

SPECIAL EDUCATION CITIZEN COMPLAINT (SECC) NO. 17-62

PROCEDURAL HISTORY

On August 31, 2017, the Office of Superintendent of Public Instruction (OSPI) received a Special Education Citizen Complaint from the parents (Parents) of a student (Student) attending the Tacoma School District (District). The Parents 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 September 1, 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 September 6, 2017, OSPI granted the District an extension of time to submit its response to this complaint.

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

On October 9, 2017, OSPI received the Parents' reply and forwarded that reply to the District on October 11, 2017.

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

OVERVIEW

During the 2016-2017 school year, the Student attended a District elementary school and was eligible to receive special education and related services under the category of other health impairment. In September 2017, shortly after the school year began, a District speech language pathologist (SLP) informed the Parents that she wanted to exit the Student from speech services. The SLP then conducted a reevaluation of the Student in the area of communication, but did not obtain consent from the Parents. The Parents expressed concern that the reevaluation had been conducted without their consent and requested that the District pay for an independent educational evaluation (IEE). The District agreed to pay for the IEE and the IEE was completed in March 2017. In April 2017, the District held an IEP meeting to update the speech goals in the Student's individualized education program (IEP). The Parents disagreed with the proposed speech goal and the District agreed to provide new goals. The District then included new goals in the Student's IEP and finalized the IEP without notifying the Parents. Once provided with the new speech goals, the Parents continued to express concern that the goals were not appropriate to meet the Student's needs based on the information provided in the IEE report. Also during the school year, the Student did not receive all of the specially designed instruction and related services stated in his IEP. In response, the District offered to provide the Student with

compensatory services, but the services were not provided. The Parents alleged that the District failed to follow reevaluation procedures and failed to implement the Student's IEP. The Parents also alleged that the District failed to follow procedures for developing the Student's IEP, considering the results of the Student's IEE, and providing the Parents with prior written notice.

ISSUES

1. Did the District follow reevaluation procedures during the 2016-2017 school year?
2. Did the District implement the Student's individualized education program (IEP) in place during the 2016-2017 school year?
3. Did the District follow procedures for developing the Student's IEP during the 2016-2017 school year, including ensuring parent participation?
4. Did the District follow procedures for considering the results of the Student's independent educational evaluation (IEE)?
5. Did the District follow procedures for providing the Parents with prior written notice?

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. 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. 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 after the date the district received 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. The reevaluation determines whether the student continues to be eligible for special education and the content of the student's IEP. 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; WAC 392-172A-03020.

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. 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.

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) extended school year (ESY) services, if necessary for the student to receive a free and appropriate education (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.

Parent Participation in 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. 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).

Independent Educational Evaluation (IEE): Parents of a student eligible for special education have the right to obtain an independent educational evaluation (IEE) of the student at public expense if they disagree with the district's evaluation. An IEE is an evaluation conducted by a qualified examiner who is not employed by the district responsible for the education of the student in question. If the parent obtains an IEE at public or private expense, the results of the evaluation: must be considered by the district, if it meets agency criteria, in any decision made with respect to the provision of FAPE to the student; and may be presented as evidence at a hearing regarding that student. 34 CFR §300.502; WAC 392-172A-05005.

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.

FINDINGS OF FACT

1. During the 2016-2017 school year, the Student attended a District elementary school and was eligible to receive special education and related services under the category of other health impairment.
2. The Student lives with both his mother and his father (Parents). The Student's mother works at the District elementary school where the Student attends.
3. The District's 2016-2017 school year began on September 7, 2016.
4. The Student's individualized education program (IEP) in place at the beginning of the 2016-2017 school year was developed on January 21, 2016. The January 2016 IEP included annual goals in the areas of communication, reading, writing, and social/emotional/behavioral. The IEP provided for the following specially designed instruction:
 - Reading – 30 minutes 5 times weekly (special education setting)
 - Writing – 30 minutes 5 times weekly (special education setting)
 - Social/emotional/behavioral – 60 minutes 5 times weekly (special education setting) (concurrent)

- Social/emotional/behavioral – 30 minutes 5 times weekly (general education setting) (concurrent¹)

The January 2016 IEP also provided for 60 minutes per week of speech language services as a related service and 20 minutes per week of occupational therapy services as a supplementary aide and service. Additionally, the IEP provided for multiple classroom and testing accommodations.

5. According to the Parents' complaint, on September 13, 2016, the District speech language pathologist (SLP 1) who worked at the Student's elementary school approached the Student's mother and stated that she wanted to remove the Student from speech services. In response, the mother stated that she needed to speak with the Student's father and private pediatrician about the SLP's statement.
6. Based on the documentation in this complaint, on September 14, 2016, the Student's mother spoke with the elementary school assistant principal (assistant principal) about her concerns that SLP 1 wanted to exit the Student from his speech services.
7. On September 16, 2016, the assistant principal emailed the Student's mother regarding their early conversation about the Parents' concerns with the Student's speech services and SLP 1. The assistant principal stated that she thought that there was some misunderstanding and that she wanted to set up a meeting with the mother and SLP 1 to discuss the Student's qualification for speech services. The assistant principal asked if the mother also wanted the Student's father to join the meeting. The mother and the assistant principal then exchanged additional emails regarding scheduling the meeting, and agreed to meet on October 3, 2016, so that a District representative could attend the meeting.
8. On September 29, 2016, SLP 1 emailed the assistant principal and included a schedule of when she provided speech services to students at the elementary school. The schedule stated that she provided the Student services on Tuesdays from 1:30 - 2:00 p.m.
9. Also on September 29, 2016, SLP 1 completed an "evaluation report focusing on [the Student's] continued eligibility regarding articulation therapy and designation as having a disability requiring special education in speech and language services." The evaluation report stated that on September 13, 2016, the Student was observed in his class and "an articulation probe was done on his target sounds in words and in conversational speech during a pull out session of 40 minutes." The report also stated that on September 20, 2016, the Student was "administered the Arizona Articulation Proficiency Scale 3rd edition" (Arizona assessment). Additionally, the evaluation report said that the Student did not meet the District's criteria for an articulation/phonological disorder and also stated:

¹ Given that the Student's January 2016 IEP did not provide for any other services in a general education setting, it is assumed that the Student's social/emotional/behavioral services in a general education setting were not provided concurrently with another service.

[The Student] has met his three articulation goals from his IEP...He is highly intelligible and demonstrates articulation skills appropriate for his age. His articulation and intelligibility do not adversely affect his ability to access his general education setting. He is ready to be exited from speech and language services through an assessment revision. The assessment revision will not affect any of his other special education services. Speech and language will be the only service discontinued. Exiting from speech and language services will also give him 60 more minutes a week that he remains in his classroom being exposed to grade level curriculum.

10. On October 3, 2016, the Parents met with SLP 1 and two District directors of student services (director 1 and director 2) to discuss the Parents' concerns about the Student being reevaluated. According to the Parents' complaint, at the meeting, the Parents were given a copy of SLP 1's evaluation report. Based on SLP 1's notes, at the meeting, it was agreed that the Student would receive four make up speech sessions over the course of the next two weeks, and then transition to speech services once per week. SLP 1 noted that the Student's IEP needed to be amended and that the Student would move to a response to intervention (RTI) plan with homework. The Parents' complaint states that it was agreed upon that the District would provide eight speech sessions for the next two weeks to make up for not providing speech services since the beginning of the school year. The District would also RTI the Student until January 2017. The Parents requested that the Student would receive speech homework and this was agreed to.
11. On October 4, 2016, the Student's mother emailed the Student's general education teacher to follow-up on their prior conversation. The mother stated that she wanted to "double check" what she had written down as the times the Student received speech services. The mother stated that she had written down that the Student received speech services on Tuesdays for 30 minutes at 1:30 p.m. In response, the general education teacher confirmed the time of the speech services.
12. On October 5, 2016, the Student's father emailed the elementary school principal (principal) and copied director 1 and director 2. The father stated that after the October 3 meeting he thought it would be best to send an email, rather than have a phone conversation, because at the October 3 meeting SLP 1 would say things such as "I do not recall it that way". The father also stated that the Student's mother had approached the assistant principal with the Parents' concerns about the mother's interactions with SLP 1, which included two main issues:
 - Whether the Student required speech services – The Student had five communication goals recommended in his January 2015 reevaluation and his IEP team agreed to continue speech services in his January 2016 IEP. However, when the Parents had brought up those goals at the October 3 meeting, the goals were quickly dismissed. SLP 1 had approached the mother with no data to support her recommendation to exit the Student from speech services, and SLP 1 reached her conclusion by having a short conversation with the Student in the school hallway.
 - Whether the Student's rights/needs for an appropriate education were being honored – During the mother's conversation with SLP 1 on September 13, SLP 1 had stated that she did not know what she would do with the Student for sixty minutes a week, and that the Student

would be better served by spending that time in the general education setting. Since the 2016-2017 school year had begun, the Student had been seen by SLP 1 on September 20 for a 40-minute assessment without written consent and on September 27 and October 4 for 30 minutes each. The Student's IEP stated that he would receive 60 minutes of services a week and his schedule was out of compliance with his IEP. The Parents had confirmed with the Student's general education teacher that the Student was only scheduled to receive 30 minutes of services per week.

The father also stated that the Parents had attended the October 3 meeting to clear up any misconceptions and had requested a District representative be present because they felt that it was SLP 1's goal to exit the Student from speech services without data or evidence. The father said that after the meeting, the Parents became more concerned about SLP 1 having already tested the Student. The father then expressed concerns about not receiving prior written notice of proposed evaluation procedures and that a recording of the Student had been made on a personal cell phone, which had been shared with people² who were not part of the IEP team. Additionally, the father stated that the Arizona assessment used by SLP 1 was only an articulation evaluation, and the Parents did not feel the data provided by the assessment showed the Student met his speech goals. The father then requested that the District pay for an independent education evaluation (IEE) of the Student in the area of communication.

13. On October 6, 2016, the principal responded, stating that director 1 wanted to call and follow up with the father. The principal asked when a good time to contact the father would be and also provided director 1's phone number as an option. The principal also stated that the District was agreeing to pay for the IEE, and that director 1 would speak with the father about some options before sending a formal response letter.
14. Based on the District's speech services log, SLP 1 met with the Student on September 27 and October 4, 7, and 11.
15. On October 11, 2016, SLP 1 emailed another District SLP (SLP 2) and included a schedule of when she provided speech services to students at the elementary school. The schedule stated that she provided the Student services on Tuesdays and Fridays from 1:30 - 2:00 p.m. Also that day, SLP 1 sent a second email, which stated that the Student had speech articulation goals, should receive 30 minutes of services two times per week, and that his triennial reevaluation was due on January 12, 2018.
16. On October 12, 2016, SLP 2 became the Student's new speech service provider.
17. On October 18, 2016, director 1 sent the Parents a letter, stating that the District would pay for the Student's communication IEE and provided a list of potential independent evaluators.

² The District's documentation shows SLP 1 shared a recording of the Student with another District SLP (SLP 2).

18. On October 26, 2016, the Student's father emailed the Student's special education teacher, asking when the Student received his specially designed instruction. In response, the special education teacher stated that she saw the Student Monday-Friday from 1:20-1:50 p.m. in his general education classroom.
19. Also on October 26, 2016, the Student's father emailed SLP 2, asking when the Student received his speech services. In response, SLP 2 stated that she saw the Student on Tuesdays (1:00-1:30 p.m.) and Fridays (1:30-2:00 p.m.). SLP 2 stated that she had not seen the Student on Friday, October 14, due to a conference.
20. Based on the District's speech services log, SLP 2 met with the Student on October 18, 21, and 25. SLP 2 observed the Student in his class on October 28, as the Student's general education teacher had requested the Student stay in the classroom to participate in the class' harvest party.
21. On November 9, 2016, the Student's father emailed SLP 2, asking for a copy of the Arizona assessment, which SLP 1 used to evaluate the Student, as well as any other evaluations or assessments from the 2016-2017 school year. In response, SLP 2 stated that she was out at a conference, but would look into the father's request when she returned the following week.
22. On November 16, 2016, the Student's father sent SLP 2 a follow-up email regarding his request for copies of the Student's assessments. In response, SLP 2 stated that she had checked with director 1 about the father's request and was told that the District had a policy of not releasing original assessment protocol forms or copies to parents. SLP 2 stated that if the father had questions about the policy, he could contact director 1. SLP 2 also stated that she could provide the father with a copy of SLP 1's informal assessment report, which contained the Student's Arizona assessment scores.
23. On November 17, 2016, the father replied to SLP 2's email and copied the Parents' advocate, the principal, and director 1. The father stated that he would like a copy of the informal assessment report. The father also stated that it was his understanding that any records with the Student's name on them were records that could be requested. The father then asked that he be provided copies of the data sheets used to document SLP 2's time spent with the Student.
24. On November 18, 2016, the Parents' advocate responded to the father's email, stating that she believed the Parents were requesting evaluation documents and data collected regarding the Student's speech services. The advocate stated that it was her understanding that if the Arizona assessment was part of the Student's file, the Parents should have access to the records. Director 1 then replied that she was recommending a meeting with all parties to clarify the right to access records. Director 1 stated that parents can always review student records and that the District wanted to work collaboratively. Director 1 also stated that it would be helpful to know if the Parents were still seeking an IEE, and asked that the principal work with SLP 2 to schedule a meeting with the Parents. Later that day, SLP 2 provided the Parents with three possible meeting dates.

25. On November 19, 2016, the father responded that the Parents were in the process of obtaining an IEE for the Student. The father also stated that he did not believe it was necessary to hold an IEP meeting at this time, and asked for copies of any formal and informal assessments and data sheets from the 2016-2017 school year. The father stated that this type of request had not been an issue in the past.
26. Also on November 19, 2016, the Student's father emailed the Student's special education teacher, asking if the Student was still only receiving specially designed instruction for 30 minutes a day. The father noted this was out of compliance with the Student's January 2016 IEP. On November 21, 2016, the special education teacher responded that the Student was receiving 30 minutes a day of services. The teacher also stated that the Student's IEP reflected a "pullout model", which was not the "flood-in" model currently being "promoted" at the elementary school.
27. On November 21, 2016, director 1 emailed the Student's father, stating that the District was happy to schedule a meeting for the Parents to access and review any records. Director 1 asked that if the Parents had selected an evaluator to conduct the IEE that they let her know so a contract could be put in place. Later that day, SLP 2 emailed the father, stating that she had sent data records home with the Student.
28. On November 22, 2016, the Student's father provided director 1 with the name of the independent evaluator the Parents had chosen to conduct the Student's communication IEE. The District contacted the independent evaluator the next week to obtain information for a purchase order.
29. Based on the District's speech services log, SLP 2 met with the Student on November 1, 4, 8, 15, and 18. There was no school on Friday, November 11, and SLP 2 was absent on Tuesday, November 22. The Student's class participated in a field trip on Friday, November 29.
30. Based on the District's speech services log, the Student's schedule changed on Tuesday, December 6, and he was not able to access his services. There was an early release day on Friday, December 9, and students were released before the Student's scheduled speech services. SLP 2 observed the Student in class on December 13 when the class participated in a nationwide computer programming event. SLP 2 was absent on Friday, December 16 due to a meeting.
31. The District was on break December 19, 2016 – January 2, 2017.
32. On January 8, 2017, the Parents' attorney emailed the District's attorney and attached a copy of a letter written on behalf of the Parents. The letter reiterated the Parents' concerns about the District attempting to exit the Student from speech services without an appropriate reevaluation or procedural safeguards. The letter also stated that as part of the elementary school's reorganization of its special education program, the school had announced that it would deliver the Student's "30 minutes of nonconcurrent daily reading SDI and 30 minutes of nonconcurrent daily writing SDI – both meant to be delivered in the special education

setting – via one concurrent 30 minute ‘ELA workshop’ delivered in a general education setting” until the October 3 meeting between the Parents and District administration. To address the missed instruction, the District agreed to provide home skills practice and additional sessions of specially designed instruction, but this had not occurred. Due to this, the Parents were now asking the District to provide the Student with twenty (20) hours of compensatory speech services and forty-five (45) hours of compensatory services in the areas of reading and writing. The letter asked that the District contract with the Student’s private tutor to provide the reading and writing services and also contract with a private SLP to provide the speech services. Additionally, the letter asked that the District reimburse the Parents for six (6) hours of private tutoring the Student had already received.

33. On January 10, 2017, the District’s attorney responded that the District was reviewing the letter and would contact the Parents’ attorney about the matter.
34. According to the Parents’ complaint, on January 17, 2017, SLP 2 approached the Student’s mother, asking to reduce the amount of the Student’s speech services. In response, the mother asked what indicators/changes she would see or hear to know that the Student had made growth toward his current communication goals. In response, SLP 2 reportedly made comments that concerned the mother, and the mother reminded SLP 2 that the Student received speech services due to having Apraxia and Dysarthria. The mother also stated that she had already discussed with director 1 and SLP 1 that the speech/language portion of the Student’s IEP would remain the same until the IEE was completed.
35. On January 19, 2017, the Parents received a copy of a draft IEP to be reviewed at the January 20 IEP meeting. The draft copy proposed reducing the Student’s reading and writing services from 150 minutes each per week to 75 minutes each per week.
36. On January 20, 2017, the Student’s IEP team met to develop his annual IEP. The IEP team included:
 - Student’s mother
 - Student’s father
 - Principal
 - Assistant Principal
 - Director 1
 - Director 3
 - Occupational Therapist
 - Special Education Teacher
 - General Education Teacher
 - SLP 2
 - Parents’ Attorney
 - District’s Attorney

Based on the District’s January 20, 2017 prior written notice, at the meeting, the IEP team discussed reducing the Student’s reading and writing services from 300 minutes per week in a special education setting to 150 minutes per week in a special education setting, or providing the Student with 150 minutes per week of services in a special education setting and 150 minutes per week in a general education setting. The IEP team agreed that the Student’s services minutes would remain the same and that his January 2017 IEP goals would be similar to the January 2016 goals pending the results of the communication IEE and full reevaluation, if the Parents agreed to it. The IEP team discussed conducting an early reevaluation of the Student to determine any changes in academic and/or

social/emotional/behavioral service areas. The Parents indicated that they would like the Student to be evaluated by an independent evaluator, and that they would consider an early reevaluation if the District contracted with an independent evaluator. The District agreed to consider this request.

37. The Student's January 2017 IEP included updated present levels of performance in the areas of reading, writing, social/emotional/behavioral, communication, and fine motor. The IEP included the same three communication goals and two of the same social/emotional/behavioral goals as the Student's January 2016 IEP. The IEP included new or updated reading and writing goals, and one new social/emotional/behavioral goal. The IEP provided for the following specially designed instruction:

- Reading – 30 minutes 5 times weekly (special education setting)
- Writing – 30 minutes 5 times weekly (special education setting)
- Social/emotional/behavioral – 60 minutes 5 times weekly (special education setting) (concurrent)
- Social/emotional/behavioral – 30 minutes 5 times weekly (general education setting) (concurrent³)

The January 2017 IEP also provided for 60 minutes per week of speech language services as a related service and 20 minutes per week of occupational therapy services as a supplementary aide and service. Additionally, the IEP provided for multiple classroom and testing accommodations.

38. On January 23, 2017, the Parents' attorney emailed the District's attorney, stating that if the District was amenable, she was recommending a full psycho-educational independent evaluation to include speech and language assessments. The Parents' attorney suggested that the speech/language portion of the IEE be completed by a different independent evaluator than the one chosen by the Parents in November 2016. The District's attorney replied that the District would send a response later that week.

39. On January 27, 2017, another District director of student services (director 3) sent the Parents a letter, stating the District's intent to provide the Student compensatory services to address the services he did not receive earlier in the school year. The letter stated that after a thorough review of the delivery of the Student's services, the District would provide the Student with two (2) hours of speech services and fifteen (15) hours of specially designed instruction in reading/writing, and that the District had selected individuals to provide the compensatory services, which could begin immediately. The letter also stated that the District was not agreeing to pay for a full IEE in lieu of conducting a reevaluation of the Student, but was willing to assign a District psychologist who did not work at the Student's elementary school to conduct the reevaluation. Additionally, the letter stated that the District had sent a purchase order to the Parents' chosen independent evaluator in early

³ Given that the Student's January 2017 IEP did not provide for any other services in a general education setting, it is assumed that the Student's social/emotional/behavioral services in a general education setting were not provided concurrently with another service.

December 2016. Director 3 then asked that the Parents contact her as soon as possible to schedule the compensatory services, inform her of their decision regarding an early reevaluation of the Student, and provide her with contact information of the independent evaluator who would conduct the agreed upon communication IEE, so that Director 3 could coordinate the IEE.

40. Based on the District's speech service log, SLP 2 met with the Student on January 6, 10, 13, 17, 24, 27, and 31. The Student was absent on Tuesday, January 3, due to a class project in his general education class, and on Friday, January 20.
41. On February 13, 2017, the Parents' attorney emailed the District's attorney, stating that the Parents were "glad" that the District was offering compensatory services for the Student, but did not understand the District's time calculation for the hours offered. The Parents' attorney asked for more information about how the District determined the amount of compensatory services, and for more information regarding who would provide the services and where they would be provided. The Parents' attorney also stated that the Parents were not interested in the Student receiving an off-schedule reevaluation by a district psychologist, "since the stated motivation was to reduce [the Student's] SDI minutes."
42. On February 14, 2017, the Student's mother emailed the Student's special education teacher and SLP 2, asking about the Student's service schedule. The mother stated that after the January 20 IEP meeting, the Parents understood that the Student would receive pull-out services from the special education teacher Monday through Friday from 1:00-2:00 p.m. The mother said that she had emailed the Student's general education teacher to confirm that the Student would be able to attend the class Valentine's Day party and also spoke with the special education teacher because the time for the party partially overlapped with the time the Student met with the special education teacher. The mother stated that she had spoken with the Student that day, and he shared that he was with SLP 2 during the beginning of the party. This sounded like his speech services were overlapping with the time he should receive services from the special education teacher. The mother asked that the staff clarify this.
43. On February 15, 2017, SLP 2 responded to the mother's email, stating that she provided the Student's speech services on Tuesdays from 1:10-1:40 p.m. and Fridays from 1:30-2:00 p.m. The mother then replied that it was her understanding that the Student was to receive services from the special education teacher Monday through Friday from 1:20-2:20 p.m., which conflicted with speech services at 1:10 p.m. The mother stated that she hoped the conflict could be resolved quickly.
44. Also on February 15, 2017, the Parents' attorney emailed the District's attorney, expressing concern that the Student's speech services were now being delivered from 1:10-1:40 p.m. on Mondays and Fridays, which was in conflict with the time he was scheduled to receive his reading and writing services. The Parents' attorney asked that the District address the conflict, provide the revised service delivery schedule, and incorporate the "consequent denial of FAPE into a revised compensatory education assessment."

45. Also on February 15, 2017, the District's attorney sent the Parents' attorney a letter in response to the Parents' attorney's February 13 email. The letter stated that during the January 20 IEP meeting, there was not a stated motivation to reduce the Student's speech services by any member of the IEP team when discussing the possibility of a reevaluation. The IEP team members had indicated a desire to obtain and review additional data, not only to review the Student's academic performance after noting improvement in his reading scores, but also to address the Parents' proposition to reduce the Student's specially designed instruction in the area of social/emotional/behavioral instruction. "The fact that the IEP team members believed [the Student's] emotional or related service needs warranted reevaluation and therefore requested it was not only appropriate under the circumstances, but also mandated pursuant to WAC 392-172A-03015." Additionally, the letter stated that as a result of the Parents' continuing refusal to consent to a reevaluation, the District would schedule another IEP meeting to further develop the goals and services for the Student based on existing data. The District's attorney asked that the Parents provide possible dates and times they could meet that month, and stated that depending on the completion of the Student's communication IEE, the IEP team may also consider the results at the meeting. Further, the letter stated that with regard to the District's offer of compensatory services, director 3 had carefully reviewed the Student's speech services logs and his special education teacher's schedule and that any discrepancies were included in the calculation of services. The letter also asked that the Parents let director 3 know if they wanted the proposed services to be delivered before or after school in the increments stated in the letter, or delivered in an alternate delivery model. The District planned to have SLP 2 provide the speech services and a certificated teacher, who did not work at the Student's elementary school, provide the reading and writing services.
46. On February 16, 2017, SLP 2 emailed the Student's mother, stating that she had made adjustments to the Student's speech schedule and that the Student would now receive services on Tuesdays and Fridays from 12:50-1:20 p.m. The mother and SLP 2 then exchanged additional emails about the Student's schedule.
47. On February 21, 2017, the District's attorney emailed the Parents' attorney, stating that the District had sent the February 15 letter prior to receiving the Parents' attorney's February 15 email and the District was responding to the email now. The District's attorney stated that "while the 15 hours of additional services still addresses any identified discrepancy, in good faith, the District is willing to raise the reading/writing minutes to 15.5 hours, following the same schedule as originally identified but adding an additional 30-minute session."
48. On February 24, 2017, the Parents' attorney responded, thanking the District for the clarifying information and asked if a specific District teacher could provide the Student's 15.5 hours of reading/writing compensatory services, as the teacher already had a strong rapport with the Student. The Parents' attorney also stated that it had been brought to her attention that at the October 2, 2016⁴ meeting, the District had offered to provide the Student with two hours

⁴ The documentation in this complaint shows that the meeting occurred on October 3, 2016, not October 2, 2016, which is a Sunday.

of compensatory services in the area of speech, but that the services had not yet been provided. The attorney asked that the District confirm if the services would still be made available to the Student, which would bring the total amount of compensatory speech services to four hours.

49. Based on the District's speech services log, SLP 2 met with the Student on February 3, 7, 14, 17, 21, 24, and 28. The Student was absent on Friday, February 10, due to the special education teacher asking that the Student remain in the special education classroom to complete assessments. SLP 2 provided services on February 14 for twenty minutes, so the Student could attend his class Valentine's Day party.
50. On March 2, 2017, the District's attorney responded to the Parents' attorney's February 24 email, indicating that the District was willing to agree to the Parents' choice of teacher to provide the Student's compensatory services. The attorney also stated that the two hours of speech services proposed at the October 3 meeting were the same two hours of services offered in the District's January 27, 2017 letter. The attorney asked that the Parents let her know how they wished to proceed and when the Parents were available to attend an IEP meeting later that month.
51. On March 6, 2017, director 3 emailed another District employee, stating that the independent evaluator who would conduct the Student's communication IEE had not yet received a purchase order. The District then faxed a copy of the purchase order to the independent evaluator that same day.
52. On March 7, 2017, the Parents' attorney emailed the District's attorney, stating that the Parents were available to attend an IEP meeting on March 13, 21, or 28. The attorney also stated that the independent evaluator was reporting that it had not yet received a purchase order, and asked to be provided a copy of the purchase order. In response, the District's attorney asked if the Parents were available after school on March 28, and stated that the District had sent the purchase order to the independent evaluator again. The District attorney attached a copy of the purchase order to the email. On March 9, the Parents' attorney confirmed that the Parents could attend a March 28 meeting after school.
53. On March 14, 2017, the Parents' attorney emailed the District's attorney, asking that the District confirm the March 28 IEP meeting. On March 23, the District attorney confirmed the meeting.
54. On March 16, 2017, the Student's father emailed the Student's general education teacher, special education teacher, and the school principal. The father stated that the Parents continued to support the Student at home the best way they could and talked to the Student every night about his day. The father stated that the Student seemed confused about his day, which confused the father. The father said that at the January 20 IEP meeting, he understood that the 1:00-2:00 p.m. time block when the Student met with the special education teacher was also the time block the Student's general education class had reading and independent reading activities. However, the Student had often come home and mentioned that he either

missed or came late to such things as Native American Rotations, the Valentine's Day party, art lessons, and lessons and activities regarding an immigration project. The father asked if the general education time block was still scheduled for independent reading skills. The father stated that it seemed like the Student did not have opportunities that were important. The father also stated that he was glad the Student was finally getting services to meet his needs and the IEP. The father said he understood how difficult scheduling was and that the Student would have to miss some class activities when he was pulled out for special education services; however, it seemed like there had been a change to the general education class schedule.

55. On March 21, 2017, the Student's special education teacher emailed the Student's mother, stating that she had been asked to schedule a draft IEP meeting on March 28 and would mail the Parents an invitation to the meeting.
56. On March 24, 2017, the Student's mother emailed the special education teacher, stating that the Student's communication IEE had been completed and the independent evaluator was currently working on the report. The mother stated that the Student qualified for speech services and the independent evaluator had him scheduled to receive weekly therapy. The independent evaluator was also referring the Student to other evaluators for concerns she had while assessing him. The mother stated that she hoped to receive the evaluation from the independent evaluator by March 28 and would send a copy of the report to the special education teacher once she received it.
57. On March 27, 2017, the special education teacher responded, thanking the mother for the information and stated that she was working on a draft of the Student's IEP for the March 28 meeting. The teacher said that she hoped to have the draft ready for the mother the next morning.
58. On the morning of March 28, 2017, the Parents provided the special education teacher with a copy of the Student's communication IEE report. The IEE report stated that the Student's performance on an articulation test showed his skills were moderately delayed. The report showed that the Student had difficulty producing four or more syllable words and stated, "Apraxia of speech was indicated based on difficulties with diadochokinesis tasks and Dysarthria is indicated based on slow labored speech movements and non-speech movements." The report also stated that the Student's scores suggest core language skills were within normal limits, but that it should be noted that the Student showed a significant delay on one subtest – recalling sentences. The report further stated that the Student's receptive language skills, language content skills, and language memory skills were within normal limits. His expressive language skills were within normal limits, but the Student had difficulty recalling sentences. His working language structure skills were moderately delayed, as the Student had a moderate to severe delay in familiar sequences. The IEE report recommended further language testing, private speech therapy sessions, participation in a social skills group, and consideration of therapy to address social difficulties and anxiety in social situations. The IEE report also stated, "speech and language services as part of [the

Student's] school program will also be beneficial. Caregivers are encouraged to contact the [District] to determine if [the Student] will qualify for services."

59. Later on March 28, 2017, the Student's IEP team, including the Parents, met to review the Student's January 2017 IEP. The IEP team agreed to meet again on April 19, 2017, in order for SLP 2 and other members of the team to review the Student's IEE report.
60. Based on the District's speech services log, SLP 2 met with the Student on March 3, 7, 14, 21, 24, 28, and 31. There was an early release day on Friday, March 10, and students were released before the Student's scheduled speech services. SLP 2 was absent on Friday, March 17.
61. The District was on break April 3-7, 2017.
62. On April 10, 2017, the Student's father emailed SLP 2, asking for a copy of the Student's data sheets regarding his speech services from September 2016 through April 7, 2017. On April 12, SLP 2 responded and provided the data sheets.
63. On April 19, 2017, the Student's IEP team met to discuss the results of the Student's communication IEE and develop a new IEP for the Student. The IEP team included:
 - Student's mother
 - Student's father
 - Assistant Principal
 - Principal
 - Director 3
 - Occupational Therapist
 - Special Education Teacher
 - General Education Teacher
 - SLP 2
 - SLP 3 (note taker)

At the meeting, a draft IEP was presented to the IEP team. Based on the documentation in this complaint, the April 19, 2017 IEP draft included one of the same reading goals and one of the same social/emotional/behavioral goals as the January 2017 IEP, and also included new or updated goals in the areas of reading, writing, and social/emotional/behavioral. The draft IEP include one communication goal. The draft IEP continued to provide for the same amount of specially designed instruction as the January 2016 and 2017 IEPs, and continued to provide for 60 minutes per week of speech services as a related service. The draft IEP also provided for 20 minutes per week of occupational therapy as a supplementary aid and service and multiple classroom and testing accommodations. After reviewing the draft IEP, the IEP discussed the Parents' concern with the one proposed communication goal and the IEP team agreed that SLP 2 would draft new or additional goals. The IEP team also further discussed reevaluating the Student.

64. On April 20, 2017, the Student's mother emailed the special education teacher, asking for a copy of the Student's draft IEP.
65. On April 25, 2017, the Student's mother emailed director 3 and copied the Student's special education teacher. The mother stated that the Parents had questions about the Student's IEP and evaluation. The mother asked if new speech goals had been added to the Student's

IEP and when the Parents would receive a copy of the IEP draft. The mother asked if the plan was to “lock” the IEP that week. Additionally, the mother asked if conducting a reevaluation of the Student at this time would be considered an early triennial reevaluation as the Student’s last evaluation was completed in January 2015. The mother stated that if the Parents did agree to the reevaluation, they appreciated director 3’s offer to have a speech therapist other than SLP 2 complete the speech portion of the reevaluation. The mother stated that the Parents were concerned about the quality of the speech services the Student had received that school year, and that after the April 19 IEP meeting, they had many more concerns.

66. On April 26, 2017, director 3 responded that she had checked in the District’s IEP computer system and it showed that the Student’s IEP had been updated to include two additional speech goals. Director 3 stated that she would let the special education teacher respond about when the Parents would receive a draft of the IEP, but guessed it would be soon. Director 3 also stated that if the IEP team waited until October 2017 to begin the Student’s reevaluation, then it would not be an early reevaluation, but if the reevaluation was started at that time, it would be considered an early reevaluation, however just slightly. Director 3 then confirmed that another District SLP would complete the speech portion of the reevaluation, and stated that if the reevaluation was going to be completed that spring, it should be initiated as soon as possible.

67. On April 27, 2017, the Student’s mother replied, asking if a District psychologist other than the one that worked at the Student’s elementary school could conduct the Student’s reevaluation. The mother stated that the fact that she worked at the elementary school had made some staff feel uncomfortable. The next day, director 3 responded that she would be in touch about the Parents’ request and stated that school psychologists were very busy this time of year.

68. Based on the documentation in this complaint, it appears the Parents received a copy of the updated April IEP draft on approximately April 27, 2017 or shortly thereafter. The updated draft included three communication goals which stated:

- When given a variety of prompts, models and verbal activities [the Student] will increase his speech clarity by improving production of 4th-5th grade level, multi-syllabic words in connected, spontaneous speech from 86% accuracy to 90% accuracy over 3 consecutive data sessions as measured by SLP data, classroom observation, and teacher report.
- When given a variety of prompts and models to support self-monitoring and self-correction [the Student] will produce voiced and un-voiced /th/ sounds in conversational speech improving correct production from 90% accuracy to 95% accuracy over 3 consecutive data sessions as measured by SLP data, and teacher observation.
- When given instruction and visual cues for 8 strategies for clear communication skills [the Student] will learn several strategies to assist in improving his production of unfamiliar, multi-syllable words from accurately identifying and describing 0/8 strategies to accurately identifying and describing 8/8 strategies for clear communication as measured by SLP data of 3 consecutive data sessions.

69. Based on the District's speech services log, SLP 2 met with the Student on April 11, 14, 21, 25, and 28. The District was on break Tuesday, April 4, and Friday, April 7. The Student was absent on Tuesday, April 18.
70. On May 1, 2017, the Student's mother emailed director 3, stating that the Parents understood that staff were busy this time of year. The mother stated that the Parents were not in rush and to let them know when a psychologist was available. The mother also stated that the Parents appreciated the offer to have another SLP conduct the speech portion of the Student's IEE, but after discussing it more, they believed that there was no need for another speech evaluation as the Student's IEE had just been completed. Additionally, the mother stated that she was forwarding a copy of the Student's new speech goals, which were provided by SLP 2. The mother said that the goals were not appropriate and the Parents did not agree with them. The mother stated that SLP 3⁵ was out of town, so she planned to speak with the Student's private SLP about helping to write appropriate goals, which SLP 2 could work on with the Student. The mother stated that she would submit the proposed goals when they were completed.
71. Also on May 1, 2017, the mother forwarded director 3 a copy of the Student's new speech goals. The mother expressed concern that the goals did not mention "spontaneous language, communicating in spontaneous language, prompting and positioning are drills/exercise, not mastery". The mother stated anyone who worked in special education knew that if a student has met 90% mastery, then a new goal should be written. The mother said that the Parents did not agree that the Student was at mastery of any of the skills SLP 2 had mentioned in the goals. The mother also stated that the Parents were not quite sure how to read/measure the third proposed goal and the Parents wanted SLP 2 to be mindful in writing the goals and understand the Student's needs. The mother stated that if it would be helpful, she could print resources for SLP 2 to better understand Apraxia and Dysarthria. The mother also stated that the goal from the Student's previous IEP regarding mobility would be good to keep since it addressed drills/exercises that helped with Dysarthria.
72. On May 2, 2017, the Student's mother and SLP 2 exchanged emails regarding the Student's speech services homework. The mother and SLP 2 exchanged additional emails on May 5.
73. On May 5, 2017, director 3 responded to the mother's May 1 emails. Director 3 asked if the Parents were interested in amending the Student's IEP due to the concerns about the current goals. Director 3 stated that she was happy to pass on the request to amend the IEP and that the amendment could be done without holding a meeting if these were the Parents' only concerns and if SLP 2 was agreeable to the changes. In regard to the Student's reevaluation, director 3 stated that the District was required to assess the Student in all areas of current eligibility, communication being one of them, but that the reevaluation would include a file review which would include the assessments conducted as part of the IEE. Director 3 said

⁵ According to the Parents' reply to the District's response to this complaint, SLP 3 attended the March and April 2017 IEP meetings to act as a note taker per the Parents' request. SLP 3 was the Student's District SLP during the 2015-2016 school year.

that in prepping for the reevaluation, the IEP team should convene to determine all areas of assessment, including any new areas of testing that should be reviewed. Additionally, director 3 stated that another school psychologist who also worked at the elementary school may be available to complete the Student's reevaluation, and asked if the Parents were agreeable to this. Director 3 also provided information about the arrangements being made with the teacher who would provide the Student's compensatory services in reading and writing.

74. On May 9, 2017, the Student's mother replied that the Parents agreed that they did not want any more meetings. The mother stated that they would like to work with the other elementary school psychologist and asked that he contact her directly with a consent form. The mother stated that the Parents would not consent to additional speech assessments, as this would be duplicative since the Student had already been assessed for the IEE and by SLP 1 in September 2016. The mother said that the Parents were okay with a file review of the IEE report by a neutral District SLP. In regard to the Student's speech goals, the mother stated that the Parents were working with "their people" to draft some goals and would send them to the IEP team.
75. On May 11, 2017, the Student's mother emailed director 1, stating that the Parents were confused about how many times a student could be evaluated in a year. The Parents' understanding was that SLP 1 did an evaluation of the Student in September 2016 when she attempted to exit the Student from speech services. The mother stated that now the Student had received an IEE and the District wanted to include speech assessments as part of the Student's early reevaluation. The mother asked why additional speech assessments were needed given that the IEE was a valid evaluation of the Student. Additionally, the mother expressed concern that SLP 2 disagreed with the IEE report, as SLP 2 had argued against the introduction written by the independent evaluator and stated that she did not believe the assessments conducted by the independent evaluator were valid. The mother also expressed concern that SLP 2 seemed to be trying to discredit the independent evaluator and had spoken with the independent evaluator without the Parents' permission. Further, the mother expressed concern that at the April 2017 IEP meeting, SLP 2 only presented one "questionable" speech goal and was unprepared. This was upsetting to the mother because the March 28 IEP meeting had been continued in April to allow SLP 2 more time to review the IEE report. The mother had then pushed for more goals, but when SLP 2 shared the additional goals, it did not appear that she had considered the IEE report in writing them. The mother stated that the Parents did not feel that their time was being honored as parents and that some staff were treating the process as a "game." The mother attached a copy of the Student's most recent proposed speech goals. In response, director 1 agreed to look into the situation with the reevaluation and stated that the District would continue to work with the Parents to ensure that the Student received appropriate services.
76. On May 15, 2017, the Student's mother emailed the special education teacher, stating that she had forgotten to check in on her last email about the Student's IEP. The mother stated

that the Parents were still concerned about the speech goals, so they had asked for extra support with those, and planned to submit suggestions as soon as they received them.

77. On May 18, 2017, the Student's mother emailed the special education teacher, stating that the Parents had applied for the Student to attend a private school during the 2017-2018 school year and asked what paperwork the Parents needed to fill out for the Student to receive special education services through part-time enrollment. In response, the special education teacher agreed to call the mother.
78. Also on May 18, 2017, director 1 emailed the Student's mother, stating that at this point, she was recommending waiting until the fall of 2017 to conduct the Student's reevaluation. Director 1 stated that it would be fine to have different staff conduct the reevaluation with a different lens. Director 1 also stated that the team, including the Parents, could review the Student's IEE report and determine what other speech assessments, if any, needed to be done. The mother responded on May 19, stating that this sounded like a good plan, and that the Parents were working on goals to submit for the Student's current IEP. The mother asked if director 1 would meet with the Parents once the goals were completed.
79. On May 25, 2017, director 3 forward SLP 2 a copy of the mother's May 1 email, detailing the Parents' concerns about the Student's speech goals. Director 3 stated that the Parents were asking for another IEP meeting to review the Student's speech goals. Director 3 asked if SLP 2 would be able to integrate the information provided by the Parents into new or revised goals for the Student. Director 3 stated that it would be nice to be able to do this without holding a meeting. On May 26, SLP 2 responded that she was aware of the Parents' request to use alternative goals. SLP 2 indicated that she would replace the Student's IEP speech goals with the Parents' proposed goals once they sent her a copy, and that the Parents could then decide if they wanted to have an IEP meeting or amend the IEP without holding a meeting.
80. On May 26, 2017, the Student's mother emailed the special education teacher, asking for an electronic copy of the Student's IEP. In response, the special education teacher sent a copy that same day. Included with the IEP was a prior written notice, dated April 19, 2017.
81. The April 19, 2017 prior written noticed proposed to change the Student's IEP, and stated that the action would be initiated on April 19, 2017. The notice stated that the proposed or refused action was "to add new Speech/Language goals based upon outside agency assessment data and to update reading and writing expression goals based upon an English Language Arts data base". The notice stated the reason for the action was that the Parents had requested an outside agency assess the Student's speech/language needs since the District was considering exiting the Student from services. "There was also a request to align [the Student's] reading and written expression goals into an ELA (English Language Arts) model with a global data base." The notice stated that the District had considered the option of not making changes to the Student's communication, reading, and writing goals, but had rejected this option because "data from the outside agency indicated that [the Student] continues to require Speech/Language services and an English Language Arts model for

reading and written expression services allows for building on [the Student's] speech/language needs with expanding genre exposure and related writing opportunities." The notice also stated that other factors that were relevant to the action were:

At the IEP meeting there was a discussion about the Speech/Language goals to be addressed and the parents' concerns that the goals had been set before the outside agency report was read by all team members. Three (3) goals were decided upon by the team for Communication (See Goals page). Revisions to the Reading and Written Expression goals were discussed with the Parents (See Goals Page) as well as revisions to the Testing accommodations page: breaks added during testing and Speech-to-Text added to the testing and classroom accommodations page. There was discussion about an early reevaluation occurring before the end of this school year rather than waiting until the beginning of the fall of 2017. The Parents were going to consider the possibility and let the team know their decision soon. [The Student] is scheduled to have a neurological assessment completed very soon with reports coming to the team for consideration. The Parents suggested that they would be willing to consider a reduction in District Speech/Language services minutes because [the Student] is also receiving outside agency speech/language service minutes at this time.

82. On May 30, 2017, the Student's mother emailed the special education teacher, stating that the Parents believed it would be best to hold an IEP meeting in order to add speech goals to the Student's IEP. The mother stated that she had previously indicated to director 3 that the IEP team did not need to meet, but that had been when the Parents thought that the District was working with them to create appropriate speech goals for the Student. However, the Parents had not been informed that the Student's IEP had been "locked" or that goals had been added to the IEP until the Parents had asked for a copy of the draft IEP. The Parents believed that the IEP was still in draft form for the following reasons:

- The Parents attended a third IEP meeting in April that was requested by SLP 2 so she could have time to review the Student's IEE report. However, SLP 2 had one goal that was written, and the Parents both believed that she did not consider the IEE while writing the Student's goals.
- SLP 2 focused more on discrediting the IEE rather than setting appropriate goals. When the mother questioned the goal at the IEP meeting, we discussed her creating goals and then the Parents would be given a draft of the goals to review.
- The Parents never received goals from SLP 2. The mother contacted the special education teacher about a week or so after the IEP meeting and asked for a draft of the IEP. At that time, the Parents were given the goals that were created.
- The Parents did not agree with the goals in the draft IEP and right away the mother emailed director 3, who the Parents thought was finally supporting the Student's educational needs.
- The mother emailed director 3 and told her that the Parents did not agree with the goals that were submitted for the draft IEP and that the Parents would work with outside certificated resources to create appropriate goals and submit them when they were complete.
- The Parents were a bit confused by director 3's email asking if we wanted to amend the goal/IEP and that an amendment would be okay if SLP 2 agreed. This email confused the Parents who were still under the impression that they were working with an IEP draft because goals were not presented at the April IEP meeting and they had not signed off on a final IEP because it was not available at the IEP meeting.

- At our IEP meeting on April 19, the special education teacher asked when the IEP needed to be “locked” since the District was out of compliance due to the fact that the Student’s original IEP was due January 20. Director 3 responded by stating don't worry about it we have an extension. This statement had led the Parents to believe that “we were okay.”
- In an email to the special education teacher and director 3, the mother had asked about the IEP draft and if the plan was to lock the IEP that week. The question was not answered.

The mother also stated that the Parents had concerns about the District’s April 19, 2017 prior written notice as the notice sated that the IEP team decided upon three communication goals. The mother stated that this was not true, as the Parents did not agree with the goals. Additionally, the mother stated that the prior written notice said that the Parents were willing to consider a reduction in District speech service minutes because the Student was receiving private speech services. The mother said that at the IEP meeting, SLP 3 suggested that the Parents reduce the Student’s District speech services because she was concerned about the poor quality of services being provided by SLP 2. The Parents had then agreed that they were concerned about the quality of services being provided.

83. On May 31, 2017, the special education teacher responded to the mother’s email and proposed possible meeting dates to hold the IEP meeting. On June 2, 2017, the mother replied that the Parents were unavailable to meet on the proposed days due to their work schedules and childcare issues. The mother stated that the Parents were available to meet June 26-30.⁶ The mother also stated that she had the goals, which were written by an SLP after reviewing the Student’s IEE report. The special education teacher later responded that she could meet on June 26 and would send out an invitation once she heard from the other members of the team.
84. Based on the District’s speech services log, SLP 2 met with the Student on May 2, 5, 9, 12, 19, 23, 26, and 30. The Student participated in state testing on Tuesday, May 16.
85. On June 6, 2017, the Student’s special education teacher emailed the Student’s mother, stating that an IEP meeting could not be held if all the members of the team could not attend. The teacher stated that she was checking with the members of the team, and that so far SLP 2 and director 3 were not available June 26-30.
86. On June 8, 2017, SLP 2 emailed the Parents, stating that she wanted to accommodate the Parents’ request to replace the Student’s speech goals. SLP 2 asked that the Parents send her a copy of their preferred speech goals. Once SLP 2 received the goals, she would create a draft amendment of the IEP and provide the Parents with a copy.
87. On June 9, 2017, the Parents responded and included other members of the IEP team. The Parents stated that it was unfortunate that District staff were only available to meet during the mother’s contracted hours, with the exception of the Student’s special education teacher. The Parents said that SLP 2 was stating that she was opening an IEP amendment, but the

⁶ The District’s 2016-2017 school year would end on June 19, 2017.

amendment would need “to take place” at the IEP meeting with everyone present. The Parents stated that they wanted to set up an IEP meeting for the fall of 2017. Additionally, the Parents stated that at the April 19 IEP meeting, they were told that the IEP was a draft, and that they had expressed concerns about the draft only containing one IEP goal. The Parents stated that they had clear communication with the IEP team and District staff about these concerns, but that somehow, the Student’s IEP has been “locked” anyway. The Parents then requested a copy of all data sheets, evaluation, and educational records kept on the Student, and to let them know if there was a particular records request form they needed to complete.

88. On June 12, 2017, the Student’s mother emailed SLP 2 regarding the Student’s speech homework. The mother stated that she had not seen any homework the last two weeks. In response, SLP 2 stated that she had given the Student speech homework the last two Fridays and would put a copy in the mother’s school mailbox.

89. The District’s 2016-2017 school year ended on June 19, 2017.

90. Based on the District’s speech services log, SLP 2 met with the Student on June 2, 6, and 9. SLP 2 was absent on Tuesday, June 13, due to a meeting. The Student was not available for speech services on Friday, June 16, due to end of year activities with his class.

CONCLUSIONS

Issue 1: Reevaluation Procedures – The District admits it did not follow reevaluation procedures when it failed to obtain the Parents’ consent before conducting communication assessments of the Student in September 2017, and has proposed to provide staff training to address the violation. OSPI accepts this proposed corrective action.

Issue 2: IEP Implementation – The District admits that it failed to provide the Student with some of the services stated in his January 2016 and January 2017 IEPs. While the District proposed to provide the Student with 15.5 hours of reading/writing services and two (2) hours of speech services to address the services he was not provided, the documentation in this complaint does not show that the Student has yet to receive any compensatory services. OSPI agrees that the Student should receive compensatory services. This is discussed below:

Speech Services – The Student’s January 2016, January 2017, and April 2017 IEP each provided for 60 minutes of speech services per week. Based on the documentation in this complaint, the Student should have received 210 minutes of speech services in September 2016, but only received 30 minutes of services. Additionally, the Student did not receive his scheduled services on October 14, November 22, December 6 and 16, February 10, March 17, and June 13. The District will provide the Student with 6.5 hours of compensatory speech services.

Reading and Writing Services – The Student’s January 2016 IEP provided for 150 minutes per week of reading services in a special education setting and 150 minutes per week of speech services in special education setting. However, due to the elementary school’s “flood-in” model”,

from September 2016 to January 20, 2017, the Student received a total of 150 minutes per week of reading and writing services in a general education setting. This is 150 minutes less per week or 30 minutes less per day of reading and writing than the Student should have received. From September 7, 2016 through January 20, 2017, there were eighty (80) school days. The Student was absent on one school day. Therefore, the Student should have received 39.5 additional hours of services. The documentation in this complaint also shows that there were other days after January 20, 2017, that the Student did not receive all of the services due to a scheduling issue. Taking this into consideration and given the more intensive instruction that can be provided through 1:1 instruction, the District will provide the Student with 20 hours of compensatory services in the areas of reading and writing.

Issue 3: Procedures for developing the Student's IEP – A school district must ensure that parents are provided any opportunity to participate in the development of a student's IEP. Here, the District held an IEP meeting, with the Parents present, on April 19, 2017, to review the results of the Student's communication IEE report and develop a new IEP for the Student. The documentation in this complaint shows that the IEP was not completed on April 19, despite the Student's IEP indicating this. Instead, the documentation shows that by April 26, 2017, SLP 2 had added two additional goals to the Student's April 19 IEP *draft* (emphasis added) as agreed upon at the April 19 meeting. The Parents were then provided a copy of the draft, which they disagreed with. However, when the Parents raised concerns about the communication goals, the District responded by characterizing the IEP draft as a finalized IEP, asking if the Parents wanted the IEP amended. It is unclear why the District believed that the April IEP was finalized at this point, as the District had not held a follow-up IEP meeting to discuss the additional communication goals and had not obtained agreement from the Parents regarding the additional goals. While the District can choose to implement an IEP over the objections of parents, the District would need to be able to show that the IEP has been properly developed to provide a student with FAPE. The facts in this case do not show this occurred, as the IEP team never finished developing the IEP. Additionally, the District did not provide the Parents with a prior written notice prior to adopting the additional communication goals and implementing the April IEP (discussed further in issue 5). The District has not substantiated that it followed procedures for developing the Student's April 2017 IEP.

Issue 4: Procedures for Considering the Results of the Student's IEE – If the parent obtains an IEE at public or private expense, the results of the evaluation: must be considered by the district, if it meets agency criteria, in any decision made with respect to the provision of FAPE to the student. Here, the District paid for a communication IEE of the Student and the IEE report was provided to the District on March 28, 2017, a few hours before the Student's March 28 IEP meeting occurred. Due to some members of the IEP team not having time to review the report, the IEP team agreed to hold a follow-up meeting in April 2017. The documentation in this complaint shows that at the April 19 IEP meeting, the IEP team discussed the IEE report and that SLP 2 raised concerns about the validity of the report. The District also agreed to conduct a reevaluation of the Student and include information from the IEE report. The District has substantiated that it considered the results of the Student's IEE report. However, given the Parents' request that the Student's communication goals align more closely with the information

in the IEE report, the District should have either actively worked with the Parents to revise the Student's communication goals in a timely manner or provided the Parents with a prior written notice, stating the reason it was declining the Parents' request.

Issue 5: Procedures for Providing the Parents with Prior Written Notice – 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. The District's January 20, 2017 prior written notice met the requirements for prior written notice. The District has admitted that it did not provide the Parents with a copy of the April 19, 2017 prior written notice until May 26, 2017, and that staff failed to follow procedures for providing the Parents with a timely issued prior written notice. OSPI also notes that the District's April 19 prior written notice is misdated in regard to both the date it was developed and the date the District planned to initiate the proposed action. The notice also contains inaccurate information, which misconstrues the events that occurred in this complaint. The April 19 prior written notice states that "three (3) goals were decided upon by the team for Communication goals." However, the documentation in this complaint shows that the IEP team only reviewed one goal at the April 19 meeting and never met again to discuss the two additional proposed goals. Additionally, the April 19 notice does not reflect the Parents' disagreement with the proposed communication goals or the District's reasons for adopting the communication goals and finalizing the Student's April 2017 IEP over the Parents' objections.

CORRECTIVE ACTIONS

By or before **November 20, 2017, December 8, 2017, December 22, 2017, February 8, 2018, and April 27, 2018**, the District will provide documentation to OSPI that it has completed the following corrective actions.

STUDENT SPECIFIC:

1. If the District has not already done so, the District will hold an IEP meeting to review and finalize the Student's communication goal(s). By **December 22, 2017**, the District will provide: 1) a copy of any meeting invitations; 2) a copy of the new or amended IEP; 3) a copy of a prior written notice; and, 4) any other related documentation.
2. By or before **November 27, 2017**, the District will meet with the Parents to develop a schedule to provide the Student with a total of 26.5 hours of compensatory services (6.5 hours of speech services, 10 hours of reading services, and 10 hours of writing services). The services will be provided outside of the District's regular school day. Speech services must be provided by a speech language pathologist. All reading and writing services must be provided by a certificated special education teacher. If the District's provider is unable to attend a scheduled session, the session must be rescheduled. If the Student is absent, or otherwise does not attend a session without providing the District with at least 24 hours' notice of the absence, the District does not need to reschedule. The services must be completed no later

than April 20, 2018. The District will provide OSPI with documentation of the schedule by **December 8, 2017**.

By **February 8, 2018** and **April 27, 2018**, the District shall provide OSPI with documentation that the compensatory services have been completed. This documentation must include the dates, times, and length of each session, and state whether any of the sessions were rescheduled by the District or missed by the Student.

The District must either provide the transportation necessary for the Student to access these services, or must reimburse the Parents for the cost of providing transportation for these services. If the District reimburses the Parents for transportation, the District must reimburse the Parents for round trip mileage at the District's privately owned vehicle rate. The District must provide OSPI with documentation by **April 27, 2018**.

DISTRICT SPECIFIC:

OSPI accepts the District's proposed corrective action to provide training for special education certificated staff at the Student's elementary school regarding consent for evaluations, IEP implementation, progress reporting, and prior written notice. The school principal and assistant principal will also participate in the training. If any special education certificated staff who worked at the elementary school during the 2016-2017 school year have transferred to another District school, those staff members will also participate in the training.

- By **November 20, 2017**, the District will submit a draft of the training materials to OSPI for review. OSPI will approve the materials or provide comments by November 28, 2017 and additional dates for review, if needed.
- By **December 22, 2017**, the District will submit documentation that staff participated in the training. This will include 1) a sign-in sheet, and 2) a roster of who should have attended so OSPI can verify that staff participated. If any of the staff are unable to participate, the District will contract with the trainer for a follow-up session(s) within the required timeframe.

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 October, 2017

Glenna L. 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.)