

SPECIAL EDUCATION CITIZEN COMPLAINT (SECC) NO. 18-69

PROCEDURAL HISTORY

On June 29, 2018, the Office of Superintendent of Public Instruction (OSPI) received a Special Education Citizen Complaint from the parent (Parent) of a student (Student) attending the Northshore School District (District). The Parent alleged that the District violated the Individuals with Disabilities Education Act (IDEA), or a regulation implementing the IDEA, with regard to the Student's education.

On July 2, 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 July 12, 2018, the District requested an extension of time to respond to the complaint. OSPI granted the request and extended the timeline to July 31, 2018 for the District to respond.

On July 31, 2018, OSPI received the District's response to the complaint and forwarded it to the Parent on August 1, 2018. OSPI invited the Parent to reply with any information she had that was inconsistent with the District's information. The Parent did not reply.

On August 9, 2018, OSPI requested that the District provide additional information, and on August 13, 2018, OSPI spoke with the District's assistant superintendent of special services.

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

OVERVIEW

During the 2017-2018 school year, the Student attended a District high school and was eligible for special education under the category other health impairment. The Student's December 2016 (in place at the beginning of the school year) and December 2017 individualized education programs (IEPs) provided the Student with goals and specially designed instruction in behavior/organizational/study skills, and several accommodations. The Student was scheduled to receive her specially designed instruction in a co-taught English class. Throughout the school year, there was frequent communication between the Parent and school staff regarding the Student's accommodations. There were many times when the Parent had to request or remind the Student's teachers to implement the Student's IEP accommodations. There were also times when the Parent requested accommodations that were not part of the Student's IEP, and in almost all cases, the Student's teachers were responsive and flexible to the Parent's communications and requests. The Parent felt that because the District was not properly implementing the Student's IEP, she was not doing as well, academically, as she should have been in her classes and the Student's grades were suffering as a result. The Parent alleged that the District failed to implement the Student's IEP, including providing the Student with specially designed instruction and accommodations. The District admitted the allegations and proposed corrective actions.

SCOPE OF INVESTIGATION

This decision references events that occurred prior to the investigation time period, which began on June 30, 2017. These references are included to add context to the issues under investigation and are not intended to identify additional issues or potential violations, which occurred prior to the investigation time period.

ISSUE

1. Did the District follow procedures for implementing the Student's individualized education program (IEP) during the 2017-2018 school year, including providing specially designed instruction and accommodations?

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 IEP for every student within its jurisdiction who is eligible to receive special education services. 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.

Program Modifications and Accommodations: An IEP must include a statement of the program modifications and accommodations that will be provided to enable the student to: advance appropriately toward attaining his or her annual IEP goals; be educated and participate with other students, including nondisabled students in educational activities; and participate, if appropriate, in general education classroom, extracurricular, and nonacademic activities. 34 CFR §300.320(4); WAC 392-172A-03090(1)(d).

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

FINDINGS OF FACT

Background Facts

1. The Student was initially evaluated for special education services in the fall of 2015, while attending a District middle school (school 1). The Student's evaluation group met and determined that the Student was eligible for special education services under the category other health impairment. The evaluation report noted that the Student was at or above grade level expectations in reading, math, and written expression, and that the Student had challenges with executive functioning skills, including: "remembering multi-step directions and planning/organizing negatively impact this [S]tudent's ability to complete assignments on time, organize writing tasks and long-term projects, keep planner and notebook organized and follow complex directions within the school setting." The evaluation report recommended that the Student receive specially designed instruction in the area of behavior.

2016-2017 School Year

2. During the 2016-2017 school year, the Student continued to attend school 1 and was in eighth grade.

3. On December 12, 2016, the Student's individualized education program (IEP) team, including the Parent, met and developed the Student's annual IEP. The IEP indicated that the Student had strong skills in math, reading, and writing, and that the Parent wanted to see the Student "develop better skills in: task prioritization, task time management, on-time assignment completion, and tracking of assignment timelines." The IEP included three goals in the area of behavior and provided for the following specially designed instruction:
 - Behavior: 240 minutes per week (special education classroom staff, special education setting)

The December 2016 IEP also included numerous accommodations, including:

- Access to a computer for writing
- Additional time for assignments
- Additional time for tests
- Change of location for tests
- Check for understanding of directions
- Copy of class notes/outlines
- Notebook/assignment organizer support
- Preferential seating
- Reduced number of Cornell notes required
- Shortened assignments
- Use of personal device (phone/pad) to photo[graph] daily agendas or weekly calendars with due dates
- Visual schedule

The Student's IEP stated that the Student would receive her specially designed instruction in a class period called "Academic Lab" and that she would be in the general education setting for the remainder of the day.

4. On March 8, 2017, the Parent emailed a counselor (counselor 1) at the District high school (school 2) and stated that the Student would be attending school 2 in the fall. The Parent stated that "we are looking into making a change in her registration for fall, we are considering her to take...English online through a [private school] and replace it with an elective." The Parent asked what the process was for requesting a change and if there was a deadline.
5. On March 13, 2017, counselor 1 emailed the Parent back and stated that the change would need to happen soon and that the Student's current middle school case manager should be involved. Counselor 1 asked if there was "particular issue she is having in her English class" because the Student earned a B+ in English the previous semester. Counselor 1 also noted that the Student had signed up for a seven period day¹ and asked what class the Student would like instead of English. The counselor also noted that that "an English class outside of her 7 period day may be challenging."

¹ According to the District's response to this complaint, school 2's full day schedule includes six class periods, but students may choose to take an extra seventh class period during the high school's seventh period advisory time. According to the Student's case manager, most students with IEPs take five classes and one special education academic lab.

6. On March 23, 2017, the Parent emailed the counselor back, copied a special education teacher at school 2, and stated that the Student would not be taking English online and that she would be taking seven periods during the 2017-2018 school year because the "Org Studies IEP class takes up an elective and she doesn't want to miss out on an elective opportunity." The Parent then shared concerns about the Student's progress in English at school 1 and concerns about the Student not receiving her IEP accommodations. The Parent stated that she was having to help the Student complete assignments at home and that the Student and Parent were not being notified of "due dates and upcoming essays, projects in English [sic] so we can break these projects/timelines down to have [the Student] complete the work."
7. Later on March 23, 2017, the special education teacher emailed the Parent and suggested that the Student might benefit from a "co-teaching class in English"² at school 2.
8. On March 27, 2017, counselor 1 emailed the special education teacher and the Parent and stated that the Student would remain in the English class she was registered for at school 2 and that he would do his best to make sure the Student was supported at the high school.
9. On June 9, 2017, the Parent emailed counselor 1 and asked who taught the "Academic Lab" class at school 2 and stated that she was considering pulling the Student out of that class. Counselor 1 responded, on June 13, and stated that the special education teacher was the department head and would call the Parent to answer her questions.
10. On June 16, 2017, the Parent and the special education teacher exchanged several emails, which are summarized as follows:
 - The Parent requested that the Student take two math classes instead of the "Academic Lab" class and keep her seven period schedule. The Parent also asked that "if there [was] a required touch base with the IEP, what are the alternatives to taking academic lab in order to fulfill this?"
 - The special education teacher responded that he did not think receiving specially designed instruction during an elective would benefit the Student.
 - The Parent responded that the academic lab class at school 1 was not providing or teaching the Student "the organizational skills that [the Student] has been proven to need."
 - The special education teacher replied that they could work on the Student's organizational strategies, but that "it does take time, between 20-30 minutes per week." The special education teacher also stated, that from what he was reading, the Parent wanted to "remove [the Student] from academic lab, that doesn't remove services, but the 'pull out' model, taking her out of other elective classes, has to happen in order to meet what is in her current IEP."
 - The Parent responded, after speaking to the special education teacher on the phone, and stated that "in regards to the school fulfilling the requirements you have for the IEP rules, checking in with [the Student] approx 2 times a week will count for the 'specialized instruction time' that is required, replacing the academic lab." The Parent stated that she understood that the "minutes area on the IEP [would] be modified to show this change."

² According to the District, the co-taught English class is taught by a general education English teacher and a special education teacher. The District uses the co-teaching models developed by Dr. Marilyn Friend and the teachers use several models (e.g., one teach one observe, one teacher one assist, etc.) depending on the lesson. In school 2's co-taught English class, the general education teacher was considered the primary teacher.

11. On June 19, 2017, counselor 1 emailed the Parent to confirm and document that the Student would not be in the "Academic Lab" during the 2017-2018 school year, but would instead take a second math class.
12. On June 21, 2017, the Parent emailed counselor 1 and the special education teacher and stated that she wanted the Student to be in the "English class with extra support, (the one for full regular grade, and NOT coded as special ed in transcripts)."
13. On August 31, 2017, the Parent and counselor 1 emailed and confirmed that the Student was enrolled in the "team taught general education English" class during the 2017-2018 school year.

2017-2018 School Year

14. The District's 2017-2018 school year started on September 6, 2017.
15. During the 2017-2018 school year, the Student attended school 2 and her December 2016 IEP continued to be in place. However, according to the District's response, the Student's December 2016 IEP was not amended as agreed to in June 2017. While the Student's December 2016 IEP provided her with 240 minutes of specially designed instruction per week, the Student was actually supposed to receive forty (40) minutes of specially designed instruction per week in a co-taught English class.
16. At the beginning of the 2017-2018 school year, the Student was enrolled in the following general education classes:
 - Period 1: French
 - Period 2: Physical Education
 - Period 3: Algebra II
 - Period 4: Geometry
 - Period 5: English 9
 - Period 6: Drawing/Design
 - Period 7: Biology
17. On September 15, 2017, the Parent emailed counselor 1 and asked "what happened to the 'team taught' class? It's not the one [the Student's] in." Counselor 1 responded and stated that he was unsure of what happened, but that the Student's schedule had been changed and that she was now in the co-taught English class.
18. On September 16, 2017, the Student emailed the general education English teacher (English teacher) and asked if there were assignments she needed to catch up on because she was new to the class. The English teacher responded with information about the assignments.
19. On October 5, 2017, the Student emailed the English teacher regarding an assignment. The Student also stated that she was "marked off for [an assignment] being late. I joined your class late and also, I have an IEP that indicates late work is without penalty." The teacher responded, on October 6, and stated that she understood and that they should "probably confer as to the 'how late' fits in with those descriptors in your paperwork. Both of those assignments were significantly late, so we can revisit as we go forward."

20. On October 6, 2017, the Parent emailed counselor 1 regarding the Student's accommodations and the fact that her assignments were marked late in her English class. The Parent asked the counselor to reach out to the English teacher to "correct the situation and educate her on [the Student's] IEP." The Parent stated that the English teacher was "ignoring the IEP by stating that since her assignments were 'significantly late' she does not get full credit and 'we can revisit as we go forward.'" The Parent also stated that she was trying to teach the Student to "assert herself and advocate for herself, and make sure she gets her IEP needs met. It's not going so well, according to this email exchange."
21. On October 10, 2017, the Parent emailed counselor 1 and asked him if he was available for a phone call to discuss the Student's English class.
22. On October 11, 2017, the Student's high school case manager emailed the Parent and stated that she was a learning center teacher at school 2 and would be the Student's case manager. The case manager stated that counselor 1 spoke with her regarding the Parent's concerns about the Student's English class. The case manager stated that she was "co-teaching the English class with [English teacher]."
23. Later on October 11, 2017, according to the District's documentation, the Parent and the case manager spoke on the phone. The Parent also forwarded the English teacher's October 6, 2017 email to the Student to the case manager. The Parent stated that the Student's grades had now been updated to "reflect no late penalty."
24. On October 12, 13, and 14, 2017, the Parent and the algebra teacher emailed about the Student feeling like she was falling behind, times for the Student to come in and get extra help, and specific concepts the Student was struggling with.
25. On October 16, 2017, the Parent emailed the Student's biology teacher regarding retaking a quiz, an assignment, and a lab. The biology teacher responded and stated that the Student could come in after school to work on the lab and should come to the science teacher's advisory period. The teacher provided more information about the lab and suggested some strategies for studying. The teacher also stated that she switched the Student's seat in class to help her focus better, and stated that she would check in with the Student frequently.
26. On October 23, 2017, the Parent emailed the case manager and asked if they could touch base regarding the English class. The case manager responded, and they planned to talk on October 26, 2017.
27. On October 25, 2017, the Parent emailed the case manager and shared concerns that she (the Parent) did not know when due dates were or when tests were happening. The Parent stated that she "had no idea there was to be a test in English, [the Student] failed it and I could have helped her study for it." In a second email to the case manager, the Parent asked when the due dates were for several specific assignments. The case manager responded and provided the due dates.

28. According to the Student's case manager, six of the Student's teachers maintained websites throughout the school year, which contained information regarding assignments, tests and quizzes, links to resources, homework calendars, and example problems and answers. One teacher did not use a website and wrote all assignments on the board. All of the Student's teachers allowed students to use cell phones to take pictures of assignments posted on the board.
29. On October 30, 2017, the Parent emailed the biology teacher and asked what assignments the Student was currently missing. The Parent stated that she looked at "stuff online, but no grades on them, I'm checking with you on any follow up I can help her with?" The biology teacher responded and stated that there was a test scheduled for November 3, 2017, and that the Student should study for the test. The teacher stated that the class website was up to date and that the Student was "doing much better with turning in complete, quality work."
30. The District's first quarter ended on November 3, 2017. According to the District's response, the District did not provide the Parent with progress reporting at the end of the quarter as required by the Student's December 2016 IEP.
31. On November 4, 2017, the Parent emailed the algebra teacher questions about the Student's scores on quizzes/tests and the process for retaking quizzes/tests. The algebra teacher responded, on November 5, and explained how the quizzes/tests were scored and what the students could retake. The algebra teacher also stated that he could meet with the Student any day by appointment.
32. On November 6, 2017, the Parent and the Student's father emailed school staff regarding the Student's English class. The emails are summarized as follows:
- The Student's father emailed the case manager and stated that he wanted to schedule a meeting with the case manager and the English teacher to "to be sure all relevant parties know and understand [the Student's] IEP." The Student's father stated that the Student's IEP included accommodations for extra time and that the "IEP also states that [the Student] is to be assisted in prompting, as she lacks organizational skills."
 - The Parent emailed counselor 1 and stated "we are having problems in English class." The Parent stated that she had talked to the case manager "on the phone twice now, she is very helpful, when I told her I expected more help from a special ed class, she wanted to make clear this was not a special ed class. She was surprised when I told her that I understand the class is not 'coded' special ed, but, FYI, it is listed in the special ed section of the catalog." The Parent asked "who does this need to escalate to?"
33. On November 7, 2017, the Parent, the Student's father, and school staff emailed several times about the Student's missing assignments and scheduling the Student's annual IEP meeting. Several of the emails focused on a specific English assignment, and are summarized as follows:
- The Student's father emailed the case manager, following up on the Student's English homework. The Parent stated that the Student finished the assignment on time and that it was in her "Google Docs folder." The Student's father stated "if another step was missed in the turn-in process, we are unaware of what it is...[the Student] worked hard with her Mom that evening to get a rough draft in place." The Student's father included a timeline of events and

stated that they were "requesting that the 10 points [the Student] was docked for 'being late' be corrected, as this was in fact not late" or that the Student received the points back under her additional time for assignments accommodation.

- The case manager responded that she thought the English teacher wanted a copy printed out. The case manager stated that she would provide available dates for an IEP meeting.
- The Student's father stated that it was not clear that the document needed to be printed out, and requested that the Student get full credit. The Parent also emailed and reiterated this point.
- The case manager responded and attached the Student's current IEP, English assignments, and grades from October 1 on, and the current homework assignment. The case manager also suggested that they meet in November to develop the Student's annual IEP.

34. Also on November 7, 2018, the Parent emailed the biology teacher and asked about two assignments the Student received a zero on, and the Parent stated that she wanted to "ensure [the Student] is participating, doing the work, and receiving credit in the future for all assignments." The biology teacher responded that both assignments were review packets and that the Student did one, but did not turn it in and did not complete the other review packet.

35. On November 8, 2017, the Parent emailed the case manager a screen shot of the English assignment (discussed in the November 7 emails) that the Student had finished.

36. On November 8 and 9, 2017, the Parent, the Student's father, and the case manager emailed several times and continued to discuss the Student's assignments, the Student's IEP accommodation for late work, the Student being graded down for late work, and the Student needing prompting to turn in assignments. The Student's father asked multiple times for the late English assignment to be given full credit and stated that the instructions for turning in assignments were not clear.

37. Later on November 9, 2017, the Student's father emailed the assistant principal, copied the case manager, and stated that they were not making progress and that he had "asked at least 3 times that the 10 points that were mistakenly docked from [the Student's] grade be reinstated...Nowhere were we informed that the assignment was to be printed out to turn in. It was in Google Docs on time." The Student's father also included a timeline of events. The case manager responded and stated that she was "unable to change or update grades in [the Student's] English class as I do not have access as this is a general education class. I have shared your concerns with [the English teacher.]"

38. On November 13, 2017, the Parent emailed the case manager and asked "do we have an IEP review meeting this week?" The Parent stated that she would not be able to meet until after Thanksgiving (November 22, 2017).

39. Also on November 13, 2017, the Parent emailed the Student's French teacher, and copied the case manager, and stated that the Student had not had enough time to finish a test the previous week and that the Student has an IEP accommodation for extra time on tests. The case manager responded and stated that the Student could finish the test in her advisory

period the next day. The Parent emailed back and stated that "at this point, [the Student] is telling me she wants extra time if needed, going forward."

40. On November 16, 2017, the Parent and the Student's father met with the case manager to discuss concerns and prepare for the annual IEP meeting.
41. On November 20, 2017, the Parent emailed the case manager and English teacher and asked for a "list of assignments and detailed instructions on what [the Student] has missing or incomplete to use by end of day on Wednesday so we can help her get caught up. Also, when will her grade on that late assignment be updated to reflect no penalty for it being late?"

The English teacher responded and stated that she may need some clarification, because the Student only had one missing assignment. The teacher stated that she spoke with the Student that day and told her she could type the missing assignment up at home and turn it in. The English teacher then wrote: "As far as the narrative essay? That may be the last assignment you were referring to? The essay was never actually turned in. I just went ahead and graded it from her Google file."

42. Also on November 20, 2017, the Parent emailed the principal and stated that she was "growing tired of [the English teacher's] inappropriate replies." The Parent stated that she wanted the grade updated for the Student's past assignments and that she would go to a District representative if she did not get answers. The principal responded and stated that he would look into it and get back to the Parent with an update.

The Parent emailed back and provided the principal with a timeline regarding the "most recent assignment that we keep getting push back for getting [the Student] the points she deserves with her IEP." The Parent stated:

Apparently, [the English teacher] wanted the document printed and handed in and that was not stated in the homework instructions...Points 68.00 / 110.00 Notes *[The English teacher] '[Student] – I went in to your Google folder and graded it there-gave comments etc...Because this was never actually turned in I had to dock 10 points and then another 10 for missing reflection.'...We have sent many emails AND stated IEP and met with [the case manager], and yet, it still shows 68/110.*

The Parent stated that she would "fight for every point" and that she had to "battle" with the English teacher on several assignments, and that the English teacher's responses to "our emails are dismissive and unacceptable."

43. On November 21, 2017, the principal responded and stated that he met with "two of the three parties today that I needed to talk with regarding the English assignment" and that he would "finish [his] research and have an answer for you tomorrow regarding the 10 points lost."
44. On November 22, 2017, the English teacher emailed the Parent and the Student's father and stated that "after deliberating and discussing the situation with all concerned" the teacher had decided to grant the Student "the 10 points that were docked off her total essay grade." The English teacher stated that she could "understand how this could have been a little ambiguous

as to her IEP accommodations” and that she wanted “to come alongside [the Student] and her education in any way I can!”

45. On December 4, 2017, the Student’s father and the case manager exchanged several emails about the Student completing missing assignments, and the Student’s father reminded the case manager that the Student would need prompting to turn in the assignments.
46. On December 6 and 7, the Parent and the algebra teacher exchanged several emails about the dates for tests. The algebra teacher stated that there was a quiz that day, December 7, and there would be a quiz on December 14, 2017. The Parent expressed frustration at not knowing when the quizzes were scheduled ahead of time so the Student could prepare with her private tutor. The algebra teacher responded with an explanation of how he schedules quizzes/tests, and how he grades quizzes/tests. The teacher stated that he was open to “any suggestions for how I can better help you and [the Student.]”
47. Also on December 7, 2017, the Parent emailed the Student’s geometry teacher about homework assignments. The geometry teacher responded with information about the assignments and stated that she would “check in with [the Student] to make sure she is filling in the homework box each day in class as we fill it in together.”
48. Later on December 7, 2017, the Parent emailed the case manager and stated that she was frustrated because the algebra teacher did not keep his calendar updated with the dates for quizzes/tests.
49. On December 12, 2017, the Student’s father emailed the Parent and stated “relying on [the Student] to let us know when tests or quizzes are is a losing strategy. Per her IEP, [the Student] doesn’t possess the organizational ability to keep track of this.” The Student’s father stated that he would bring it up at the IEP meeting and that “the school is going to have to let us know when tests/quizzes are. This needs to be part of her new IEP.”
50. On December 12, 2017, the Student’s IEP team, including the Parent and the Student’s father, met to develop the Student’s annual IEP. The present levels in the December 2017 IEP noted that the Student is a “bright student who wants to do well” and who “struggles to complete assignments and get them turned in on time.” The IEP included this goal in the area of behavior: “When given a Google Calendar or daily planner [the Student] will record her assignments and quiz and test dates improving executive functioning skills from recording her assignments and quiz and test dates in her Google Calendar or daily planner 0% of the time to recording her assignments and quiz and test dates in her Google Calendar or daily planner at least 80% of the time as measured by student calendar or planner and teacher data collection”, and provided the following specially designed instruction:

- Behavior: 40 minutes, 1 time per week (special education classroom staff, special education setting)³

The December 2017 IEP also included the following accommodations:

- Access to a computer for writing
- Additional time for assignments (up to 2 weeks of additional time once the assignment has been posted on Parent/Student Vue.⁴ Work turned in during this 2 week time period will receive full credit.)
- Additional time for tests
- Advance notice of tests and quizzes
- Check for understanding of directions
- Copy of class notes/outlines
- Preferential seating
- Shortened assignments
- Use of Google calendar or daily planner
- Weekly progress report to check for missing work

Additionally, according to the District's documentation, the Parent asked to have weekly progress reports on the Student's assigned homework and missing assignments. The case manager stated that she "planned to check [the Student's] grades online and to look for missing work and report that to the parents." The case manager stated that later she "began emailing each teacher asking for any information that was not posted on the online grading system and reporting that info to [the Student's] parents."

51. On December 13, 2017, the Parent emailed the algebra teacher about scheduling a time for the Student to make up a test.
52. Also on December 13 and 14, 2017, the Student's father and the case manager emailed about modifying and extending the deadline for an English assignment.
53. The District was on break December 18, 2017 through January 1, 2018.
54. On December 29, 2017, the Parent emailed the case manager a concern about the Student being graded down on an assignment for "missing seminar notes" despite the Student's IEP stating that "notes will be provided."
55. On January 2, 2018, the Student's father and the algebra teacher emailed regarding scheduling a time for the Student to finish a test.

³ According to the District's response, the location of the Student's specially designed instruction was written incorrectly on the Student's IEP. The Student's specially designed instruction was supposed to be delivered in her co-taught English class, which is considered a general education setting.

⁴ Parent/StudentVue is the District's online program by which students and parents can login and see grades, assignments, and scores from specific assignments and tests.

56. On January 3, 2018, the case manager emailed the Parent and the Student's father and stated that she was not able to touch base with the Student's teachers about missing work despite Wednesdays being the day they agreed on for a weekly progress report. The case manager said she would touch base the following day and that she had emailed the Student with details regarding the assignment due in English the following day. The case manager also emailed a copy of the handouts for the assignments.
57. On January 5, 2018, the Parent and the Student's father exchanged emails with both the case manager and the algebra teacher about English assignments and a math test.
58. On January 8 and 9, 2018, the Parent and the geometry teacher emailed about assignments and a quiz, and an outline and due dates for the remainder of the semester.
59. On January 12, 2018, the Parent emailed the biology teacher and stated that she just got notice that there was a quiz scheduled that day and asked if she could "know before the day of the test so I can help [the Student] study."
60. On January 15, 2018, the Parent emailed the algebra teacher and the biology teacher and asked what the upcoming quizzes and test dates were. Both teachers responded and provided the dates of upcoming quizzes and finals.
61. On January 26, 2018, the District provided the Parent progress reporting regarding the Student's December 2017 IEP annual goal. The progress reporting stated that using the Google calendar or daily planner was an emerging skill for the Student, and that the Student was not consistently using her calendar.
62. The District was on break January 29, 2018.
63. The District's second semester began on January 30, 2018, and during second semester, the Student was enrolled in the following general education classes:
- Period 1: French
 - Period 2: Animation Technology
 - Period 3: Algebra II
 - Period 4: Geometry
 - Period 5: English 9 (co-taught)
 - Period 6: Health
 - Period 7: Biology
64. During the first week of February 2018, the Parent, the Student's father, the biology teacher, and the case manager emailed several times about a missing assignment the Student had in biology. The Parent continued to express frustration with the lack of follow up when the Student had a missing assignment. The biology teacher stated that she communicated the information by email, by school 2's multiple online platforms for students and parents, and directly to the Student and that it was not "realistic to expect any more communication than this." The teacher did allow the Student to complete the missing assignment.
65. On February 12 and 13, 2018, the Parent and the biology teacher emailed several times about scheduling a time for the Student to make up a test that she missed while trying out for the school play.

66. The District was on break February 20-23, 2018.
67. On Thursday, March 1, 2018, the Parent emailed the case manager and asked if there would be an overall Wednesday "weekly status update" for the Student that week.
68. On Monday, March 5, 2018, the case manager emailed the Parent and the Student's father and apologized for not sending a weekly progress report the previous week. The case manager stated that she was touching base with teachers and would get back to the Parent and the Student's father soon.
69. On March 7, 2018, the case manager emailed the Parent and the Student's father an update regarding the Student's assignments and missing work in the Student's classes.
70. On March 13, 2018, the Student's father emailed the Student's health teacher and the case manager and asked that the Student be provided with notes for all of the Student's classes.
71. On March 19, 2018, the Parent and the algebra teacher emailed several times regarding a time for the Student to retake a test.
72. Also on March 19 and 20, 2018, the Student's father emailed the case manager several times regarding assignments the Student had completed and reminded the case manager that the Student needed to be prompted to turn in the assignments.
73. On March 23, 2018, the case manager emailed the Parent and the Student's father specific instructions regarding an English assignment.
74. Also on March 23, 2018, the Parent emailed the health teacher and asked if the Student could retake a test. The health teacher responded that he offered test retakes and that the Student "did not choose to retake the test...she did not seem interested."
75. Later on March 23, 2018, the Parent emailed the case manager and the principal and requested a meeting to discuss the concerns about multiple classes. The Parent stated that the Student was failing algebra tests because she could not review the tests with her tutor or was not able to meet with her tutor, and that not all the test scores were posted. The Parent requested an accommodation related to reviewing the tests. The Parent also stated that the health teacher was not allowing the Student to retake a test and that the English teacher was not providing written instruction on "any assignment that is unfinished that is sent home to complete." The Parent stated that she did not know "how many times we have [had] to ask for this to happen, its [sic] in her IEP."
76. Later on March 23, 2018, the Parent forwarded the health teacher's email to the principal and case manager. The Parent stated that it did not matter if the Student "did not seem interested" and that the Parent and the Student's father "should have been aware of the poor grade and the availability to retake it in the weekly progress report that is supposed to happen." The Parent also stated that the "weekly progress report" did not happen the week of February 26, 2018, which was the "week that the health teacher could have let [the case manager] know

that [the Student] got a D on the test, because she forgot the note card, and that she can retake it.”

77. On March 26, 2018, the principal emailed the Parent and stated “we have contacted our Director of Special Ed for guidance.”
78. Later on March 26, 2018, the District’s director for secondary special education (director) emailed the Parent and stated that she was happy to discuss any concerns the Parent had. The Parent responded and stated that they were “not getting what we need and we are spending a lot of time ourselves following up with teachers and principal reminding them of what is written” in the Student’s IEP.
79. On March 28, 2018, the case manager sent the Student, the Parent, and the Student’s father an update regarding the Student’s assignments and missing work in her classes.
80. On March 30, 2018, the Parent and the Student’s father met with the director.
81. On April 4, 2018, the case manager emailed the Student, Parent, and the Student’s father regarding the Student’s current missing assignments in geometry, biology, and English.
82. On April 6, 2018, the District provided the Parent progress reporting regarding the Student’s December 2017 IEP annual goal. The progress reporting stated that using the Google calendar or daily planner was an emerging skill for the Student.
83. The District was on break April 9-13, 2018.
84. On April 12, 2018, the director emailed the case manager and stated that she had met with the Parent and the Student’s father on March 30. The director stated that they discussed concerns related to retaking a health test and that “teachers are not implementing [the Student’s] IEP accommodations with fidelity.” The director stated that the Parent and the Student’s father wanted “the weekly update to happen at the end of each week, they would like copies of class notes provided regularly and they would appreciate having someone help [the Student] track her work in her planner.”
85. On April 17, 2018, the Student’s father emailed the director and stated that he and the Parent check school 2’s online platform weekly to help the Student keep her schoolwork organized and that “1 week ago, [the Student] had an A in her period 2 Animation Tech class...with no indication of missing work” and that “today, [the Student’s] grade reflects an F, with 9 missing assignments since the beginning of February.” The Student’s father stated that there had been no indication from the case manager’s weekly email “(of which we’ve only received a few, though they are supposed to come once a week) of any behind work in this class.”
86. Also on April 17, 2018, the Parent forwarded the Student’s father’s email (to the director) to the technology teacher (tech teacher) and stated that it was unacceptable that they had not been notified of the Student’s missing assignments. The Parent asked “are you aware of her

IEP? Do you know what it says in the IEP?" The Parent stated "there will be a solution to this, and it won't be her making up the 9 missing assignments."

87. Later on April 17, 2018, the Parent emailed the case manager and asked how it was possible that the Student had nine missing assignments and "we haven't heard anything about this...we have never heard from the teacher about this and we never got any indication anything was missing in your weekly reports."
88. On April 18, 2018, the case manager emailed the Parent and the Student's father several times. In one email, the case manager attached a study guide and provided information about the Student retaking the health test. The case manager also stated, in a second email, that the Student was missing an assignment in English and assignments in animation. The case manager stated that she was not "in the loop on what the plan is for missing work in Animation. Please know each week when I've checked [the Student's] grades her grade had consistently been an A in Animation."
89. Also on April 18, 2018, the tech teacher responded to the Parent's email and stated that there were several reasons why the assignments were missing (e.g., files not have having the Student's full name or an error in copying the files). The tech teacher stated that the Student had turned several assignments in and that she thought the Student had completed the other assignments and just not turned them in. The teacher stated that the grade book would be updated soon and apologized for the confusion. The Parent forwarded the tech teacher's email to the director and stated "this is still unacceptable."
90. Later on April 18, 2018, the Parent emailed the geometry teacher and requested that the Student have a "modified length (shortened) homework assignments, per her IEP." The geometry teacher replied and stated that the Student could "complete every other problem for homework."
91. On April 19, 2018, the Parent and the tech teacher exchanged emails regarding the Student's two remaining missing assignments. The tech teacher stated that for one assignment, the Student had been absent that day and that the tech teacher would check with the Student the following day about getting both missing assignments done.
92. On April 22, 2018, the Parent emailed the health teacher and stated that the Student had completed several assignments and would turn them in on April 24, 2018. The Parent also reminded the health teacher that the Student may need prompting to turn in the assignments.
93. On April 23, 2018, the director emailed the Parent and the Student's father and stated that she had received some information from the case manager. The director stated that according to the case manager, at the Student's IEP meeting in December 2017, the Parent asked to have weekly progress reports and that these progress reports include any of the Student's missing assignments. The case manager provided a list of dates that she sent weekly progress report

emails.⁵ The director also stated that she spoke with the Student's health teacher and that the teacher agreed to allow the Student another test retake, and that the Student and the case manager worked together to document assignments in the Student's planner.

94. On April 24, 2018, the case manager emailed the Student, the Parent, and the Student's father and stated that the Student needed additional time to finish retaking the health test. The case manager stated that she would talk to the health teacher and then touch base with the Student to figure out a plan.
95. On April 27 and 29, 2018, the Parent, the Student's father, the English teacher, and the case manager emailed several times regarding missing English assignments.
96. In early May, the Parent and the Student's French teacher had an ongoing email discussion about the Student's French homework and the fact that the Student got an F on a test. The French teacher stated that he does not post homework assignments online (he writes assignments on the board and gives verbal instructions in class) and that homework does not count towards students' grades; however, the teacher noted that the Student did better on tests when she turned in homework.
97. On May 3, 2018, the case manager emailed the Parent and the Student's father and stated that she spoke with the Student and that she could "sense that [the Student] is feeling a bit stressed with her current workload...I sense that she is getting overwhelmed and shutting down a bit." The case manager provided an update about an upcoming health test and algebra test, asked what night the Student worked with her math tutor, and stated she would follow up the next day with updated information about an English assignment.
98. In late April and early May 2018, the Student was reevaluated by a private neuropsychologist. The report, dated May 4, 2018, indicated that the Student was experiencing "increased academic and executive functioning challenges in high school" and recommended that the Student receive "direct 1:1 instruction targeting her ability to manage time, plan an approach to multistep tasks, and increase her studying skills." The report stated that placing the Student in an "Academic Lab period/class" was not appropriate and recommended a weekly parent/teacher consultation. The report also recommended several IEP accommodations and suggestions for the Student at home.
99. On May 5, 2018, the Student's father responded to the director's April 23 email. The Student's father disagreed with the characterization of the events surrounding the health test and stated that this was an example of the Student's IEP not being followed and the weekly progress reports not being sent. The Student's father stated that he was not aware that the Student was using a planner and had never seen a planner, and that the Student was not recording

⁵ The email listed the following dates in 2018: January 2-5, 9, 16, 19, 22, 23, 25, 27, 29, and 31; February 1, 2, 5-9, 11-13, and 27; March 1, 5-8, 10, 12-14, 16, 19, 20, 22, 23, 26, 28, and 30; and, April 4, 6, 9, and 18.

assignments on the Google calendar either.⁶ The Student's father also stated that the dates the case manager listed for weekly progress report emails are "mostly emails from us asking for updates about missing assignments, requesting detailed instructions, and 'where is the weekly update?' emails." The Student's father also stated that there were new concerns regarding the French class and the fact that the French teacher does not post the homework assignments online. The Student's father requested a meeting with the Student's new teachers, the case manager, and the director in the fall to ensure that everyone understood the Student's IEP.

100. On May 7, 2018, the Parent emailed the algebra teacher and health teacher regarding the Student making up missing work and tests on a day the Student was absent. Both teachers responded and stated that they would work with the Student and the case manager to arrange opportunities to retake the missed tests.

101. On May 8, 2018, the case manager emailed the Parent and the Student's father and stated that she "shared a google sheet with [the Student] in an attempt to try another strategy to keep track of assignments. I have copies of assignments and notes I will attach them to this sheet."

102. Also on May 7 and 8, 2018, the Parent and the Student's biology teacher emailed several times regarding the Student's assignments and IEP. The Parent expressed concerns that she was not being notified about missing assignments the Student had, that "clearly [check for understanding of directions] was not done" because the Parent had to email to ask for directions about assignments, and that the Student did not receive a copy of class notes and outlines. The Parent requested that the Student receive a shortened assignment and full credit for the missing assignments.

The biology teacher responded and agreed to excuse the Student from some of the assignments, but advised the Student to focus on current work instead of past missing work. The teacher also stated that she checks in with the Student to make sure she understands and asked "has [the Student] said I don't clarify instructions with her? It's really uncomfortable for high school students when a teacher singles them out regularly so I try to avoid doing that but will check in with her more directly, if that's what you are requesting." The teacher also stated that class notes are available for every unit online and provided additional instructions on several assignments.

103. Also on May 8, 2018, the Parent emailed the District superintendent and stated that she had been working with school 2's teachers, the Student's case manager, the principal, and the director to resolve issues related to the implementation of the Student's IEP. The Parent stated that she spent "literally hours on end weekly, emailing teachers and her case manager, with

⁶ In the Parent's complaint, the Parent provided screen shots of the Student's Google calendar for the 2017-2018 school year, which does not contain any assignments or tests date entries.

little results. We have everything documented on what parts of the IEP that are not being followed. What are the next steps that we can take to get this resolved?"

104. Also on May 9, 2018, the Parent emailed the geometry teacher and requested additional accommodations for tests (e.g., taking the test in separate, quiet location and using a page of formulas), which the geometry teacher agreed to provide.
105. On May 10, 2018, the case manager emailed the Parent and the Student's father several times. The emails included a list of the Student's missing assignments in animation, biology, and health. The case manager also listed the upcoming due dates for the Student's English assignments and attached notes for the Student to use as a study guide for an upcoming English test. The Parent responded to the case manager and stated that most of the missing assignments were complete, but the Student "is forgetting to turn it in." The case manager responded and stated that she would remind the Student to turn in the completed assignments.
106. Also on May 10, 2018, the Student's health teacher emailed the Parent and the case manager about the Student's scheduled test retake and the date for another quiz the following week.
107. On May 11, 2018, the case manager emailed the Parent, the Student's father, and the Student updated due dates for several English assignments.
108. On May 14, 2018, the Parent emailed the health teacher and asked him to "please prompt [the Student] to turn [assignments] in."
109. In mid-May, the Parent, the Student's father, the case manager, and the French teacher discussed, in a series of emails, concerns regarding the Student's grade in her French class and whether the Student could retake an exam or drop the class and get an incomplete. The Student's father asked in one email "can [the Student] have an opportunity to retake the test? Her grade has slipped recently to an 'F', I'd hate to see her have to drop the class."
110. On May 16, 2018, the French teacher emailed the Student's father, and copied the Parent and case manager, and stated that his make-up exams were scheduled on an individual basis and that students needed to be ready to take exams on the scheduled date or any time after. The French teacher stated that the Student did not ask about scheduling time to make up her test. The teacher stated that he did not normally allow students to do retakes, but he would allow the Student to and listed how the Student could earn credit in the class. The teacher also stated that the Student "has agency in her own situation. She can frame her own attitude, generate self-motivation, and make choices in how she wants to tackle this. I'd love to see her go for the gusto and really prove herself."
111. On May 17, 2018, the case manager emailed the Parent and the Student's father regarding upcoming assignment due dates and a missing assignment.

112. On May 21, 2018, the Parent emailed the case manager and stated that the Student would not be going to French class and that they were meeting with another counselor at the school (counselor 2). According to the District's documentation, at the meeting with counselor 2, the Student decided to "take an F" in French and no longer attend the class. Based on the documentation, the Parent felt that if the Student's IEP had been properly implemented, the Student would not have an F in French. The Parent stated that:

Assistance with a planner, never happened. [French teacher] does not have any homework posted on any site, not his website...this has not helped [the Student] stay on top of it...We didn't receive any info from any status report on French homework missing. It wasn't until April that I emailed the teacher after she got an F on a test that I knew about missing work. Here we are, so far behind in French, its [sic] just too much to get ahead and get a passing grade at this point. [The Student] has 2 hours of tutoring a day (that I pay for) after school already to help her keep up with all the workload in all of her other classes. I'm calling OSPI today to pursue filing a complaint."

The Parent also stated that "the 40 min a week of special education assistance required in the IEP never happened."

113. According to the case manager, the Student received her specially designed instruction in her co-taught English class. The case manager stated that she would:

- Touch base with the Student;
- Discuss assignments, due dates, and upcoming tests and quizzes with the Student;
- Share "Google Docs" with the Student, including detailed class notes, assignment instructions, due dates, and necessary resources; and,
- Communicate via email to track daily assignments and upcoming tests and quizzes.

The case manager stated that her "goal was to give [the Student] the tools she needed to be responsible for her work and learning." The case manager also stated that with the Student's "extended seven period day, carving out additional time to work with her was challenging."

114. On May 23, 2018, the French teacher emailed the Parent and the Student's father and stated that he spoke with the principal about the Student dropping French class. The French teacher stated:

There are only a few weeks left and I believe [the Student] has a good chance of passing if she stays in. And given certain parameters we can define later, there's also a possibility she could opt for a "P" grade instead of a letter grade if that ends up working out better for her. I'd like to see her to follow through and finish the course. In a previous email I outlined a plan for her to potentially earn a C-. The plan still stands, we'd just have to figure out a different date for her to retake certain sections of the Ch. 9 test. If [the Student] comes to class tomorrow, she and I can talk about it then.

The Parent and the Student's father both responded and asked the French teacher to provide all of the homework assignments for the remainder of the year, and asked that the French teacher work with them on "any coordinating, dates, etc." because the Student "lacks the organizational skills to be able to formulate a plan, as per her IEP and documented learning disability."

115. On May 24, 2018, the French teacher emailed the Parent and the Student's father back and provided the plan for the Student's exam retake and material to focus on for the remainder of the year.
116. Also on May 24, 2018, the case manager emailed the Parent about an English assignment.
117. Later on May 24, 2018, the Parent and school staff discussed, via email, the Student's algebra class and a recent test; the emails are summarized as follows:
- The case manager emailed the Parent and stated that the algebra teacher spoke with the Student about a recent test she did not do well on. The algebra teacher said he would work with the Student to schedule a retake.
 - The Parent emailed the case manager and director, asked what the date of the test was, and stated that if she had been aware of "a Math quiz or test, I would have had [the Student] prepare for it. I have checked the calendar on [algebra] teacher page every day. Nothing there. The last update to his 'assignments' link on the page, 4/15/2018." The Parent stated that "this IEP Fail would fall under these two: advance notice of tests and quizzes, use of Google calendar or daily planner."
 - The Parent emailed the algebra teacher and asked how she was supposed to "prepare [the Student] with her tutor if I don't know about a test?" and stated that the Student's IEP required advance notice of tests and quizzes. The Parent asked the algebra teacher to work directly with her to schedule the retake and to give her a heads up on upcoming tests so the Parent could "prevent further retakes."
 - The algebra teacher responded and apologized that the assignments and tests were not on his website. The teacher also provided information about the subjects of the test, provided a review sheet, and provided dates for the Student to take the test.
118. On May 25, 2018, the case manager emailed the Parent and the Student's father regarding the algebra test retake, an animation assignment, an English assignment, and missing assignments in health. The Parent emailed the case manager back and asked if the Student had missing work in other classes. The Parent stated "I see stuff not graded on parentvue, for other classes, but I have no idea if it's missing or it's been turned in and just not graded yet? This is the gap that the weekly progress report fills."
119. On May 29, 2018, the Parent emailed both the French teacher and the geometry teacher and asked about assignments and tests for the remainder of the year.
120. On May 30, 2018, both the health teacher and the case manager emailed the Parent with information about upcoming tests and assignments.
121. On May 31, 2018, the case manager emailed the Parent and the Student's father regarding missing assignments in animation and upcoming assignments in English. The case manager also stated that the Student was caught up with all of her algebra, geometry, health, and biology assignments.
122. Also on May 31, 2018, the Parent emailed the geometry teacher and algebra teacher about the dates and topics for the final exams. The Parent also asked if there were review sheets the Student could use to study for the exam.

123. On June 1, 2018, the French teacher emailed the Parent and the Student's father, and copied the principal and counselor 2, an update regarding the Student's grade in French. The French teacher stated that the Student was now earning enough "to be currently earning credit."
124. On June 7, 2018, the case manager emailed the Parent and the Student with information about the Student's assignments in biology, geometry, and English.
125. On June 20, 2018, the French teacher emailed the Parent and the Student's father, and copied the principal, counselor 2, and the case manager, and stated that the Student earned credit for French class. Counselor 2 responded, "Yay, [Student]! Way to go!" and the Parent responded, "A 'D' for an IEP student. Maybe if the IEP was actually followed, she would have a better grade."
126. Also on June 20, 2018, the District provided the Parent progress reporting regarding the Student's December 2017 IEP annual goal. The progress reporting stated that using the Google calendar or daily planner was an emerging skill for the Student, but that the Student was referring to "teacher websites to gain clarification on assignments and due dates." According to the District's response, the progress reporting indicated that the Student was not using the Google calendar, but the Student's IEP team "did not reconvene to see whether revising the goal would be warranted."
127. On June 29, 2018, the Parent filed this complaint.

CONCLUSIONS

IEP Implementation: The Parent alleged that the District failed to implement the Student's individualized education program (IEP) during the 2017-2018 school year, including providing the Student with specially designed instruction and accommodations. At the beginning of each school year, a district must have in effect an IEP for every student within its jurisdiction who is eligible to receive special education services. The district must ensure that it provides all services, including modifications and accommodations, consistent with the student's needs as described in the IEP. The district must also ensure that the student's IEP is accessible to each general education teacher and special education teacher who is responsible for its implementation.

Specially Designed Instruction: Specially designed instruction means adapting, as appropriate to the needs of the student, the content, methodology, or delivery of instruction in order to address the unique needs of the student and to ensure access to the general education curriculum.

Here, the Student's December 2016 IEP, in place at the start of the school year, stated that the Student would receive 240 minutes of specially designed instruction. However, based on the documentation in this complaint, the Student was actually supposed to receive forty (40) minutes of specially designed instruction in her co-taught English class, as agreed to by the Parent and the District in June 2017. The District admitted in its response to this complaint that it failed to amend the Student's IEP as discussed with the Parent in June 2017 to incorporate the requested class

changes, and as a result, placed the Student in non-co-taught general education English class, with no access to a special education teacher for the first few days of the school year. The District then transferred the Student to a co-taught English class, and in December 2017, updated the Student's IEP to reflect that she would receive specially designed instruction 40 minutes per week in the co-taught English class.

According to the District, the Student's case manager (who co-taught the English class) would touch base with the Student; discuss assignments, due dates, and upcoming tests and quizzes; share class notes, assignment instructions, due dates, and other resources; and communicate with the Student via email to track assignments and tests. According to the case manager, her goal was to give the Student the tools, resources, and information she needed to be responsible for her work and learning. Further, the District acknowledged that the Student's progress reporting indicated that the Student was not making progress on her annual goal and that the Student's IEP team did not reconvene to see whether revising the goal was necessary. The case manager also stated that because the Student was taking seven classes, it was challenging to find additional time to work with the Student.

Based on the documentation provided in this complaint, what the District describes as specially designed instruction would actually be considered accommodations. If a student requires a "check-in" time or time to "touch base," this would be more appropriately considered an accommodation, and not specially designed instruction. Further, providing advance notice of tests and quizzes and copies of class notes/outlines are already listed as accommodations on the Student's IEP. There is no documentation in this complaint that indicates that the Student was receiving instruction in behavior/organizational/study skills that was being adapted to address the Student's unique needs. Further, while the Parent did not want the Student to be in the special education academic lab class in order to take an elective, the District continues to have an obligation to provide the Student with the instruction specified in her IEP. OSPI finds that the District has failed to substantiate that the Student received specially designed instruction during the 2017-2018 school year. The District will provide the Student with compensatory services and will hold an IEP meeting to ensure that the Student is provided specially designed instruction during the 2018-2019 school year.

During the 2017-2018 school year, the Student was supposed to receive forty (40) minutes of specially designed instruction per week. From September 6, 2017 through June 21, 2018, there were thirty-six (36) weeks of school. During that time period, the Student should have received 1,440 minutes (24 hours) of instruction. Taking into consideration that the Student would likely have received her specially designed instruction one-on-one in the co-taught English class, the District will provide twenty-four (24) hours of compensatory education to the Student in individual instruction sessions to address behavior, organizational, and study skills. The instruction will occur outside of the District's school day and be provided by a certificated special education teacher.

Accommodations: The documentation in this complaint indicates that throughout the school year, the District struggled to consistently implement the Student's IEP accommodations. There are many examples of accommodations not being provided until the Parent and Student's father emailed the Student's teachers. For example, the Parent: emailed many times throughout the year

to ask when tests and quizzes were scheduled because the Parent was not notified or the information was not available through the District's online platform (IEP accommodation – advance notice of tests and quizzes); emailed to ask that the Student have extra time to finish tests (IEP accommodation – additional time for tests); and, frequently emailed requesting instructions on assignments because the Parent felt the teachers were not checking to make sure the Student understood directions when the Student could not remember what she was supposed to do on homework (IEP accommodation – check for understanding of directions).

While the District admits that there were challenges in implementing the Student's accommodations, the District also documented instances when the Student's teachers provided accommodations that were not on the Student's IEP. For example, the Parent requested that the Student take a geometry test in a different location and be allowed to use a formula sheet, or several times when the Student's teachers allowed her to retake a test when retakes were not otherwise offered. The documentation in this complaint also indicates that at times, there was confusion over the scope of various accommodations; for example, while the December 2016 IEP was in place, the Parent interpreted "additional time for assignments" as meaning "late work is without penalty" while the Student's English teacher thought there was a limit to how late an assignment could be. Further, the documentation indicates that there was not agreement between the Parent and the District as to the scope of the weekly progress report to check for missing work.

It is clear from the documentation that almost all of the Student's teachers were responsive to the Parent's requests to implement accommodations, communicated with the Parent frequently, and worked to ensure that the Student was successful. However, OSPI finds that the documentation indicates that the District failed to implement the Student's accommodations consistently and often accommodations were not implemented until the Parent contacted the Student's teachers. The District admitted that it had challenges in implementing accommodations and proposed holding an IEP meeting and conducting training. OSPI accepts the District's proposed corrective with the below additions.

Progress Reporting: The purpose of progress reporting is to provide parents with sufficient information regarding a student's progress towards his or her annual IEP goals. The District admitted that it did not provide the Parent with progress reporting at the end of the first quarter as required by the Student's December 2016 IEP. The documentation in this complaint indicates the District did provide the Parent with progress reporting for the remainder of the school year consistent with the Student's December 2017 IEP. Based on the Parent's frequent communication with the Student's case manager and teachers, the District's failure to provide progress reporting in the fall of 2017 did not significantly impact the Parent's ability to obtain information about the Student's progress. OSPI finds that the District's error did not substantially impact the Student; however, the District proposed training on progress reporting as part of its proposed corrective actions, which OSPI accepts with the below additions.

CORRECTIVE ACTIONS

By or before **September 7, 2018, September 21, 2018, October 5, 2018, October 31, 2018, November 30, 2018, January 31, 2019, April 5, 2019,** and **June 7, 2019,** the District will provide documentation to OSPI that it has completed the following corrective actions.

STUDENT SPECIFIC:

1. By or before **September 28, 2018,** the District will schedule an IEP meeting at a mutually agreeable time for the Parent, Student, and District to discuss the Student's IEP and plan for providing specially designed instruction and accommodations during the 2018-2019 school year. The team will discuss the following topics during the meeting, at a minimum:
 - The amount of specially designed instruction service minutes and location for the provision of services;
 - How the Student will receive specially designed instruction in behavior/study/organizational skills and whether the District will use the organization and study skills curriculum;
 - Clarify the Student's role and responsibility in recording assignments and information and how this relates to the Student's specially designed instruction;
 - Review IEP goals to ensure that the Student's goal is matched to the Student's need, measurable, objective, and workable;
 - Whether a self-advocacy goal is necessary and appropriate;
 - Review accommodations to ensure understanding regarding scope and individual expectations for all team members;
 - Review the weekly progress report accommodation to identify a person responsible, define scope and details, frequency, format, etc.; and,
 - Determine how and when the school's online platforms will be used for checking grades and identifying missing work.

By **October 5, 2018,** the District will submit: 1) a copy of the meeting invitation; 2) a copy of the amended IEP; 3) a copy of any related prior written notices; 4) a copy of the agenda and notes on the topics discussed at the meeting; and, 5) any other related information.

2. By or before **September 28, 2018,** the District and the Parent will develop a schedule for a total of twenty-four (24) hours of compensatory services in the areas of behavior, organizational, and study skills. Services will occur in a one-on-one setting and be provided by a certificated special education teacher. The instruction will occur outside of the District's school day and may be accessed over District breaks. 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 **May 31, 2019.** The District will provide OSPI with documentation of the schedule for services by or before **October 5, 2018.**

The District must provide OSPI with documentation by **November 30, 2018, January 31, 2019,** and **April 5, 2019** of the compensatory services provided to the Student. 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. By or before

June 7, 2019, the District must provide OSPI with documentation that it was completed compensatory services for the Student.

The District either must provide the transportation necessary for the Student to access these services, or reimburse the Parent for the cost of providing transportation for these services. If the District reimburse the Parent for transportation, the District must reimburse the Parent for round trip mileage at the District's privately owned vehicle rate. The District must provide OSPI with documentation by **June 7, 2019**.

DISTRICT SPECIFIC:

By **October 15, 2018**, the District will provide training regarding the procedures for amending student IEPs, progress reporting, measurable annual goals, accommodations, and the provision of specially designed instruction. The training will be for all special education certificated staff, the building administration, and general education teachers who have students with IEPs in their classes at the high school identified in this complaint.

By or before **September 7, 2018**, the District will notify OSPI of the name of the District staff person providing the training and provide documentation that this individual has received a copy of this complaint decision for use in preparing the training materials.

By **September 21, 2018**, the District will submit a draft of the training materials to OSPI for review. OSPI will approved the materials or provide comments by September 28, 2018 and additional dates for review, if needed.

By **October 31, 2018**, the District will submit documentation that staff participated in the training. This will include 1) a sign-in sheet from the training, and 2) an official District roster of all the special education certificated staff, building administrators, and general education teachers at the school, so OSPI can verify that all required staff participated in the training.

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

Dated this ____ day of August, 2018

Glenna Gallo, M.S., M.B.A.
Assistant Superintendent
Special Education
PO BOX 47200
Olympia, WA 98504-7200

THIS WRITTEN DECISION CONCLUDES OSPI'S INVESTIGATION OF THIS COMPLAINT

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