

SPECIAL EDUCATION CITIZEN COMPLAINT (SECC) NO. 20-29

PROCEDURAL HISTORY

On February 19, 2020, the Office of Superintendent of Public Instruction (OSPI) received a Special Education Citizen Complaint from the parent (Parent) of a student (Student) attending the Lake Washington School District (District). The Parent alleged that the District violated the Individuals with Disabilities Education Act (IDEA), or a regulation implementing the IDEA, regarding the Student's education and Parent's procedural safeguards.

On February 21, 2020, 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 March 12, 2020, the District requested an extension of time for the submission of its response. On March 13, 2020, OSPI granted the District's request and requested the District submit its response by March 20, 2020.

On March 20, 2020, OSPI received the District's response to the complaint and forwarded it to the Parent on the same day. OSPI invited the Parent to reply. The Parent did not reply.

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

SCOPE OF INVESTIGATION

This decision references events that occurred prior to the investigation period, which began on February 20, 2019. These references are included to add context to the issues under investigation and are not intended to identify additional issues or potential violations, which occurred prior to the investigation period.

ISSUES

1. Did the District follow procedures for developing and implementing the Student's individualized education program (IEP) in the following areas:
 - a. annual IEP goals;
 - b. specially designed [instruction], related services, and accommodations;
 - c. transition services, including appropriate postsecondary goals, and services;
 - d. progress monitoring and progress reporting;
 - e. extended school year services (ESY);
 - f. ~~progress and progress reporting;~~¹

¹ The inclusion of "progress reporting" twice in OSPI's opening letters was a duplication. Issue one only has seven sub-issues: a) annual IEP goals; b) specially designed instruction, related services, and accommodations, c) transition services; d) progress monitoring and progress reporting; e) extended school year services; f) parent participation; and, g) continuum of placements and least restrictive environment (LRE)?

- g. ensuring parent participation; and,
 - h. Did the District have and consider a continuum of placements for the Student within the District when considering the Student's placement, and did the District provide the Student with special education and related services in his least restrictive environment (LRE)?
2. Did the District provide the Parent with procedural safeguards in March 2019 consistent with the requirements of WAC 392-172A-05015?
 3. Did the District follow procedures for sending a prior written notice (PWN) from February 2019 to March 2019?
 4. Did the District follow procedures for the Student's triennial evaluation in September-October 2019?

LEGAL STANDARDS

IEP Development: When developing each child's individualized education program (IEP), the IEP team must consider the strengths of the child, the concerns of the parents for enhancing the education of their child, the results of the initial or most recent evaluation of the child, and the academic, developmental, and functional needs of the child. 34 CFR §300.324(a). WAC 392-172A-03110.

IEP Implementation: At the beginning of each school year, each district must have in effect an IEP for every student within its jurisdiction served through enrollment who is eligible to receive special education services. 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(3)(a). "When a school district does not perform exactly as called for by the IEP, the district does not violate the IDEA unless it is shown to have materially failed to implement the child's IEP. A material failure occurs when there is more than a minor discrepancy between the services provided to a disabled child and those required by the IEP." *Baker v. Van Duyn*, 502 F. 3d 811 (9th Cir. 2007).

Measurable Annual Goals: IEPs must include a statement of the student's measurable annual goals, including academic and functional goals designed to: meet the student's needs that result from the student's disability so that he or she can be involved in and make progress in the general education curriculum; and, meet each of the student's other educational needs that result from the student's disability. 34 CFR §300.320(a)(2); WAC 392-172A-03090(1)(b).

Transition Services: Transition services means a coordinated set of activities for a student eligible for special education that: is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the student to facilitate his or her movement from school to post-school activities, including postsecondary education, vocational

education, integrated employment, supported employment, continuing and adult education, adult services, independent living, or community participation, and is based on the individual student's needs, taking into account the student's strengths, preferences, and interests; and includes: instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and if appropriate, acquisition of daily living skills and provision of a functional vocational evaluation. Transition services for students eligible for special education may be special education, if provided as specially designed instruction, or a related service, if required to assist a student eligible for special education to benefit from special education. 34 CFR §300.43(a); WAC 392-172A-01190.

Progress Reporting: IEPs must include a statement indicating how the student's progress toward the annual goals will be measured and when the district will provide periodic reports to the parents on the student's progress toward meeting those annual goals, such as through the use of quarterly or other periodic reports concurrent with the issuance of report cards. 34 CFR §300.320(a)(3); WAC 392-172A-03090(1)(c). The purpose of progress reporting is to ensure that, through whatever method chosen by a school district, the reporting provides sufficient information to enable parents to be informed of their child's progress toward the annual IEP goals and the extent to which that progress is sufficient to enable the child to achieve those goals. *Amanda J. v. Clark County Sch. Dist.*, 267 F.3d 877, 882 (9th Cir, 2001) (parents must be able to examine records and information about their child in order to "guarantee [their] ability to make informed decisions" and participate in the IEP process).

Extended School Year (ESY) Services: School districts must ensure that ESY services are available when necessary to provide a free appropriate public education (FAPE) to a student eligible for special education services. ESY services must be provided only if the student's IEP team determines, based on the student's needs, that they are necessary for the student to receive a free appropriate public education (FAPE). In most cases, a multi-factored determination would be appropriate, but for some children, it may be appropriate to make the determination of whether the child is eligible for ESY services based only on one criterion or factor. *Letter to Given*, 39 IDELR 129 (OSEP 2003).

Parent Participation in IEP Development: The parents of a child with a disability are expected to be equal participants along with school personnel, in developing, reviewing, and revising the IEP for their child. This is an active role in which the parents (1) provide critical information regarding the strengths of their child and express their concerns for enhancing the education of their child; (2) participate in discussions about the child's need for special education and related services and supplementary aids and services; and (3) join with the other participants in deciding how the child will be involved and progress in the general curriculum and participate in State and district-wide assessments, and what services the agency will provide to the child and in what setting. Individuals with Disabilities Education Act (IDEA), 64 Fed. Reg. 12,472, 12,473 (March 12, 1999) (Appendix A to 34 CFR Part 300, Question 5).

The parent is an integral part of the IEP development process. The district must consider the parent's concerns and any information she or he provides. The district is not required, however, to adopt all recommendations proposed by a parent. The IEP team should work toward consensus

on IEP content, but if team members are unable to reach consensus it remains the district's responsibility to ensure that the IEP includes the special education and related services that are necessary to provide the student with a FAPE. An IEP may therefore be properly developed under IDEA procedural requirements, yet still not provide the student all the services that the parent believes are necessary components of the student's educational program. 64 Fed. Reg. 48 12473-74 (March 12, 1999) (Appendix A to 34 CFR Part 300, Question 9).

Continuum of Alternative Placement Options: Each school district shall ensure that a continuum of alternative placements is available to meet the special education and related services needs of students. The continuum required in this section must: include the alternative placements listed in the definition of special education in WAC 392-172A-01175, such as instruction in general education classes, special education classes, special schools, home instruction, and instruction in hospitals and institutions; and make provision for supplementary services such as resource room or itinerant instruction to be provided in conjunction with general education classroom placement. 34 CFR §300.115; WAC 392-172A-02055. Special education means specially designed instruction, at no cost to the parents, to meet the unique needs of a student eligible for special education, including instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings. WAC 392-172A-01175.

Notice of Procedural Safeguards: The notice of procedural safeguards must provide a full explanation of a student's rights related to: an independent educational evaluation (IEE); prior written notice; parental consent; access to education records; dispute resolution options and procedures; placement during a due process hearing; procedures for placement in an interim alternative setting; requirements for unilateral placement in private schools at public expense; civil actions; and attorney fees. 34 CFR §300.504(c)w; WAC 392-172A-05015(3).

A copy of the procedural safeguards must be given to parents, at a minimum one time per school year and: the first time the child is referred or the parent requests a special education evaluation; the first time the parent files a citizen's complaint or due process request in a school year; the first time the parent or the district files a due process hearing request during the year; on the date the district decides to make a disciplinary change of placement; or anytime the parent requests a copy. 34 CFR §300.504(a); WAC 392-172A-05015(1).

Prior Written Notice: Prior written notice ensures that the parent is aware of the decisions a district has made regarding evaluation and other matters affecting placement or implementation of the IEP. It documents that full consideration has been given to input provided regarding the student's educational needs, and it clarifies that a decision has been made. The prior written notice should document any disagreement with the parent, and should clearly describe what the district proposes or refuses to initiate. It also includes a statement that the parent has procedural safeguards so that if they wish to do so, they can follow procedures to resolve the conflict. Prior written notice is not an invitation to a meeting. Prior written notice must be given to the parent within a reasonable time before the district initiates or refuses to initiate a proposed change to the student's identification, evaluation, educational placement or the provision of a free appropriate public education. It must explain why the district proposes or refuses to take action.

It must describe any other options the district considered, and it must explain its reasons for rejecting those options. 34 CFR 300.503; WAC 392-172A-05010.

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

FINDINGS OF FACT

Background: 2016-2017 School Year

1. During the 2016-2017 school year, the Student attended a District middle school in the 8th grade and was eligible for special education services under the category autism.
2. In January 2017, the Student was reevaluated in the following areas: social emotional, adaptive, cognitive, academic, communication, fine motor, and organization, and continued to be eligible under the category autism. The reevaluation found the Student to be adversely impacted by his disability, preventing him from progressing at a rate commensurate with his same age peers. The evaluation recommended the Student receive specially designed instruction in social skills, adaptive skills, organization, math, writing, reading, and communication.

The evaluation stated:

- "Student is a kind, well-mannered student at [District middle school]. He wants to succeed and follows the rules/expectations of the school and individual teachers. [Student] is quick to join in with groups, interact with peers in a variety of settings, and to participate in classroom activities."
- Student demonstrated a deficit in social skills in the school environment and it was recommended that he receive specially designed instruction in this area. Teachers' ratings for Student in the three areas of adaptive skills fell into the extremely low to low range, Parent ratings fell into the extremely low range. Student demonstrated a need for specially designed instruction in adaptive skills at this time. Student's academic competence was well-below average for students his age, in the second percentile.

- “[Student’s]...standardized assessment does not suggest a significant deficit in any academic area which would pose an adverse educational impact, review of behavioral data suggests that [Student] demonstrates significant work avoidance behaviors in the classroom,” which “often results in highly disruptive behaviors that ultimately negatively impacts his work completion and the learning of others.” The evaluation found the Student’s behaviors to sometimes result in removals and stated the “[Student] requires specially designed instruction to include emotional regulation strategies, problem solving strategies and social-cognitive concepts including flexible thinking, size of the problem and following a group plan.”
- The evaluation also found Student to have strengths in that he “likes to help others and wants to be liked by others” and was found to have “strong verbal skills and can engage in conversation well with adults in a 1:1 setting.” The evaluator wrote: “[Student] is a bright and curious young boy. When calm, [Student] is able to reflect on his behavior and how it impacts his relationship with others. [Student] is described as compassionate and insightful. He is able to adequately perform simple daily tasks in a safe and efficient manner.”
- Student’s disability “does not preclude [Student] from accessing the general education curriculum with non-disabled peers once successful integration can occur [sic].”

The evaluation also recommended the Student receive sensory support as a related service to “better access and participate in age appropriate activities,” and recommended the service be provided by either an occupational therapist (OT) or a physical therapist (PT).

2018-2019 School Year

3. September 4, 2018 was the first day of the 2018-2019 school year. The Student attended a District high school as a sophomore and continued to be eligible for special education services under the category autism.
4. On January 16, 2019, the case manager emailed the Parent, included draft individualized education program (IEP) goals and stated she was working on developing new IEP goals for the Student and would like the Parent’s input.
5. Also, on January 16, 2019, the District sent an IEP meeting invitation to the Parent and Student for an IEP meeting on February 7, 2019, to discuss annual goal progress, review the current IEP, and review instructional needs.
6. On January 19, 2019, the Parent responded to case manager’s email regarding parental input on goals and stated:

I am ok with those goals but I was wanting to see how some of these things could be made into goals for [Student] to work on:

 - Listening: Following three step verbal directions. (Possibly running an errand for you taking things to the office putting something away in the classroom-etc.). Directions could increase over time for additional mastery (we are thinking this as it relates to following instructions in the community or at college work).
 - Self-advocacy: Explore Autism and Disability. Not sure how this could look but we want [Student] to start to understand his disability and Autism. Then be able to share that with others. So I thought that looked like watching videos - reading about online, or in books - about Autism and writing down what he learned and then being able to share

that with you instantly after he watches it. The only thing is I am having a hard time making that into a measured goal. I think visually watching or reading small paragraphs and the constant instant reflection on one aspect of what he read.

- Communication: During adaptive class (peer mentor time), student will initiate and begin a back and forth conversation exchange (for example, greeting and asking about a shared interest, Such as a music, artists, or asking if the peer enjoys doing an activity) with one of the previously identified classmates independently to be monitored and have conversation go from 1 min to 2..3...4.5..etc.
- What's the Matter: Being able to express when there is something wrong. I found a document to express what we were thinking about. See first attachment. Instead of the email home, I would like to see [Student] keep a journal more focused on how his day went (self-esteem journal). This would not necessarily have to be in the IEP but if you thought of something similar to this that would help measure improvements in the area that would be awesome. I would like to see more reflection on his part of his day. Perhaps giving him scripted answers but also allowing for his own interpretation and then writing it down (so maybe a writing goal?)

7. On January 22, 2019, the case manager emailed the Parent and stated she would forward the Parent's input to the speech language pathologist (SLP), as she would love to work in these areas with the Student. The email further stated the case manager "wholeheartedly agree[d] that each one of the goal areas [Parent] mentioned would benefit [Student] greatly!" The case manager stated, "Let me play around with making them into goals, I will get new drafts to you by Thursday afternoon."
8. On February 1, 2019, District staff notes provided in response to this complaint show the Student's detailed progress in organization goals, listening comprehension, reading fluency, math calculation, and dollar up.
9. The February 2019 speech language therapy treatment and detailed data log record demonstrated that the SLP spent 75 minutes providing specially designed instruction to the Student in social skills, and included the SLP's notes on the Student's progress on reciprocal conversation and self-advocacy goals.
10. On February 7, 2019, notes provided by District staff documented the Student's progress in organization goals, listening comprehension, reading fluency, math calculation, and dollar up.
11. Also, on February 7, 2019, members of the Student's IEP team met for the annual review of the Student's IEP. The Parents, one of the District's associate directors of special education (associate director), general education teacher, case manager, and SLP attended the meeting and signed the IEP.

The Student's IEP provided the Student with the following amounts of specially designed instruction in a special education setting:

- Speech and Language Therapy: 15 minutes per week, to be provided by an SLP;
- Math: 120 minutes per week, to be provided by a special education team and monitored by a special education teacher;

- Reading: 200 minutes per week, to be provided by a special education team and monitored by a special education teacher;
- Writing: 120 minutes per week, to be provided by a special education team and monitored by a special education teacher;
- Organization: 120 minutes per week, to be provided by a special education team and monitored by a special education teacher;
- Adaptive Skills: 120 minutes per week, to be provided by a special education team and monitored by a special education teacher; and,
- Social Skills: 250 minutes per week, to be provided by a special education team and monitored by a special education teacher.

The Student's IEP additionally provided the Student with the following related services:

- Speech and Language Therapy: 15 minutes per week, to be provided by a speech language pathologist in the special education setting.

The IEP also included the following accommodations and modifications:
Accommodations (in all settings):

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| <ul style="list-style-type: none"> • Access to chewing gum • Access to multiplication tables for assignments/tests • Eye Focusing Strip • Graphic organizers • Preferential seating specific to student need • Access to class notes • Directions need to be reworded and/or simplified to ensure comprehension | <ul style="list-style-type: none"> • Allow verbal responses on tests • Access to personal water bottle • Calculators • Graph paper for math computation • Manipulatives • Small group or individual setting for test taking • Directions read orally • Audio version of text • Tests read orally • Opportunity to computer generate |
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Modifications (location):

- | | |
|---|--|
| <ul style="list-style-type: none"> • Reinforcement system to increase motivation on tasks (SPED) • Allow additional processing time (General Ed/SPED) | <ul style="list-style-type: none"> • Regulated breaks/physical movement (General Ed/SPED) • Use of visual schedule for day and routine tasks (General Ed/SPED) |
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The Student's IEP indicated he would spend 42.83% of his time in the general education setting.

The February 2019 IEP included present levels of educational performance and annual goals for social and adaptive skills, math, writing, reading, organization, and speech and language therapy, all of which were designated to support the Student's postsecondary goal, stating that by February 7, 2020:

Social Skills:

- **Present Level** – Currently when asked how Student is feeling and why he is feeling that way, Student is able to provide answers to those questions, improving self-advocacy skills from 0 to 6 observed opportunities. Student is often able to say how he is feeling but needs assistance stating why he feels that way.

- **Goal** – When given a situation when [Student] is asked how he is feeling and why he feels that way [Student] will provide answers to those questions improving self-advocacy skills from 0 of 6 observed opportunities to 5 of 6 observed opportunities as measured by staff and teacher data.
- **Present Level** – Currently, when given an opportunity to have a conversation with a peer, Student will provide a follow up question or comment, improving conversational skills from doing so, in 1 of 6 observed opportunities as measured by SLP and teacher data.
- **Goal** – When given an opportunity to have a conversation with a peer [Student] will provide a follow up question or comment improving conversation skills from 1 of 6 observed opportunities to 5 of 6 observed opportunities as measured by teacher and SLP data collection.

Adaptive Skills

- **Present Level** – Currently, when given an item to purchase, Student is able to determine the next dollar up and provide the cashier with the correct dollar amount in 0 of 5 observed opportunities.²
- **Goal** – When given an item to purchase [Student] will be able to determine the next dollar up and provide the cashier with the correct dollar amount improving adaptive skills from 0 out of 5 observed opportunities to 4 out of 5 observed opportunities as measured by teacher data.
- **Present Level** – Currently, the Student is able to follow 3 step directions to successfully complete a vocational task (running an errand, completing a copy job etc.) improving adaptive skills from 1 to 6 observed opportunities.
- **Goal** – When given 3 step directions to follow [Student] will successfully complete a vocational task (running an errand, completing a copy job etc.) improving adaptive skills from 1 of 6 observed opportunities to 6 of 6 observed opportunities as measured by staff and teacher data.

Math

- **Present Level** – Both Student’s speed and accuracy has increased when using a calculator, the Student can use a calculator to add both single digit and double digit numbers. The Student sometimes requires prompting on how to read money addition problems (in example: saying 2 dollars and 40 cents rather than 2.40). Student’s accuracy in calculating the sum of two prices is now at 80%. The IEP team stated it would increase his goal to include adding the sum of three prices. Currently, when given three prices, Student is using his calculator to determine the sum of three prices with 0% accuracy. This is a new goal for the Student.
- **Goal** – When given three prices [Student] will use a calculator to determine the sum of the three prices improving functional math calculation from using a calculator to determine the sum of two prices with 0% accuracy to using a calculator to determine the sum of two prices with 90% accuracy as measured by staff and teacher data collection.

Writing

- **Present Level** – Currently, when given a journal prompt, Student is able to write a 3-5 sentence long answer and then type his answer improving writing skills from independently writing a 2 sentence long answer. Student currently completes a daily journal task provided by his teacher, which includes reading a short article and reporting on it in the journal or writing about his weekend plans. The IEP team decided the journal would be more beneficial to the Student if it were more reflective in nature. The team kept the goal the same, but changed the content of the journal entries to include self-advocacy, strengths, goals and areas of improvement.

² The IEP team moved the Student’s “dollar up math goal,” to an adaptive purchasing goal, stating this would better serve the Student’s post high school goals.

- **Goal** – When given a journal prompt [Student] will be able to write a 3-5 sentence long answer and then type his answer improving writing skills from independently writing a 2-sentence long answer to independently writing a 3-5 sentence long answer as measured by teacher data collection.

Reading

- **Present Level** – When given a 3 sentence passage read aloud by the Student at a 2.0 level, Student is reading the passage and answering factual questions (who, what, where) with 40% accuracy. The Student often reads the passage multiple times before answering the comprehension questions.
- **Goal** – When given a 3-sentence passage read aloud by the student at a 2.0 level [Student] will read the passage and answer factual WH questions (i.e., who, what, where) improving functional reading comprehension from answering factual WH questions with 40% accuracy to answering factual WH questions with 90% accuracy as measured by teacher data collection.
- **Present Level** – Currently, when given a 2.0 level reading passage (in which key words had been reviewed prior to reading) the Student can read 34 words per minute. Reviewing key words Student will see in the passage positively impacts the number of words he can read per minute. Consonant and vowel blends are challenging words for Student to read, he often stops at these words, impacting his ability to read fluently.
- **Goal** – When given a fiction/nonfiction passage at the 2.0 grade level [Student] will read the passage aloud improving reading fluency from 34 words per minute at 2.0 level to 50 words per minute at 2.5-3.0 level as measured by teacher and staff data.

Organization

- **Present Level** – The Student is able to follow the bell schedule independently, so the IEP team feels the next step is for the Student to utilize a calendar. Currently when given a blank calendar form, Student is able to insert the correct information including holidays and follow along with his calendar daily by checking off the days as they pass, improving organizational skills from 0 to 6 observed opportunities. This is a new goal.
- **Goal** – When given a blank calendar form [Student] will insert the correct information including holidays and follow along with his calendar daily by checking off the days as they pass improving organizational skills from 0 of 6 observed opportunities to 5 of 6 observed opportunities as measured by teacher data.

Speech and Language Therapy

- **Present Level** – Student answers personal and identifying questions in 5 of 8 opportunities without prompting. He consistently answered his first name, birthday and phone number. The Student asked questions about others to others in 1 of 3 opportunities without prompting, and added on-topic comments in 2 of 2 opportunities with prompting.
- **Goal** – When given conversations with familiar peers and adults, [Student] will independently answer personal and identifying questions (e.g., age, name of school, name of parents), improving his functional language skills, from 5 of 8 opportunities without prompting to 8 of 8 opportunities without prompting over two consecutive data collection days as measured by SLP data collection.

Secondary Transition: The Student's projected graduation date was recorded as June 20, 2023. The IEP listed the following for education/training, employment, and independent living postsecondary goals/outcomes:

- **Education/Training:** Upon leaving public school [Student] will apply to attend a college living experience campus post secondary program for students who require additional support with

academic, social, independent living skills and career development. Transition services included "educational/independent living service," and Staff/agency responsible included "student and parent."

- **Employment:** Upon leaving public school [Student] will volunteer once a week in a setting of his choice. Transition services included "volunteer work" and Staff/agency responsible included "student and parent."
- **Independent Living:** Upon leaving public school [Student] will participate in leisure activities of his interest such as video gaming, bowling, dancing and singing. Transition services included "independent living skills," and Staff/agency responsible included "student and parent."

The course of study section stated:

- [Student] is currently a sophomore at [high school]. [Student] is on track to graduate with a CIA diploma in 2024³. After completing his senior year of high school, [Student] will enter the [District transition academy] or another accommodated college program.
- Currently [Student] is participating in yearbook, photography and drama class. We would also like [Student] to participate actively in clubs at [high school] as well as attend after school activities (dances/ football games etc.).

The February 2019 IEP indicated the Parent would be provided written progress reporting quarterly.

12. Following the meeting on February 7, 2019, the District issued a prior written notice (PWN), proposing to continue the IEP. The notice stated the meeting was held to review current present levels and update goals, accommodations, services, and LRE. Further, the notice stated that the team considered evaluating the Student during the current school year and a meeting with the school psychologist would be scheduled. The IEP team discussed reconvening with the school psychologist in a few weeks to discuss testing.

The Timeline for this Complaint Began on February 20, 2019

13. On February 25, 2019, the case manager emailed the Parent and stated in relevant part, "I was able to check out the Systematic Instruction in Phonological Awareness, Phonics, and Sight Words (SIPPS) plus curriculum from the District office⁴. I have to watch a few instructional training videos then I will be ready to implement. I should have at least 2 weeks of reading data to show you at our meeting on March 25."
14. The March 2019 speech language therapy treatment and detailed data log record demonstrated that the SLP spent 210 minutes providing specially designed instruction to the Student in social skills, and included the SLP's notes on the Student's progress on reciprocal conversation and self-advocacy goals.⁵

³ Note: the graduation dates in this document are inconsistent.

⁴ SIPPS is a research-based foundational skills program to build fluency in K-12 readers.

⁵ The SLP record indicated the Student was absent on March 1, 2019.

15. On March 19, 2019, the school psychologist emailed the case manager and stated, in relevant part, "I just took some time to read all the evaluations for [Student] that we have in the system, so hopefully that will better prepare me for Monday. Again, parents were speaking specifically about testing for dyslexia, correct? Just want to be sure I have an idea of their questions."
16. On March 25, 2019, members of the Student's IEP team met to discuss the Student's annual goal progress and review the current IEP.⁶ Documentation provided by the District included meeting notes taken by the school psychologist. The notes stated that during the meeting, the team addressed questions regarding reading for the Student. The notes further stated the Student has been using the SIPPS plus curriculum since the February IEP meeting for phonological awareness, phoneme awareness, and visual references. The notes stated the Student did his reading during 6th period and the Parent expressed concern about time of day for reading, asking if it would be the same next year. The notes stated the Parent planned on meeting the case manager in September and would then follow up with the consent paperwork (due in January 2020). The notes also stated: "6/11/19 Set a date for an IEP meeting. Have all consent paperwork ready to go at that time. Have assistive technology as part of the evaluation team."
17. The April 2019 speech language therapy treatment and detailed data log record demonstrated that the SLP spent 90 minutes providing specially designed instruction to the Student in social skills, and included the SLP's notes on the Student's progress on reciprocal conversation and self-advocacy goals.
18. The District was closed for spring break April 8-12, 2019.
19. On April 22, 2019, the District provided a progress report for the Student. The progress report included the following information:
 - **Social Skills** – No comments, noted sufficient progress being made to achieve annual Self advocacy and 3 step directions goals within duration of IEP.
 - **Social Skills** – SLP Report 4/16/19: In a small structured group with peers, [Student] asked follow-up questions in 0/3 and 1/3 opportunities and made on-topic comments in 1/4 opportunities given a visual support. In two of the recent weeks prior to spring break [Student] needed extra prompting to keep his mind in the group, leading to difficulty in asking questions and making comments.
 - **Reading** – No comments, noted sufficient progress being made to achieve annual comprehension and fluency goals within duration of IEP.
 - **Math** – No comments, noted sufficient progress being made to achieve annual calculation goal within duration of IEP.
 - **Writing** – No comments, noted sufficient progress being made to achieve annual journal goal within duration of IEP.
 - **Organization** – No comments, noted sufficient progress being made to achieve annual use of a calendar goal within duration of IEP.

⁶ Documentation provided by the District shows a contact attempt report regarding the March 25, 2019 IEP meeting, but the document is not dated and it is unknown when/if it was sent to participants.

- **Speech and Language Therapy** – No comments, noted progress being made to achieve annual “answering personal & identifying questions” goal within duration of IEP.

20. On April 29, 2019, the school psychologist emailed the case manager, SLP, and associate director and stated, in relevant part:

If we would like to generate a [prior written notice] PWN from the meeting on 3/25/19, I am happy to contribute. From my notes, and in regards [sic] to the evaluation, we did discuss this option and whether or not we would complete the evaluation in the spring or complete it in the fall closer to his January triennial due date. It was agreed that the parents would meet with [case manager] again in September and the team will then follow up with the consent packet. [Parent] requested that she have additional time to complete all the forms and it was agreed that the school psychologist and team would begin the evaluation in the fall. [Case manager], let me know if you want me to add that to the PWN or if you feel as though you have it covered!

That same day, the case manager responded to all that she would add the information to the PWN and forward a draft for review before sending it to the Parent.

21. On April 30, 2019, the case manager emailed the PWN from the March 25, 2019 IEP meeting to the Parent, and copied the associate director, school psychologist, associate director 2, principal, and associate principal.

The PWN proposed to continue the IEP. The notice stated the meeting was held:

[T]o discuss possible re-evaluation for [Student]. The IEP team discussed the option and whether or not we would complete the evaluation in the spring or complete it in the fall closer to his January triennial due date. The IEP team also discussed SIPPS dyslexia curriculum, and summer intervention options. It was agreed that [Student’s] parents would meet with [case manager] again in September and the school psychologist would then follow up with the consent packet for the re-evaluation. [Parent] requested that she have additional time to complete all the forms and it was agreed that the school psychologist and team would begin the evaluation in the fall. The IEP team also agreed that the SIPPS curriculum would be administered by [case manager].

The notice further stated the reason for the proposed action was that the Parent expressed concerns at the last annual IEP review regarding the Student’s current reading level, and the team had agreed to reconvene on March 25, 2019 to discuss all intervention options further. The team considered and rejected conducting an early evaluation in response to the Parent’s concerns regarding the Student’s reading progress, because the Student “has been engaged in the SIPPS curriculum and the team determined that conducting the re-evaluation in the fall would allow the team to collect more robust data regarding his reading.”⁷

⁷ The District provided documentation, stating: “[W]hile the IEP team re-convened on March 25, 2019, the team agreed not to take any action with regard to Student’s evaluation or program at that time. None the less, on April 30, 2019, the District issued a PWN to Parents at their request regarding the March 25 team meeting.”

22. The May 2019 speech language therapy treatment and detailed data log record demonstrated that the SLP spent 150 minutes providing specially designed instruction to the Student in social skills, and included the SLP's notes on the Student's progress on reciprocal conversation and self-advocacy goals.
23. The District provided the Student's analytic details for the 2018-2019 school year, which showed the Student spent a total of 29 hours and 18 minutes practicing consonant blends and digraphs, multiplication skill builders, variant vowels, short and long vowels, silent a and other.⁸
24. On May 6, 2019, the Parent emailed the case manager, associate director, associate director 2, and noted the following concerns:
- Prior to student's February 7, 2019 IEP meeting Parents expressed concerns in the lack of progress Student was making in reading and reading level;
 - Parents requested an evaluation of reading and for Student to be evaluated for dyslexia;
 - The school has failed to catch Student's reading difficulties since he entered 6th grade at the District;
 - Parents would like to see Student in an inclusive college program after he graduates (requirements for most are 4th grade reading level);
 - Student is not current at this level, this is why Student's reading level is primary concern;
 - Student was not present at March 25, 2019 IEP meeting, not because of Parents;
 - Dyslexia was not mentioned at the March 25, 2019 meeting, but a box of SIPPS curriculum was in the room, which the Parent knows the district uses for dyslexia;
 - Parent was told case manager would be working with Student with the SIPPS curriculum in terms of flashcards;
 - Staff informed Parents Student would receive instruction during 6th period when case manager has few students in the room and Parents stated their preference would be for the Student to do reading in the morning;
 - Parents stated a reading specialist would be more appropriate;
 - As of May 6, 2019, Parents had not received any information regarding when SIPPS was being implemented or of Student's progress;
 - The associate director told Parents the team would look into [extended school year] ESY alternatives, and as of May 6, 2019 the Parent had received no new information;
 - Parents confirm they agreed to have Student's reading evaluation done in the fall, but no date was set for evaluation, and that they want evaluation results in the fall, and they want to receive Parent input paperwork now;
 - Parent confirms agreement to the two other components of Student's triennial evaluation taking place at the regularly scheduled date;
 - Parent did not receive March 25, 2019 PWN until April 30, 2019; and,
 - Parent is requesting an IEP meeting to make sure Student has measurable annual goals and reading goals.
25. Between May 7 and 9, 2019, the case manager, associate director, school psychologist and Parent exchanged emails to schedule a follow up IEP meeting.

⁸ The majority of the dates on the Student's analytic details are illegible, and although the report shows the Student worked on math for various periods of time, it does not say on what day this studying occurred.

26. On May 13, 2019, the Parent emailed the case manager to notify her that an advocate would be attending the meeting.
27. On May 15, 2019, the case manager and school psychologist exchanged emails to review a meeting agenda the case manager drafted to provide to the Parent prior to the meeting.
28. On May 22, 2019, the case manager sent the agenda to the Parent and asked the Parent if she had any additions to the agenda.
29. On May 28, 2019, the case manager asked the associate director to drop into the IEP meeting to present summer information.
30. On May 29, 2019, the associate director responded to the case manager's email and stated she could not attend the meeting but would talk to the Parent before the meeting, if it would help.
31. The June 2019 speech language therapy treatment and detailed data log record demonstrated that the SLP spent 75 minutes providing specially designed instruction to the Student in social skills, and included the SLP's notes on the Student's progress on reciprocal conversation and self-advocacy goals.
32. On June 5, 2019, the case manager emailed associate director 2 a copy of the agenda for the IEP meeting, and confirmed the meeting was to discuss summer services and an update on reading progress, and that the Parent did not respond to her with any additions to the agenda.
33. On June 11, 2019, the IEP team reconvened to discuss summer reading support for the Student and reading progress. The agenda listed the attendees as the case manager, school psychologist, SLP, Parents, advocate, Student, and associate director 2. The agenda goals stated:
 - [Student] shares and discusses his reading goals/goal board;
 - Discuss [Student's] progress on his journaling and emotional awareness;
 - Update on SIPPS curriculum implementation;
 - Set date for fall evaluation/discuss evaluation process and IEP meeting; and,
 - Update on summer reading instruction options.
34. On June 17, 2019, the District provided a progress report for the Student. The progress report included the following information:
 - **Social Skills** – Reciprocal conversation. SLP Report, 6/17/19: [Student] has started independently using follow-up comments more consistently (e.g. "cool"). Given a visual aid and verbal prompting, [Student] has demonstrated an emerging skill in asking follow-up questions during the classroom activity of Weekend Report.
 - **Speech and Language Therapy** – Noted sufficient progress being made to achieve annual "answering personal & identifying questions" goal within duration of IEP. SLP Report, 6/17/19: [Student] answered personal and identifying questions in 7/8 opportunities. He incorrectly answered his age, saying "10" and then "16." [Student's] current age is 17. He correctly answered his full name, birthday, name of school, grade, town where he lives, parents' names (first

answered "Mom and Dad," then gave their names with specific questioning), and phone number.

35. June 21, 2019 was the last day of the 2018-2019 school year.

Summer 2019

36. On June 24, 2019, the case manager emailed the Parent and copied associate director 2, the school psychologist, and two other district employees, and stated, in relevant part

Sorry for the delay in getting this out. I have attached the PWN confirming tutoring for [Student] and our agreement to reconvene in September to review the plan for re-evaluation. We have arranged for [District teacher] to provide tutoring at [high school]...we will offer 4 hours per week, this can be set up with [associate director 2]...who will continue with the curriculum case manager has been using with the Student.

37. Also, on June 24, 2019, following the meeting on June 11, 2019, the District issued PWN, proposing to:

- Provide the Student with individualized tutoring during the summer ESY calendar using the SIPPS curriculum.
- Reconvene the IEP team September 6, 2019 to:
 - Provide Parents with evaluation paperwork outlining plan for evaluation; and
 - Meet with assistive technology consultant in response to Parents' request for assistive technology consultation.

The PWN also noted the team considered completing the Student's re-evaluation in January 2020 (mandatory triennial re-evaluation date), but the Parent requested to complete an early reevaluation to assess the Student's continuing eligibility for special education services, his present level of performance, and his reading progress. The team rejected ESY services as the Student does not qualify. Lastly, the PWN noted that during the June 11, 2019 IEP meeting, the Parent presented a Student-led presentation, highlighting the Student's interests, goals, and desires for his postsecondary education. The notice also indicated that the Parents were provided with a copy of their procedural safeguards.

38. On August 27, 2019, the case manager emailed the Parent and asked to be excused from the evaluation meeting on September 6, 2019, informing the Parent that the school psychologist would be running that meeting.

39. On August 29, 2019, the Parent emailed the case manager, excusing her from the evaluation meeting.

2019-2020 School Year

40. September 3, 2019 was the first day of the 2019-2020 school year and the Student continued at the District High school as a junior. The Student continued to be eligible for special education services under the category of autism. The Student's February 2019 IEP was in effect.

41. The September 2019 speech language therapy treatment and detailed data log record demonstrated that the SLP spent 105 minutes providing specially designed instruction to the Student in social skills, and included the SLP's notes on the Student's progress on reciprocal conversation, self-advocacy goals, and on-topic contributions.⁹
42. On September 3, 2019, the case manager emailed the Parent and stated that the Student did a fantastic job with his reading and seemed much more confident.
43. On September 6, 2019, the school psychologist emailed District members of the IEP team and stated she had received consent to complete a reevaluation for the Student, and his reevaluation would be due on or before October 24, 2019. The email further stated the District had consent to test in the following areas:
- social/emotional
 - adaptive
 - medical-physical/vision/hearing
 - academics
 - cognitive
 - communication
 - organization
 - student observation
44. Also, on September 6, 2019, a contact attempt report provided by the District showed that the Parent gave oral and written consent for evaluation on September 6, 2019.
45. On September 16, 2019, a special education teacher emailed the case manager, stating she was going to pull the Student for 6th and 7th period to get some testing done and asked if he was being assessed in all academic areas (reading, writing, math). The school psychologist responded and confirmed that the Student had functional academic goals in all areas.
46. On September 23, 2019, the school psychologist emailed all the Student's teachers and stated, in relevant part, "[Student] is currently undergoing re-evaluation for special education services. With that, I am attaching a teacher input form. I am hoping to have his teacher input portion by Friday October 4, 2019, so any and all feedback will be much appreciated."
47. Also, on September 23, 2019, the SLP emailed the case manager and school psychologist and stated, "I did some testing with [Student] last week and unfortunately it was not valid. He pointed mostly to picture #1 and often started to point before I even said anything. The same thing happened for SLP at his last evaluation."
48. On September 30, 2019, the District contact report indicated the District emailed a meeting notification to the Parent for the October 24, 2019 evaluation review meeting.
49. On October 4, 2019, the school psychologist emailed the assistive technology (AT) specialist and asked if he would reach out to the Parent prior to the evaluation meeting to share the results of the assistive technology evaluation/observation. That same day, the AT specialist emailed the school psychologist and stated that AT specialists "[D]o not ever attend IEPs or eval[uations] for students because we are not a service that students qualify for we are not added in the evaluation or IEP", and further stated, "We provide the consultation and then

⁹ On September 16, 2019, the SLP noted 15 minutes for the duration of time spent with the Student.

share the results so team can include other items in the considerations and accommodations. I have already shared my recommendation with [case manager] but will also email the rest of the team.”

50. The Student’s October 2019 SIPPS plus reading log recorded that the case manager provided specially designed instruction for 245 minutes on words and comprehension.
51. The October 2019 speech language therapy treatment and detailed data log record demonstrated that the SLP spent 160 minutes providing specially designed instruction for social goals, and included the SLP’s notes on the Student’s progress on reciprocal conversation, self-advocacy goals, and on-topic contributions.
52. On October 8, 2019, the AT specialist emailed the District members of the IEP team and summarized his observations from meeting with the Student. The AT specialist observed the Student in a special education classroom and a general education classroom in the morning. During the majority of the time he observed the Student, he was being supported by a 1:1 paraeducator during general education and in a small group in special education, to complete his reading and writing assignments, as well as receiving support around simplifying and summarizing content within the general education setting. The AT specialist further stated, “I can see [Student] really benefiting from the Microsoft Learning Tools to 1.) increase independent access to reading material and 2.) assist in breaking down complex language.” The AT specialist’s key recommendations included:
 - Microsoft Learning Tools for read aloud, screen masking, and syllable breakdown;
 - Bookshare and onedrive for digital textbooks and leisure reading options;
 - Trial cowriter (word prediction) for spelling support; and,
 - Insert worksheets and other content into Microsoft platform or insert pdf into onenote.
53. On October 14, 2019, the school psychologist emailed the case manager and asked how to best capture the Student’s reading progress for his upcoming reevaluation feedback meeting to show the Student’s progress in the actual curriculum/program that they are working on rather than just providing numbers from a standardized assessment to the Parent. The email asked if the case manager could provide a summary of what the Student was working on and the progress he was making with SIPPS. That same day, the case manager responded, agreeing to draft a summary.
54. On October 21, 2019, the school psychologist emailed the Parent and stated the focus of the evaluation meeting would be on the evaluation and this would be an opportunity for the team to review information related to the Student’s progress and needs in reading, writing, math, adaptive skills, communication, organization, and social skills. Discussions regarding the Student’s plan of action would take place at the IEP meeting, which would be scheduled after the evaluation meeting.

55. The Student's October 2019 reevaluation assessed the Student in the following areas: cognitive, academic, adaptive, social emotional, communication, and medical.¹⁰ The reevaluation concluded the Student continued to be eligible for special education, specifically the Student should receive specially designed instruction in functional academics (reading, writing, and math), adaptive, social skills, as well as speech/language as a related service. The Student no longer needed specially designed instruction in organization, as his executive functioning deficits could be better addressed through an adaptive goal.

For adaptive, the evaluation explained that "on the overall General Adaptive Composite, both Student's Parent and teacher noted his skills as falling in the extremely low range."

For social skills, according to teacher and Parent rating scales, the Student's overall social skills ranged from average to well below average compared to his same age peers. On the autism spectrum scale, the Student's behaviors were rated as falling in the above average range. Regarding problem behaviors, the Student's teachers reported the Student demonstrated similar behaviors to his same aged peers, but the Parent reported above average problem behaviors in the home. Finally, the Student was observed to demonstrate a below average rating on the academic competence scale, despite having a large range among some of his score; thus, it was estimated the Student has below average cognitive functioning.

The Student was administered the KTEA-3 on September 18, 2019 by a District special education teacher. During testing, the evaluation report noted the Student consistently looked up at the evaluator when providing answers appearing to seek validation. When the instructions required the evaluator to point at images, letters, or numbers on the test book, Student would point as well. As the instructions changed and no longer required the evaluator to point, the Student would continue to point at things on the test book page and look at the evaluator in what appeared to be an attempt to seek validation. It seemed as if the Student was trying to follow what his evaluator did rather than listen to the directions. The Student was asked if he wanted to take a break from testing after completing his math subtest and responded "yeah". He was asked if he needed to use the restroom or if he wanted to get water and he replied "yeah," but the Student did not get up or move from his seat. After a few minutes, he was asked if he was ready to test again and his reply was "yeah". It seemed that the Student was not comprehending what was being asked of him. During the reading comprehension subtest, the Student repeated what his evaluator read rather than following the command. When instructed to clap his hands, the Student tried to sound out the word "clap", saying "cli cli hair". During the spelling subtest, the Student tried to sound out words he appeared to not be sure of spelling and would look at the evaluator for, what appeared to

¹⁰ The documentation indicated the District utilized the following during the evaluation: Adaptive Behavior Assessment System - (ABAS-3), Social Skills Improvement System (SSIS) Rating Scales, Kaufman Assessment Battery for Children - Second Edition (KABC-II), Kaufman Test of Educational Achievement, Third Edition (KTEA-III), Academic Skills Battery (ASB), Behavior Rating Inventory of Executive Functioning, Second Edition (BRIEF II), Emotion Regulation Index (ERI), Cognitive Regulation Index (CRI), Global Executive Composite (GEC) and Oral and Written Language Scales II.

be, validation that he was doing it correctly. When writing out words, the Student tended to write the consonants, but not the vowels.

The report noted a significant academic findings: the Student "scored in the very low range, <0.1 percentile for his Academic Skills Battery Composite, Reading Composite, Letter Word Recognition and Reading Comprehension subtests, Math Composite, Math Concepts and Applications and Math Computations subtests, Writing Composite and Written Expression and Spelling subtests." While, "[Student's]...standardized assessment does not suggest a significant deficit in any academic area which would pose an adverse educational impact, review of behavioral data suggests that [Student] demonstrates significant work avoidance behaviors in the classroom," which "often results in highly disruptive behaviors that ultimately negatively impacts his work completion and the learning of others." The evaluation found the Student's behaviors to sometimes result in removals and stated the "[Student] requires specially designed instruction to include emotional regulation strategies, problem solving strategies and social-cognitive concepts including flexible thinking, size of the problem and following a group plan."

Based on the results of this evaluation, the group continued to recommend speech/language therapy. The Student's delayed receptive and expressive language abilities adversely impacted his social skills, the Student demonstrated strengths in perspective taking, eye contact, greetings and social niceties, and making friends. His most significant areas of need were his ability to generate language to learn about other people's interests, including questions, to ask follow-up questions, and to turn small talk towards conversational language. The evaluation report recommended he receive speech/language therapy as a related service to support his specially designed instruction in social skills, particularly targeting asking questions and expanding conversations.

56. Following the meeting on October 24, 2019, the District issued a PWN, proposing to continue the Student's eligibility category for special education services under the category autism. The notice stated that based on the comprehensive reevaluation for special education services, the team determined that the Student would continue to require and benefit from special education services, including specially designed instruction in functional reading, functional math, functional writing, adaptive, and social skills, with speech and language as a related service. The team decided to discontinue specially designed instruction in organization and cited that the Student's ongoing struggle with organization may be a reflection of the Student's deficits related to his autism diagnosis and cognitive delays, and determined these goals could be better served as an adaptive goal. The notice further stated the team considered: file review, Parent and teacher input, cognitive assessment, academic assessment, social skills assessment, adaptive assessment, executive functioning assessment, communication assessment, classroom observation and review of current IEP goals. Lastly, the notice stated, "Parents were provided with procedural safeguards on 9/16/19, 10/4/19 and 10/24/19. In addition, the parent was offered the invitation to complete an observation in the Transition classroom at the evaluation feedback meeting on 10/24/19."

57. On October 25, 2019, the school psychologist emailed the Parent, and copied case manager and SLP, thanking everyone for attending the evaluation meeting. The email further stated, "I am sending the final copy of the evaluation report via email as an attachment...the final copy will include a signature page as well as...prior written notice, which summarizes the team's decision from [the October 24, 2019] meeting."
58. On October 29, 2019, the Parent emailed the associate director 2 and stated:
We have received the evaluation reports/results and we are not in agreement with the results. We are requesting an Independent Educational Evaluation (IEE) at public expense for our son. We understand that the independent evaluation is to be provided at no charge. Our request is based on the school evaluation that was not comprehensive and appropriate. We are requesting evaluations in the following areas:
- dyslexia
 - IQ
 - education (for reading, reading comprehension, writing, spelling and math)
 - speech and language (areas of: phonemic awareness, comprehension, problem solving)
- Please inform us in writing within five days whether you intend to honor our request.
59. On October 30, 2019, the case manager emailed the Parents to schedule the Student's IEP meeting.
60. The Student's November 2019 SIPPS plus reading log recorded that the case manager provided specially designed instruction for 415 minutes on words and comprehension.¹¹
61. The November 2019 speech language therapy treatment and detailed data log record demonstrated that the SLP worked at least 100 minutes with the Student providing specially designed instruction on social goals, and included the SLP's notes on the Student's progress on reciprocal conversation, self-advocacy goals, and on topic contributions.¹²
62. On November 11, 2019, the Parent emailed the case manager, associate director 2, school psychologist, and SLP and stated they could meet any day Monday through Friday for an IEP meeting, but due to the husband's schedule, they could only meet at 9:30 am.
63. On November 12, 2019, the District mailed a meeting invitation to the Parents and Student for an IEP review scheduled for November 21, 2019, and asked the Parent if they intended to bring counsel to the meeting, so the District could bring counsel if necessary. Also, on this day, a District contact attempt report indicated the Parent stated they could attend the November 21, 2019 meeting, via email.

¹¹ The time spent was not listed on November 13, 2019; however, the content the Student worked on was listed.

¹² SLP records reflect the SLP was absent on November 1, 2019, the Student was absent on November 27, 2019, and the District was closed for Thanksgiving break November 28-29, 2019.

64. Also, on November 12, 2019, the Parent emailed the case manager, and copied the school psychologist, SLP, principal, and associate director 2, and stated the November 21 date works for the IEP meeting, and to notify the team the Parent intended to bring an advocate and a lawyer to the meeting.

65. On November 12, 2019, the District provided a progress report for the Student. The progress report included the following information:

- **Social Skills** – No comments, noted sufficient progress being made to achieve annual Self advocacy goal within duration of IEP.
- **Social Skills** – No comments, noted emerging skill demonstrated but may not achieve reciprocal conversation goal within duration of IEP.
- **Adaptive Skills** – No comments, noted sufficient progress being made to achieve annual 3 step direction goals within duration of IEP.
- **Reading** – No comments, noted sufficient progress being made to achieve annual comprehension and fluency goals within duration of IEP.
- **Math** – No comments, noted sufficient progress being made to achieve annual calculation goal within duration of IEP.
- **Writing** – No comments, noted sufficient progress being made to achieve annual journal goal within duration of IEP.
- **Organization** – No comments, noted sufficient progress being made to achieve annual use of a calendar goal within duration of IEP.
- **Speech and Language Therapy** – Noted emerging skill demonstrated but may not achieve “answering personal & identifying questions” goal within duration of IEP. SLP Report 11/19/19: [Student] continues to say that he’s in 10th grade and confuses his age. All other questions are consistently correct.”

66. On November 15, 2019, the case manager emailed the Parent, copied the SLP, and stated that she wanted to touch base about IEP goals for the Student’s upcoming IEP review. The email stated:

Prior to our re-evaluation meeting, I remember you both mentioning how there were IEP goals and transition goals that you would like changed. Could you let me know what skills you would like us to focus on?

Currently, [Student] has goals in the following skill areas:

- reading fluency
- reading comprehension
- writing multiple sentences
- adding money amounts
- 3 step directions
- budgeting
- calendar
- identifying emotions

I will be modifying his reading goals to fit his current curriculum and I will modify his budgeting goal to fit the phone applications that he has started using. I will also be increasing the difficulty of the goals he has mastered.

67. On November 19, 2019, the Parent emailed the case worker, and copied the school psychologist, SLP, associate director 2, and principal, and stated:

We are very concerned because we want [Student's] goals to support the path Student wants to take, which is higher education. We feel his access to academics is not clear in any way from the goals. How are these goals aligned with common core state standards and how are they appropriate transition wise? We want to support our son on his transition goal of college. Reading is a major component of this and until this issue is mutually agreed upon and supports [Student's] transition goals we can't even begin to craft appropriate goals for his success.

68. On November 21, 2019, members of the Student's IEP team met to develop the Student's IEP and to develop a secondary transition plan. The Parents, Student, principal, associate director, general education teacher, case manager, speech language pathologist, and school psychologist attended the meeting and signed the IEP.

The IEP present levels noted the Student participated in three general education courses: foods 1, lifetime fitness, and photography. The Student also attended assemblies and ate in the cafeteria. The IEP noted the Student's adaptive strengths:

Student's independence throughout his school day continues to increase. Student takes great pride in his independence. Student is able to follow the bell schedule and grab the necessary items needed for each class period. Student is prompted by the bell at the beginning of the day to put away his phone and headphones. Student is able to follow familiar routines that require a 3-step direction and continues to work on budgeting and purchasing the community. Student uses cell phone applications to budget his money on his weekly community outings.

The IEP also included findings from the reevaluation: "Student continues to demonstrate a need for specially designed instruction in the promotion and development of his overall adaptive abilities." The IEP also included the following information about the Student's annual goals in adaptive:

- **Previous Goal Adaptive:** Purchasing Using Dollar Up Strategy: Currently, when given an item to purchase, [Student] is able to determine the next dollar up and provide the cashier with the correct dollar amount.
- **Rationale to Continue Goal:** [Student] is able to access the community on weekly outings. [Student] often purchases multiple items. The IEP team would like to increase the difficulty of the goal from purchasing 1 item to purchasing 2-3 items. Being able to independently purchase items directly supports [Student's] ability to live more independently. [Student] is currently using cell phone applications to make a grocery list and a budgeting app to determine how much money he has in his wallet.
- **Updated Goal:** Currently, when given multiple items to purchase (2-3), [Student] is able to determine the next dollar up and determine if he has enough money to purchase the items in 0 out of 6 observed opportunities.
- **Previous Goal Adaptive:** 3 Step Directions: Currently, [Student] is able to follow 3-step directions to successfully complete a vocational task (running an errand, completing a copy job etc.) improving adaptive skills.
- **Rationale to Continue Goal:** It is important for [Student] to be able to complete increasingly difficult vocational tasks. This will begin to prepare [Student] to have a job later in his life. The IEP team would like to increase the difficulty of the job tasks that [Student] completes. [Student]

is currently acting as Teachers Assistant for the front office staff. This requires [Student] to deliver passes around the school, deliver mail to specific teachers and to sort mail.

- **Updated Goal:** Currently, [Student] is able to follow 5-step directions to successfully complete a vocational task (delivering passes, delivering passes etc.) improving adaptive skills from 0 of 6 observed opportunities.
- **New Goal:** Learning to identify Appropriate Resources for Problem Solving: It is important for [Student] to be able to identify persons who can help him if he encounters a problem. At school, this would be our front office staff, a teacher or the school resource officer. In the community, this would be a community helper or police officer. Currently when given the opportunity to identify a person who can help him solve a problem. [Student] is able to correctly identify a helper, improving problem solving skills from correctly identifying a helper in 2 of 6 observed opportunities.

The Student's IEP provided the Student with the following specially designed instruction in the special education setting:

- Math: 125 minutes per week, to be provided by a special education team and monitored by a special education teacher;
- Reading: 200 minutes per week, to be provided by a special education team and monitored by a special education teacher;
- Writing: 150 minutes per week, to be provided by a special education team and monitored by a special education teacher;
- Adaptive Skills: 250 minutes per week, to be provided by a special education team and monitored by a special education teacher; and,
- Social Skills: 275 minutes per week, to be provided by a special education team and monitored by a special education teacher.

The Student's IEP additionally provided the Student with the following related services:

- Speech and Language Therapy: 30 minutes per week, to be provided by a speech language pathologist in the special education setting.

The IEP removed the "directions read orally" accommodation and added two additional accommodations: "Presentation/Grading: P Grade" and "Presentation/Grading: S Grade." The Student's IEP indicated he would spend 43.38% of his time in the general education setting.

The November 2019 IEP included present levels of educational performance and annual goals for social and adaptive skills, math, writing, reading, organization and speech and language therapy, all of which were designated to support the Student's postsecondary goal stating that by November 20, 2020:

Adaptive Skills

- Goal: When given items 2-3 to purchase [Student] will be able to determine the next dollar up and provide the cashier with the correct dollar amount improving adaptive skills from 0 out of 6 observed opportunities to 5 out of 6 observed opportunities as measured by the data.
- Goal: When given the opportunity to identify a person who can help him solve a problem [Student] will correctly identify a community helper improving problem solving schools from correctly identifying a helper in 2 of 6 observed opportunities to correctly identify a helper in 6 of 6 observed opportunities as measured by staff and teacher data.

- Goal: When given 5 step directions to follow [Student] will successfully complete a vocational task (running an errand, completing a copy job, etc.) improving adaptive skills from 0 of 6 observed opportunities to 6 of 6 observed opportunities as measured by staff and teacher data.

Social Skills:

- Goal: When given a situation when [Student] is asked how he is feeling and why he feels that way [Student] will provide answers to those questions improving self-advocacy skills from 2 of 6 observed opportunities to 5 of 6 observed opportunities as measured by staff and teacher data.
- Goal: When given an opportunity to have a conversation with a peer [Student] will provide a follow up question or comment independently and without a visual prompt improving conversation skills from 2 of 6 observed opportunities to 5 of 6 observed opportunities as measured by teacher and SLP data collection.

Math

- Goal: When given a menu with prices and pictures of items [Student] will independently use the menus to answer how much multiple items cost (2+) and how much change he will receive improving consumer math skills from requiring adult assistance to answer the corresponding questions to independently producing the answers as measured by staff and teacher data collection.

Writing

- Goal: When given an application in which [Student] must fill out personal information (first name, last name, address, phone number, birth date) [Student] will write the correct answers improving functional writing skills from only correctly producing his first name, last name and birthday. [Student] will write the correct answers improving functional writing from only correctly producing his first name, last name and birthday to correctly producing his first name, last name, birthday, address and phone number as measured by teacher data collection.

Reading

- Goal: When given sets of SIPPS curriculum sight words (4-8 words per set) [Student] will read the sight word sets improving reading skills from mastery of sight word sets in lessons 1-12 to mastery of the sight words in lessons 13-30 as measured by staff and teacher data collection.
- Goal: When given a fiction/nonfiction passage from the SIPPS curriculum [Student] will read the passage aloud improving reading fluency from 43 words per minute to 65 words per minute as measured by teacher and staff data.

The Student's speech/language therapy goal was discontinued, as the Student "independently answered personal and identifying questions (e.g. age, name of school, name of parents), without prompting for 7 of 8 opportunities."

The age appropriate transition assessment stated:

Student requires support to remain on focus for a particular task, requires visuals to stay organized as well as a visual schedule to follow through with the day's activities. The Student requires specially designed instruction in social skills, adaptive skills, functional reading and writing and functional math as well as speech/language as a related service.

It is recommended the family learn about developmental disabilities administration (DDA) and division of vocational rehabilitation (DVR) services, as well as the County School to

Work Program in order to continue to stay informed about services related to post-secondary employment opportunities.¹³

Measures used: re-evaluation, IEP review, parent interview, teacher and staff observations in multiple settings while engaging in a variety of activities.

The secondary transition portion stated the Student's projected graduation date was June 21, 2021. The IEP postsecondary goals/outcomes for education/training, employment and independent living remained the same as in Student's prior IEP.

The course of study section stated:

[Student] is currently a junior at [high school]. [Student] is on track to graduate with a CIA diploma in 2024¹⁴. After completing his senior year of high school, [Student] will enter the [District transition academy] or another accommodated college program.

Currently [Student] is participating in Foods 1 Class, Photography Class and Lifetime Fitness Class. We would also like [Student] to participate actively in clubs at [high school] as well as attend after school activities (dances/ football games etc.). These courses directly connect to his postsecondary goals by providing him experiences in cooking, maintaining a healthy lifetime and engaging in a variety of leisure activities.

[Student] also attends weekly community outings through the transition program. These outings promote future community independence and daily living skill independence.

[Student] participated in the WA-AIM state assessment in the areas of ELA and Math during his sophomore year. [Student] will participate in the WA-AIM science assessment during the spring of his Junior year.

69. Also, on November 21, 2019, associate director 2 sent an email to the Parent, copied the principal and case manager, and stated the email included a link with information about college programs in Washington and nationally. The email further stated many of the programs do not have requirements around cognitive scores and reading level (occupational and life skills college program requires a minimum cognitive score of 70 as Parent mentioned 4th grade reading level). The email also referenced "Think College," also called path to independence, which provided some support and options. The email concluded that more resource information will be available as the Student nears the end of his senior year.

70. Following the meeting on November 21, 2019, the District issued a PWN, proposing to continue the IEP. The notice stated the meeting was held to review updated goals, review current Student progress, review services and LRE, as a result of a re-evaluation completed last month. The notice further stated that all current information was considered, including progress on goals, informal classroom assessments, and Student and Parent input, and that no additional options were proposed, considered or rejected. The notice stated that after going through the IEP draft, the Parent stated there were no other current concerns that

¹³ Links to DVR services and the County School to Work Program were provided in the IEP.

¹⁴ Again, this anticipated graduation date does not match the date at the top of the document.

needed to be reflected in the current planning portion of the IEP, and that the Parent was looking for outside resources to help her go through the current IEP. The PWN stated the IEP would be implemented on November 22, 2019.

71. On November 26, 2019, the case manager emailed the Parent, copied associate director 2, and stated that the Student's IEP was attached, along with a completed PWN. The email further stated, "[Parent] you had mentioned that your family was actively looking for outside resources to review the IEP so I have continued to label the IEP as a draft. Please keep the school team updated as you are able."
72. November 27, 2019 was an early release day and the District was on Thanksgiving break on November 28-29, 2019.
73. The Student's December 2019 SIPPS plus reading log recorded that the case manager provided specially designed instruction for 140 minutes on words and comprehension.
74. The December 2019 speech language therapy treatment and detailed data log record demonstrated that the SLP provided specially designed instruction for 90 minutes on social goals, and included the SLP's notes on the Student's progress on reciprocal conversation, self-advocacy goals, and on topic contributions.
75. The District was on winter break from December 22, 2019 through January 3, 2020.
76. The Student's January 2020 SIPPS plus reading log recorded that the case manager provided specially designed instruction for 442 minutes on words and comprehension.
77. The January 2020 speech language therapy treatment and detailed data log record demonstrated that the SLP provided specially designed instruction for 130 minutes on social goals, and included the SLP's notes on the Student's progress on reciprocal conversation, self-advocacy goals, and on topic contributions.¹⁵
78. On January 15, 2020, the Parent emailed the case manager and stated the Washington Network for Innovative Careers (WANIC) registration should be open.¹⁶ The Parent stated they intend to enroll the Student in "DigiPen Music & Sound Design 1st year (3 HS credits), DigiPen (12:30 - 3:00 pm) and DigiPen (9:30-6:00 pm)." The email further stated the Parent and District will need to discuss further reading academics as possible electives at the high school, and

¹⁵ The SLP noted she was not available to work with the Student for the week of January 8, 2020 and noted the time would be made up later in the month. Records provided by the SLP reflect that SLP made up the time the week of January 22, 2020.

¹⁶ WANIC is a preparatory career and technical education school for high school juniors and seniors designed to prepare students for employment and postsecondary training. Programs are a year-long, advanced-level Career and Technical Education (CTE) programs based on rigorous academic and industry standards. WANIC has established guidelines to promote availability of service to students with special needs in their preparation for a career and technical education.

that the Parents do not intend to have the Student have four periods of adaptive classes. The email further stated the Parents are "[O]nly interested in his academic reading component and him having access to career CTE classes like those offered through WANIC/DIGIPEN." The Parent further stated the family may look into an automotive component offered through another district in 2021-2023 and possible attending a different district transition program if that is something the school districts can do when there is a conflicting concern with the placement in the Student's District program offered. The email further stated:

We will be contacting the team soon to discuss student's post high school transition goals...None of the goals at [high school] have been geared toward obtaining post high school education success and this needs to be addressed.

Our son does not age out of services until he is 21, and at the last meeting with my wife, the IEP was worded that he will be exiting [District] after his senior year, next year, 2021. We did not agree with having him graduating or receiving a certificate when he will only be 19. Just because the end goal is a life skills/vocational program at a local college or something similar to ROARS at WSU¹⁷ does not mean that we don't plan on him finishing and obtaining all the skills he can before he turns 21. From the beginning of his high school education, we have let the team know that the Transition Academy in [District] is not an option for [Student] because there are no academics offered and because of his intense need for academic/comprehension reading (not functional-sight word memorization), among other safety concerns, it is not a viable option for our son. That doesn't mean that we do not want him receiving transition services or not having an IEP with goals to successfully obtain the career he desires after high school. We feel our son needs intense teaching and the minimal amount offered thus far will not lead to [Student] being successful post 21. We will be in contact as soon as we have compiled our academic/transition goals so we can set-up a meeting with the team to discuss. We will reach out to [associate director 2] [when] we are complete.

79. On January 23, 2020, the Parent emailed associate director 2, copied the case manager, and stated in relevant part:

Our family is in the process of getting an outside evaluation of [Student's] specific learning disability in reading, since the District is unwilling to do an IEE at [District] expense. We will be seeking reimbursement from the district for the outside evaluation. This process will take time, we do at this time have a timeline for when each step will take place. Once he is evaluated we will be seeking out tutoring services for [Student] to be reimbursed by the District.

We are not in agreement with the IEP drafted and presented in November...The IEP in no way reflects what we have been presenting the last three years as [Student's] plans once he left the public school system at age 21. There have been numerous changes to [Student's] graduation date that still do not show him and his goals continuing through the age of 21 with the district. We have stated since [Student] was a freshman that his plans are not to attend the district's transition program because it is not appropriate for [Student's] post public school education goals of attending a local college with a disability program...We asked for options of other avenues for [Student] because Transition Academy

¹⁷ Washington State University Responsibility Opportunities Advocacy and Respect is a two-year inclusive postsecondary education program for students with intellectual and developmental disabilities.

is not the proper placement for our son and associate director failed to address this issue. The [November 2019] draft IEP is not sufficient and does not in any way lay a solid foundation of addressing [Student's] educational needs, reading needs, and transition goal planning...When we have finished with [Student's] evaluation and are successful with arranging tutoring for [Student's] specific learning disability we will be in contact with you to set up a meeting.

80. On January 27, 2020, associate director 2 emailed the Parent, copied case manager and principal, and stated:

The District stands by the appropriateness of its program for your son, but we understand you may disagree. We will wait to hear further from you regarding any meeting scheduling. Please clarify whether you are asking for an independent education evaluation (IEE) at district expense when you reference the "outside evaluation," the family is pursuing. If you are intending to ask for an IEE at district expense in your email below, the district continues to disagree and would need to refile its hearing request to defend the appropriateness of the district reevaluation. If I do not receive such clarification from you, the district will assume that you are not currently asking for an IEE at district expense.

81. The Student's February 3-25, 2020 SIPPS plus reading log recorded that the case manager provided specially designed instruction for 505 minutes on words and comprehension.

82. The February 8-22, 2020 speech language therapy treatment and detailed data log record demonstrated that the SLP worked a total of 60 minutes with the Student on social goals, and included the SLP's notes on the Student's progress on reciprocal conversation and self-advocacy goals. The record shows the SLP was absent the week of February 20, 2020.¹⁸

CONCLUSIONS

Issue One – IEP Development and Implementation: The Parent alleged the District did not follow procedures for developing and implementing the Student's individualized education program (IEP). Specifically, the Parent alleged the District failed to follow procedures for: a) including developing measurable annual goals, b) implementing the Student's IEP regarding specially designed instruction, related services, and accommodations, c) providing transition services, d) conducting progress monitoring and reporting, e) determining whether to provide extended school year (ESY) services, f) ensuring parent participation and g) and considering a continuum of placements for the Student's least restrictive environment (LRE).

At the beginning of each school year, each district must have in effect an IEP for every student who is eligible to receive special education services. The IEP in place must contain, among other things, measurable annual academic and functional goals, and information regarding how the district will measure and report the student's progress toward their annual IEP goals; the special education support, supplementary aids and services and accommodations to be provided to the

¹⁸ The SLP records showed specially designed instruction was reduced on February 8, 2020 due to snow schedule, there was no school from February 13-17 due to mid-winter break, and the Student was absent on February 20, 2020.

student; any ESY services required by a student to receive a free appropriate public education (FAPE); the extent to which a student will participate in activities with students without disabilities; and, for students 16 and older, a statement of the student's transition goals and the services, including courses of study, needed to assist the student in reaching those goals. Parents are expected to be equal participants, along with school personnel, in developing, reviewing and revising the IEP. A district must also ensure it provides all services in a student's IEP, consistent with the student's needs as described in the IEP. When a school district does not perform exactly as called for by the IEP, the district does not violate the IDEA unless it is shown to have materially failed to implement the IEP. A material failure occurs when there is more than a minor discrepancy between the services provided and those required by the IEP. Districts must also follow procedures for providing the Procedural Safeguards and prior written notice (PWN).

Measurable Annual Goals

IEPs must include a statement of the student's measurable annual goals, including academic and functional goals designed to meet the student's needs that result from the student's disability so that he can be involved and make progress in the general education curriculum; and, meet each of the student's other educational needs that result from the student's disability.

In February 2019, the Student's IEP team developed goals in the areas of social and adaptive skills, math, writing, reading, organization, and speech and language therapy, which were included in the February 2019 IEP. Although the Student's 2017 evaluation did not suggest a significant deficit in any academic area, it concluded from behavioral data the Student "demonstrates significant work avoidance behavior in the classroom." When the case manager reached out to the Parent for input on goals, the Parent stated the most important areas in which she wanted to see growth were: listening by following three step instructions, self-advocacy through journaling, communication and conversation skills, and being able to express what is the matter when the Student is upset. Thus, the Student's writing, reading, adaptive, social organization, and speech language goals related to the development of listening skills, following multi-step instructions, self-advocacy, answering "who what how questions," and conversation skills. In support of the Student developing life skills, his math goal focused on using a calculator for sum equations with prices he could practice while shopping. Each goal contained a quantifiable benchmark and provided information on how data on the goal would be collected.

Likewise, in November 2019, after the Student's October 2019 reevaluation, the Student's IEP team determined the Student continued to demonstrate a need for specially designed instruction in the promotion and development of his overall adaptive abilities. The team also considered the Student's transition plan when it developed goals in each category to help the Student navigate his postsecondary school life. For example, the IEP included adaptive goals that involved getting change from a cashier and a math goal that helped navigate making decisions when ordering from a menu. Each goal contained a quantifiable benchmark and provided information on how data on the goal would be collected.

The District accordingly developed measurable annual goals for the Student in accordance with his needs, as identified in his 2017 and 2019 evaluations and in consideration of feedback from

the Parent, as necessary for the Student to access and make progress in the general education curriculum and setting. No violation is found.

Specially Designed Instruction

The Parent alleged the District did not provide the Student with his 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 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.

The Student's February 2019 IEP provided the Student with 945 minutes of specially designed instruction per week, which was provided to meet the Student's social and academic needs. The documentation substantiated that while the District provided substantive documentation demonstrating the provision and record keeping of some amount of specially designed instruction in math, reading, writing, social and adaptive skills (and progress the Student made on goals), it cannot be conclusively established by the documentation provided that the District provided the full amount of specially designed instruction required in the Student's IEP. However, there is no requirement that a district maintain documentation of every minute of specially designed instruction provided to a student.

The District consistently provided specially designed instruction in reading for the Student from October 2019 through the time of this investigation. Records provided by the District show the case manager maintained a reading and fluency log between April and July of 2019, although the specific duration of instruction was not recorded on these logs. Likewise, the Student's February IEP called for 250 minutes in social skills and 120 minutes in adaptive skills, which increased to 275 minutes in social skills and 250 minutes in adaptive skills, in the Student's November IEP. The SLP recorded social and adaptive skills together, which ranged from 75 minutes per month to at most 210 minutes, cumulative of both social and adaptive skills. Documentation provided by the District did not demonstrate how much specially designed instruction the Student received in math, although the District did provide some of the Student's math work and some cumulative data analytics, showing how much time the Student had worked online on math. There was no evidence of how much organization instruction the Student had received; however, the Student's organization specially designed instruction was discontinued in the November 2019 IEP because the Student had made progress and the goals would be better served in another area. Further, the Student's progress reporting indicated the Student was consistently making sufficient progress on his goals and several of his goals in his November 2019 were updated to a higher skill level, indicating progress. Although the District has not provided documentation of all the minutes provided to the Student, the volume of data submitted regarding services, wherein staff tracked the Student's progress, and the fact the Student made progress, indicated the Student was likely receiving more specially designed instruction than the District providers were documenting. Thus, OSPI finds no violation regarding the provision of specially designed instruction.

Related Services and Accommodations

The Parent alleged the District failed to implement the related services in the Student's IEP. Each eligible student is entitled not only to receive special education, but also to such related services as are required to assist the child to benefit from that special education. Here, the Student's February 2019 IEP provided for 15 minutes a week with the SLP as a related service, and this amount was increased to 30 minutes a week in the November 2019 IEP. Based on documentation provided by the District, the SLP provided the Student related services in compliance with the IEP, by working with him for a minimum of 15 minutes a week February 2019 through November 2019, and then working with the Student for 30 minutes a week from November 2019 forward. No violation found.

Finally, the Parent alleged in the initial complaint that the District generally failed to implement the accommodations in the Student's IEP. The Parent did not provide any specific concerns regarding a particular accommodation. However, there was no evidence of any failure to provide accommodations found in the course of this investigation. Thus, the documentation substantiates that accommodations were provided, and no violation found.

Transition Services

The Parent alleged the District failed to develop and implement transition services on the Student's IEP. Transition services are a coordinated set of activities for a student eligible for special education that are designed to be within a results-oriented process and focused on improving the academic and functional achievement to help facilitate the transition of a student to their identified post-school environment, including postsecondary education.

In her complaint, the Parent alleged the District failed to develop a transition plan that supported the Student's goal to attend college after high school. The documentation does not substantiate the Parent's allegation. The Student's IEP included a transition plan, which indicated that after high school, the Student would apply to attend a "college living experience campus post-secondary program...", that he planned on volunteering for employment, and that he would participate in leisure activities for independent living. Under "course of study," the Student's IEP indicated that the Student would enter the "transition academy," that currently the Student was on track to receive a CIA diploma, and that the Student was participating in extracurricular activities. The IEP team considered the Student's transition plan goals when it developed annual goals to help the Student navigate his postsecondary school life – such as adaptive goals that involved getting change from a cashier and a math goal that helped navigate making decisions when ordering from a menu. While these were not documented under the transition section of the IEP, documentation shows the Student's IEP team developed a coordinated set of activities for the Student, designed to be within a results-oriented process, that was focused on improving the academic and functional achievement of the Student to facilitate his movement from school to post-school activities, including postsecondary education, vocational education, integrated employment, supported employment, continuing and adult education, adult services, independent living, or community participation. However, goals are not chosen based only on where the Student would like to go, but must also be attainable based on where the Student

currently is in his ability, considering his strengths and preferences. The Student's 2019 IEP goals were focused largely on daily living skills, and all his academic, social, and adaptive goals supported his transition goals. While the Parent may disagree with the overall transition plan, OSPI finds no violation regarding how the transition plan was developed or goals implemented.

Progress Monitoring and Progress Reporting

The Parent alleged the District failed to follow procedures regarding conducting progress monitoring and providing progress reporting. The IEP specified the Parents would receive quarterly progress reporting.

The District provided the Parent with progress reporting on April 2019, June 2019, and November 2019. This complaint was filed in February 2020; thus, next progress report was not yet due. However, on the progress reporting, many of the Student's goals merely stated that the Student was making "sufficient progress" without providing any narrative or additional data, which did not adequately inform the Parents of the Student's progress towards each of the annual IEP goals. Only the SLP left comments detailing the Student's progress toward his social skills and speech and language therapy goals, and this was not done every quarter. Further, the June 2019 progress report did not contain progress reporting on all the Student's goals. The Student did make consistent progress on his goals, and there was no indication that a failure to accommodate or to provide a related support ever occurred. However, because the progress reporting did not consistently provide the Parents with sufficient information about the Student's progress on all goals, OSPI finds a violation in IEP implementation as it pertains to inadequate progress reporting.

Extended School Year Services (ESY)

The Parent alleged the District failed to follow procedures to consider the Student's need for ESY services at the February 2019 IEP meeting. ESY services are provided to students when an IEP team determines a student requires them to receive a free appropriate public education (FAPE). A student's IEP team must decide whether the student requires ESY services and the amount of services, based on the student's need to maintain skills and their professional judgment considering the nature and severity of the student's disability, rate of progress, and emerging skills, among other things, with evidence to support the need.

At the February 2019 IEP meeting, the IEP team determined that while the Student was adversely impacted by his autism diagnosis, the Student did not require ESY services to receive a FAPE and there was no data to show the Student needed ESY to maintain skills. Documentation showed that in making their determination, the IEP team considered the Student's progress data, his progress reporting, and new emerging skills. Additionally, the Parent alleged the District failed to provide an alternative to ESY once the Student was determined not to be eligible for ESY services. Districts are not obligated to provide additional summer instruction other than those determined by the IEP team to be necessary for the student to receive a FAPE. Regardless, the District still provided a summer SIPPS reading program on the ESY schedule to address the Parent's concerns about the Student's reading. No violation is found.

Parent Participation

The Parent alleged the District failed to ensure the Parent was able to participate in the development of the IEP. Documentation provided by the District and Parent demonstrated that the Parents have been involved along with school personnel in the development and review of the Student's IEP. The goals for the Student's February 2019 are based mostly on suggestions the Parents sent the team as part of a collaborative effort to develop goals. While a parent is an integral part of the IEP development process, and districts must consider the parent's concerns and any information they provide, a district is not required to adopt all recommendations proposed by a parent. The IEP team works toward consensus on IEP content, but if team members are unable to reach consensus, it remains the district's responsibility to ensure that the IEP includes the special education and related services that are necessary to provide the student with a FAPE. The documentation indicates that is what occurred here—the Parents were involved with the IEP development and many of their suggestions considered and incorporated. No violation is found.

Continuum of Placements in the Least Restrictive Environment

The Parent alleged the District did not offer a continuum of placements to serve the Student in his least restrictive environment. Districts must offer a continuum of alternative placement options and must serve students in their least restrictive environment. During the time period under investigation, the Student's IEP indicated the Student was to spend 43% of his time in the general education setting. The Student's placement was determined based on his 2017 evaluation and later following a reevaluation in October 2019. The Student's February 2019 and November 2019 IEP both indicated a placement in which the Student spent 43% of his time in the general education setting was the least restrictive setting for the Student. Thus, the Parent's allegation was not substantiated as the Student's placement was made by the IEP team, informed by the evaluation, and made considering the Student's needs. No violation is found.

Based on the investigation, it appears the Parent was actually concerned about the Student's future placement or participation in the District's transition program. However, this is premature, as this placement has not yet occurred.

Issue Two – Procedural Safeguards: The Parent alleged the District did not follow procedures regarding procedural safeguards. A copy of the procedural safeguards must be given to parents at least once a year. The documentation in this complaint shows the District provided the Parents with a copy of the procedural safeguards on June 11, 2019. Given the timeframe for this complaint investigation (February 20, 2019 through February 20, 2020), the District has met its requirement to provide the Parents with the procedural safeguards within the past year. Further, the District stated in its October 2019 PWN that the Parents were provided with procedural safeguards on September 16, October 4, and October 24, 2019 as well. No violation is found.

Issue Three – Prior Written Notice (PWN): The Parent alleged the District did not follow procedures regarding its obligation to provide PWN from February to March 2019. Prior written notice must be provided to parents of a student eligible for special education services a reasonable time before the school district proposes to initiate or change the identification,

evaluation, or educational placement of the student or provision of FAPE to the student or, refuses to initiate or change the identification, evaluation, or educational placement of the Student. The PWN also must contain certain required elements.

The District provided the Parent with two PWNs between February and March of 2019. The February 2019 PWN met the requirements for a sufficient PWN. The March 2019 IEP meeting was only to discuss the Student's annual goal progress and review the current IEP. An IEP was not drafted as a result of this meeting, nor was the current IEP modified. The team agreed to reconvene on June 11, 2019 for further discussion. A PWN is not an invitation to a future meeting, so while a meeting notice setting forth what would be addressed when the team reconvened would have been appropriate, a prior written notice was not required. On March 25, 2019, the District neither initiated nor refused to initiate a proposed change to the Student's identification, evaluation, educational placement, or the provision of a FAPE; therefore, the District was not required to provide a PWN after the March 2019 IEP meeting. Additionally, the District did provide a PWN approximately a month later, at the Parent's request. Thus, no violation is found as the District provided the February PWN and was not required to provide a PWN in March 2019.

Issue Four – Evaluation Procedures: The Parent alleged the District's evaluation of the Student in October 2019 was too subjective and was not conducted in an environment where the Student could perform well. In completing an evaluation, the evaluation group must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the student.

Here, the evaluation collected data from the Parents, Student's teachers, the school psychologist, and the speech and language pathologist to determine whether the Student remained eligible to receive special education services. The Student was reevaluated using a variety of assessments, including: Adaptive Behavior Assessment System - (ABAS-3), Social Skills Improvement System (SSIS) Rating Scales, Kaufman Assessment Battery for Children - Second Edition (KABC-II), Kaufman Test of Educational Achievement, Third Edition (KTEA-III), Academic Skills Battery (ASB), Behavior Rating Inventory of Executive Functioning, Second Edition (BRIEF II), Emotion Regulation Index (ERI), Cognitive Regulation Index (CRI), Global Executive Composite (GEC) and Oral and Written Language Scales II. The Student was also observed on several occasions by his case manager, a District special education teacher, and the school psychologist, and the Student's file was reviewed. The Student was familiar with the communications examiner and the "Oral and Written Language Scales II" examination was conducted in an environment familiar to the Student. The academic evaluation was conducted by a teacher that does not appear to be familiar to the Student. The SLP reported the Student appeared distracted and his scores were invalidated due to his inability to respond; however, the SLP acknowledged the Student's 2017 reevaluation experienced the same issue. This section of the evaluation was not significant enough to invalidate the overall finding of the evaluation. OSPI finds the District used a variety of valid assessments, tools, and sources of information to conduct the evaluation. Thus, while the Parents may disagree with the overall results of the evaluation, there is no indication it was improperly conducted. No violation is found.

CORRECTIVE ACTIONS

By or before **May 15, 2020** and **August 10, 2020**, the District will provide documentation to OSPI that it has completed the following corrective actions.

STUDENT SPECIFIC:

None.

DISTRICT SPECIFIC:

By or before **August 1, 2020**, the case manager, associate directors, school psychologist, speech language pathologist, and special education teachers identified in this complaint will complete training on progress reporting. OSPI has developed a training module on progress reporting that the District may select to use, or the District may develop its own training in conjunction with the ESD. The training module has been developed by OSPI Special Education Division and eLearning for Educators in Canvas, an online learning management system.

By **May 15, 2020**, the District will notify OSPI if it wishes to use the training module or create its own training. At that time, OSPI will provide directions on accessing the training module or further corrective action deadlines.

By or before **August 10, 2020**, the District will submit documentation that required staff have completed 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 April, 2020

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.)