

SPECIAL EDUCATION CITIZEN COMPLAINT (SECC) NO. 18-29

PROCEDURAL HISTORY

On March 22, 2018, the Office of Superintendent of Public Instruction (OSPI) received a Special Education Citizen Complaint from a complainant (Complainant) on behalf of students eligible for special education services (Students) attending the Glenwood Heights Primary School in the Battle Ground School District (District). The Complainant alleged that the District violated the Individuals with Disabilities Education Act (IDEA), or a regulation implementing the IDEA, with regard to the Students' education.

On March 23, 2018, 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 April 2, 2018, the District provided a list of students eligible for special education, who attend Glenwood Heights Primary School. On April 3, 2018, OSPI requested that the District provide documentation regarding twenty of the listed students.

On April 11, 2018, OSPI granted the District an extension of time until April 18, 2018, to submit its response to this complaint.

On April 18, 2018, OSPI received the District's response to the complaint and forwarded it to the Complainant on April 19, 2018. All student personally identifiable information was removed. OSPI invited the Complainant to reply with any information she had that was inconsistent with the District's information.

On April 30, 2018, OSPI received the Complainant's reply and forwarded that reply to the District on May 1, 2018.

Also on April 30, 2018, OSPI requested that the District provide additional information regarding a portion of the selected students, and the District provided the additional information on the same day.

On May 15, 2018, OSPI requested that the District provide additional information, and the District provided the information on May 16, 2018. OSPI forwarded a copy of the information to the Complainant. All student personally identifiable information was removed.

On May 17, 2018, OSPI requested clarifying information from the District and spoke with the Executive Director of Special Services and the Director of Special Services.

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

OVERVIEW

During the 2017-2018 school year, approximately ninety students at a District primary school were eligible to receive part-time special education services, most of which were to be delivered in a special education resource classroom. Prior to the beginning of the 2017-2018 school year, changes were made to the primary school's master schedule, which reduced the length of the resource classes from 40 minutes to 30 minutes. Due to this, many of the students who received services in the resource classroom did not receive the services stated in their individualized education programs (IEPs). Additionally, some of the Students did not receive services as outlined in their IEPs due to discrepancies with the schedules developed by the special education resource teachers. The Complainant alleged that the District failed to follow procedures for implementing the Students' IEPs in place during the 2017-2018 school year, and also failed to follow procedures for amending the Students' IEPs during the 2017-2018 school year. The District admitted the allegations, and has proposed providing the Students with compensatory services as a corrective action.

ISSUES

1. Did the District follow procedures for implementing the Students' individualized education programs (IEPs) in place during the 2017-2018 school year?
2. Did the District follow procedures for amending the Students' IEPs during the 2017-2018 school year?

LEGAL STANDARDS

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 and if the IEP team determines that the student must take an alternate assessment instead of a particular regular state or district-wide assessment of student achievement, a statement of why: the student cannot participate in the regular assessment and the particular alternate assessment selected is appropriate for the student; (g) Extended School Year (ESY) services, if necessary for the student to receive a free and appropriate public 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.

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 Amendments: After the annual IEP team meeting for a school year, the parent of a student eligible for special education and the school district may agree not to convene an IEP team meeting for the purposes of making changes to the IEP, and instead may develop a written document to amend or modify the student's current IEP. If changes are made to the student's IEP the school district must ensure that the student's IEP team is informed of those changes and that other providers responsible for implementing the IEP are informed of any changes that affect their responsibility to the student. Changes to the IEP may be made either by the entire IEP team at an IEP team meeting, or by amending the IEP rather than by redrafting the entire IEP. Upon request, a parent must be provided with a revised copy of the IEP with the amendments incorporated. 34 CFR §300.324; WAC 392-172A-03110.

Transfer Students: If a student eligible for special education transfers from one Washington State school district to another Washington State school district and has an IEP that was in effect for the current school year from the previous district, the new school district, in consultation with the parents, must provide comparable services to those described in the student's IEP, until the new school district either: adopts the student's IEP from the previous school district; or develops, adopts, and implements a new IEP that meets the applicable requirements in WACs 392-172A-03090 through 392-172A-03110. If a student eligible for special education transfers from a school district located in another state to a school district in Washington State and has an IEP in effect for the current school year, the new school district, in consultation with the student's parents, must provide the student with FAPE including services comparable to those provided in the IEP from the prior serving district, until the district: conducts an evaluation to determine if the student is eligible for special education services in this state, if the district believes an evaluation is necessary to determine eligibility under Washington state standards; and, develops, adopts, and implements a new IEP. 34 CFR §300.323(f); WAC 392-172A-03105(5). If the school district evaluates the student, the evaluation must be in accordance with WACs 392-172A-03005 through 392-172A-03040. "Comparable services" means services that are similar or equivalent to those

described in the IEP from the previous district, as determined by the student's new district. 71 Fed. Reg. 156, 46681 (August 14, 2006) (comments to the final regulations). Districts must take steps to adopt the IEP or develop and implement a new IEP within a reasonable period of time to avoid any undue interruption in the provision of special education services. *Questions and Answers on IEPs, Evaluations, and Reevaluations* (OSERS June 2010) (Question A-4).

Least Restrictive Environment: School districts shall ensure that the provision of services to each student eligible for special education, including preschool students and students in public or private institutions or other care facilities, shall be provided: to the maximum extent appropriate in the general education environment with students who are nondisabled; and special classes, separate schooling or other removal of students eligible for special education from the general educational environment occurs only if the nature or severity of the disability is such that education in general education classes with the use of supplementary aids and services cannot be achieved satisfactorily. 34 CFR §300.114; WAC 392-172A-02050.

Placements: When determining the educational placement of a student eligible for special education including a preschool student, the placement decision shall be determined annually and made by a group of persons, including the parents, and other persons knowledgeable about the student, the evaluation data, and the placement options. The selection of the appropriate placement for each student shall be based upon: (a) The student's IEP; (b) The least restrictive environment requirements contained in WAC 392-172A-02050 through 392-172A-02070, including this section; (c) The placement option(s) that provides a reasonably high probability of assisting the student to attain his or her annual goals; and (d) A consideration of any potential harmful effect on the student or on the quality of services which he or she needs. Unless the IEP of a student requires some other arrangement, the student shall be educated in the school that he or she would attend if nondisabled. In the event the student needs other arrangements, placement shall be as close as possible to the student's home. A student shall not be removed from education in age-appropriate general classrooms solely because of needed modifications in the general education curriculum. 34 CFR §300.116; WAC 392-172A-02060.

Changes in Placement: The performance and skill levels of students with disabilities frequently vary, and students, accordingly, must be allowed to change from assigned classes and programs. However, a school may not make a significant change in a student with disabilities placement without a reevaluation. *Student Placement in Elementary and Secondary Schools and Section 504 of the Rehabilitation Act and Title II of the Americans with Disabilities Act* (Office for Civil Rights, August 2010). In determining whether a change in placement has occurred, the district responsible for educating a student eligible for special education must determine whether the proposed change would substantially or materially alter the student's educational program. In making this determination, the following factors must be considered: whether the educational program in the student's IEP has been revised; whether the student will be educated with nondisabled children to the same extent; whether the student will have the same opportunities to participate in nonacademic and extracurricular activities; and, whether the new placement option is the same option on the continuum of alternative placements. If a substantial or material

change in the student's educational program has occurred, then the school district must provide prior written notice. *Letter to Fisher*, 21 IDELR 992 (OSEP, July 6, 1994).

Continuum of Alternative Placement Options: Each school district must ensure that a continuum of alternative placements is available to meet the needs of students eligible for special education and related services. That continuum is required to include instruction in general classes, special classes, special schools, home instruction, and instruction in hospitals and institutions. When necessary, the district must also provide for supplementary services such as resource room or itinerant instruction in conjunction with general classroom placement. 34 CFR §300.115; WAC 392-172A-02055. A special education program is one that includes less than 50 percent nondisabled children (i.e., children not on IEPs). Special education programs include, but are not limited to: special education classrooms in regular school buildings, trailers or portables outside regular school buildings, child care facilities, hospital facilities on an outpatient basis, or other community-based settings; separate schools; and residential facilities. *OSEP IDEA, Part Data Dictionary (Revised)*, Data Accountability Center (January 2013).

FINDINGS OF FACT

1. The District's 2017-2018 school year began on August 30, 2017.
2. At the beginning of the 2017-2018 school year, approximately 142 students who were eligible for special education services attended a District primary school.¹ Of those 142 students, approximately ninety (90) students² had individualized education programs (IEPs) which provided for part-time special education services to be delivered in a special education setting. These ninety students were scheduled to receive the majority of their special education services in a resource classroom taught by a special education teacher (hereinafter referred to as resource students). The other fifty-two (52) students did not receive special education services in a resource classroom, but either had IEPs which only provided for specially designed instruction in the area of communication/speech to be delivered by a speech language pathologist (SLP), or they received services in a more restrictive special education placement due to the students' advanced educational needs, as per their IEPs.
3. Also at the beginning of the 2017-2018 school year, the primary school had two full-time special education teachers and one part-time special education teacher who taught in resource classrooms. At the end of September 2018, the part-time position was increased to a full-time position.
4. The primary school operates Monday through Friday, from 9:10 a.m. – 3:40 p.m. However, on several Wednesdays (approximately thirteen), the District has early release, and students

¹ The District's primary school includes kindergarten through fourth grade students.

² Since the beginning of the 2017-2018 school year, twelve (12) of the ninety (90) students have either left the District, transferred to another District school, or were determined no longer eligible for special education services.

are released at 12:40 p.m. Due to this, resource students are generally only scheduled to receive specially designed instruction in most areas Monday, Tuesday, Thursday, and Friday.

5. Additionally, the primary school has a master schedule, which divides the school day into core academic time, intervention classes, and specialists (PE, art, music, etc.). During intervention classes, resource students are supposed to report to their assigned special education teachers in order to receive specially designed instruction per their IEPs.
6. According to the District's response to this complaint, prior to the beginning of the 2017-2018 school year, a new master schedule was developed for the primary school, which changed the length of the intervention classes from 40 minutes in length, to 30 minutes in length. Due to the change in the master schedule, the class schedules for many resource students did not align with the amount of the service time(s) stated in their IEPs. However, based on information provided by the District, some of the special education resource teachers did not always follow the master schedule, but in some cases, attempted to align their class schedules with the students' IEPs. Additionally, in some cases, neither the master schedule nor the resource teacher's schedule aligned with the students' IEPs.
7. As part of this investigation, OSPI reviewed the IEPs, class schedules, and related educational records of twenty of the ninety resource students. These twenty students (Students 1 - 20) are discussed further below.
8. **Student 1** – During the 2017-2018 school year, Student 1 is in first grade. Student 1's IEP in place at the beginning of the school year was developed in January 2017. The January 2017 IEP included annual goals in the areas of math, reading, writing, behavior/social, and communication. The January 2017 IEP provided for the following specially designed instruction and related services in a *special education setting*:
 - Occupational Therapy – 30 minutes one time weekly (provided by an OT³)
 - Communication – 20 minutes one time weekly (provided by a SLP)
 - Behavior/social – 30 minutes two times weekly
 - Math – 40 minutes four times weekly
 - Reading – 40 minutes four times weekly
 - Writing – 40 minutes four times weekly

The January 2017 IEP also provided for the following specially designed instruction in a *general education setting*:

- Communication – 20 minutes one time weekly (provided by an SLP)

Based on the documentation in this complaint, Student 1's 2017-2018 class schedule in a resource classroom was as follows:

- Reading: 10:35 – 11:15 am (40 minutes) (Monday, Tuesday, Thursday, Friday)
- Social Skills: 10:40 – 11:10 am (30 minutes) (Wednesdays)
- Writing: 12:00 – 12:30 pm (30 minutes) (Monday, Tuesday, Thursday, Friday)

³ OT – stands for occupational therapist.

- Math: 1:10 – 1:40 pm (30 minutes) (Monday, Tuesday, Thursday, Friday)

On January 30, 2018, the Student 1's IEP team developed his annual IEP. The January 2018 IEP included annual goals in the areas of behavior/social, communication, math, writing, and reading. The January 2018 IEP provided for the following specially designed instruction and related services in a *special education setting*:

- Occupational Therapy – 30 minutes one time weekly (provided by an OT)
- Communication – 30 minutes one time weekly (provided by an SLP)
- Behavior/social – 30 minutes one time weekly
- Math – 30 minutes four times weekly
- Reading – 30 minutes four times weekly
- Writing – 30 minutes four times weekly

The District's January 30, 2018 prior written notice did not address the reason for the reduction in the amount of Student 1's specially designed instruction in all areas.

9. **Student 2** – During the 2017-2018 school year, Student 2 is in fourth grade. Student 2 transferred into the District from an out-of-state school district in October 2017. The out-of-state school district developed an IEP for Student 2 on April 24, 2017. The out-of-state IEP included annual goals in the areas of classroom/social skills, writing skills, and reading/language arts. The out-of-state IEP provided for the following specially designed instruction in a *general education setting*:

- Writing Skills – 60 minutes per week (provided by a “special education provider/general education teacher”)
- Classroom/social skills – 30 minutes per week (provided by a “special education provider/general education teacher”)

The out-of-state IEP provided for the following specially designed instruction in a “*GenEd/SpEd*” setting:

- Reading/language arts – 60 minutes per week (provided by a “special education provider/general education teacher”)

The District held an IEP meeting on October 20, 2017 to conduct a “Transfer Review.” Student 2's parent participated in this meeting via telephone. Based on the District's October 20, 2017 prior written notice, the IEP team decided to “continue [Student 2's] placement in accordance with [the] previous IEP.” However, the notice also stated that the “parent agreed to an adjustment in IEP minutes to reflect services provided at Glenwood Heights Primary.” As a result of this adjustment, Student 2 would be provided the following specially designed instruction in a *special education setting*:

- Reading – 40 minutes four times weekly
- Writing – 30 minutes four times weekly
- Study Skills – 30 minutes one time weekly and 10 minutes daily

This adjustment resulted in Student 2 being scheduled to receive 100 more minutes per week of specially designed instruction in reading and 60 more minutes per week of specially

designed instruction in writing than called for in his out-of-state IEP.⁴ Additionally, the District's adjustment changed Student 2's specially designed instruction in reading from being provided partially in a general education setting, to solely being provided in a special education setting. The District noted in its response to this complaint that an amendment should have been completed to reflect the changes to Student 2's out-of-state IEP.

Based on the documentation in this complaint, OSPI was unable to determine Student 2's 2017-2018 class schedule in a resource classroom. It appears the schedule may have been as follows:

- Social Skills: 9:35 – 10:00 am (30 minutes) (Wednesdays)
- Reading: 1:15 – 1:45 pm (30 minutes) (Monday, Tuesday, Thursday, Friday)
- Check-in: 2:15 – 2:35 pm⁵ (up to 20 minutes) (Monday, Tuesday, Thursday, Friday)
- Writing 2:50 – 3:30 pm (40 minutes) (Monday, Tuesday, Thursday, Friday)
- Reading: 3:30 – 3:40 pm (10 minutes) (Monday, Tuesday, Thursday, Friday)

10. Student 3 – During the 2017-2018 school year, Student 3 is in kindergarten. Student 3's IEP in place at the beginning of the school year was developed in December 2016, when Student 3 attended a District preschool. The December 2016 IEP included annual goals in the areas of adaptive, behavior/social, speech, expressive language, and communication. The December 2016 IEP provided for the following specially designed instruction in a *special education setting*:

- Communication – 30 minutes one time weekly (provided by an SLP)

The December 2016 IEP also provided for the following specially designed instruction in a *general education setting*:

- Adaptive – 20 minutes three times weekly (provided by a special education teacher)
- Behavior/social – 20 minutes three times weekly (provided by a special education teacher)

Based on the documentation in this complaint, Student 3's 2017-2018 class schedule from August 2017 through December 15, 2017 in a resource classroom was as follows:

- Kindergarten Skills⁶: 11:30 am – 12:10 pm (40 minutes) (Monday, Tuesday, Thursday)

On November 30, 2017, Student 3's IEP team developed her annual IEP. The November 2017 IEP included annual goals in the areas of adaptive, behavior/social, and communication. The

⁴ Without more information, it is unclear if the instruction in "classroom/social skills" required by the out-of-state IEP was substantively similar to the instruction in "study skills" required by the District's IEP adjustment.

⁵ According to information provided by the District's Executive Director of Special Services and the Director of Special Services, students received specially designed instruction in the area of behavior during check-in time. The schedule for Student 3's special education teacher states that from 2:15-2:35 p.m. "check-in with behavior students/Prep/Eval's/IEPs – [Student 3] writing".

⁶ According to information provided by the District's Executive Director of Special Services and the Director of Special Services, kindergarten skills denotes a time period in the resource room where kindergarten students receive instruction in the service areas stated in their IEPs.

November 2017 IEP provided for the following specially designed instruction in a *special education setting*:

- Adaptive – 10 minutes five times weekly
- Behavior/social – 20 minutes five times weekly
- Communication – 30 minutes one time weekly (provided by an SLP)

Based on the documentation in this complaint, as of December 17, 2017, Student 3's 2017-2018 class schedule in a resource classroom was as follows:

- Kindergarten Skills: 11:30 am – 12:00 pm (30 minutes) (Monday, Tuesday, Thursday, Friday)
- Social Group: 11:30 am – 12:00 pm (30 minutes) (Wednesday)

11. **Student 4** – During the 2017-2018 school year, Student 4 is in kindergarten. Student 4's IEP in place at the beginning of the school year was developed in October 2016, when Student 4 attended a District preschool. The October 2016 IEP included annual goals in the areas of adaptive and communication. The October 2016 IEP provided the following specially designed instruction in a *special education setting*:

- Communication – 30 minutes one time weekly (provided by an SLP)

The October 2016 IEP also provided for the following specially designed instruction in a *general education setting*:

- Adaptive – 30 minutes five times weekly (provided by a special education teacher)

On October 4, 2017, Student 4's IEP team developed her annual IEP. The October 2017 IEP included annual goals in the areas of adaptive and communication. The October 2017 IEP provided for the following specially designed instruction in a *special education setting*:

- Adaptive – 30 minutes five times weekly
- Communication – 30 minutes one time weekly (provided by an SLP)

Based on the documentation in this complaint, from August – December 15, 2017, Student 4's 2017-2018 class schedule in a resource classroom was as follows:

- Kindergarten Skills: 11:30 am – 12:00 pm (30 minutes) (Monday, Tuesday, Thursday, Friday)

Based on the documentation in this complaint, as of December 17, 2017, Student 4's 2017-2018 class schedule in a resource classroom was as follows:

- Kindergarten Skills: 11:30 am – 12:00 pm (30 minutes) (Monday, Tuesday, Thursday, Friday)
- Social Group: 11:30 am – 12:00 pm (30 minutes) (Wednesday)

12. **Student 5** – During the 2017-2018 school year, Student 5 is in third grade. Student 5's IEP in place at the beginning of the school year was developed in April 2017. The April 2017 IEP included annual goals in the areas of communication, reading, and writing. The April 2017 IEP provided for the following specially designed instruction and related services in a *special education setting*:

- Occupational Therapy – 30 minutes one time weekly (provided by an OT)
- Communication – 30 minutes one time weekly (provided by an SLP)
- Reading – 40 minutes four times weekly
- Writing – 40 minutes four times weekly

Based on the documentation in this complaint, Student 5's 2017-2018 class schedule in a resource classroom was as follows:

- Reading: 11:45 am – 12:15 pm (30 minutes) (Monday, Tuesday, Thursday, Friday)
- Writing: 3:00 – 3:40 pm (40 minutes) (Monday, Tuesday, Thursday, Friday)

13. **Student 6** – During the 2017-2018 school year, Student 6 is in first grade. On March 21, 2018, the District completed Student 6's initial evaluation and his evaluation group determined he was eligible to receive special education services. Also on March 21, 2018, Student 6's IEP team developed his initial IEP. The March 2018 IEP included annual goals in the areas of writing and reading: phonemic awareness. The March 2018 IEP provided for the following specially designed instruction in a *special education setting*:

- Reading – 30 minutes four times weekly
- Writing – 30 minutes four times weekly

Student 6's 2017-2018 class schedule in a resource classroom was as follows:

- Reading: 10:35 – 11:15 am (40 minutes) (Monday, Tuesday, Thursday, Friday)
- Writing: 12:00 – 12:30 pm (30 minutes) (Monday, Tuesday, Thursday, Friday)

14. **Student 7** – During the 2017-2018 school year, Student 7 is in first grade. Student 7's IEP in place at the beginning of the school year was developed in June 2017. The June 2017 IEP included annual goals in the areas of behavior/social, reading, and study skills. The June 2017 IEP provided for the following specially designed instruction and related services in a *special education setting*:

- Occupational Therapy – 30 minutes one time weekly (provided by an OT)
- Behavior/social – 30 minutes one time weekly
- Behavior/social – 30 minutes four times weekly
- Study Skills – 10 minutes four times weekly
- Reading – 40 minutes four times weekly

Based on the documentation in the complaint, Student 7's 2017-2018 class schedule in a resource classroom was as follows:

- Reading: 10:35 – 11:15 am (40 minutes) (Monday, Tuesday, Thursday, Friday)
- Social Skills: 10:40 – 11:10 am (30 minutes) (Wednesdays)
- Writing⁷: 12:00 – 12:30 pm (30 minutes) (Monday, Tuesday, Thursday, Friday)

15. **Student 8** – During the 2017-2018 school year, Student 8 is in kindergarten. Student 8's IEP in place at the beginning of the school year was developed in December 2016, when Student 8 attended a District preschool. The December 2016 IEP included annual goals in the areas of fine motor and social/emotional. The December 2016 IEP provided for the following specially designed instruction in a *general education setting*:

- Fine Motor – 10 minutes three times weekly (provided by a special education teacher)
- Social/emotional – 20 minutes three times weekly (provided by a special education teacher)

⁷ Student 7's IEP does not provide for services in writing.

Based on the documentation in this complaint, Student 8's 2017-2018 class schedule in a resource classroom from August 2017 through December 15, 2017 was as follows:

- Kindergarten Skills: 11:30 am – 12:00 pm (30 minutes) (Monday, Tuesday, Thursday)

On December 7, 2017, Student 8's IEP team developed his annual IEP. The December 2017 IEP included annual goals in the areas of fine motor and social/emotional. The December 2017 IEP provided for the following specially designed instruction in a *special education setting*:

- Fine motor – 40 minutes four times weekly
- Social/emotional – 30 minutes one time weekly
- Social/emotional – 20 minutes five times weekly

Based on the documentation in this complaint, Student 8's 2017-2018 class schedule in a resource classroom as of December 17, 2017 was as follows:

- Kindergarten Skills: 11:30 am – 12:15 pm (45 minutes) (Monday, Tuesday, Thursday, Friday)
- Social Group: 11:30 am – 12:00 pm (30 minutes) (Wednesdays)

16. **Student 9** – During the 2017-2018 school year, Student 9 is in third grade. Student 9's IEP in place at the beginning of the school year was developed in October 2016. The October 2016 IEP included annual goals in the areas of communication, reading, writing, math, and adaptive. The October 2016 IEP provided for the following specially designed instruction and related services in a *special education setting*:

- Occupational Therapy – 30 minutes one time weekly (provided by an OT)
- Communication – 30 minutes two times weekly (provided by an SLP)
- Adaptive – 30 minutes one time weekly
- Math – 40 minutes four times weekly
- Reading – 40 minutes four times weekly
- Writing – 40 minutes four times weekly

Based on the documentation in this complaint, Student 9's 2017-2018 class schedule in a resource classroom was as follows:

- Social Skills: 9:15 – 9:45 am (30 minutes) (Tuesdays)
- Reading: 11:45 am – 12:15 pm (30 minutes) (Monday, Tuesday, Thursday, Friday)
- Math: 1:45 – 2:15 pm (30 minutes) (Monday, Tuesday, Thursday, Friday)
- Writing: 3:00 – 3:40 pm (40 minutes) (Monday, Tuesday, Thursday, Friday)

It is unclear from the documentation in this complaint, the reason Student 9 was in a social skills class, as this was not an area of service designated on his October 2016 IEP. However, it is possible that Student 9 received adaptive services during this time period, as his adaptive goal was aimed at improving his ability to ask for help and respond to questions.

On October 24, 2017, Student 9's IEP team developed his annual IEP. The October 2017 IEP included annual goals in the areas of communication, reading, writing, math, and adaptive. The October 2017 IEP provided for the following specially designed instruction and related services in a *special education setting*:

- Occupational Therapy – 30 minutes one time weekly (provided by an OT)

- Communication – 30 minutes one time weekly (provided by an SLP)
- Math – 30 minutes four times weekly
- Reading – 30 minutes four times weekly
- Writing – 30 minutes four times weekly
- Adaptive – 30 minutes one time weekly

It is noted that Student 9's October 24, 2017 IEP stated that Student 9 "continue[d] to struggle with all areas of academics" and that in the area of writing, Student 9 continued to struggle with "copying from the board, penmanship, written expressions, and sentence formation." It was also noted that Student 9 "does not write sentences or words." In regard to the area of reading, the IEP stated that Student 9 "knows by sight 14/26 uppercase letters and 10/26 lowercase letters...[Student 9] can read 3 of the 25 Kindergarten sight words." The IEP stated that in the area of math, Student 9 "demonstrate[d] good understanding of addition but struggles with more complex math." Additionally, Student 9's progress reporting for his prior October 2016 IEP stated that he had made insufficient progress toward his reading, math, and writing goals. The District's documentation in this complaint does not explain the reason the IEP team reduced the amount of Student 9's academic services in his IEP.

17. **Student 10** – During the 2017-2018 school year, Student 10 is in fourth grade. Student 10 transferred into the District from another Washington school district in September 2017. The previous Washington school district developed an IEP for Student 10 on May 2, 2017. The May 2017 IEP included goals in the areas of organizational skills and social/emotional. The May 2017 IEP required the following special education related services to be provided in a *special education setting*:

- Organizational skills – 30 minutes one time weekly
- Social/emotional – 30 minutes one time weekly

On September 5, 2017, the District held an IEP meeting to conduct a "Transfer Review." Student 10's parent participated in this meeting via telephone. The IEP team decided to continue Student 10's placement in accordance with his transfer IEP.

Based on the documentation in this complaint, Student 10's 2017-2018 class schedule in a resource classroom was as follows:

- Social Skills: 3:00-3:30 pm (30 minutes) (Wednesdays)

18. **Student 11** – During the 2017-2018 school year, Student 11 is in second grade. Student 11's IEP in place at the beginning of the school year was developed in April 2017. The April 2017 IEP included annual goals in the areas of reading, writing, and math. The April 2017 IEP required the following specially designed instruction to be provided in a *special education setting*:

- Reading – 40 minutes four times weekly
- Writing – 40 minutes four times weekly
- Math – 40 minutes four times weekly

Based on the documentation in this complaint, Student 11's 2017-2018 class schedule in a resource classroom was as follows:

- Writing: 9:45 – 10:30 am (45 minutes) (Monday, Tuesday, Thursday, Friday)
- Reading: 10:30 – 11:05 am (35 minutes) (Monday, Tuesday, Thursday, Friday)
- Math: 1:10 – 1:40 pm (30 minutes) (Monday, Tuesday, Thursday, Friday)

19. **Student 12** – During the 2017-2018 school year, Student 12 is in fourth grade. Student 12's IEP in place at the beginning of the school year was developed in March 2017. The March 2017 IEP included annual goals in the areas of math and communication. The March 2017 IEP provided for the following specially designed instruction in a *special education setting*:

- Communication – 30 minutes one time weekly (to be provided by an SLP)
- Math – 40 minutes four times weekly

Based on the documentation in this complaint, Student 12's 2017-2018 class schedule in a resource classroom was as follows:

- Math: 11:00 – 11:35 am (35 minutes) (Monday, Tuesday, Thursday, Friday)

On March 27, 2018, Student 12's IEP team developed her annual IEP. The March 2018 IEP included annual goals in the areas of communication, math, and behavior/social skills.⁸ The March 2018 IEP provided for the following specially designed instruction in a *special education setting*:

- Communication – 30 minutes one time weekly (provided by an SLP)
- Behavior/social – 30 minutes one time weekly
- Math – 40 minutes four times weekly

20. **Student 13** – During the 2017-2018 school year, Student 13 is in second grade. Student 13 transferred into the District from another Washington school district in September 2017. The prior Washington school district developed an IEP for Student 13 on March 16, 2017. The March 2017 IEP included annual goals in the areas of behavior skills, reading, writing, and math. The March 2017 IEP provided for the following specially designed instruction and related services in a *general education setting*:

- Behavioral skills – 20 minutes four times weekly (concurrent) (provided by a staff assistant)
- Behavioral skills – 20 minutes four times weekly (concurrent) (provided by a general education teacher)
- Reading – 30 minutes four times weekly (provided by a staff assistant)
- Writing – 20 minutes four times weekly (provided by a staff assistant)
- Math – 30 minutes four times weekly (provided by a staff assistant)

On September 29, 2017, the District amended Student 13's IEP from his previous district. According to the District's September 29, 2017 prior written notice, Student 13's "IEP minutes were amended to follow the pull-out service delivery model at Glenwood Heights Primary." The amended IEP changed Student 13's placement so that he would receive all of his specially designed in a *special education setting*, and changed the amount of the services as follows:

⁸ It is noted that the Student's March 2017 initial evaluation does not recommend specially designed instruction in the area of behavior/social skills.

- Behavioral skills – 10 minutes four times weekly (concurrent)
- Behavioral skills – 30 minutes one time weekly (concurrent)
- Reading – 40 minutes four times weekly
- Writing – 40 minutes four times weekly
- Math – 40 minutes four times weekly

Based on the documentation in this complaint, Student 13's 2017-2018 class schedule from August 2017 through December 15, 2017 in a resource classroom was as follows:

- Check-In: 9:15 – 9:25 am (10 minutes)
- Reading: 9:35 – 10:15 am (40 minutes) (Monday, Tuesday, Thursday, Friday)
- Social Group: 9:35 – 10:05 am (30 minutes) (Wednesdays)
- Math: 2:15 – 2:55 pm (40 minutes) (Monday, Tuesday, Thursday, Friday)
- Writing: 2:55 – 3:35 pm (40 minutes) (Monday, Tuesday, Thursday, Friday)

Based on the documentation in this complaint, Student 13's 2017-2018 class schedule as of December 17, 2017 in a resource classroom was as follows:

- Check-In: 9:15 – 9:25 am (10 minutes)
- Reading: 9:35 – 10:05 am (30 minutes) (Monday, Tuesday, Thursday, Friday)
- Social Group: 9:35 – 10:05 am (30 minutes) (Wednesdays)
- Math: 2:15 – 2:55 pm (40 minutes) (Monday, Tuesday, Thursday, Friday)
- Writing: 2:55 – 3:35 pm (40 minutes) (Monday, Tuesday, Thursday, Friday)

On March 12, 2018, Student 13's IEP team developed his annual IEP. The March 2018 IEP included annual goals in the areas of behavioral skills, reading, writing, and math. The March 2018 IEP provided the following specially designed instruction and related services to be provided in a *special education setting*:

- Behavioral skills – 30 minutes one time weekly (concurrent)
- Reading – 30 minutes four times weekly
- Writing – 30 minutes four times weekly
- Math – 30 minutes four times weekly

21. Student 14 – During the 2017-2018 school year, Student 14 is in second grade. Student 14's IEP in place at the beginning of the school year was developed in March 2017 by his prior out-of-state school district. At that time, Student 14 was eligible for special education under the category of speech/language impairment. The March 2017 transfer IEP included annual goals in the areas of language and articulation. The March 2017 IEP provided for the following specially designed instruction in a "*Gen Ed/Special Ed Classroom*":

- Language – 60 minutes one time monthly (provided by an SLP)
- Articulation – 60 minutes one time monthly (provided by an SLP)

On December 11, 2017, the District completed a reevaluation of Student 14 and his evaluation group determined the Student 14 was now eligible for special education under the category of specific learning disability. Also on December 11, 2017, Student 14's IEP team developed a new IEP for him. The December 2017 IEP included annual goals in the areas of communication, behavior/social, reading, and writing. The December 2017 IEP provided for

the following specially designed instruction and related services in a *special education setting* beginning on December 12, 2017⁹:

- Occupational Therapy – 30 minutes one time weekly (provided by an OT)
- Communication – 30 minutes two times weekly (provided by an SLP)
- Behavior/social – 30 minutes one time weekly
- Behavior/social – 20 minutes five times weekly
- Reading – 40 minutes four times weekly
- Writing – 40 minutes four times weekly

Based on the documentation in this complaint, as of December 17, 2017, Student 14's 2017-2018 class schedule in a resource classroom was as follows:

- Reading: 9:35 – 10:15 am (40 minutes) (Monday, Tuesday, Thursday, Friday)
- Social Group: 9:35 – 10:05 am (30 minutes) (Wednesdays)
- Math¹⁰: 2:15 – 2:55 pm (40 minutes) (Monday, Tuesday, Thursday, Friday)
- Writing: 2:55 – 3:35 pm (40 minutes) (Monday, Tuesday, Thursday, Friday)

22. Student 15 – During the 2017-2018 school year, Student 15 is in third grade. Student 15's IEP in place at the beginning of the school year was developed in March 2017. The March 2017 IEP included annual goals in the areas of behavior/social and math. The March 2017 IEP provided for the following specially designed instruction in a *special education setting* from March 10, 2017 through March 9, 2018:

- Behavior/social – 30 minutes one time weekly
- Behavior/social – 20 minutes four times weekly
- Math – 40 minutes four times weekly

Based on the documentation in this complaint, Student 15's 2017-2018 class schedule in a resource classroom was as follows:

- Social/behavior: 9:15 – 9:35 am (20 minutes) (Monday, Wednesday, Thursday, Friday)¹¹
- Social Skills: 9:15 – 9:45 am (30 minutes) (Tuesdays)¹²
- Math: 1:45 – 2:15 pm (30 minutes) (Monday, Wednesday, Thursday, Friday)

On March 5, 2018, Student 15's IEP team met to develop her annual IEP. During the meeting, Student 15's guardian expressed concern that Student 15 had only been receiving math instruction in 30-minute increments, although her March 2017 IEP required Student 15 to

⁹ The District was in session December 12-15, 2017. The District was on break December 18, 2017 through January 1, 2018.

¹⁰ Student 14's December 2017 IEP does not provide for math services, and his December 2017 evaluation report did not recommend math services.

¹¹ Based on the documentation in this complaint, these services may have begun in March 2018.

¹² The special education resource teacher's schedule shows that the services were scheduled for Thursdays from 3:00 – 3:30 p.m., but later changed to Tuesday mornings.

receive math instruction in 40-minute increments. The IEP team did not complete Student 15's annual IEP at the March 5 IEP meeting.

On April 11, 2018, the District completed an "Assessment Revision" to determine if Student 15 was in need of specially designed instruction in the area of reading. Student 15's evaluation group determined that she should receive reading services. On May 9, 2018, Student 15's IEP team developed her annual IEP. The May 2018 IEP included annual goals in the areas of math, reading, and behavior/social. The IEP provided for the following specially designed instruction in a *special education setting*:

- Behavior/social – 30 minutes one time weekly
- Behavior/social – 15 minutes four times weekly
- Math – 30 minutes five times weekly
- Reading – 30 minutes four times weekly

23. **Student 16** – During the 2017-2018 school year, Student 16 is in first grade. On March 16, 2018, the District completed an initial evaluation of Student 16 and her evaluation group determined that she was eligible for special education services under the category of specific learning disability. Also on March 16, 2018, Student 16's IEP team developed her initial IEP. The March 2018 IEP included annual goals in the areas of reading and writing. The March 2018 IEP provided for the following specially designed instruction be in a *special education setting*:

- Reading – 30 minutes four times weekly
- Writing – 30 minutes four times weekly

Based on the documentation in this complaint, Student 16's 2017-2018 class schedule in a resource classroom was as follows:

- Reading: 10:35 – 11:15 am (40 minutes) (Monday, Tuesday, Thursday, Friday)
- Writing: 12:00 – 12:30 pm (30 minutes) (Monday, Tuesday, Thursday, Friday)

24. **Student 17** – During the 2017-2018 school year, Student 17 is in third grade. Student 17's IEP in place at the beginning of the school year was developed in May 2017. The May 2017 IEP included annual goals in the areas of communication, math, reading, and writing. The May 2017 IEP provided for the following specially designed instruction in a *special education setting*:

- Communication – 30 minutes one time weekly (provided by an SLP)
- Math – 40 minutes four times weekly
- Reading – 40 minutes four times weekly
- Writing – 40 minutes four times weekly

Based on the documentation in this complaint, Student 17's 2017-2018 class schedule in a resource classroom was as follows:

- Reading: 11:45 am – 12:15 pm (30 minutes) (Monday, Tuesday, Thursday, Friday)
- Math: 1:45 – 2:15 pm (30 minutes) (Monday, Tuesday, Thursday, Friday)
- Writing: 3:00 – 3:35 pm (35 minutes) (Monday, Tuesday, Thursday, Friday)

In November 2017, Student 17's parents informed the District of their intent to homeschool Student 17, but requested that Student 17 continue to receive the specially designed instruction in only the area of communication. In March 2018, Student 17 withdrew from the District.

25. **Student 18** – During the 2017-2018 school year, Student 18 is in fourth grade. Student 18's IEP in place at the beginning of the school year was developed in October 2016. The October 2016 IEP included annual goals in the areas of math, reading, and writing. The October 2016 IEP provided for the following specially designed instruction in a *special education setting*:

- Math – 40 minutes four times weekly
- Reading – 40 minutes four times weekly
- Writing – 40 minutes four times weekly

On October 16, 2017, Student 18's IEP team developed his annual IEP. The October 2017 IEP included annual goals in the areas of writing, reading, and math. The October 2017 IEP provided for the following specially designed instruction in a *special education setting*:

- Math – 40 minutes four times weekly
- Reading – 35 minutes four times weekly
- Writing – 40 minutes four times weekly

Based on the documentation in this complaint, Student 18's 2017-2018 class schedule in a resource classroom was as follows:

- Math: 11:00 – 11:35 am (35 minutes) (Monday, Tuesday, Thursday, Friday)
- Reading: 1:15 – 1:50 pm (35 minutes) (Monday, Tuesday, Thursday, Friday)
- Writing: 3:00 – 3:35 pm (35 minutes) (Monday, Tuesday, Thursday, Friday)

26. **Student 19** – During the 2017-2018 school year, Student 19 is in kindergarten. On October 23, 2017, the District completed an initial evaluation for Student 19 and his evaluation group determined that he was eligible to receive special education services under the category of developmental delay. Also on October 23, 2017, Student 19's IEP team developed his initial IEP. The October 2017 IEP included annual goals in the areas of communication, writing, reading, math, and behavior/social. The October 2017 IEP provided for the following specially designed instruction and related services in a *special education setting*:

- Occupational therapy – 30 minutes one time weekly (provided by an OT)
- Communication – 30 minutes two times weekly (provided by an SLP)
- Behavior/social – 40 minutes one time weekly
- Pre-Academics – 30 minutes four times weekly

Based on the documentation in this complaint, Student 19's 2017-2018 class schedule in a resource classroom was as follows:

- Kindergarten Skills: 11:30 am – 12:00 pm (30 minutes) (Monday, Tuesday, Thursday, Friday)
- Social Group: 11:30 am – 12:00 pm (30 minutes) (Wednesday)

27. **Student 20** – During the 2017-2018 school year, Student 20 is in second grade. Student 20's IEP at the beginning of the school year was developed in January 2017. The January 2017 IEP

included annual goals in the areas of math, reading, writing, and social/behavioral skills. The January 2017 IEP provided for the following specially designed instruction in a *special education setting*:

- Social/behavior skills – 20 minutes five times weekly
- Social/behavior skills – 30 minutes one time weekly
- Math – 40 minutes four times weekly
- Reading – 40 minutes four times weekly
- Writing – 40 minutes four times weekly

Student 20's 2017-2018 class schedule in a resource classroom was as follows:

- Reading: 9:35 – 10:15 am (40 minutes) (Monday, Tuesday, Thursday, Friday)
- Social Group: 9:35 – 10:05 am (30 minutes) (Wednesdays)
- Math: 2:15 – 2:55 pm (40 minutes) (Monday, Tuesday, Thursday, Friday)
- Writing: 2:55 – 3:35 pm (40 minutes) (Monday, Tuesday, Thursday, Friday)

On January 22, 2018, Student 20's IEP team developed his annual IEP. The January 2018 IEP included annual goals in the areas of math, reading, writing, and social/behavioral skills. The January 2018 IEP provided for the following specially designed instruction in a *special education setting*:

- Social/behavior skills – 20 minutes five times weekly
- Social/behavior skills – 30 minutes one time weekly
- Math – 40 minutes four times weekly
- Reading – 40 minutes four times weekly
- Writing – 40 minutes four times weekly

CONCLUSIONS

Issue 1: IEP Implementation During the 2017-2018 School Year – A school district must ensure it provides all services in a student's individualized education program (IEP), consistent with the student's needs as described in that IEP. The District admitted in its response to this complaint, that due to a change in the primary school's master schedule, students designated to receive special education services in a special education resource classroom (resource students) were not scheduled to receive special education services consistent with their IEPs. The review of Student 1-20's IEPs supports this conclusion. However, the review of Student 1-20's IEPs also shows that even if the master schedule had not been changed during the 2017-2018 school year, many of Students 1-20 still would not have received the services stated in their IEPs, as there were other discrepancies between the services stated in their IEPs and the services scheduled to be provided. For example, Student 1's IEP in place at the beginning of the school year provided for 60 minutes of social skills instruction per week, but she was only scheduled to receive 30 minutes. Student 4's IEP in place at the beginning of the school year provided for 150 minutes per week of adaptive skills, but Student 4 was only scheduled to receive 120 minutes per week of "kindergarten skills" from August 2017 through December 15, 2017. Likewise, Student 7's IEP in place at the beginning of the school year provided for 150 minutes per week of social skills and 40 minutes per week of study skills, but Student 7 was only scheduled to receive 30 minutes a week of social skills, 0 minutes per week of study skills, and confusingly, 120 minutes per week

of writing services despite this not being an area of service listed on her IEP. Additionally, Student 12's March 2018 IEP provided for services 30 minutes per week of behavior/social services, which were not recommended in her initial evaluation from March 2017, and she was not scheduled to receive behavior/social services. The review of Students 1-20 shows that due to either the change in the master schedule or other teacher scheduling issues, none of Students 1-20 were scheduled to receive services consistent with their IEPs. However, it is noted that Student 6 and Student 16, appear to be receiving more services than provided for in their IEPs.

Additionally, the review of the IEPs of Students 1-20 shows that the primary school's practice of limiting the amount of special education services resource students can receive, based on the building's master schedule, is contrary to the Individuals with Disabilities Education Act (IDEA) and State special education regulations. The provision of specially designed instruction is at the heart of a student's eligibility for special education services, and the provision of specially designed instruction in the least restrictive environment is a decision made by the IEP team, not a district, and must be based on a student's *individualized needs* (emphasis added), rather than a school model or schedule. The review of the IEPs of Students 1-20 shows that when some of the students' IEPs were developed during the 2017-2018 school year, the amount of specially designed instruction was changed to reflect the change in the master schedule from 40-minute intervention classes to 30-minute intervention classes, and that the frequency of the specially designed instruction in the areas of math, reading, and writing for nearly all of the students, appears to be limited to four days per week, also per the master schedule. Further, the review of Student 9's IEPs shows that the amount of his IEP academic services were reduced, based on what appears to be an attempt to align his IEP with the master schedule, despite his significant lack of progress and the large discrepancy between his skills and those of his third grade peers without disabilities.

Further, the review of the IEPs of Students 1-20 shows that the District made significant changes to the placements of Student 3, Student 8, and Student 13, which again appears to be for the purpose of aligning the Students' IEPs with the master schedule. A student's placement is not determined based on a district or school policy. Placement is determined by a student's IEP team based on the student's IEP, the least restrictive environment requirements contained in WAC 392-172A-02050 through 392-172A-02070, the placement option(s) that provides a reasonably high probability of assisting the student to attain his or her annual goals, and a consideration of any potential harmful effect on the student or on the quality of services which he or she needs. Additionally, a district cannot make a significant change in a student's placement without first conducting a reevaluation, which the District did not complete before changing the Students' placements.

Issue 2: Procedures for Amending the Students IEP – With the exception of Student 13, the documentation in this complaint does not show that Students 1-20's IEPs were amended during the 2017-2018 school year, but as was discussed in issue no. 1, some of the Students' IEPs were developed to align with the primary school's master schedule, instead of based on the Students' individualized educational needs.

When a student eligible for special education transfers from one Washington State school district to another Washington State school district, and has an IEP that was in effect for the current school year from the previous district, the new school district, in consultation with the parents, must provide comparable services to those described in the student's IEP, until the new school district either: adopts the student's IEP from the previous school district, or develops, adopts, and implements a new IEP. Here, Student 13 transferred into the District from another Washington district, with an IEP in place that provided for all of his specially designed instruction to be delivered in a general education setting. The District agreed to adopt his transfer IEP, but immediately then amended the transfer IEP, so that all of Student 13's specially designed instruction would be provided in a special education setting, and so that the amount of the specially designed instruction would better align with the primary school's master schedule. This is a failure to follow transfer procedures, as the District should not have agreed to adopt Student 13's transfer IEP if it had no intention of implementing it as written. If the District believed Student 13's transfer IEP was not appropriate to meet his needs, then it should have followed procedures for developing a new IEP for the Student, which in this case would have included conducting a reevaluation prior to making a significant change to his educational placement.

CORRECTIVE ACTIONS

By or before **June 8, 2018, June 29, 2018, July 11, 2018, July 17, 2018, September 10, 2018, and October 5, 2018**, the District will provide documentation to OSPI that it has completed the following corrective actions.

STUDENT SPECIFIC:

1. The District will offer compensatory services to the ninety (90) resource students identified in this complaint, with the exception of Students 6 and 16, and any other students who are no longer enrolled in the district or are no longer eligible for special education.
 - By **August 31, 2018**, the District will provide resource students with an opportunity to access 40 hours of compensatory services consistent with the service areas and specially designed instruction identified in each student's current IEP, (e.g., in the areas of reading, writing, math, and behavior), with the exception of services delivered by educational staff associates (ESAs). The 40 hours of compensatory services will be delivered over a two or three-week period, not to exceed four hours per day, during the summer of 2018. The services will be provided by certificated special education teachers with support from paraeducators, as needed. The District will also provide transportation for the students in the summer compensatory program consistent with the transportation they receive during the regular school year.
 - By **June 8, 2018**, the District will notify the parents of the resource students (in the parent's primary mode of communication as necessary), informing them of this complaint decision and that compensatory services will be offered during the summer of 2018. The letter will include the dates and times the summer compensatory services will be offered, as well as the location of the summer program. The letter will specify that parents must

inform the District if their student will participate in the summer program by June 22, 2018.

- By **June 8, 2018**, the District will submit a copy of the letter sent to the parents, along with a list of the resource students and their parent(s) who were sent the letter.
 - By **June 29, 2018**, the District will submit a roster of all students who will participate in the summer program.
 - By **July 11, 2018**, the District will submit documentation that it has entered into contracts with a certificated special education teacher(s) and a paraeducator(s) to provide compensatory subject-matter special education services for 40 hours over 2-3 weeks in the summer of 2018.
 - By **September 10, 2018**, the District will provide attendance records for the summer program.
2. By the beginning of the 2018-2019 school year, the District will review the IEPs and progress reporting of the resource students, and for any student whose progress reporting notes that he/she has made no progress, insufficient progress, or limited progress, the District will hold an IEP meeting to discuss whether the student is in need of more specially designed instruction. The District will not limit the amount of specially designed instruction a student can receive, but instead base the amount of instruction on the student's individualized needs. If the IEP team determines a student is in need of more specially designed instruction, the District will either amend the student's IEP or develop a new IEP for the student. For all other students, the District will develop schedules for the students that align with the services in their IEPs.
- By **September 10, 2018**, the District will provide OSPI with a list of students who identified as making no progress, insufficient progress, or limited progress and provide a copy of: 1) the IEP meeting invitations; 2) new or amended IEP as appropriate; 3) prior written notice documenting the reason for changing or not changing the student's IEP; and, 4) a copy of the student's schedule for the 2018-2019 school year which aligns with the student's IEP. If needed, OSPI may request additional documentation.
 - By **September 10, 2018**, the District will provide a list of all other students receiving special education services in a resource classroom setting, copies of their schedules, and copies of the service matrix page(s) of their IEPs, so OSPI can verify the students are scheduled to receive their services. If needed, OSPI may request additional documentation.

DISTRICT SPECIFIC:

1. The District will ensure that prior to the beginning of the 2018-2019 school year, all District special education certificated staff, including educational staff associates (ESAs), principals, and assistant principals at the primary school receive training regarding: 1) procedures for determining the amount of specially designed instruction a student will receive; 2)

procedures for changing a student's placement; and, 3) special education transfer procedures. ESAs include school psychologists, physical therapists, occupational therapists, speech language pathologists, school counselors, school nurses, and other service providers. The training will include examples.

- By **July 17, 2018**, the District will submit a draft of the training materials to OSPI for review. OSPI will approve the materials or provide comments by July 28, 2017 and additional dates for review, if needed.
 - By **September 10, 2018**, 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.
2. By **September 28, 2018**, all other District principals will review and discuss the training materials with all certificated special education teachers and ESAs who work in their buildings. By **October 5, 2018**, the District will provide OSPI with documentation that the principals have reviewed the materials with all required staff. The documentation will include a roster of all principals.

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 May, 2018

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.)