

SPECIAL EDUCATION CITIZEN COMPLAINT (SECC) NO. 17-47

PROCEDURAL HISTORY

On June 7, 2017, the Office of Superintendent of Public Instruction (OSPI) received a Special Education Citizen Complaint from the parent (Parent) of a student (Student) attending the 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 June 7, 2017, OSPI acknowledged receipt of this complaint and forwarded a copy of it to the District Superintendent on the same day. OSPI asked the District to respond to the allegations made in the complaint.

On June 27, 2017, OSPI received the District's response to the complaint and forwarded it to the Parent on June 28, 2017. OSPI invited the Parent to reply with any information she had that was inconsistent with the District's information.

On July 10, 2017, the Parent requested an extension of time to submit her reply. On July 11, 2017, OSPI granted the Parent's request and notified the District of the extension on the same day.

On July 17, 2017, OSPI received the Parent's reply and forwarded that reply to the District on July 20, 2017. On July 20, 2017, OSPI received additional information from the Parent and forwarded it to the District on July 22, 2017.

On July 26, 2017, OSPI requested additional information from the District. On July 28, 2017, OSPI received the requested information from the District and forwarded the information to the Parent on the same day.

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

OVERVIEW

During the 2016-2017 school year, the Student attended a District high school and was eligible to receive special education under the category of specific learning disability. In October 2016, the Student's individualized education program (IEP) team met to develop the Student's annual IEP. The Student's IEP provided for specially designed instruction for reading, writing, math, and study/organizational skills, and accommodations/modifications in the Student's classes. In January 2017, the Parent raised concerns that the Student was having difficulties in math and science and requested an IEP team meeting. The District held an IEP team meeting in January 2017. In March 2017, the Parent raised concerns that the Student was still having difficulties in math and requested a reevaluation of the Student. In April 2017, the IEP team met to determine what assessments were needed for the Student's reevaluation and amended the Student's IEP to increase specially designed instruction time and added accommodations/modifications. In May 2017, after obtaining additional Student

information, the IEP team met to review the results of the reevaluation and determined that additional assessments were needed. In June 2017, the IEP team amended the Student's IEP to add specially designed instruction in the area of social/behavior and developed annual goals. The Parent alleged that the District failed to follow procedures to develop the Student's IEP, failed to follow procedures to implement the Student's IEP, and failed to follow procedures for responding to the Parent's request for reevaluation.

ISSUES

1. Did the District follow procedures for developing/revising the Student's individualized education program (IEP), including addressing accommodations/modifications and post-secondary transition services?
2. Did the District follow procedures for implementing the Student's IEP, including providing specially designed instruction and accommodations/modifications?
3. Did the District follow procedures for responding to the Parent's requests for a reevaluation?

LEGAL STANDARDS

Reevaluation Procedures: A school district must ensure that a reevaluation of each student eligible for special education is conducted when the school district determines that the educational or related services needs, including improved academic achievement and functional performance of the student warrant a reevaluation, or if the parent or teacher requests a reevaluation. 34 CFR §300.303(a); WAC 392-172A-03015(1). A reevaluation may not occur more than once a year, unless the parent and school district agree otherwise, and must occur at least once every three years, unless the parent and school district agree that a reevaluation is unnecessary. 34 CFR §300.303(b); WAC 392-172A-03015(2). When a district determines that a student should be reevaluated, it must provide prior written notice to the student's parents that describe all of the evaluation procedures that the district intends to conduct. 34 CFR §300.304; WAC 392-172A-03020. The district must then obtain the parents' consent to conduct the reevaluation and complete the reevaluation within 35 school days of receiving consent, unless a different time period is agreed to by the parents and documented by the district. 34 CFR §300.303; WAC 392-172A-03015(3). The reevaluation determines whether the student continues to be eligible for special education and the content of the student's IEP. 34 CFR §300.304; WAC 392-172A-03020(2)(a). The reevaluation must be conducted in all areas of suspected disability and must be sufficiently comprehensive to identify all of the student's special education needs and any necessary related services. 34 CFR §300.304(c); WAC 392-172A-03020(3).

Prior Written Notice: Prior written notice ensures that the parent is aware of the decisions a district has made regarding evaluation and other matters affecting placement or implementation of the IEP. It documents that full consideration has been given to input provided regarding the student's educational needs, and it clarifies that a decision has been made. The prior written notice should document any disagreement with the parent, and should clearly describe what the district proposes or refuses to initiate. It also includes a statement that the parent has procedural safeguards so that if they wish to do

so, they can follow procedures to resolve the conflict. Prior written notice is not an invitation to a meeting. Prior written notice must be given to the parent within a reasonable time before the district initiates or refuses to initiate a proposed change to the student's identification, evaluation, educational placement or the provision of a free appropriate public education. It must explain why the district proposes or refuses to take action. It must describe any other options the district considered, and it must explain its reasons for rejecting those options. 34 CFR 300.503; WAC 392-172A-05010.

Evaluation/Reevaluation Standards: In completing an evaluation, the evaluation group must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the student. This must include information provided by the parents that may assist in determining whether the student is or remains eligible to receive special education services, and if so the content of the student's IEP, including information related to enabling the student to be involved in and progress in the general education curriculum. 34 CFR §300.304(b); WAC 392-172A-03020(2). No single test or measure may be used as the sole criterion for determining the student's eligibility or disabling condition and/or determining the appropriate education program for a student. 34 CFR §300.304(b)(2); WAC 392-172A-03020(2)(b). School districts must use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors in addition to physical or developmental factors. 34 CFR §300.304(b)(3); WAC 392-172A-03020(2)(c). Additionally, districts must ensure that the assessments and evaluation materials they use are selected and administered so as not to be discriminatory on a racial or cultural basis. Assessments must be provided and administered in the student's native language or other mode of communication, and in the form most likely to yield accurate information on what the student knows and can do academically, developmentally, and functionally unless it is clearly not feasible to do so. 34 CFR §300.304(c); WAC 392-172A-03020(3).

Districts must also ensure that assessments and other evaluations are used for the purposes for which they are valid and reliable, and are administered by trained and knowledgeable personnel and in accordance with any instructions provided by the producer of the assessment. Assessments and other evaluation materials must include those that are tailored to assess specific areas of educational need, and must best ensure that if an assessment is administered to a student with impaired sensory, manual, or speaking skills, the assessment accurately reflects the student's aptitude or achievement level rather than reflecting the student's impairment. If necessary as a part of a complete assessment, a district may obtain at its expense a medical statement or assessment indicating any additional factors that affect the student's educational performance. Students should be comprehensively assessed in all areas of suspected disability, and districts must use assessment tools and strategies that provide information that directly assists those determining the student's educational needs. Finally, districts must ensure that evaluations of students who transfer from one district to another within the state during a school year are coordinated with the student's prior and subsequent district as necessary and as expeditiously as possible, to ensure prompt completion of the full evaluation. 34 CFR §300.304; WAC 392-172A-03020(3).

IEP Definition: An IEP must contain a statement of: (a) the student's present levels of academic achievement and functional performance; (b) measurable annual academic and functional goals designed to meet the student's needs resulting from their disability; (c) how the district will measure and report the student's progress toward their annual IEP goals; (d) the special education services, related services, and supplementary aids to be provided to the student; (e) the extent to which the student will not participate with nondisabled students in the general education classroom and extracurricular or nonacademic activities; (f) any individual modifications necessary to measure the student's academic achievement and functional performance on state or district-wide assessments; (g) ESY services, if necessary for the student to receive FAPE; (h) behavioral intervention plan, if necessary for the student to receive FAPE; (i) emergency response protocols, if necessary for the student to receive FAPE and the parent provides consent as defined in WAC 392-172A-01040; (j) the projected date when the services and program modifications will begin, and the anticipated frequency, location, and duration of those services and modifications; (k) beginning no later than the first IEP to be in effect when the student turns 16, appropriate, measurable postsecondary goals related to training, education, employment, and independent living skills; and transition services including courses of study needed to assist the student in reaching those goals; (l) beginning no later than one year before the student reaches the age of majority (18), a statement that the student has been informed of the rights which will transfer to him or her on reaching the age of majority; and (m) the district's procedures for notifying a parent regarding the use of isolation, restraint, or a restraint device as required by RCW 28A.155.210. 34 CFR §300.320; WAC 392-172A-03090 (effective January 29, 2016).

IEP Development: The IEP meeting serves as a communication vehicle between parents and school personnel, and enables the IEP team to make informed decisions regarding the: student's needs and appropriate goals; extent to which the student will be involved in the general education curriculum and participate in the general education environment, and state and district-wide assessments; and services needed to support that involvement and participation, and to achieve the agreed-upon IEP goals. The IEP team must consider the parents' concerns and the information they provide regarding their student in developing, reviewing, and revising IEPs. 64 Fed. Reg. 48 12473 (March 12, 1999) (Appendix A to 34 CFR Part 300, Question 9). 34 CFR §§300.321, 300.322, 300.324 and 300.328; WACs 392-172A-03095, 392-172A-03100, and 392-172A-03110.

The parent is an integral part of the IEP development process. The district must consider the parent's concerns and any information s/he provides. The district is not required, however, to adopt all recommendations proposed by a parent. The team must work toward consensus on IEP content, but if team members are unable to reach consensus it remains the district's responsibility to ensure that the IEP includes the special education and related services that are necessary to provide the student with a free appropriate public education. An IEP may therefore be properly developed under IDEA procedural requirements, yet still not provide the student all of the services that the parent believes are necessary components of the student's educational program. 64 Fed. Reg. 48 12473-74 (March 12, 1999) (Appendix A to 34 CFR Part 300, Question 9).

IEP Implementation: At the beginning of each school year, each district must have in effect an individualized education program (IEP) for every student within its jurisdiction who is eligible to receive special education services. 34 CFR § 300.323(a); WAC 392-172A-03105(1). A school district must develop a student's IEP in compliance with the procedural requirements of the IDEA and state regulations. 34 CFR §§300.320 through 300.328; WAC 392-172A-03090 through 392-172A-03115. It must also ensure it provides all services in a student's IEP, consistent with the student's needs as described in that IEP. The initial IEP must be implemented as soon as possible after it is developed. Each school district must ensure that the student's IEP is accessible to each general education teacher, special education teacher, related service provider, and any other service provider who is responsible for its implementation. 34 CFR §300.323; WAC 392-172A-03105.

Definition of Specially Designed Instruction: Specially designed instruction means adapting, as appropriate to the needs of an eligible student, the content, methodology, or delivery of instruction: to address the unique needs of the student that result from the student's disability; and to ensure access of the student to the general curriculum, so that the student can meet the educational standards within the jurisdiction of the public agency that apply to all students. 34 CFR §300.39(b)(3); WAC 392-172A-01175(3)(c). A need for special education is not limited strictly to academics; it also may include physical education, transition services, behavioral progress, and the acquisition of appropriate social and/or organizational skills. 34 CFR §300.39; WAC 392-172A-01175.

FINDINGS OF FACT

1. During the 2015-2016 school year, the Student attended a District high school and was eligible to receive special education and related services under the category of specific learning disability.
2. The Student's reevaluation was completed on November 12, 2014. The reevaluation report stated the Parent requested the District reevaluate the Student to determine if the Student continued to be eligible for special education and related services since the Student "made significant gains" while attending private school and was returning to the District. The report stated the Student's attention, concentration, and vigilance during testing were above average and that the results of the Student's intelligence assessments were in the moderately above average range. The report also stated the Student's achievement level in language arts class was below that of her peers, and that she often scored low on science assignments but did better when she is given an opportunity to repeat the activity. The report further stated that the Student reported she was "worried about math but would be okay with limited support". Additionally, the report stated the Student had difficulty with her ability to start or get going on tasks, activities, and problem-solving approaches compared to her peers" and that she has difficulty organizing things and maintaining the orderliness of her environment and materials needed for projects or assignments. The report stated the Student demonstrated a severe discrepancy between ability and achievement in math and reading and that these significant deficits are adversely affecting the Student's

educational progress in those areas. The report recommended specially designed instruction as follows:

- Reading: to determine a theme or central idea of a text and how it is conveyed through particular details; provide a summary of the text distinct from personal opinions or judgements.
- Writing: to produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience; write routinely over extended time frames (time for research, reflection, and revisions) and shorter time frames (a single sitting or a day or two) for a range of discipline-specific tasks, purposed, and audiences.
- Math: to solve multi-step real-life and mathematical problems posed with positive and negative rational numbers in any form (whole numbers, fractions, and decimals), using tools strategically. Apply properties of operations to calculate with numbers in any form; convert between forms as appropriate, and assess the reasonable of answers using mental computation and estimation strategies.

Timeline for the Complaint Begins on June 8, 2016

3. During the 2016-2017 school year, the Student attended a District high school and was eligible to receive special education and related services under the category of specific learning disability.
4. The District's 2016-2017 school year began on September 7, 2016.
5. Based on the District's documentation in this complaint, the Student's class schedule for the first semester was as follows:
 - 1st period: Word History
 - 2nd period: World Literature and Comp A
 - 3rd period: Bio Tech 1
 - 4th period: French/Piano Lab¹
 - 5th period: Drawing Painting
 - 6th period: Geometry A / Daily Academic Management (DAM) time²
6. The Student's individualized education program (IEP) in place during the beginning of the 2016-2017 school year was developed on November 30, 2015. The IEP stated that the Student is observant, independent, and intellectually curious, very logical, and an effective debater. The IEP also stated the Student's specific learning disability affects her reading rate and accuracy causing the Student to need more time with texts as compared to her peers. The IEP stated the Parent was concerned about the Student having access to her accommodations/modifications, supports, and services. The IEP provided for the following specially designed instruction in the general education setting:
 - Math: 5 minutes – 5 times each week

¹ Based on the District's documentation in this complaint, the Student's 4th period class changed during the first semester. It is not clear from the documentation why or when the Student's 4th period class changed.

² According to the District's response to this complaint, "DAM time" is the final 20 minutes of each school day. The Student's "DAM time" occurred after her 6th period geometry class.

- Reading: 5 minutes – 5 times each week
- Writing: 5 minutes – 5 times each week

The IEP provided for the following specially designed instruction in the special education setting:

- Study Skills: 15 minutes – 3 times each week
- Reading: 10 minutes – 2 times each week
- Writing: 10 minutes – 2 times each week

The IEP also included four annual goals in the area of math, reading, writing, and study/organizational skills as follows:

- Study Skills: By 11/02/2016, when given a planner (electronic or paper) the Student will record and prioritize all assignments improving rate of work completion from an average turn in rate of 73% of assignments across all subjects in one quarter to an average turn in rate of 85% of assignments across all subjects in one quarter as measured by missing assignments as recorded in the source.
- Math: By 11/02/2016, when given 10 linear equations, the Student will demonstrate ability to solve linear equations to fit data improving problem solving skills from 4 out of 10 equations answered correctly to 9 out of 10 equations answered correctly as measured by informal/formal assessments.
- Reading: By 11/02/2016, when given a grade level text, the Student will annotate for main idea and supporting details improving implicit reading comprehension from 2 out of 5 appropriate annotations for main idea and supporting details to 4 out of 5 appropriate annotations for main idea and supporting details as measured by curriculum based measures.
- Writing: By 11/02/2016, when given a writing prompt the Student will independently write paragraphs of appropriate length in a five paragraph essay improving elaboration from an average of 2 sentences per paragraph to an average of 5 sentences per paragraph as measured by curriculum based measures.

The Student's IEP also included post-secondary transition goals:

- Education/Training Goal/Outcome: After high school, the Student will attend a 4-year university pursuing a major in physics or a closely related field.
- Employment Goal/Outcome: After high school, the Student will travel to different parts of the country each summer to work in entry-level jobs or internships that are connected with her education.

The Student's IEP also included the following accommodations/modifications for all classes:

- frequent check for progress on long assignments– assignments longer than a day
- dual grades on written work for content and writing mechanics – writing assignments where writing conventions are graded

Additionally, the IEP provided for the following accommodations/modifications in a test taking setting:

- | | |
|----------------------|-----------------------|
| • breaks | • digital notepad |
| • spell check | • highlighter |
| • calculator | • math tools |
| • English dictionary | • keyboard navigation |

- scratch paper
- strike through

- writing tools
- separate setting

7. On September 9, 2016, the Student's IEP case manager emailed the Student's career and technical education teacher, language arts teacher, biology teacher, French teacher, family and consumer sciences teacher, and geometry teacher a copy of the Student's "IEP at a Glance" worksheet. The case manager stated that the Student "values her independence, wants to do well, and generally got good grades last year", and that if you "treat her with respect the Student will return the honor". The case manager also said the Parent is a strong advocate for services for the Student but is "reticent to agree to anything that makes her different".
8. On September 20, 2016, the high school assistant principal emailed the case manager, the biology teacher, and the geometry teacher, stating that the Student is "stressed that she isn't understanding the work in geometry and biotech biology". The assistant principal stated the Student reported that the Parent tried to help the Student with "the packet" for almost four hours last night. The assistant principal also stated the Student wanted to do well and was aware that her teachers were willing to help and that he encouraged the Student to speak with the case manager, the biology teacher, and the geometry teacher.
9. On October 12, 2016, the District invited the Student, the Parent, and the Student's father to an IEP meeting scheduled for October 27, 2016, to review her annual IEP and instructional needs, to discuss transition services, and the Student's progress in meeting her annual goals, and graduation.
10. On October 21, 2016, the Student's IEP case manager emailed the Parent, asking the Parent to complete a questionnaire regarding transition planning for the Student. The email stated, "The school wants to ensure your child has the educational classes along with the supporting activities and services to help prepare him/her for life after their high graduation. Your thoughts and concerns are being asked for to help us in developing an appropriate transition plan for your son/daughter".
11. Also on October 21, 2016, the case manager emailed the Student's world history teacher, the language arts teacher, the biology teacher, the piano teacher, the art teacher, and the geometry teacher. The case manager stated she was preparing a draft of the Student's IEP and asked the Student's teachers to complete questions regarding the Student.
12. On October 24, 2016, the case manager emailed the language arts teacher, requesting student work samples that demonstrated the Student's writing and/or critical reading skills. The next day, the language arts teacher responded that she had two student samples and would put them in the case manager's mailbox.
13. On October 25, 2016, the case manager emailed the geometry teacher, requesting to meet with him to obtain data on the Student.

14. On October 25, 2016, the geometry teacher emailed the school attendance clerk, stating that he accidentally marked the Student absent because she arrived late with a pass and the geometry teacher forgot to update his attendance records. In response, the attendance clerk asked the geometry teacher to begin to send the Student to the attendance office. The clerk stated that she would keep the Student's pass and provide the Student with a late /absence pass, and that this would provide "a record of how often the Student is late/absent." The attendance clerk also stated the Student had "frequent visits to the counseling office and the THC³".
15. On October 26, 2016, the geometry teacher replied that he started saving the "THC" passes because it was a "regular thing" for the Student and stated that he was "glad someone else noticed it". In response, the attendance clerk emailed the geometry teacher, asking for the "THC" passes to put in the Student's file to keep an accurate count. The attendance clerk also stated she could contact the "THC" "so maybe they can discourage the Student from the frequent visits" because "she is probably using the THC to avoid going to class".
16. Also on October 26, 2016, the geometry teacher responded to the case manager's October 21, 2016 email, requesting information to prepare the Student's IEP. The geometry teacher stated the Student is focused in class, worked with her group, and asked the teacher questions. However, the geometry teacher also stated the Student did not use her "DAM time" well and that he had to be "something of a nag to keep [the Student] on academic matters". The teacher also stated that he thought "it [was] great" that the Student was attending tutoring in the library after school.
17. Also on October 25, 2016, the case manager emailed the Parent and attached a draft copy of the Student's IEP. The case manager stated that she would add more to the IEP once the case manager received the Parent questionnaire and updated data from the geometry teacher. The case manager asked the Parent to review the IEP prior to the IEP meeting and come prepared to discuss any revisions.
18. On October 27, 2016, the Parent emailed the case manager the Parent questionnaire regarding transition services for the Student. The Parent stated the Student "likes science and is a good writer" and that the Student was determined, curious, focused, responsible, logical, and had excellent verbal skills. The Parent also stated she would like to encourage the Student to self-advocate, and at the same time, wanted the Student's teachers "checking in with her to make sure she is on track". The Parent also stated that the Student was planning to obtain a Ph.D. in a science related field, that she expected the Student to travel right after graduating from high school, and that the Student has decided to live in a foreign country.
19. On October 27, 2016, the Student's IEP team, including the Parent and the Student, met to develop the Student's annual IEP. The October 2016 IEP stated the Student liked science, had excellent verbal skills, and is logical. The Student was interested

³ The District's documentation in response to this complaint did not provide a definition for "THC", but it appears that it referenced the high school's health center.

in obtaining a Ph.D. degree in astrophysics or aerospace engineering. The IEP stated the Parent reported that “[the Student] is twice-exceptional, thoughtful, self-driven, and a hard-worker”. The IEP also stated the “Student benefits from having extra time to work through [math] problems and have concepts re-explained”, and that the Student’s “writing skills are at grade level” and that “she just needs a little bit more time” to complete her assignments. The IEP also stated that the Student’s “daily work and homework turn in rates suggest a level of independence with managing the workload” and that the Student regularly had lower scores on tests and quizzes than on other assignments. The Student’s IEP stated that the Student does not require the use of assistive technology but she does have access to text to speech software that she does not utilize. The IEP stated the Student would be in the general education setting approximately ninety-eight (98) percent of the school day and provided for a special education teacher to deliver 35 minutes of specially designed instruction each week “as a pull out that does not interrupt instruction” as follows:

- Math: 10 minutes – one time each week
- Reading: 10 minutes – one time each week
- Writing: 10 minutes – one time each week
- Study Skills: 5 minutes – one time each week

The IEP also included accommodations/modifications for all classes:

- extra time to complete assignments – daily
- frequent check ins with the Students – assignments longer than a day
- dual grades on written work for content – writing assignments where writing conventions are graded

The IEP also provided for annual goals in the area of math, reading, writing, and study/organizational skills as follows:

- Study Skills: 11/01/2017, when given a study period either at school or at home before starting homework the Student will spend minutes reviewing notes, looking over her homework, and making a plan for immediate and longer term assignments improving information recall and time management from 0 out of 5 study periods per week spent reviewing notes and homework and making a plan to 4 out of 5 study periods per week spent reviewing notes and homework and making a plan as measured by teacher data collection.
- Math: By 11/01/2017, when given geometry notes (definitions and theorems) and a geometry problem to solve, the Student will reference the notes in order to solve the problem improving problem solving skills from 68% accuracy on tests and quizzes to 80% accuracy on tests and quizzes as measured by curriculum based measures.
- Reading: By 11/01/2017, when given a grade level text, the Student will demonstrate an understanding of how the author's content and style relates to purpose improving reading skills from appropriately connecting style to purpose in 1 out of 3 opportunities to appropriately connecting style to purpose in 3 out of 3 opportunities as measured by curriculum based measures.
- Writing: By 11/01/2017, when given a rough draft that the Student has written and someone else has marked the locations and types of errors in conventions the Student will accurately revise the errors improving writing conventions (mechanics, grammar, and usage from 6 out of 10 errors accurately corrected to 8 out of 10 errors accurately corrected as measured by curriculum based measures.

Additionally, the IEP provided for the following accommodations/modifications in a test taking setting:

- extra time
- pass at Level 2
- breaks
- spell check
- calculator
- English dictionary
- highlighter
- math tools
- scratch paper
- strike through
- writing tools
- separate setting

The Student's IEP also included post-secondary transition goals:

- Education/Training Goal/Outcome: After high school, the Student will attend a 4-year university pursuing a major in physics or a closely related field.
- Employment Goal/Outcome: Upon leaving public school, the Student will volunteer in the deaf community using American Sign Language.

The IEP also included a three-year course of study for the Student to meet the admission requirements of a four-year university except the foreign language requirements. The IEP stated the Student's plan is to appeal for an exemption to meet the foreign language requirements because of her specific learning disability. The IEP stated the Student was enrolled in the biotechnical academy with a cohort of peers and that the curriculum is designed around central themes and topics in modern science and the three-year course of study identified that the Student would take courses in math, reading, writing, and organization.

20. According to the Parent's complaint, she requested a reevaluation of the Student during the October 27, 2016 IEP meeting.

21. On October 28, 2016, the District issued prior written notice, proposing to change the Student's IEP. The notice stated the IEP team met to review the Student's annual IEP and update the Student's annual goals and accommodations/modifications. The notice stated the IEP team considered removing the accommodation to provide for the Student to pass state testing at a level 2, to have more time on testing, and more time on assignments from the Student's IEP, but rejected the idea. The notice stated the Student requires more time to process materials and benefits from the additional time to complete tests and assignments and that "passing at level 2 would allow [the Student] to focus her efforts on college entrance tests and college preparatory coursework, which is of greater importance at this time".

22. Also on October 28, 2016, the case manager emailed the Parent and the Student a copy of the IEP and a prior written notice with "a description of the changes discussed yesterday in the meeting"

23. On November 4, 2016, the case manager emailed two District special education teachers, inquiring whether they could provide the Student SDI during "DAM time". The case manager stated the Student was "not coming to [specially designed instruction] when it was after school and she is willing to do it during DAM time". Both teachers responded to the case manager, stating they were not available during "DAM time". Later on November 4, 2016, the case manager emailed two additional District

special education teachers, inquiring whether they could provide the Student's SDI during "DAM time".

24. On November 4, 2016, the case manager emailed the Parent and copied the Student, the geometry teacher, and a District special education teacher. The case manager stated the special education teacher was available to provide the Student with SDI during "DAM time" and that the Student should report to the special education teacher's classroom twice a week for the duration of "DAM time". The case manager asked the Parent which two days would be best for the Student to receive her SDI. In response, the Parent stated she would "talk with the Student and prompt her to move forward on this".
25. According to the Student's attendance record, the Student attended school 97.2% of the days in September, 98.3% of the days in October, and 88.6% of the days in November.
26. On November 18, 2016, the District issued progress reporting regarding the Student's progress toward her October 27, 2016 IEP goals during the first semester. The report stated the Student made little or no progress on her annual goals for writing and reading and that the Student made some progress on her annual goals for math and study and organizational skills.
27. On December 2, 2016, the case manager emailed the Student regarding the Student's grades and "DAM time". The case manager stated it "appeared the Student was struggling again". The case manager stated that a District paraeducator (paraeducator 1) was available to provide the Student SDI during "DAM time" and asked the Student to pick any two days of the week to receive her SDI and attend the class regularly. The case manager stated she would create a laminated hall pass for the Student to use and help the Student set up calendar reminders to attend "DAM time" with paraeducator 1.
28. On December 6, 2016, the case manager sent an email to the Parent, asking the Parent to send the Student to the case manager. The case manager stated that the Student was not responding to the case manager's email. In response, the Parent stated she would speak with the Student and suggested that the case manager ask the assistant principal to speak with the Student if the case manager did not receive a response from the Student within a few days. The Parent explained that the Student "seems to respect [the assistant principal] and he seems to influence her". On December 8, 2016, the Parent emailed the case manager, asking the case manager to ask the assistant principal to speak with the Student because the Student was having a hard time with tests.
29. On December 9, 2016, the case manager emailed the geometry teacher and paraeducator 1, stating that the Student has a recurring pass to leave math class during "DAM time" every Monday and Wednesday to "go to see [paraeducator 1] for extra help". The case manager also stated, "due to attendance and accountability, this is a non-option and should be tracked for attendance".

30. On December 16, 2016, the Parent emailed the case manager and copied the assistant principal and the Student, requesting a meeting to discuss the Student's IEP. The Parent stated the Student was "concerned about her grades slipping, particularly her test scores" and that the Student is "quite distressed and anxious about how her grades influence her future opportunity". The assistant principal responded to the Parent's email later that day, stating he and the case manager would work to schedule a meeting and that it was necessary to have as many of the Student's teachers attend the meeting as possible.
31. On December 16, 2016, the District invited the Student and the Parent to an IEP meeting scheduled on January 5, 2017, to review the Student's instructional needs.
32. On December 16, 2016, the case manager emailed the Parent, the Student, the Student's world history teacher, the Student's French teacher, the language arts teacher, the biology teacher, the family and consumer science teacher, the geometry teacher, the special education teacher, and the assistant principal, inviting them to attend a "team meeting to discuss instructional needs and how to best support [the Student]". The proposed meeting date was January 5, 2017.
33. The District was on break from December 19, 2016 through January 3, 2017.
34. Based on the District's documentation in this complaint, the Student's class schedule for the second semester was as follows:
- 1st period: Entrepreneurship/Study Skills⁴
 - 2nd period: World Literature and Comp B
 - 3rd period: Bio Tech 2
 - 4th period: Food Science
 - 5th period: Teacher Assistant
 - 6th period: Geometry B
35. On January 5, 2017, the assistant principal emailed the biology teacher, asking her if she was planning to attend the Student's IEP meeting. The assistant principal stated the Student was struggling in biology and it would "be good for us to have your input and connection with her mother about what we can do to support the Student". The biology teacher responded that she would attend the meeting.
36. Also on January 5, 2017, the Parent emailed the assistant principal and copied the case manager and the Student. The Parent stated that the Student would be meeting with a medical professional on January 6, 2017, to discuss the Student's increasing anxiety. The Parent also stated that she wanted to discuss ideas and ways to provide for the Student's accommodation to provide alternative grading for the Student's tests. Later this same day, the assistant principal forwarded the email to the Student's language arts teacher, the piano teacher, and the art teacher.

⁴ On April 6, 2017, the Student's IEP team met to amend the Student's IEP. As a result, the Student's class schedule was changed to accommodate a study skills class during her first period.

37. On January 5, 2017, the Student's IEP team, including the Parent and the Student, met to discuss the Parent's concerns. The Student and the Parent requested a meeting "due to increasing concerns about testing in [the Student's] math and biology classes" because the Student's test grades do not accurately reflect her knowledge of the material. The IEP team considered adding accommodations for the Student but rejected the idea because the Student was not using the accommodations (to take extra time on her tests and use a separate testing location) as currently provided in the IEP. The Student reported that she would "give it a try". Additionally, the Student was planning to meet with her math and science teachers "to analyze her tests to figure out what kinds of problems she is having" and then the Student, the Parent, or the teachers would either contact the IEP case manager to consider adding accommodations "appropriate to the specific issue" or "if meeting with her teacher proves to be intervention enough" continuing to work individually with the teachers and attend "Biotech study hall". The Student agreed to identify her math errors and develop a plan to correct them "during her DAM time when she receives SDI". The District issued prior written, proposing to continue the Student's IEP as a result of this meeting.
38. On January 10, 2017, the case manager emailed the Parent, inquiring about the Student's stress level and the Student's meetings with her teachers. On January 11, 2017, the Parent responded that the Student was managing her schedule and working with her teachers to retake tests and improve her grades before the end of the semester and that the Student was feeling "much more optimistic and the anxiety symptoms have dramatically dissipated". The Parent asked the case manager if the Student's teachers could "prompt [the Student] to check in with them more often while training her to be more proactive in ask for what she needs". Later that day, the case manager forwarded the Parent's email to the Student's teacher, highlighting the Parent's request.
39. On January 24, 2017, the geometry teacher emailed the case manager, stating that the Student has "not made any effort to retake the quizzes we spoke of at the meeting or even to work on homework during DAM time." The geometry teacher stated he "was prodding [the Student] but the fear of failing she mentioned during the meeting does not seem to have any effect when I approach her about the retakes". Later that day, the case manager emailed the Student and the Parent and stated the Student needed to see the geometry teacher or the case manager and that "putting in the legwork is going to make the difference between success and not successes and we are in the final days".
40. On January 25, 2017, the Parent emailed the case manager and the teacher, stating that she would discuss the retakes with the Student before school. The Parent stated she asked the Student about the retakes several times and the Student reported, "that she didn't have the old tests so she wasn't able to do retakes". Later that day, the Parent emailed the case manager and the geometry teacher, asking whether the Student went to see the geometry teacher.

41. On January 27, 2017, the geometry teacher emailed the Parent and the case manager, stating the Student came to see the geometry teacher before school on January 25, 2017. The geometry teacher also stated that on January 26, 2017, the Student spent several hours after school with the geometry teacher and completed one re-take. The geometry teacher stated that for several weeks, he had been attempting to work with the Student to complete the re-takes but that “[the Student] really resisted”. The geometry teacher further stated that the Student had eight unexcused absences from geometry class this semester and asked the Parent to double check the Student’s online attendance records. The Parent replied, stating all absences should be excused.
42. According to the Student’s attendance record, the Student attended school 83.3% of the time in the month of December, and 89.2% of the time in the month of January.
43. On February 1, 2017, the District issued progress reporting regarding the Student’s progress toward her IEP goals during the first semester. The progress reporting stated the Student made some progress on her annual goals for writing and reading and that the Student made little or no progress on her annual goals for study and organizational skills. The progress reporting did not provide information about the Student’s math goal.
44. The District was on break from February 20-24, 2017.
45. On March 6, 2017, paraeducator 1 emailed the case manager, stating she was not going to be able to continue to meet with the Student during “DAM time”. Paraeducator 1 stated she observed that the Student did not have “a good sleep pattern. Naps after school, stays up crazy late because she napped” and that the Student “doesn’t study enough/at all”. Paraeducator 1 stated that the Student’s “time management can be an issue as well”. Later that day, the case manager emailed paraeducator 1, inquiring if paraeducator 1 could introduce the Student to a District special education student teacher who would be providing the Student with services.
46. On March 24, 2017, the geometry teacher emailed the case manager, stating the Student was failing geometry. The geometry teacher stated that he had been regularly trying to keep the Student focused and on task, but the plans made at the meetings last semester are “not being carried out”. The geometry teacher stated that he reached out to the Student during “DAM time” to work on homework but the Student did not do it and had “several missing assignments despite the 20 minutes (albeit 3 days a week) of DAM time and students around her doing the homework”. The geometry teacher further stated that the Student has a missing biotech project that counts for a quiz grade and that the Student often took bathroom breaks during class instruction time. The geometry teacher stated the Student was not “taking advantage of all the options we spoke of during those meetings last [semester] and I see her headed down the same road.” The case manager forwarded the geometry teacher’s email to the Parent, on this same day.

47. On March 29, 2017, the Parent emailed the case manager and the geometry teacher, requesting a parent meeting with the geometry teacher to “hear more about what is going on” and how the Parent could support the geometry teacher and the Student. The Parent stated a neuropsychologist “determined that the Student has borderline dyscalculia, above average to superior cognitive ability, severe dyslexia, borderline dysgraphia and not [attention deficit disorder]”. The Parent then requested the District complete a reevaluation of the Student “based on her underperformance in geometry and other subjects”.
48. On March 30, 2017, the geometry teacher responded to the Parent’s email, stating the Student has shown that she can be introduced to new concepts and learn them. The geometry teacher stated that he “could not stress the effort part enough” and that the Student was not putting in the effort. The Parent and the geometry teacher scheduled a meeting for Friday, March 31, 2017.
49. On March 31, 2017, the case manager emailed the Parent, stating that the school psychologist recommended the IEP team meet to discuss the Parent’s request for a comprehensive reevaluation.⁵ The case manager then proposed times to schedule the IEP team meeting, and the meeting was later scheduled for April 5, 2017.
50. On April 3, 2017, the Parent emailed the case manager, stating the Student would not be attending the April 5 meeting to discuss the Student’s reevaluation. In response, the case manager stated they could reschedule the meeting or find an alternative way to include the Student. The case manager stated, “ideally the Student would lead discussions like this. Every team discussion from 9th grade on should include the Student.” The Parent replied on April 5, stating she had obtained the Student’s input and that the concern was the same as previously mention, the Student is “not able to pass tests but she feels like she knows the information”.
51. Also on April 5, 2017, the Student’s IEP team, including the Parent, met to discuss the Parent’s request for a comprehensive reevaluation. The IEP team reviewed the Student’s evaluation reports from her previous school and her private evaluation reports, teacher input, staff observations, and the Student’s grades and determined the data indicated, “the previous evaluation results correctly identify the Student’s areas of need for receiving [SDI]”. The IEP team decided to “proceed with an assessment revision” in the area of social/behavior because the teachers had concerns that the Student had “avoidance and/or worry/anxiety related behaviors”. Additionally, the IEP team agreed to amend the Student’s services minutes and added accommodations, because the Student had reported that she was “not benefitting from her pull-out services as much as she should” and there was not enough time to “accomplish anything”. The IEP team increased the amount of the Student’s study/organizational services to 250 minutes per week, and the Student agreed to enroll in the special education teacher’s first period study/organizational skills class. In addition, the IEP team determined “the Student would continue to receive SDI as a pullout for reading, writing, and math twice a week during DAM time”.

⁵ The due date for the Student’s triennial reevaluation is November 11, 2017.

52. Additionally, on April 6, 2017, the school psychologist emailed the Parent a summary of the plan to help support the Student with her study/organizational skills as discussed at the IEP meeting. The psychologist stated the plan was to amend the Student's IEP to include a study/organizational skills class; evaluate the Student in the area of social/behavior; meet to discuss the results of the evaluation, and if needed, amend the IEP around social/behavior and the Student's math supports. The school psychologist attached a copy of an April 6, 2017 prior written notice regarding the decisions made at the April 5 IEP meeting, a consent form for the assessment revision, and a copy of the procedural safeguards. On April 7, 2017, the Parent responded that she would review the documents over the weekend.
53. The consent form stated the IEP team requested the reevaluation of the Student in the area of social/behavior because they were concerned the Student's social/behavior was affecting her academic performance.
54. On April 7, 2017, the case manager emailed a high school counselor, asking the counselor to enroll the Student in the special education teacher's first period study skills class.
55. Also on April 7, 2017, the case manager emailed the Parent a copy of the amended IEP, which reflected the new study skills class. The Parent responded, stating she would review the IEP over the weekend.
56. According to the Student's attendance record, the Student attended school 80.8% of the time in February, 87% of the time in March, and 88.9 % of the time in April.
57. On April 7, 2017, the District issued progress reporting regarding the Student's progress toward her IEP goals during the second semester. The progress reporting stated the Student made significant progress on her annual goals for writing and reading, and that the Student made little or no progress on her annual goals for math and study and organizational skills.
58. On April 18, 2017, the case manager emailed the geometry teacher and the special education student teacher, stating that on Monday and Wednesday's, the Student should still be reporting to the student teacher during "DAM time". The case manager stated "it is imperative that this happen as a routine" because of "attendance counting and IEP delivery". The case manager asked the special education student teacher to email the geometry teacher if the Student did not report to her "DAM time".
59. On April 20, 2017, the geometry teacher emailed the Parent and copied the assistant principal and the case manager. The geometry teacher stated that he implemented a homework check for the Student and that she made up a group quiz. The geometry teacher stated he worked with the Student to review her homework and that the Student "claims she gets the homework but then she does not get the quizzes or tests but after today's check, I don't think that's totally accurate". The geometry teacher stated the Student struggled on the last two pages of her assignment and did not attempt to "question me or even takes notes on some of the solutions I went over in

class”. The Parent responded, stating she would talk to the Student later that evening and that the “lack of taking notes” is “hopefully an isolated occurrence.”

60. Also on April 20, 2017, the school psychologist sent a follow-up email to her April 6 email, requesting consent to conduct the assessment revision. The psychologist stated that she had “not heard back” from the Parent and asked if the Parent had any questions.
61. On April 26, 2017, the Parent responded that she sent back the questionnaire form and that she disagreed with the team’s decision not to conduct a comprehensive evaluation, but that she did agree with the behavior evaluation and the response to intervention. She stated that the geometry teacher was working with the Student during “DAM time” to review homework and discuss errors. The Parent further stated that when she reviewed the Student’s math quiz, it “clearly had dyscalculia-type errors”. The Parent also asked for “assistive technology that will transcribe computer text and written word to audio” for the Student’s dyslexia. The District’s documentation included a consent form signed by the Parent on April 25, 2017.
62. On April 27, 2017, the school psychologist emailed the Student’s special education teacher, the language arts teacher, the biology teacher, the family and consumer sciences teacher, the ceramics teacher, the geometry teacher, and copied the assistant principal, the high school nurse, and the case manager. The school psychologist stated that the Student was being evaluated in “the area of social/emotional/behavioral skills to determine if/how they may be impacting the Student’s academic progress”. The psychologist stated she would provide the teachers with an “input form” and “rating form” later in the day, and asked the teachers to complete the forms by May 11, 2017.
63. On May 1, 2017, the school psychologist emailed the Parent a request for an assistive technology consultation form. The psychologist stated that the assistive technology team would be able to “appropriately answer your questions regarding supporting [the Student] in the classroom and with homework with technology”. The Parent responded, stating she would complete the form.⁶
64. On May 2, 2017, the Parent emailed the Student’s biology teacher and then the family and consumer sciences teacher, inquiring about the Student’s participation in class and how the Student could improve her grade. Later that afternoon, the family and consumer sciences teacher responded that the Student had missing work that was affecting her grade and stated that she was available before and after school to provide extra help to the Student.
65. Also on May 2, 2017, the Parent emailed the geometry teacher and copied the case manager, inquiring about the Student’s progress in math. On May 4, 2017, the geometry teacher replied that he had been unable to check the Student’s homework from May 3 because the Student left for her “DAM time” to receive her specially

⁶ Neither the District nor the Parent provided documentation in response to this complaint to show that the Parent completed the request form.

designed instruction. The geometry teacher stated that he worked with the Student to correct her quiz, and that the Student had seemed a little frustrated during the corrections since the geometry teacher would not provide the Student with the answers, but instead “asked her leading questions to try to coax a sense of how to do the problems with her”. The geometry teacher also stated he would discuss the role of dyscalculia and possible strategies with the school psychologist, and advocated for the Student to do practice problems. The Parent replied, stating that the Student left school early that day because of an anxiety attack and asked if the Student would be able to complete the practice problems in her study/organizational skills class during first period.

66. Also on May 4, 2017, the Parent emailed the school psychologist to notify her that the Student left school early due to an anxiety attack. The Parent stated that she had asked the Student whether the Student retaken her test in geometry and that the Student started crying. The Parent stated, “I believe all the focus right now is possibly overwhelming” and asked the school psychologist “to chat on the phone for a few minutes”. The Parent further stated she wanted to “come up with a good plan”. The school psychologist responded, agreeing to schedule the telephone call and stated that she would meet with the Student early the following week.
67. On May 5, 2017, the school psychologist emailed the Parent, suggesting days to meet to review the results of the Student’s evaluation. On May 8, 2017, the Parent responded with a date and time. Later on May 11, 2017, the Parent emailed the school psychologist, asking if it was an IEP meeting or a meeting between the Parent and psychologist. On that same day, the school psychologist responded, stating it was a meeting to review the results of the Student’s assessment revision. The school psychologist also stated she would like to meet with the Parent prior to the meeting to follow up on “the rating scale and get [the Parent’s] input.”
68. On May 8, 2017, the Parent emailed the school psychologist, stating that the Student was expecting to meet with the school psychologist that day. The Parent also stated that “based on [the Student’s] past and present levels of performance in geometry, I believe [the Student’s] educational needs have changed and would benefit from a full reevaluation (an IEE would seem more appropriate due to her twice-exceptional status)”. The Parent further stated that she has “requested a re-eval multiple times and was denied based on the team’s recommendation”. On this same day, the school psychologist forwarded the email to the school psychologist team lead, the special education program supervisor, the special education program specialist, and the assistant principal. On May 9, 2017, the school psychologist responded to the Parent’s emailing, stating she was going to “check in with [the geometry teacher] regarding his observations of [the Student’s] math skills” and expected the geometry teacher to provide “detailed information” about the Student’s “difficulties with learning math skills”. The psychologist also stated that she wanted the Parent to know that the school psychologist was not ignoring the Parent’s concerns that the Student had a math disability and the Parent’s “continued belief that a comprehensive reevaluation would be the most helpful”. The psychologist further stated that the team thinks the interventions and Student monitoring would provide both “qualitative and quantitative”

information to use during the Student's reevaluation in the area of social/behavior. The psychologist stated that at the upcoming evaluation meeting, the IEP team would discuss the results of the social/behavior evaluation and the interventions in the Student's math and study/organization skill classes, and "may revisit whether a comprehensive evaluations should be initiated due to concerns of a suspected disability in the area of math or other area[s] of concern".

69. On May 9, 2017, the school psychologist emailed the geometry teacher, asking to meet to "really tease apart [the Student's] difficulties around math". The psychologist stated she was trying to determine if a comprehensive evaluation would be beneficial since the geometry teacher "had the opportunity to provide interventions with [the Student] and the chance to work more closely with her on her math work".
70. On May 11, 2017, the school psychologist sent an email to the geometry teacher and the biology teacher. The school psychologist stated she was resending the social/emotional/behavioral "rating form" for the Student and asked the teachers to complete by the end of the week.
71. On May 12, 2017, paraeducator 1 emailed the school psychologist, providing paraeducator 1's input regarding the Student. Paraeducator 1 stated she worked with the Student for approximately a month and that during that time, the paraeducator and the Student identified two key areas that prevented the Student from being successful: "proper amount of sleep [with] consistent hours and the willingness to study at home". Paraeducator 1 stated that the Student did not want to do any work during "DAM time" and that she avoided the work. Paraeducator 1 also stated that she and the Student discussed the Student's career goals and that the Student reported she wanted to be an astrophysicist. Paraeducator 1 stated that she told the Student that high school would provide skills and training to help the Student prepare for the job force but that the Student "didn't seem to see the correlation". Paraeducator 1 further stated she saw the Student's grades and "it looks like [the Student] does pretty well with in-class assignments".
72. On May 12, 2017, the District sent the Parent notice that a meeting was scheduled for May 25, 2017 to discuss the results of the reevaluation of the Student in the area of social/behavior.
73. On May 22, 2017, the Parent emailed the school psychologist, stating that the Parent appreciated the time that the psychologist took to "investigate the Student's profile". The next day, the school psychologist responded that she was "glad we had a chance to talk" and that the school psychologist would have a draft report of the results of the reevaluation by May 24, 2017.
74. On May 23, 2017, the school psychologist emailed the geometry teacher, requesting that he complete the "rating form" for the Student by the end of the day. The school psychologist stated that it would be helpful to have the geometry and the biology teacher's perspective regarding the Student's social/behavior based on their observation of the Student while she was in their classes. The psychologist stated the

Parent and the Student did not identify any concerns in the Student's social/behavior regarding her math and biology classes based on their response to the "rating form".

75. On May 24, 2017, the school psychologist emailed the Parent a draft copy of the reevaluation report. The school psychologist stated it was a rough draft and that any decisions would be made at the meeting scheduled for the following day.

76. On May 25, 2017, the IEP team met to review the results of the Student's evaluation in the area of social/behavior. The report stated the Student and the Parent "suspect a math learning disability, while the Student's teachers observe behaviors that suggest avoidance and/or worry anxiety related behaviors that may be impacting the Student's academic progress". The report also stated, "Until recently the Student's math problem solving skills, strong verbal comprehension, and verbal reasoning skills and persistence toward her goals were sufficient for the Student to pass her math classes". The report also stated that the school-based team determined it would be best to implement an intervention around study skills and look more closely at the social/emotional behaviors that may be impacting the Student's academic progress in the area of math before proceeding with an out-of-sequence comprehensive reevaluation." The report stated the Parent reported that "on occasion the Student has stayed home due to feeling overwhelmed and worried about her math class" but that the Student's frequent absences from school were mostly due to medical appointments regarding issues with the Student's tonsils. The report also stated the Student reported that she had concerns "around anxiety, depression and her worry around her geometry class" and wants to know how she "can show what she knows without being penalized". Additionally, the report stated the Student reported that she was taking medication to address her symptoms of her anxiety, and the Student "goes to the nurses office to 'take a break' when she is feeling overwhelmed". The report stated that as the Student continued taking advanced math classes, it may be more difficult for the Student to demonstrate her understanding, which may frustrate and overwhelm the Student causing her to disengage or "shut down". The report recommended specially designed instruction in the area of social/behavior to provide "coping strategies to address anxious thoughts and feelings". The report also recommended related services, including access to audiobooks, preferential seating, access to class notes, access to typing devices, and additional time on tests, quizzes, projects, and assignments as needed and arranged with teachers. Additionally, based on the District's May 25 prior written notice, the IEP team determined that it would conduct a "comprehensive reevaluation of the Student to determine "if other factors are impacting [the Student's] learning of grade-level math."

77. On May 25, 2017, the high school counselor emailed the Parent, stating that the counselor would be willing to help the Student and the Parent "explore online options for math this summer for the Student".

78. On May 31, 2017, the case manager emailed paraeducator 1, asking whether she could resume providing the Student services because "[student teacher], who has been providing the SDI, is leaving". Paraeducator 1 responded, stating she was not available.

79. The District sent an invitation to the Parent and the Student to attend an IEP meeting scheduled for June 12, 2017. The invitation stated the purpose of the meeting was to review the Student's annual IEP and instructional needs and to discuss transition services, the Student's progress in meeting her annual goals, and graduation.
80. On June 1, 2017, the school psychologist emailed the case manager and the geometry teacher a series of emails to schedule a meeting to develop annual social/behavior goals related to math for the Student.
81. On June 1, 2017, the Parent emailed the school psychologist, asking which tests the psychologist would conduct during the reevaluation of the Student and which tests the psychologist was conducting to "assess connection between math and [specific learning disability] (diagnosed or suspected)". The Parent also asked the psychologist to print the consent form and send a copy home with the Student for the Parent to sign.
82. On June 1, 2017, the school psychologist responded to the Parent's email, stating that she could meet with the Parent to "explain the testing". The psychologist also provided a list of assessments and subtests she was considering conducting on the Student. The psychologist stated that she wanted "to be intentional and will spend time thinking about which subtests from these assessments will best inform us on how to support [the Student] and that she did not want to overwhelm the Student with testing."
83. On June 6, 2017, the Parent emailed the school psychologist, asking if the psychologist received the signed consent form to conduct the Student's reevaluation. The Parent asked the psychologist to call her before the end of the day. The Parent also stated she "would like to add these tests to the evaluation:
- Auditory: dichotic digits testg [sic]
 - Visual Attention Test for rapid processing of letters, digits and symbols
 - Dyscalculia Test
 - Comprehensive Test of Phonological Processing: CTOPP-2 (the entire test although subtests 6-12 will be particularly informative).

The Parent stated that "this is a comprehensive test that would provide great information on 'how' [the Student] processes information. Key ones: are subtests 6-12 which include 'digits'...but I would suggest asking for the entire test to be completed".

84. On June 6, 2017, the case manager emailed the geometry teacher, asking for data regarding how often the Student takes the kind of breaks that preclude her from accessing the material.
85. Also on June 6, 2017, the case manager emailed the special education teacher and two District paraeducators (paraeducator 2 and paraeducator 3) for data regarding how often the Student is not on task in the study skills class and data on whether the Student was using "healthy" coping skills during class. Paraeducator 2 responded to the email, stating that she did not observe the Student off task and that she did not observe the Student using "healthy in class coping skills". Paraeducator 2 further

stated she did observe the Student avoiding work by “being on her cellphone or hiding [it] within her work”.

86. Also on June 6, 2017, the school psychologist emailed a District audiologist, asking for information about dichotic digits testing. The audiologist replied that the tests were used to “assess either binaural integration or binaural separation of auditory stimuli”. The audiologist further stated that it was an “auditory test and has to be given by an audiologist in a sound treated room with specialized equipment” and stated they do not do that testing at schools because “Auditory Processing Disorder isn’t a SPED qualifying category”.
87. On June 7, 2017, the school psychologist emailed the District audiologist, a District speech language pathologist, the special education program specialist, the special education program supervisor, and the school psychologist team lead. The school psychologist stated the Parent was requesting specific tests during a comprehensive reevaluation of the Student with a suspected math disability who was previously diagnosed with dyslexia. The school psychologist asked how the audiology evaluations and communications evaluations could be helpful in a comprehensive evaluation with the Student. The District audiologist responded to the email, stating “Dichotic digits is an auditory test used in Central Auditory Processig test battery and isn’t given in isolation”. The District audiologist stated that she looked at the Student’s hearing screening and that the Student has always passed her hearing tests. The District audiologist offered to meet with the school psychologist later that week. In addition, the school psychologist team lead responded to the email, stating that a “parent (or anyone else) cannot dictate which assessments are to be administered during the evaluation process”.
88. On June 7, 2017, the school psychologist responded to the Parent’s email, requesting specific testing for the Student during the reevaluation process. The psychologist stated that she had received the consent form, which had the year misdated for June 7, 2016, but that she still believed it was valid. Additionally, the psychologist stated that she would “look into the tests [the Parent] requested and that “the school-based team uses our professional judgement and expertise in determining which tests will provide the most informative information with regards to determining suspected disabilities, adverse impact, need for specially designed instruction and how to best support teachers and the student”.
89. The District’s documentation in this complaint included a consent form signed by the Parent on June 7th. On the consent form, the Parent included a handwritten notice on the consent form, stating she wanted the Student assessed in the areas of “1) Mathematics, writing, reading, and other areas possibly effected by diagnosed or undiagnosed [specific learning disability]. 2) Administer specific tests emailed to [the school psychologist] on June 6, 2017” which included auditory testing, visual attention testing, dyscalculia testing, and comprehensive testing of phonological processing.
90. Also on June 7, 2017, the Parent filed this citizen complaint.

91. Also on June 7, 2017, the case manager emailed the geometry teacher, the biology teacher, the language arts teacher, the family and consumer sciences teacher, the special education teacher, and the ceramics teacher, inquiring how often the Student left their classrooms for bathroom breaks, visits to the nurse, walking to her locker, or to get coffee or other reasons. The family and consumer sciences teacher responded on June 9, stating that the Student did not usually leave the classroom.
92. On June 8, 2017, the case manager emailed the school nurse, inquiring how often the Student visited the nurse “in the last month or two”.
93. On June 12, 2017, the Student’s IEP team, including the Parent and the Student, met to amend the Student’s IEP, which included adding annual goals in the area of social/behavior. The amended IEP also stated the Student exhibits difficulties “managing her anxiety and managing her frustration around her learning disability as it relates to learning higher levels of math”. The amended IEP said the Student reported that when has “frustrations and worry related to the Biotech Academy she tries to push herself to stay motivated”. The Student also reported that she “uses coping techniques of distraction quite a bit” and that on days when she is “overwhelmed she will struggle to manage her emotions enough to stay in class, in multiple classes”. The amended IEP stated that the Student’s math teacher and the ceramics teacher reported the Student left class twice a week while the biology teacher reported the Student did not usually leave class. The amended IEP further stated the Student would work on “coping in ways that do not limit her access to the curriculum”. The amended IEP also stated the Parent reported that the Student needs accommodations, such as extra time to understand a concept and that the Student “may need a few extra minutes in geometry class for additional instruction or to clarify a concept.” The IEP stated the Student would be in the general education setting approximately eighty-four (84) percent of the school day and provided for 280 minutes of specially designed instruction each week in the special education setting as follows:
- Math: 10 minutes – one time each week
 - Reading: 10 minutes – one time each week
 - Writing: 10 minutes – one time each week
 - Study Skills: 25 minutes – five times each week
 - Social/Behavior: 25 minutes – five times each week

The amended IEP included three new annual goals in the area of social/behavior:

- Social/Behavior 1: By 11/01/2017, when given a planned or unplanned absence and a checklist the Student will complete all of the steps on the checklist improving planning and study skills around accessing the curriculum despite absences from following necessary steps in 0 out of 5 occurrences to following necessary steps in 3 out of 5 occurrences as measured by teacher collected data.
- Social/Behavior 2: By 11/01/2017, when given a self-monitoring sheet from tracking the Student will track the number of times per period of the day that she has used each of the following types of coping: breathing, distraction, emotional release, grounding, thought challenge, and leaving class improving awareness of low-level frustrations and awareness of coping skills for such frustrations from tracking coping skills in 0 out of 5 occurrence to tracking coping skills in 3 out 5 occurrences as measured by teacher collected data.

- Social/Behavior 3: By 11/01/2017, when given a visual reminder of steps to solving a math problem and a math problem that she cannot automatically and accurately complete the Student will the steps in the visual reminder improving accuracy, work completion, and stress tolerance from following the steps in 0 out of 5 occurrences to following the steps in 4 out of 5 occurrences as measured by teacher collected data.

94. Later on June 12, 2017, the Parent emailed the case manager and attached a "Parent addendum". The addendum stated that the Student did not understand why she was failing math and that the "study skills helper" asked if the Student needs any help with homework, which the Student declines, because the Student needs help in math because of her failing grade. The addendum stated that the Parent reported that the Student does not have a problem in organization skills, but that the Student's "problem is a language learning and possibly processing disability". The Parent further reported that "the social/emotional behavior is the symptom not the cause" and that the Parent does not agree with the IEP because the goals "support an identified or unserved problem".

95. According to the Student's attendance record, the Student attended school 87% of the time in May and 83.3% of the time in June.

96. On June 22, 2017, the District issued progress reporting regarding the Student's progress toward her IEP goals during the second semester. The progress reporting stated the Student made significant progress on her annual goals for writing and reading and that the Student made little or no progress on her annual goals for math, study and organizational skills, and social/behavior. The report stated that the social/behavior goals were just created and that the Student's absences affected her ability to make progress.

CONCLUSIONS

Issue 1: IEP Development – The Parent alleged that the District failed to provide appropriate accommodations and modifications that would ensure the Student's academic success. The IEP team makes informed decisions regarding the: student's needs and appropriate goals; extent to which the student will be involved in the general education curriculum and participate in the general education environment, and state and district-wide assessments; and services needed to support that involvement and participation, and to achieve the agreed-upon IEP goals. The IEP team must consider the parents' concerns and the information they provide regarding their student in developing, reviewing, and revising IEPs. Here, the Student's IEP team met in October 2016 to develop the Student's annual IEP, in January 2017 to address the Student's and Parent's concerns about the Student's academic performance in math and biology class, in April 2017 to discuss the Parent's request for a reevaluation of the Student, and in June 2017 to amend the Student's IEP to reflect the addition of specially designed instruction in the area of social/behavior. During each of these meetings, the IEP team reviewed the accommodations/modifications provided for the Student and on two occasions, agreed to add additional accommodations/modifications. In January 2017, the IEP team rejected adding accommodations because the Student was not using the accommodations, as

currently provided in the IEP. The District substantiated that it followed procedures to address providing accommodations/modifications for the Student.

The Parent also alleged that the District failed to develop a postsecondary transition services plan in the Student's IEP. Beginning no later than the first IEP to be in effect when a student turns 16, the student's IEP must include appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and the transition services, including courses of study needed to assist the student in reaching those goals. In her complaint, the Parent expressed concern because the transition plan "does not have an appropriate individual goals and skills that would align with the Student's interests in the biotech program and college". However, the Student's IEP shows the District identified transition services and outlined a three-year course of study to assist the Student to reach her postsecondary goals of attending college to obtain a Ph.D. in science and working as an astrophysicist. The Student's course schedule shows the Student was enrolled in a biotech cohort, which aligns with the course of study and post-secondary goals identified in her IEP. The District substantiated it followed procedures to address transition services in the Student's IEP.

Issue 2: IEP Implementation – The Parent alleged that the District failed to implement the Student's IEP by failing to provide specially designed instruction. At the beginning of each school year, each district must have an IEP in effect for a student 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. Specially designed instruction means adapting, as appropriate to the needs of an eligible student, the content, methodology, or delivery of instruction: to address the unique needs of the student that result from the student's disability; and to ensure access of the student to the general curriculum, so that the student can meet the educational standards within the jurisdiction of the public agency that apply to all students. Here, from September 2016 through October 2016, the Student's November 2015 IEP was in effect and provided for specially designed instruction in the general education setting and in the special education setting. The District admits that "the Student did not receive the SDI called for in the general education" setting as provided in the Student's November 2015 IEP at the beginning of the school year. After the IEP team developed the Student's October 2016 IEP, the District found a paraeducator and later a special education student teacher, under the supervision of the case manager, to provide specially designed instruction during the Student's "DAM time". Given the District's failure to provide the Student specially designed instruction at the beginning of the school year and the lack of progress demonstrated by the Student on her November 2016 progress reporting, the District will provide the Student with compensatory services as described in the next paragraph.

The Student's November 2015 IEP provided for 25 minutes per week of specially designed instruction in reading, 25 minutes per week of specially designed instruction in writing and 25 minutes per week of specially designed instruction in math, to be delivered in the general education setting. Had the District properly implemented the Student's IEP, she would have received approximately nine hours of instruction from September 7, 2016 until October 27, 2017, when the District developed the Student's annual IEP. Taking

into consideration the Student's absences, and the more intensive individualized instruction that can be provided through one-to-one tutoring, the District will provide the Student with approximately 1/2 the amount of hours she should have received had her IEP's been implemented. The District will provide 4.5 hours of compensatory education to the Student in individual tutoring sessions to address reading, writing, and math. The specially designed instruction will occur outside of the District's school day and be provided by a certificated special education teacher.

After the Student's IEP was amended in April 2017 to increase the amount of study skills services, the Student enrolled in a study skills classroom taught by a special education teacher. The Parent alleged that the study skills class was only used to complete homework and work on "character education". However, the Parent did not provide any additional documentation about this allegation. And, the Student's annual goal in study skills included reviewing homework and planning to complete the homework. Although the Student's progress toward her annual goal in study skills was little to no progress, the documentation provided in this complaint shows there was concern around the Student's attendance in school and certain classes. Therefore, no non-compliance was identified.

Issue 3: Reevaluation Procedures – A school district must ensure that a reevaluation of each student eligible for special education is conducted when the school district determines that the educational or related services needs, including improved academic achievement and functional performance of the student warrant a reevaluation, or if the parent or teacher requests a reevaluation. A reevaluation may not occur more than once a year, unless the parent and school district agree otherwise, and must occur at least once every three years, unless the parent and school district agree that a reevaluation is unnecessary. The Parent stated in her complaint that she requested a reevaluation of the Student at the October 2016 IEP meeting, but neither party has provided any documentation regarding the Parent's request. However, the documentation does show that on March 29, 2017, the Parent requested a meeting to discuss reevaluating the Student because of the Student's difficulties in math. In response, the District held an IEP meeting on April 5, 2017, within five school days of the Parent's request. At the meeting, the IEP team reviewed the Student's existing data to determine what assessments were needed for the reevaluation and decided to assess the Student in the area of social/emotional. Although the Parent attended the meeting, she disagreed with the IEP team's decision to only assess the Student in one area. On May 25, 2017, the IEP team met to review the social/behavior reevaluation results. Based on the results of the reevaluation, the IEP team decided to do a comprehensive reevaluation of the Student that aligned with the Parent's request, and then obtained the Parent's consent. The District substantiated it followed procedures for responding to the Parent's request for a reevaluation.

CORRECTIVE ACTION

By or before **September 29, 2017** and **November 30, 2017**, the District will provide documentation to OSPI that it has completed the following corrective action.

STUDENT SPECIFIC:

By or before **September 15, 2017**, the District will meet with the Parent to develop a schedule for 4.5 hours of compensatory services in the areas of reading, writing, and math. Services may occur after school, or over vacations, and must occur outside of the District's school day. Services will occur in a one-on-one setting and be provided by a certificated special education teacher. The District will provide OSPI with documentation of the schedule for services by or before **September 29, 2017**.

The District either must provide 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 reimburse the Parent for round trip mileage at the District's privately owned vehicle rate.

By or before **November 30, 2017**, the District must provide OSPI with documentation that it has completed compensatory services for the Student. This documentation will 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. Additionally, this documentation will include payments, if any, made to the Parent for travel reimbursement.

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 ____ day of August, 2017

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.)