whether compensatory education is necessary and how much.

By **March 15, 2023**, the District will submit to OSPI documentation of that IEP meeting that informs OSPI what the parties concluded regarding the Student's progress, any decisions made regarding compensatory education, and a plan for compensatory education, if the parties agree to such a remedy. Upon receiving this information, OSPI will review and either modify or approve the proposed plan.

DISTRICT SPECIFIC:

None.

The District will submit a completed copy of the Corrective Action Plan (CAP) Matrix, documenting the specific actions it has taken to address the violations and will attach any other supporting documents or required information.

Dated this 6th day of February, 2023

Dr. Tania May
Assistant Superintendent of Special Education
PO BOX 47200
Olympia, WA 98504-7200

THIS WRITTEN DECISION CONCLUDES OSPI'S INVESTIGATION OF THIS COMPLAINT

IDEA provides mechanisms for resolution of disputes affecting the rights of special education students. This decision may not be appealed. However, parents (or adult students) and school districts may raise any matter addressed in this decision that pertains to the identification, evaluation, placement, or provision of FAPE to a student in a due process hearing. Decisions issued in due process hearings may be appealed. Statutes of limitations apply to due process hearings. Parties should consult legal counsel for more information about filing a due process hearing. Parents (or adult students) and districts may also use the mediation process to resolve disputes. The state regulations addressing mediation and due process hearings are found at WAC 392-172A-05060 through 05075 (mediation) and WAC 392-172A-05080 through 05125 (due process hearings.)