

## **SPECIAL EDUCATION CITIZEN COMPLAINT (SECC) NO. 20-50**

### **PROCEDURAL HISTORY**

On April 3, 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 Bellevue 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.

On April 3, 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 April 24, 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.

### **ISSUES**

1. Did the District ensure the Parent's participation in the February 28, 2020 individualized education program (IEP) meeting?
2. Did the District follow proper IEP development procedures in deciding to reduce the Student's speech services at the February 28, 2020 IEP meeting, including ensuring that decision was based on sufficient, relevant data?

### **LEGAL STANDARDS**

Parent Participation in IEP Meetings: A school district must ensure that one or both of the parents of a student eligible for special education are present at each individualized education program (IEP) team meeting or are afforded the opportunity to participate, including: (1) Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and (2) Scheduling the meeting at a mutually agreed on time and place. The notification must: (a) Indicate the purpose, time, and location of the meeting and who will be in attendance; and (b) Inform the parents about the provisions relating to the participation of other individuals on the IEP team who have knowledge or special expertise about the student. If neither parent can attend an IEP team meeting, the school district must use other methods to ensure parent participation, including video or telephone conference calls. A meeting may be conducted without a parent in attendance if the school district is unable to convince the parents that they should attend. In this case, the public agency must keep a record of its attempts to arrange a mutually agreed on time and place, such as: (a) Detailed records of telephone calls made or attempted and the results of those calls; (b) Copies of correspondence sent to the parents and any responses received; and (c) Detailed records of visits made to the parent's home or place of employment and the results of those visits. The school district must take whatever action is necessary to ensure that the parent understands

the proceedings of the IEP team meeting, including arranging for an interpreter for parents with deafness or whose native language is other than English. The school district must give the parent a copy of the student's IEP at no cost to the parent. 34 CFR §300.322; WAC 392-172A-03100.

Parental participation in the IEP and educational placement process is central to the IDEA's goal of protecting the rights of students with disabilities and providing each student with a free appropriate public education (FAPE). The regulatory framework of the IDEA places an affirmative duty on agencies to include parents in the IEP process. Most importantly, a meeting may only be conducted without a parent if, "the public agency is unable to convince the parents they should attend." When a public agency is faced with the difficult situation of being unable to meet two distinct procedural requirements of the IDEA, in this case parental participation and timely annual review of the IEP, the Supreme Court and the 9<sup>th</sup> Circuit have both repeatedly stressed the vital importance of parental participation in the IEP creation process. Delays in meeting IEP deadlines do not deny a student FAPE where they do not deprive the student of any educational benefit. *Doug C. v. State of Hawaii*, 61 IDELR 91 (9th Cir. 2013); *Shapiro v. Paradise Valley Unified Sch. Dist.*, 317 F.3d 1072, 1078 (9th Cir. 2003); *Amanda J. v. Clark Cnty. Sch. Dist.*, 267 F.3d 877, 887 (9th Cir. 2001).

IEP Team Unable to Reach Consensus: The IEP team should work toward consensus, but the district has ultimate responsibility to ensure that the IEP includes the services that the student needs in order to receive a FAPE. No one team member has "veto power" over individual IEP provisions or the right to dictate a particular educational program. If the team cannot reach consensus, the district must provide the parents with prior written notice of the district's proposals or refusals, or both, regarding the student's educational program and the parents have the right to seek resolution of any disagreements by initiating an impartial due process hearing. Individuals with Disabilities Education Act (IDEA), 64 Fed. Reg. 12, 472, 12,473 (March 12, 1999) (Appendix A to 34 CFR Part 300, Question 9). *Ms. S. ex rel. G. v. Vashon Island Sch. Dist.*, 337 F.3d 1115, 1131 (9<sup>th</sup> Cir. 2003). *See also, Wilson v. Marana Unified Sch. Dist.*, 735 F.2d 1178, 1182-83 (9<sup>th</sup> Cir. 1984) (Holding that a school district is responsible for providing a student with a disability an education it considers appropriate, even if the educational program is different from a program sought by the parents.)

IEP Development: When developing each child's 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.

## **FINDINGS OF FACT**

### **Background**

1. The Student began receiving community-based early intervention services in February 2019 under the IDEA Part C.

## 2019-2020 School Year

2. In September 2019, the Student was referred for an evaluation to determine eligibility for special education services at age three<sup>1</sup> under the IDEA Part B. At the time of his evaluation, he was already receiving weekly community-based physical therapy (30 minutes one time per week), and community-based special instruction (15 minutes one time per week). The Student also participated in a preschool class at his early intervention service provider two days per week.
3. The District's 2019-2020 school year began on September 4, 2019.
4. On October 31, 2019, the Student's evaluation group held an evaluation results meeting to review the evaluation report with the Parent. The evaluation report stated the Student was eligible for special education services under the category of speech or language impairment, and recommended the Student receive specially designed instruction for communication. The evaluation report stated the Student's eligibility category was based on the Parent report, record review, results of the REEL-3, and clinical observation of speech/language during play.

The report stated the Student demonstrated communication skills below age-expectations and that his delay adversely impacted his ability to express his wants and needs and his ability to understand simple directions. The evaluation report stated the Student demonstrated at least a moderate delay in the area of communication: articulation/phonology/motor speech, expressive language, receptive language, pragmatic language, and that possible target areas may include increasing reciprocal conversation or number of turns within a communication interaction, developing and increasing functional vocabulary inventory and training identification of novel words, including action words, when pictured or presented in the community or classroom. The report noted that although the Student had some positively emerging communication skills, his developing language scores were below age-expectations for rate and acquisition of functional language skills.

5. On November 1, 2019, the District issued a prior written notice, proposing to initiate special education eligibility under the category of speech or language impairment, with specially designed instruction in communication. The notice also stated the team considered whether the Student demonstrated a need for specially designed instruction in social/emotional skills, and determined that while his social/emotional skills appeared to be on the low end of the average range, his weaknesses in the social/emotional area are primarily related to his communication difficulties. The notice stated this action would be initiated on November 8, 2019.
6. On November 19, 2019, the District issued a meeting invitation for a November 26, 2019 meeting, the purpose of which was to develop an initial individualized education program (IEP) and determine the Student's placement.

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<sup>1</sup> The Student turned three years old on December 30, 2019.

7. On November 26, 2019, the Student's IEP team met. At the meeting, the Student's IEP team began to develop the Student's IEP, but did not finalize the IEP.

The Student's draft November 2019 IEP stated the Student demonstrated at least a moderate delay in the area of communication: articulation/phonology/motor speech, expressive language, receptive language, and pragmatic language. The draft IEP provided for two goals in the area of communication:

- Skill: Bilabials. By 12/29/2020, when given structured therapy activities, Student will produce targeted speech sounds (/p/ & /b/) in CVC words<sup>2</sup> (e.g., pin, bone, pop) improving speech sound repertoire from 0% of opportunities to 70% of opportunities as measured by monthly [speech language pathologist (SLP)] therapy data.
- Skill: Expressive Language. By 12/29/2020, when given a structured communication opportunity, Student will produce functional two word utterances using multi-modal communication (e.g., signs, pictures, or verbal approximations) to request an item/action, request continuation/cessation, or ask for help (e.g., need bathroom; go again; my turn; help please) improving expressive language and functional communication skills from 0/5 opportunities to 4/5 opportunities as measured by monthly SLP therapy data.

The draft November 2019 IEP provided for specially designed instruction in communication for 30 minutes, four times weekly in the special education setting, from December 30, 2019 through December 29, 2020. The draft IEP stated, "Communication services will be delivered by the Speech Language Pathologist in a targeted therapy appointment." The draft November 2019 IEP further stated that during the 2019-2020 school year, the Student would spend 0% of his time participating with non-disabled peers during the school day.

8. On November 27, 2019, the District issued a prior written notice, proposing to initiate special education services in the area of communication.

The notice stated that during the November 26, 2019 IEP meeting, District IEP team members considered a once a week itinerant service model<sup>3</sup> for communication based on the recommendation made by the evaluation team. The Parent requested a four times a week special education preschool program (which has less than 50% typically developing peers in the class make up). The District IEP members then proposed increasing service minutes to twice a week, 30-minute itinerant services sessions in communication to be provided at the Student's neighborhood District elementary school, for a total of 60 minutes per week.

The notice also stated the District offered to reconvene the IEP team after 6 months of the Student receiving itinerant services to determine the Student's progress with the current model. The notice further stated, "at this point the district is not rejecting anything." The Parent

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<sup>2</sup> CVC stands for "Consonant vowel consonant."

<sup>3</sup> Itinerant services are provided to children with mild to moderate disabilities whose educational needs can be met in a variety of settings. Itinerant services include special education itinerant teachers, therapists, and preschool psychologists.

rejected the twice a week, 30-minute itinerant services sessions in communication as the Parent wanted the Student to receive special education services four times a week.

The notice further stated the District had not yet rejected the four times a week program as of November 26, 2019, and explained to the Parent that the environment of the special education preschool program provided less access to typically developing peers, and due to this, could be considered a more restrictive environment. The team agreed to reconvene and continue the discussion on December 13, 2019.

9. On December 13, 2019, the Student's IEP team met again to finalize the draft November 2019 IEP. According to a prior written notice, the IEP team members proposed increasing the services from twice a week, 30-minute itinerant communication services sessions, to four times a week, 30-minute sessions (for a total 120 minutes per week).<sup>4</sup> The notice stated this was accepted by all the team members, including the Parents. The notice further stated this increase occurred after discussing gaps in the Student's ability to effectively communicate his daily living needs and that the Parents particularly expressed a concern about toileting requests. Further, the Parents stated they were waiting for a draft of the IEP, reflecting the changes discussed in the December 2019 meeting, in order to give consent. The notice stated if the Parent consented, services would begin in January, and service appointments would be scheduled by the speech therapist with the Parents and occur during school hours. The Student's December 2019 IEP included the same two communication goals included in the draft November 2019 IEP.

The IEP team also discussed considering a reevaluation or assessment revision for the evaluation that was done in October 2019. The Parent expressed concern about the Student's adaptive and executive functioning, which were not assessed in the October 2019 evaluation. The District offered to conduct a revision and the Parents were informed that if they chose, they could contact the District to initiate a reevaluation or assessment revision.

The notice further stated that written progress reports would be provided once a semester; additionally, weekly communication via a brief email would be sent to let the Parent know the focus of therapy for the week. Data regarding the Student's attention to task would be collected/monitored to determine if current daily service minutes were appropriate. Lastly, the notice stated the IEP team may reconvene at a later date to discuss if it would be appropriate for a speech therapist to provide communication services in a weekly social group setting.<sup>5</sup> The notice stated this action would be initiated on December 30, 2019.

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<sup>4</sup> It appears the District issued one prior notice to cover both the November 26, 2019 and December 13, 2019 IEP meetings, since no decisions were made at the November 26, 2019 meeting.

<sup>5</sup> The Parents were also concerned about the Student's social emotional progress, and although the Student did not qualify for social/emotional services, the Parents wanted to explore whether his communication could be taught among peers to address some social/emotional concerns.

10. On December 18, 2019, the SLP emailed the Parents an updated draft of the IEP and asked the Parents to sign and return the consent for initial services, after which the SLP would finalize the IEP and they could schedule the Student's therapy sessions to begin in January.
11. On December 20, 2019, the Parent signed the written parental consent for initial special education services to give consent for the Student to receive special education services and wrote the following note: "I agree to services but disagree with the placement of not receiving services in a social setting (around peers). Would like a meeting in mid-January 2020 to discuss including the social group at [District] Elementary and how to move forward with the social-emotional gap as discussed with the IEP team on Friday December 13, [2019]."
12. Between December 23, 2019 and January 3, 2020, the District was closed for winter break.
13. On January 10, 2020, the SLP emailed the Parents and stated:

[Student] and I had a great first week of therapy - he is absolutely adorable and such a hard worker! He spontaneously produced over 40 words during our session so his expressive vocabulary appears to be really taking off. This week we focused on cvc /b/ words and combining words to request, describe, etc...We also introduced a visual core board which we used to model different word combinations. As Student becomes more familiar with this board, I will send one home.

Yesterday I sent home 10 /b/ words that can be used as home practice. Example activities could include: flashcard practice, coloring the pictures then describing them (blue bike, big bus, etc.). I made two copies so that you could have the flexibility to play matching type games as well.
14. On January 17, 2020, the SLP emailed the Parents and stated:

During our sessions this week, we continued to work on production of /b/ and word combinations. [Student] did really well. I noticed some mouth tension/jaw clenching this week that wasn't evident last week. [Nanny] mentioned [Student] used to speak this way often, but has done it considerably less recently. I [will] continue to monitor it and address as needed. I know prior to winter break you requested the team reconvene this month. Is that something you are still interested in? If so, I'm happy to schedule something for the next few weeks.
15. On January 20, 2020, the District was closed for Martin Luther King Jr. day.
16. On January 24, 2020, the SLP emailed the Parents and stated: "This week our sessions focused on expanding utterances and /p/. I've sent home a simple /p/ book that can be read and practiced to reinforce this sound."
17. On January 31, 2020, the SLP emailed the Parents and stated:

Another great week in speech-yesterday [Student] spontaneously produced a 3-word utterance ("There it is"). One of the things we worked on this week is expanding utterances through describing with attributes (blue truck, long tail, little pig, etc.) I sent home a laminated copy of the Core Board and pages we've been using when modeling word combinations (my turn, put it in, want more, no all done, blue truck, etc.).

18. On February 4, 2020, the preschool manager emailed the SLP, District's director of special education, preschool coordinator, and the District administrator and stated:  
I had a quick chat with [SLP] about progress and it sounds like [Student] is doing really well! He is almost at 70% with his speech goals and [SLP] was talking about social group and her impression was that he may not need it. Could we have a chat about this before meeting with parents? I know [SLP] was looking to respond to them soon about setting up a meeting. Please let me know when it will be a good time to chat about this kiddo and the request for a social group.
19. On February 7, 2020, the SLP emailed the Parents with a communication update and stated:  
[Student] had another great week in speech. He is great at imitating and is really growing in his use of spontaneous two-word utterances for a variety of communicative purposes (describing, requesting, etc.). I will send home his progress note next week. I'm not familiar with the social group at [District elementary] so I can't speak to how it is run or what it looks like, but I'd love to set up an IEP team meeting to talk more about that and give an update about his communication now that we have been working together for a while. Please let me know if your lawyer will be in attendance as well so I am cognizant of everyone's availability when scheduling.
20. Also, on February 7, 2020, the Parent responded to the SLP's email and stated that she had written her request for a mid-January IEP meeting on the last page of the Student's final IEP, where she requested the Student be added to the social group at a District elementary. The Parent further asked:  
Who is responsible for following through on my request? Please add the necessary folks to this thread. It's already close to mid-February and winter break means another delay. I want to discuss this prior to March as I requested in December. As for the progress update, I want his social needs addressed before discussing any progress he's making that occurs in a 1 on 1 setting without his peers.
21. Also, on February 7, 2020, the SLP responded to the Parent, copying the special education director, special education teacher, preschool coordinator, and District administrator and stated, "Regarding scheduling, I followed up with you the second week back from break (January 17, 2020) asking if you'd like to meet to discuss that request. I did not hear back from you until last week (January 31, 2020)." The SLP further stated, "I've reached out to District members who were at our previous meeting and will get this meeting scheduled for the week following mid-winter break (February 24-28, 2020). I will get back to you with a proposed meeting date soon."
22. On February 11, 2020, the SLP emailed the Parents, copying the special education director, special education teacher, preschool coordinator, and District administrator and asked the Parents if they were available on February 28, 2020 at 11:00 am for an IEP meeting. The Parent responded that same day and confirmed they could attend.
23. Also, on February 11, 2020, the District issued an IEP meeting invitation for the February 28, 2020 IEP meeting to discuss the Student's annual goal progress, review his current IEP, and review instructional needs. The District contact attempt report shows the District sent a letter

and email to the Parent, inviting her to the February 28, 2020 IEP meeting, and the Parent responded on February 11, 2020, that she could attend the meeting.

24. On February 17-21, 2020, the District was closed for mid-winter break.

25. On February 27, 2020, the SLP emailed the Parents to remind them of the February 28, 2020 IEP meeting at 11:00 am.

26. On February 28, 2020, the Student's IEP team, including the Parents, special education director, special education teacher, and District administrator held an IEP meeting. The team discussed the Student's strengths and parental concerns. The team reviewed the Student's current communication goals (developed at the December 13, 2019 IEP meeting and initiated on December 30, 2019) and progress to date:

**Current Goals/Progress:** The Student has been working on the following goals during his weekly speech therapy sessions.

- Goal 1 – Bilabials: When given structured therapy activities, Student will produce targeted speech sounds (/p/ & /b/) in CVC words (e.g., pin, bone, pop) improving speech sound repertoire from 0% of opportunities to 70% of opportunities as measured by monthly SLP therapy data.
  - Progress: Goal partially met. During structured tasks in the speech room, Student produces bilabial CVC words with the following accuracy: initial /b/-90%; final /b/-75%, initial /p/-23%, and final /p/-88%. Initial /p/ remains the most challenging at this time, with /b/ substitutions being noted most frequently (e.g., bop/pop). Student correctly imitates CVC words containing age-appropriate sounds (P, B, M, N, H, W) in 65% of opportunities.
- Goal 2 – Expressive Language: When given a structured communication opportunity, Student will produce functional two-word utterances using multi-modal communication (e.g. signs, pictures, or verbal approximations) to request an item/action, request continuation/cessation, or ask for help (e.g., need bathroom; go again; my turn; help please) improving expressive language and functional communication skills from 0/5 opportunities to 4/5 opportunities as measured by monthly SLP therapy data.
  - Progress: Goal met. Student is consistently using 2-word utterances to describe and request items or actions. Examples include: "one more". "that one", "more pop", "want more" "pick up", "black horse", and "two pig. He is very independent and usually wants to do things without assistance, stating "me" in these instances, we are modeling "I do", "no help", etc. in instances where sabotage<sup>6</sup> is used to encourage a request, Student has begun to independently state, "help me" or "help me ease (please)" Student would benefit from a new goal focused on continuing to increase the length and complexity of his utterances.
- Progress Summary – Student is demonstrating excellent progress with his communication skills. He would benefit from continued specially designed instruction in the area of communication to address his expressive language needs, specifically speech sound production and utterance length.

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<sup>6</sup> Sabotage is a language strategy where the professional deliberately creates a problem or difficult situation for the student, creating a situation in which the student has an immediate need to use language to make a comment or request.



The Student's IEP team also updated the Student's goals, as follows:

- Goal 1 – Bilabials: By 12/29/2020, when given structured therapy activities, Student will produce targeted speech sounds (/p/ & /b/) in CVC words (e.g., pin, bone, pop) improving speech sound repertoire from 23% of opportunities to 80% of opportunities as measured by monthly SLP therapy data.<sup>7</sup>
- Goal 2 – Expressive Language: By 12/29/2020, when given a structured communication opportunity, Student will produce functional two word utterances using multi-modal communication (e.g., signs, pictures, or verbal approximations) to request an item/action, request continuation/cessation, or ask for help (e.g., need bathroom; go again; my turn; help please) improving expressive language and functional communication skills from 1/5 opportunities to 4/5 opportunities as measured by monthly SLP therapy data.<sup>8</sup>
- Goal 3 [New] – Sentence Expression: By 12/29/2020, when given picture cards and verbal prompt, "What is he/she doing," Student will formulate an utterance using the present progressive verb form (-ing) improving his expressive language from 10% accuracy to 80% accuracy as measured by monthly speech therapy data.

The February 2020 IEP provided for the following specially designed instruction in communication: 30 minutes, two times weekly in the special education setting from March 9, 2020 through December 29, 2020. The February 2020 IEP stated that "Communication services will be delivered by the Speech Language Pathologist in a targeted therapy appointment." The February 2020 IEP further stated that during the 2019-2020 school year, the Student would spend 50% of his time participating with non-disabled peers during the school day.

27. On March 9, 2020, the District issued a prior written notice, proposing to change the Student's IEP based on the Student's communication skills progress. The notice stated the IEP team proposed to reduce communication services from four times a week, 30-minute sessions to twice a week, 30-minute sessions and stated the reason for proposing this action was because the Student demonstrated substantial growth since his initial evaluation and IEP creation.

The notice stated that "Within the first seven weeks of receiving specially designed instruction, [Student] met one of his annual goals and partially met the other." The Student's communication skills do not require the intensive level of support that he is currently receiving. A service minute adjustment was needed to more appropriately meet his needs under a free appropriate public education (FAPE).

The notice further stated the District evaluation report (dated October 2019), speech-language therapy data, and observations were used as the basis for this action. The notice listed other factors relevant to this action:

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<sup>7</sup> This goal appears to continue to address both /b/ and /p/ sounds, but based on prior progress noted in the February 2020 IEP, OSPI assumes this goal is focused on the initial /p/ that was last recorded at a baseline of 23%.

<sup>8</sup> Goal 2 in the February 2020 IEP is exactly the same as Goal 2 in the December 2019 IEP, despite a progress report stating this goal had been met.

- As discussed when developing the initial IEP on 12/13/19, Student's communication skills have continually been progress monitored in order to review growth to determine if he continued to need the level of services as proposed.
- Progress on goals will continue to be communicated with family at the semester in alignment with general education progress monitoring. Because the [Nanny] typically attends therapy sessions instead of [P]arent, weekly communication in the form of an email is provided to the [P]arent to inform them of the focus of therapy that week.

The notice stated this action would be initiated on March 16, 2020.

## **CONCLUSIONS**

**Issue 1 – Parent Participation:** The Parent alleged that the District failed to ensure the Parents' participation in the February 28, 2020 individualized education program (IEP) meeting and that the Parent was not aware that the February 28 meeting was an IEP meeting. A school district must ensure that one or both of the parents of a student eligible for special education are present at each IEP team meeting or are afforded the opportunity to participate. This includes notifying parents of the meeting early enough to ensure that they will have an opportunity to attend. The notification must, in part, indicate the purpose, time, and location of the meeting and who will be in attendance.

Documentation provided by both parties demonstrates that on February 7, 2020, the Parent requested an IEP meeting and that the SLP began attempting to schedule an IEP meeting for the Student that same day. Records provided in response to this complaint also indicated the District emailed the Parents to confirm the February 28, 2020 IEP meeting and issued an IEP invitation, and the Parents responded, confirming their attendance at the IEP meeting. Although the Parents did not agree to the IEP team's decision to reduce the Student's services at the February IEP meeting, a district is not required to adopt all recommendations proposed by a parent. While the IEP team works toward consensus on IEP content, the District is still responsible for the provision of a free appropriate public education (FAPE) and must make the final decision when a consensus cannot be reached. Despite the Parent's disagreement, the Parents did have the opportunity to participate in the meeting. OSPI finds no violation regarding parent participation in the February 28, 2020 IEP meeting.

**Issue 2 – IEP Development:** The Parent alleged that the District failed to follow proper IEP development procedures in deciding to reduce the Student's speech services at the February 28, 2020 IEP meeting, including ensuring that the decision was based on sufficient, relevant data. When developing a student's IEP, the IEP team must consider the strengths of the student, the concerns of the parents for enhancing the education of their child, the results of the initial or most recent evaluation, and the academic, developmental, and functional needs of the student.

Here, the IEP team documented in the March prior written notice that the decision to reduce the Student's service minutes was based on the Student's October 2019 evaluation report, speech-language therapy data, and observations. Documentation provided in response to this complaint included weekly emails to the Parent, demonstrating that the Student was rapidly progressing, having met one annual goal and nearly meeting the other in less than 2 months of receiving

services. Although the IEP team reduced the Student's service minutes in the February 2020 IEP meeting, the team also adjusted his goals to reflect his progress and added an additional goal to further challenge the Student.

However, these goals were contradictory and unclear when compared to the progress reporting provided. The IEP team stated the Student mastered the expressive language goal from his December 2019 IEP, but then duplicated the same goal for the February 2020 expressive language goal and stated the Student would progress from 1/5 to 4/5 opportunities as measured by monthly SLP therapy data. There is clearly baseline data missing in the February 2020 IEP, as the Student cannot have both met his goal and begin with a success rate of meeting his goal in 1/5 opportunities, as set forth in the February 2020 IEP. Further, the IEP team duplicated the bilabials goal and while the base line changed, it was unclear if the specific focus of the goal had shifted based on the progress reporting (i.e., the progress reporting suggested he met or nearly met the goal with respect to the final /b/ and final /p/, and continued to struggle with the initial /p/). However, the text of the goal was identical to the previous goal, without specifying a new focus.

As there was documentation that the Student did make sufficient progress in a short amount of time, OSPI finds no violation regarding IEP development with respect to the IEP team's determination to reduce the Student's communication service minutes. However, OSPI finds the District did err in the development of goals—in that, the goals were not clearly designed to meet the Student's current ability at the time of the February 2020 IEP meeting, as demonstrated by the data the IEP team reviewed and the contradictions between the goals and progress reporting. Thus, OSPI finds the Student's IEP was not properly developed and finds a violation. The District will be required to hold an IEP meeting to address the Student's goals.

### **CORRECTIVE ACTION**

By or before **August 19, 2020**, the District will provide documentation to OSPI that it has completed the following corrective action.

#### **STUDENT SPECIFIC:**

**IEP Meeting:** By or before **August 3, 2020**, the District will convene an IEP team meeting—consisting of the Student's current IEP team—to review and revise the Student's IEP goals to reflect the Student's current progress, specifically:

1. Revision of Bilabials goal to more clearly and accurately demonstrate the Student's current baseline, specific target, and how progress will be measured.
2. Revision of Expressive Language goal to more clearly and accurately demonstrate the Student's current baseline, specific target, and how progress will be measured.

Given the current public health crisis due to COVID-19, the IEP team is encouraged to meet using remote technology.

By **August 19, 2020**, the District will submit: 1) a copy of the meeting invitation; 2) a copy of the agenda; 3) a copy of any amended IEP; 4) a copy of any related prior written notices; and, 5) a copy of the meeting notes on the topics discussed at the meeting.

**DISTRICT SPECIFIC:**

None.

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

Dated this \_\_\_\_ day of June, 2020

Glenna Gallo, M.S., M.B.A.  
Assistant Superintendent  
Special Education  
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**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.)