

SPECIAL EDUCATION CITIZEN COMPLAINT (SECC) NO. 21-26

PROCEDURAL HISTORY

On March 22, 2021, the Office of Superintendent of Public Instruction (OSPI) received a Special Education Citizen Complaint from the parent (Parent) of a student (Student) attending the Seattle 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 March 23, 2021, OSPI acknowledged receipt of this complaint and forwarded a copy of it to the District Superintendent on the same day. OSPI asked the District to respond to the allegations made in the complaint.

On April 2, 2021, the District requested an extension of time to respond to the complaint. OSPI granted the extension and requested the District respond by April 19, 2021.

On April 19 and 20, 2021, OSPI received the District's response to the complaint and forwarded it to the Parent on April 21, 2021. OSPI invited the Parent to reply.

On May 2, 2021, OSPI received the Parent's reply. OSPI forwarded that reply to the District on May 3, 2021.

On May 5, 2021, OSPI requested clarifying information from the Parent and the Parent provided additional information on May 7, 2021. OSPI forwarded the additional information to the District on May 11, 2021.

On May 10, 2021, OSPI requested clarifying information from the District and the District provided requested information on May 19, 2021. OSPI forwarded the information to the Parent on May 20, 2021.

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 March 23, 2020. 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 implement the Student's individualized education program (IEP) from May 2020 through March 22, 2021, including any Extended School Year (ESY) services provided for in the IEP?

LEGAL STANDARDS

IEP Implementation: At the beginning of each school year, each district must have in effect an individualized education program (IEP) for every student within its jurisdiction served through enrollment who is eligible to receive special education services. It must also ensure it provides all services in a student's IEP, consistent with the student's needs as described in that IEP. 34 CFR §300.323; WAC 392-172A-03105. "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).

Specially Designed Instruction: The purpose of the IDEA is to ensure that all students eligible for special education have available to them a free appropriate public education (FAPE) that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living. 34 CFR §300.1; WAC 392-172A-01005. Special education includes specially designed instruction, which means adapting, as appropriate to the needs of an eligible student, the content, methodology, or delivery of instruction: to address the unique needs of the student that result from the student's disability; and to ensure access of the student to the general curriculum, so that the student can meet the educational standards within the jurisdiction of the public agency that apply to all students. 34 CFR §300.39(b)(3); WAC 392-172A-01175(3)(c).

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).

Extended School Year Services: Extended school year (ESY) services means services meeting state standards provided to a student eligible for special education that are beyond the normal school year, in accordance with the student's IEP, and at no cost to the parents of the student. ESY services must be provided only if the student's IEP team determines, based on the student's needs, that they are necessary in order for the student to receive a FAPE. The purpose of ESY services is the maintenance of the student's learning skills or behavior, not the teaching of new skills or behaviors. School districts must develop criteria for determining the need for ESY services that include regression and recoupment time based on documented evidence, or on the determinations of the IEP team, based on their professional judgment and 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. 34 CFR §300.106; WAC 392-172A-02020. A student's IEP team must decide whether the student requires ESY services and the amount of those services. *Letter to Given*, 39 IDELR 129 (OSEP 2003).

Compensatory Education: A state educational agency is authorized to order compensatory education through the special education citizen complaint process. *Letter to Riffel* 34 IDELR 292

(OSEP 2000). Compensatory education is an equitable remedy that seeks to make up for education services a student should have received in the first place, and aims to place the student in the same position he or she would have been, but for the district's violations of the IDEA. *R.P. ex rel. C.P. v. Prescott Unified Sch. Dist.*, 631 F.3d 1117, 56 IDELR 31, (9th Cir. 2011). There is no requirement to provide day-for-day compensation for time missed. *Parents of Student W. v. Puyallup Sch. Dist. No. 3*, 31 F.3d 1489, 21 IDELR 723 (9th Cir. 1994). The award of compensatory education is a form of equitable relief and the IDEA does not require services to be awarded directly to the student. *Park ex rel. Park v. Anaheim Union School District*, 464 F.3d 1025, 46 IDELR 151 (9th Cir. 2006).

FINDINGS OF FACT

2019–2020 School Year

1. During the 2019–2020 school year, the Student attended a nonpublic agency (NPA). The Student was in high school and was eligible for special education services under the category other health impairment.
2. The Student's February 2020 individualized education program (IEP) was in effect when the Student transferred into the District. The Student's February 2020 IEP reflected his placement at the NPA and included annual goals in the areas of social emotional/behavioral, study/organizational skills, and written expression. Progress toward the annual goals was to be measured at the semester. The Student's IEP provided the Student with specially designed instruction and related services, all in the general education setting, in social/behavior, written expression, study/organizational skills, counseling, and speech. The IEP noted the Student would receive extended school year (ESY) services.
3. In early March 2020, the Student transferred into the District while continuing to attend the NPA. A March 12, 2020 email from the District's special education supervisor to the Parents indicated the District was finalizing the Student's enrollment and then they would need to hold a transfer IEP meeting.

Complaint Timeline Began: March 23, 2020

4. An April 8, 2020 email from the District's special education supervisor indicated the Student had a "transfer IEP in place" and that the IEP team needed to develop a new IEP. An email from the Parent on the same day indicated concern that while the Student was still attending the NPA, he was not receiving special education services.
5. The District was on spring break from April 13 to 17, 2020.
6. On May 1, 2020, the Parent emailed a District program specialist, special education supervisor, and the representative from the NPA with suggestions related to the Student's IEP. The Parent noted she was concerned about how the Student would access his counseling services and stated she hoped the District would continue contracting with the Student's private counselor. The Parent also stated, "we would like to see [District] provide access to a social skills group

and for [Student] to work towards joining, as he has no opportunity for peer to peer contact while at [NPA].”

7. Beginning May 1 and continuing into July 2020, the District and the Student’s private counselor emailed several times discussing the Student’s counseling services. In relevant part, these email discussions included:
 - On May 4, 2020, the private counselor’s office suggested they “allocate a total of six hours a month” for “individual weekly counseling as well as make [counselor] available for the occasional school-team meeting and regular communication with [District] as needed.”
 - Emails from June and July 2020 indicate there was delay and confusion setting up the financial piece (i.e., the District contracting with the counselor). The emails indicated the counseling sessions continued and there was no interruption to services, despite confusion over payment.
8. On May 4, 2020, the special education supervisor emailed the program specialist and stated they should look into a summer camp for a social skills group.
9. Also, on May 4, 2020, the NPA representative emailed the program specialist a “progress report” for the Student. The report included the Student’s grades in his English class and the number of sessions he attended. A second version of the report, sent on May 7, 2020, added a comment from the Student’s English teacher stating, “[Student’s] sense of humor, great memory, insightful comments, and willingness to keep trying make working with him something that I look forward to.”
10. On May 7, 2020, the NPA representative emailed the program specialist and special education supervisor additional information about the Student, including strengths, challenges, how the Student reacts to assignments, information about the Student’s progress in writing, and information about the Student’s challenges engaging remotely.
11. Also, on May 7, 2020, the Student’s District IEP team—including the Parents—met and developed an IEP for the Student. The IEP continued to include placement at the NPA.

The IEP included present levels and annual goals in the following areas: communication (present level only, no separate goal), social/behavior (initiate and sustain non-preferred tasks; submitting assignments; self-regulation and coping strategies; behavioral map or plan); study/organizational skills (task initiation; task completion), and written language (paragraph; responding to narrative prompts). The IEP noted progress would be reported quarterly. The May 2020 IEP provided the Student with the following specially designed instruction and related services, all in a special education setting:

- Social/behavior: 120 minutes, weekly (provided by a special education teacher)
- Written expression: 120 minutes, weekly (provided by a special education teacher)
- Study/organizational skills: 120 minutes, weekly (provided by a special education teacher)
- Counseling: 360 minutes, monthly (provided by a counselor)

- Speech: 90 minutes, monthly (provided by a speech language pathologist (SLP))¹

The Student's May 2020 IEP additionally provided the Student with several accommodations and modifications. The IEP also included one hour a month of counseling for parents as a supplementary aid and service. Finally, the IEP noted the Student would have ESY services.

12. The prior written notice, dated May 8, 2020, noted the following, in relevant part:

- "The team agreed to continue his placement at [NPA] and counseling with [private counselor]."
- "The team agreed to ESY, and ESY will be sent home. ESY will be provided by [NPA]."
- "The team will look into social groups and determine which one [Student] will join when they find an appropriate one. The team will also look into potentially taking a class next year at [neighborhood school] and look at after school clubs as a way to interact with his peers."
- "Parents will continue to receive counseling through [private counselor] once a month as well."

The prior written notice was later updated to document that there was no SLP at the May 7, 2020 IEP meeting, so the team met again on May 20, 2020 to discuss speech services and that the "SLP will write a goal that can be supported and tracked by a special education teacher and the SLP. It will work on increasing his skills talking through his needs to manage his anxiety and advocate for himself." At this meeting the team also discussed the Student getting "involved in a virtual social skills group [and] program specialist will reach out to the [high school] team to see if [Student] can join." Finally, the notice stated the "SLP mentioned virtual support in the fall, the team didn't reject it but needed to look into it further to see if there is a SLP who is licensed to provide that specific support."

13. In her complaint, the Parent alleged that "no action" was taken following the development of the May 2020 IEP, no special education services were provided by the District and that an "ESY IEP was supposed to be written and never was." The Parent also alleged she was not provided any special education progress reporting.

The Parent noted in the complaint that the District supported some of the Student's private services, as follows:

- A private counselor "satisfies 200 of the 360 minutes a month allotted under Counseling Services."
- A social skills program "satisfies 90 of the 120 minutes a week of Social/Behavioral but does not cover all of the weeks under the IEP as their sessions follow a different calendar."

14. On May 20, 2020, the SLP team lead, SLP, and the special education supervisor emailed regarding the Student's communication services. Based on the emails, there seemed to be confusion about which SLP would serve the Student, how the Student would receive services, and whether the NPA had an SLP on staff or assigned to it. For example, the SLP stated remote services might be an option and they could set him up with that "support in the Fall if no one

¹ Regarding communication services, the May 2020 present levels in the IEP noted, "At this point, the IEP team agrees that the SLP's role will primarily consist of indirect service. Need for direct service will be determined by the receiving SLP" and stated the SLP would collaborate with the Student's private counselor, checking in at least monthly.

is assigned to [NPA].” In another email, the SLP noted the Student received “primarily indirect service.”

15. On May 21, 2020, the program specialist emailed the Parent regarding a social skills group, run by the special education teacher at the local high school that the Student was welcome to join.
16. On June 1, 2020, the Parent emailed the special education supervisor, program specialist, and NPA representative that she signed the Student up for a private social skills group (program) for the summer. The Parent asked if the District would consider funding the program as part of the Student’s IEP.

Subsequent emails between staff discussed the program and whether it would be considered ESY.

17. On June 8, 2020, the NPA emailed the District’s special education regional supervisor (regional supervisor) a copy of the Student’s “progress report.” The report indicated the Student’s grade in his English class and recorded his attendance.
18. Also, on June 8, 2020, the special education supervisor emailed the Parents and Student’s IEP team, responding to an email about the Student taking additional classes at the NPA. The supervisor also stated, “We will need to write an ESY IEP for the classes...we need to choose the goals that he would work on while doing...science and PE. Let us know what you think is appropriate, we will write the ESY IEP and send it out for review.”

The Parent responded that she thought all the Student’s goals would apply. The Parent also stated, “we would like to see [District] support his social skills group. As I mentioned in a previous email, we have registered him for [program].”

19. On June 9, 2020, the special education supervisor emailed the program specialist expressing concern about how the District would support the Student’s social skills while he participated in the private program. The program specialist responded that she had contacted the program and noted that the “facilitators seem like they would be qualified to support him.”
20. On June 16, 2020, the special education supervisor emailed the Parent, stating they were “looking into a contract with [program]” and would “finalize the ESY IEP this week.” Subsequent emails indicated the District contracted with the program for 10 sessions, which equated to 15 hours of programming.
21. Following the development of the May 2020 IEP, the District noted in its response that the Student continued to attend the NPA for the remainder of the 2019–2020 school year. The District stated it “supplemented [NPA’s] 1:1 program by enrolling the Student in [program] to provide him with social/behavior services” as the program “provides therapeutic social skills groups that address social skills through the intentional facilitation of game play.”

The District explained that at the NPA, the Student was provided 1:1 instruction by a special education endorsed teacher during the Student's English class. The teacher "specifically provides him with instruction in written expression and study/organizational skills," and that the Student "generally attended four hours of English class per week during all relevant times."

22. June 19, 2020 was the last day of the 2019–2020 school year for the District.

Summer 2020

23. During the summer of 2020, the Student continued to attend the NPA as the NPA has a year-round calendar.

24. According to the District's response, there was no change in the Student's services during the summer and therefore there was no need to develop a separate ESY IEP. The District acknowledged that the prior written notice created following the May 2020 IEP meeting did state an ESY IEP would be developed and noted that ESY would be provided by the NPA; however, the District stated that a separate IEP was "ultimately...not necessary due to [NPA's] year-round programming."

25. Regarding ESY, the Parent stated she was told an "ESY IEP" would be developed and that this did not happen. The Parent stated the Student did attend the NPA throughout the summer.

In the Parents' reply to the District's response, the Parent's stated that despite the NPA's year-round calendar, the Student's "IEP Team in its May 2020 meeting made the determination that an ESY IEP was to be created." The Parents noted the special education supervisor "verified this" in her June 8, 2020 email. The Parents stated, the "failure to produce an ESY IEP was counter to the decision of the IEP Team and the determination that one was not necessary is therefore a unilateral decision made by District without notice to or consultation with Parents."

26. On August 25 and September 3, 2020, the Parent emailed the Student's IEP team and requested that the "IEP Team support [Student] attending the [program] social skills group for the fall." The special education supervisor emailed the Parent and agreed to continue the program for social skills.

2020–2021 School Year

27. During the 2020–2021 school year, the Student attended an NPA and continued to be eligible for special education services under the category other health impairment.

28. The Student's daily schedule documented that he attended a science, math, and English class at the NPA, generally four days a week, beginning September 3, 2020.

29. On September 9, 2020, someone from the social skills program emailed the Student's IEP team, noting that the social skills group for that quarter consisted of eleven 90-minute sessions that ran from September 23 through December 9, 2020.
30. On September 10, 2020, the special education supervisor emailed the regional supervisor and noted that the "IEP team [agreed] that [Student] would receive his social skills minutes at [program]. He attended for ESY and it worked well."
31. The District was on winter break from December 21, 2020 through January 1, 2021.
32. On January 27, 2021, the Parent emailed the regional supervisor and IEP team and requested a copy of the Student's ESY IEP. The Parent stated they wanted to expand the Student's "ESY to include limiting the extended interruptions in learning that happen throughout the year." The Parent noted the Student "has had ESY for the summers for the last several years to prevent the loss of his social skills and to prevent increases in anxiety around school attendance that creep up when he is not in school." The Parent stated they wanted ESY for other breaks in school such as winter break, spring break, etc.
33. On February 1, 2021, the Parent emailed the Student's IEP team stating they had not received any progress reports on the Student's goals.
34. On February 11, 2021, the Parent emailed the NPA representative, stating "We were just informed that [District] is not the provider of [Student's] special education supports – like SLP, Counselor, and Specially Designed Instruction..." The Parent noted she thought the NPA "doesn't provide Special Education but can deliver [specially designed instruction]." The Parent stated she recalled, from the last IEP meeting, that they discussed a special education teacher from the neighborhood high school working with the Student and that the Student could possibly join a social skills class.

The NPA representative responded that he communicated at the meeting that the NPA "can deliver [specially designed instruction] through instant accommodation in our one to one instructional environment." The NPA representative recalled discussing the Student "doing a social skills class at [high school] and [District] has always provided Special education support."

In a subsequent email, the NPA representative shared that they had other students from the District where the District "coordinated SLP...[provided] special ed supports to assist with data collection around IEP goals...[provided] Behavior specialists contracted by [District]." The NPA representative stated this can take the form of dual enrollment, services provided over zoom, or districts that send staff to work with students on the NPA campus. The representative reiterated that, "[NPA] can provide and Deliver [sic] [specially designed instruction] through our ability to individualize the curriculum and delivery of the instruction based on the needs of individual students."

35. Also, on February 11, 2021, the Parent emailed the regional supervisor regarding her concerns. The Parent requested the District:

- "Provide...a copy of the **ESY IEP** that was supposed to be done in June 2020. (If the team is in agreement, it should be expanded to include extended days off during the year...any other breaks lasting more than two days.)"
- "Provide **names and contact information for the SLP, Special Education Teacher, and Counselor assigned to [Student]** so we may arrange with them to work on the goals in the IEP in accordance with his allotted minutes."
- "Provide [NPA] teachers with **Specially Designed Instruction** to help reach the goals delineated in the IEP."
- "Provide a plan for us to receive **progress reports on IEP goals** as delineated in the IEP."

(Emphasis in original.)

36. Also, on February 11, 2021, the regional supervisor emailed the special education supervisor and stated he was meeting with the NPA representative to talk about "the issue of [the NPA] not having a SPED teacher...I will contact the [Parents] after that. If our plan requires a special ed. teacher from [District] to support instruction...I will be looking for who that will be."

37. Later, on February 11, 2021, following a phone call, the Parents emailed the regional supervisor: "Our understanding is that you will take up the work of figuring out how to deliver [Student's] services for the remainder of this school year and through the summer."

38. On February 24, 2021, in response to an email from the Parent following up on the February 11, 2021 communications, the regional supervisor emailed the Parent stating, "I think we now have an idea how we can better meet our obligation at [NPA] next school year. Between now and then I have a plan but I am looking for a person to support this plan."

39. On March 5 and 12, 2021, the Parent emailed the regional supervisor following up on her previously expressed the concerns. The Parent noted they would "need to discuss how [District] will make up for the missed services for the last 10 months." The regional supervisor responded, on March 14, 2021, and suggested a phone call.

40. On March 15, 2021, the Parent and regional supervisor spoke on the phone.

41. In the Parents' reply, the Parent noted that in the March 15, 2021 phone call (and an earlier phone call) the regional supervisor "told Parents that [NPA] was not delivering the required services and that the most expedient way for Student to start receiving the services provided for in his IEP was for Student to change his placement from [NPA] to [a different NPA]."

42. On March 17, 2021, the Parent emailed the regional supervisor, summarizing their March 15 phone call. The email included the following:

- Student's IEP is not being implemented while he attends the NPA.
- District suggested moving to a different NPA at which Student was not comfortable. "[NPA] is the only school [Student] has been successful at in the last five years."

- ESY during the school year is not possible and District said “ESY is only for summers regardless of need because ‘that is something [District] does not do.’” A summer 2020 ESY IEP was not created.
- District wants to develop a new IEP and Parent noted the Student’s needs have not changed.
- Parent is unclear on who is actually on the Student’s IEP team.
- Student will need to recover lost services.
- District committed to finding a special education teacher, researching ESY, considering how lost services can be remedied, and finding an SLP.

The regional supervisor responded with the following, summarized in part:

- He was continuing to look for someone to implement the Student’s IEP.
- He was continuing to look for solutions to continue serving the Student at the NPA.
- ESY is generally provided during summer because a student either has a history of significant regression over breaks or the student is at a critical point of learning. “I am looking into what type of options we have or criteria we would use for those 1 week breaks you are requesting this service for.”
- He believed the Student’s IEP did not currently clearly stated the Student’s needs “and the way the district and its contracted vendors are meeting them.”
- The District needed to find an SLP “to serve and address lost time.”
- He noted they “started a conversation about how this [addressing lost services] might look or include.”

43. On March 22, 2021, OSPI received the Parent’s complaint and opened this investigation.

44. On March 30, 2021, the Parent emailed the regional supervisor regarding a call they had the previous day. The Parent summarized the discussion, as follows:

- Discussed having the NPA English teacher “managing [Student’s] special education;”
- SLP services have begun; and
- District suggested ESY could be used to recoup lost services. Parent disagreed “because we feel the ESY is necessary and thus could not be used to replace lost services.”

45. The District was on spring break April 12–16, 2021.

46. In its response, the District stated: throughout the time period investigated the Student attended the NPA; received “1:1 programming from three teachers, including a special education endorsed teacher;” and, was provided accommodations, modifications, and adapted instruction.

The District admitted that, while the NPA was aware of the Student’s goals and service minutes—and used the goals to inform their work with the Student—the NPA did not measure progress toward the IEP goals. The District also admitted there were portions of the Student’s services minutes that were not provided, as follows:

- **Written Expression & Study/Organization:** “The Student received the full allotment of special education minutes...described in his May 2020 and October 2020 IEPs.”
- **Counseling:** “The Student also received the majority of his counseling services...an average of 270 minutes per month...75 percent of the minutes called for in his May 2020 IEP.”
- **Speech:** The Student did not receive speech services.

- **Social/behavior:** "While the Student received 900 minutes of social skills development through [program] during July and August 2020...this did not include instruction provided by a special education teacher and did not meet the weekly minute requirements of the IEPs."

The District also provided information about the NPA and statements from each of the Student's teachers, as follows:

The Student's academic services are being provided entirely by [the NPA], and his social/behavior services are provided by [program]. [The NPA] does not provide [specially designed instruction] in name, but [the NPA] provides accommodations and services as outlined by the May 2020 IEP. [The NPA] is an individualized Education Environment where [specially designed instruction] can be delivered through a 1:1 teacher-to-student model. Because of the ability to get to know the students well, every student has their instruction continually adjusted and modified as they progress through their courses to meet their individual strengths, needs, and challenges.

Math Teacher: I have found [Student] to be hard working and thorough. He is able to understand most concepts quickly...Because of his thoroughness and his desire to work through all problems, lessons can take longer...One of the accommodations I use with the Student is to allow extended time on [tests], as well as more frequent checks for understanding...Also, giving the Student a choice when during practice has helped him feel more confident...These choices usually involve the number of practice problems he wants to solve...

Science Teacher: [Student] likes to rigorously follow the...online curriculum and loves to do every exercise from every page...I will often do a supplementary activity to reinforce a concept that [curriculum] glosses over, to add some challenge and engagement. The Student does score well on quizzes and tests, although he is taking more than the usual amount of time...partly because he seems reluctant to do homework...In terms of accommodation, the Student needs help with writing assignments...I will often do the writing if he does the dictating. He knows the material well, so I work to help him be able to express his knowledge as he builds his writing skills in English...the structured, one-on-one methodology and constant feedback, along with the...online curriculum, does seem to fit the Student's learning style and temperament, keeping him focused...

English/Social Studies Teacher: I wouldn't say I have modified anything in our classes other than taking the...computer scored test for credit and working the open ended tests for practice. I have made accommodations for his written work. When we do journals, discussions, or practices we usually do them together, either with me scribing, or with a shared screen on Google. His voice is starting to come out in our writing, and he does not hesitate to jump in when I prompt him for ideas. It is very collaborative, and we are about 50/50 on average. When we started I would say we were about 90/10...[As an example, Student] typed every word and my input was just as a sounding board to bounce ideas off of and some diction suggestions. I would say he did 95 percent of it on his own.

Further, in additional information, the District acknowledged that, aside from speech, "the other services in his IEP remain unchanged from the date of the District's response in this matter." The District stated, "The District is continuing to search for a solution that would

permit the IEP to be fully implemented at [NPA]" and acknowledged that "additional compensatory education will be owed to the Student to address the window of time between OSPI's corrective action plan issued in this matter and the full implementation of the student's IEP."

47. According to the Parents' reply, the Parents did not receive the "one hour per month of counseling services" outlined in the Student's IEP.

Additionally, the Parents, in their reply, addressed the District's assertion that the Student received specially designed instruction in written language and study/organizational skills during his English instruction "because the teacher...holds a special education endorsement." The Parents stated that while they "agree that some benefit has come from having a teacher with special education background, [English teacher's] role was not as a special education teacher but as an English/Social Studies teacher." The Parents noted the District continues to not provide specially designed instruction in study/organizational skills or written language, and stated:

There is no data to show whether...[study/organizational] were addressed during Student's English/Social Studies classes. By the teacher's account, work was limited to the scope of the...online curriculum with some accommodations for the means of completion and testing. All work was completed during the 1:1 classes so it did not provide the opportunity for Student to practice independent work...Neither the English nor Social Studies curriculums include instruction in Study/Organizational Skills.

It is difficult to quantify what percentage of services was 'provided' merely by the happenstance of Student's assignment to a teacher who has a special education endorsement. The instruction provided, unmodified from the...online curriculum is general instruction...

Further, the Parents stated the NPA did not modify and adapt instruction to meet the Student's needs, pointing out the science teacher's statement that the Student likes to "rigorously" follow the online curriculum and the English teacher's statement: "I wouldn't say I have modified anything in our classes other than...[methods of testing]."

48. The District offered the following compensatory services for the 11-month period at issue:
- **Written Expression & Study/organizational skills:** 705 minutes (11.75 hours) in each area - The District noted that even though the Student's goals were not specifically implemented and tracked, the Student did receive instruction in this area from a special education teacher. The District offered compensatory services in written expression at a rate of an eighth of the time not implemented in complete alignment with the IEP.
 - **Counseling:** 450 minutes (7.5 hours) - The District noted that because the Student received the majority of his counseling services and continues to receive counseling, it offered compensatory counseling at half the amount missed.
 - **Speech:** 990 minutes (16.5 hours)
 - **Social/behavior:** 1,410 minutes (23.5 hours) - The District noted that the Student received some social skills services through his attendance at a private program, but that these services "were not completely aligned with the IEP as they were not provided by a special education

teacher and were not directly linked to the specific goals identified in his IEPs." The District offered compensatory services in social/behavior at a rate of a quarter of the missed time.

49. The Parents provided their own calculations for compensatory education based on a 12-month period, as follows:

- **Written Expression:** 1,440 minutes owed (24 hours) – The Parents acknowledged that the "1:1 nature of [NPA's] model and the special education background of the teacher have contributed to Student's improvements in writing. Therefore, Parents propose compensatory education of 1,440 minutes or 1 minute for every 4 minutes of services that were not provided."
- **Study/organizational skills:** 5,760 minutes owed (96 hours)
- **Counseling:** 1,920 minutes for the Student (32 hours) and 720 minutes for the Parents (12 hours)
- **Speech:** 990 minutes (16.5 hours)
- **Social/behavior:** 3,397.5 minutes owed (56.6 hours) – The Parents note the IEP called for 5,760 minutes in the 12-month period and that approximately 3,150 minutes have been provided by the private program (although without a special education teacher).

The Parents stated the "Student is working on increasing his stamina and capacity to manage more than three classes in his course load, counseling once a week, social skills group once a week, SLP once every two weeks, and some attempt at practicing social skills in his free time." The Parents stated that, "In-kind compensatory services on top of his current work-load would not be workable or beneficial for Student." Thus, the Parents calculated the monetary value of the missed services for a total of \$21,487.50 and provided the following proposals for compensatory services:

- **Proposal Part 1:** "Pay for Student to take the Executive Functioning class called Mastering Balance offered at [NPA]. [NPA] charges \$1800 for 20 hours of skill building instruction. This would be above and beyond Student's required credits for graduation and would not count against Student's chosen electives. Student would attend the course in summer 2021 so that he can continue to practice the study/organizational skills gained in the class throughout his remaining school years."
- **Proposal Part 2:** "Set aside a fund for Student totaling \$19,687.50 that may be used until Student reaches 21 years-of-age for programs and services designed to support executive functioning skills, communication skills, social skills, and study/organizational skills like those described below." Or pay for those programs directly, as follows:
 - "An online summer program in 2022 and an in-person summer program in 2023 at College Internship Program, or another similar program, designed to assist autistic students in transitioning to college or work life. These programs support students in developing skills in functional communication...and executive functioning skills..."
 - "A life skills coach to support Student for one year after high school graduation while he transitions to college or work life. One such program in our area is Life Skills Advocate."

CONCLUSIONS

Issue One: IEP Implementation – The Parent alleged the District failed to implement the Student's May 2020 individualized education program (IEP), including extended school year (ESY) services provided for in the IEP. The Parent also alleged the District failed to provide progress

reporting. Here, the Student transferred into the District in March 2020 and attended a placement at a nonpublic agency (NPA). Following the development of the May 2020 IEP, the Parent alleged in her complaint that “no action” was taken and the Student was not provided special education services.

Each district must ensure it provides all services in a student’s IEP, consistent with the student’s needs as described in that 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 child’s IEP. A material failure occurs when there is more than a minor discrepancy between the services provided to a student with an IEP and those required by the IEP.

Related Services: Speech & Counseling: The Parent alleged the Student was not provided speech services, was only provided some of the counseling services, and that the Parents did not receive the hour a month of Parent counseling.

The Student’s May 2020 IEP included 360 minutes per month of counseling. The Student was provided counseling by a private counselor that the District ultimately contracted with. Despite some challenges and delays setting up the financial piece (contracting and reimbursement), the Student was provided most of his counseling services.

The Parents stated the Student received approximately 200 minutes a month of counseling services and requested 1,920 minutes (32 hours) of compensatory counseling based on a 12-month period of missed services (the Parents state a 12-month period should be considered as the District is still not fully implementing the IEP). The District stated the Student received an average of 270 minutes per month of counseling services and offered 450 minutes (7.5 hours) of compensatory services in counseling (a rate of half the amount missed) for an 11-month period of missed services. Upon investigation, OSPI determines that the Student was not provided all the counseling services in his IEP, which is a violation.

OSPI determines that the compensatory calculation will be based on the period from May 2020 (as the Parent’s allegations specifically stated the District failed to implement the May 2020 IEP) through April 2021 (as there is no indication the District has implemented the IEP as written since the complaint was filed): 12 months. Because there was no documentation provided confirming the specific counseling sessions the Student attended, a reasonable estimate of the counseling provided is an average of the Parent and District’s average amounts of counseling to estimate that the Student received approximately 235 minutes of counseling per month. As compensatory education is an equitable remedy and there is no requirement for minute-for-minute compensation, determining an average amount of minutes is appropriate. Therefore, OSPI finds the Student missed approximately 1,500 minutes. Because the Student received much of his counseling minutes, the District will provide compensatory services at the rate of one half the missed amount or 750 minutes (12.5 hours).

It is not clear there was IEP team consensus on the structure of the Student’s counseling services. For example, communications between the District and private counselor’s office indicated they

allotted six hours of counseling per month for “individual weekly counseling as well as make [counselor] available for the occasional school-team meeting and regular communication with [District] as needed.” This indicates there was to be some indirect service time; or, in other words, the Student would receive some amount less than 360 minutes as direct counseling. However, this nuance is not addressed in the IEP. Given that the District is still not implementing the Student’s IEP as written, the District will be required to convene the Student’s IEP team to discuss the plan to ensure services are provided as outlined in the IEP and OSPI encourages the District to clarify the amount of counseling provided as direct services versus indirect.

The Student’s May 2020 IEP also included 60 minutes per month of counseling for the Parents as a supplementary aid and service. The Parents stated they did not receive any parent counseling. It is unclear why the parent counseling did not occur as it would also have been provided by the private counselor, and OSPI assumes the private provider would have or should have scheduled directly with the Parents. However, in this instance, the Parent’s statement is credible given that the Parents would have the firsthand knowledge of whether those services were received. Thus, OSPI finds the District did not implement the portion of the Student’s IEP calling for parent counseling and the District will be required to provide 12 hours of parent counseling to correct the violation.

The Student’s May 2020 IEP included 90 minutes per month of speech services. The District admitted that speech services were not provided and offered 990 minutes (16.5 hours) of compensatory speech services to address the missed services between May 2020 and March 2021. Since filing the complaint, speech services have started. Per the District’s admission, OSPI finds a violation. The District will be required to provide 16.5 hours of compensatory speech *or, if the District agrees*, could reimburse the Parents (per the Parent’s proposal) the monetary value of 16.5 hours of private speech provided.

OSPI notes that it is not clear there was complete IEP team consensus, however, on the format of the Student’s speech services. For example, the Student’s May 2020 IEP notes, “At this point, the IEP team agrees that the SLP’s role will primarily consist of indirect service. Need for direct service will be determined by the receiving SLP.” This indicates that not all the minutes of speech were intended to be minutes of direct instruction. Further, communications after the May 2020 IEP meeting indicated District staff were confused about which SLP would serve the Student and how the logistics would work with the NPA. Thus, OSPI strongly recommends the Student’s IEP team discuss SLP services at the next IEP meeting to address any lingering questions or concerns.

Specially Designed Instruction: The District asserted the Student was provided accommodations, modifications, and adapted instruction at the NPA. However, the District acknowledged that, while the District was aware of the Student’s goals and service minutes and used the goals to inform their work with the Student, the NPA did not monitor the Student’s progress on those goals. Further, other communications between District staff and the Parent indicated the District acknowledged it was not meeting its obligation and not delivering the required services.

In general, the investigation showed the NPA did not have a teacher on staff specifically designated as a special education teacher (see e.g., February 2021 email between the District staff regarding the “issue of [the NPA] not having a SPED teacher...”). Although, the Student’s English teacher did have a special education background and a special education endorsement. The District also did not have a District special education teacher specifically supporting the Student or designing and monitoring the Student’s specially designed instruction.

OSPI notes that specially designed instruction is not just instruction provided by a special education teacher. 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. Here, to a degree the Student’s instruction was designed to meet his specific needs and the content, methodology, and delivery of instruction was adapted given the 1:1 teaching structure of the NPA. For example, the Student’s English/Social Studies teacher shared that he modified testing methods and provided accommodations such as acting as a scribe for the Student. Although, the English teacher also stated he did not “[modify] anything in our classes,” other than the testing method. The Student’s science teacher also provided accommodations and modifications such as extra time, acting as a scribe, and frequent feedback. However, the statements from the teachers also indicate online curricula was used and was largely unmodified. And, because there was no progress reporting, it is challenging to determine exactly how much of the instruction could be considered specially designed instruction.

Both the Parents’ reply and emails from the NPA representative indicated the NPA had communicated to the IEP team that the NPA does not design specially design instruction, although it “can deliver [specially designed instruction] through instant accommodation in our one to one instructional environment.” The Parents objected to the District’s statement that the NPA staff used the goals to inform their work and argued the teacher’s statements indicated this was not the case.

Overall, the investigation indicates, and the District admits, that the IEP was not implemented as written—some services were not provided at all and other services were not provided in complete alignment with the IEP. OSPI finds the District in violation for failing to implement the Student’s IEP and the District will be required to provide compensatory services as detailed below.

Written Expression & Study/Organization: The Student’s May 2020 IEP included 120 minutes a week of specially designed instruction in written expression and 120 minutes a week in study/organization, to be provided by a special education teacher. The written expression instruction was to address goals related to paragraph writing and responding to narrative prompts; and, the study/organization instruction was to address goals related to tasks initiation and task completion.

The District stated the Student received his full allotment of minutes in each area, although the District acknowledged the Student’s IEP goals were not specifically implemented or tracked. The District stated the Student’s teacher “provides him with instruction in written expression and

study/organizational skills,” and that the Student “generally attended four hours of English class per week during all relevant times.” The District stated the Student’s teacher at the NPA was a had a special education endorsement. The District therefore offered compensatory education at a rate of an eighth of the time the Student’s minutes were not implemented in complete alignment with the IEP or 705 minutes (11.75 hours) in each area. The Parents calculated the amount of compensatory education in written expression at a rate of a quarter of the amount owed or 1,440 (24 hours) in acknowledgement that “1:1 nature of [NPA’s] model and the special education background of the teacher have contributed to Student’s improvements in writing.”

As discussed above, it is difficult to tease out how much of the English instruction consisted of what was functionally specially designed instruction and what amount focused on the Student’s IEP goals. The Parents stated they agreed that “some benefit has come from having a teacher with special education background.” Given that it was an English class, it is likely the teacher worked on the written expression goals of paragraph writing and responding to narrative prompts—as these were likely fundamental parts of an English class and the teacher did work on writing with the Student; however, there is no information about the Student’s progress in these areas.

Overall, given the 1:1 nature of the program, inherent adaptability based on Student need, the fact that the English class likely addressed the Student’s IEP goals to some degree, and the fact the Parents stated the Student has made improvements in writing, OSPI determines that approximately an eighth of the missed time is appropriate and the District will be required to provide 12 hours of compensatory education in written expression.

The Parents maintained that no study/organizational instruction was provided and calculated the amount missed at 5,760 minutes (96 hours). The Parents stated there was no data showing the Student received instruction in study/organization, especially instruction specific to the Student’s task initiation and completion goals, and that the curriculum used in the English and Social Studies class did not include study/organizational skills. The English teacher’s statement does indicate some progress made by the Student in initiating tasks in that the teacher stated, “...he does not hesitate to jump in when I prompt him for ideas.” However, again, it is hard to tell how much this aligns with the goals and whether there was specific instruction in this area or whether this was a result of the relationship developed between the Student and the teacher. Further, information from the teachers indicates the Student did not complete homework or work outside of the 1:1 classes, indicating the Student struggled with independent task initiation and completion. The Parents also stressed this point, stating the Student did not have opportunities to practice nor was provided instruction in competing work independently. The Parents further emphasized this as a key area of need in their compensatory services proposal, which largely focused on programs and services designed to support executive functioning and study/organizational skills.

Ultimately, OSPI determines that there was very little intentional instruction or focus on study/organizational skills during instruction at the NPA, and absent any progress reporting, the Parents’ assertion that this is a significant area of need for the Student is persuasive. Thus, OSPI finds that compensatory education in approximately a quarter of the amount missed is more

appropriate than the eighth proposed by the District and the District will be required to provide 23 hours of study/organizational instruction.

Social/Behavior: The Student's May 2020 IEP included 120 minutes a week of specially designed instruction in social/behavior, to be provided by a special education teacher, and to address goals related to initiating and sustaining non-preferred tasks, submitting assignments, self-regulation and coping strategies, and creating a behavioral map or plan.

The Student received 900 minutes of social skills development in July and August 2020 through a private social skills program the Student participated in and the District funded, at the Parents request. The Student also attended the program between September and December (990 minutes) and attended during the spring of 2021 as well. The Parents also noted that approximately 3,150 minutes were provided by the private program, although without a special education teacher. The District acknowledged that the program did not include instruction from a special education teacher and did not meet the weekly minute requirements of the IEP.

The District offered 1,310 minutes (23.5) hours of social/behavior compensatory education (a rate of one quarter of the missed time for an 11-month period). The Parents calculated the amount missed as 3,397.5 minutes (56.6 hours). Overall, OSPI finds that the Student consistently participated in the social skills and thus received some social/behavior instruction. However, there is no indication the program focused on the Student's social/behavior IEP goals and therefore there is no indication the Student made progress on any of his goals, which the IEP team developed and determined was what the Student needed to receive a free appropriate public education (FAPE). Therefore, while the program undoubtedly benefited the Student, OSPI finds it is appropriate that the compensatory services be provided at a rate of approximately a quarter of the amount missed to address the failure to provide specially designed instruction that addressed the Student's IEP goals and the failure to ensure the Student made progress on those goals. The District will be required to provide 23.5 hours of compensatory services in social/behavioral.

Further, the District acknowledged that, aside from speech, "the other services in his IEP remain unchanged from the date of the District's response in this matter" and that the District was "continuing to search for a solution that would permit the IEP to be fully implemented at [NPA]." The District will also be required to convene the Student's IEP team to ensure there is a plan to implement the Student's IEP moving forward.

The Parents also indicated at the May 2020 IEP meeting and in subsequent communications that they were interested in the Student participating in classes or social skills groups at his neighborhood high school, in part because he did not interact with peers at the NPA. The IEP team discussed this at the IEP meeting; however, there was minimal follow up and the District instead agreed to fund the private program despite it not being in alignment with the IEP. In May 2020 the District did email the Parent and offered that the Student could join a social skills group run by the special education teacher at the local high school, but after this and during the 2020–2021 school year there was no provision of social behavior specially designed instruction or social instruction outside the social skills program. Based on this, OSPI recommends the Student's IEP

team discuss the Student's participation at his neighborhood school as an option to ensure the IEP is implemented moving forward.

Progress Reporting: The Parent alleged that she was not provided any special education 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. As part of implementing a student's IEP, a district must also provide progress reporting at the frequency specified in the student's IEP.

The documentation did include reports from the Student's NPA, which primarily contained the Student's grades and attendance. The reports did not include information about the Student's progress on his IEP goals. The District stated that, while the NPA was aware of the Student's goals, the NPA did not measure progress toward the IEP goals. This is a violation as the District failed to ensure progress monitoring was conducted and that the Parent received progress reports at the frequency delineated in the IEP. The District will be required to submit the Student's progress reports to OSPI for monitoring and review its procedures and process around progress reporting for students placed at NPAs.

ESY Services: The Parent alleged that an ESY IEP was supposed to be written and never was; and, because the team determined an ESY IEP was to be created, the District's decision to not create one was a unilateral decision made with notice to or consultation with the Parents. ESY services are services meeting state standards provided to a student eligible for special education that are beyond the normal school year, in accordance with the student's IEP, and at no cost to the parents of the student. 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 FAPE. There is no requirement that IEP teams create a separate "ESY IEP" for a student.

Here, the Student attended the NPA during the summer as the NPA had a year-round calendar. The District stated there was no change to the Student's services during the summer—the May 2020 remained in place—and therefore there was no need to develop a separate ESY IEP. The District acknowledged that following the May 2020 IEP meeting, there were communications that an "ESY IEP" would be written; however, the District emphasized that a separate IEP was ultimately not necessary because of the NPA's year-round programming.

OSPI understands the Parents' confusion and frustration here as the May 8, 2020 prior written notice indicated an ESY IEP would be sent home. Further, there were subsequent emails about ESY, including conversations about a funding a social skills program as ESY to meet the Student's social/behavioral IEP goals and discussions of which goals would be focused on during ESY (see e.g., a June 8, 2020 email in which the special education supervisor stated "We will need to write an ESY IEP for the classes...we need to choose the goals that he would work on while doing...science and PE. Let us know what you think is appropriate, we will write the ESY IEP and send it out for review.") Importantly, in response to the June 8, 2020 email, the Parent stated that all the Student's goals would apply during ESY.

Ultimately, the District did not write a separate ESY IEP. Functionally, though, the Student had an "ESY IEP" in that his May 2020 IEP continued to be in place. There is no requirement to create a separate IEP for ESY, especially if there is agreement that all elements of the IEP continue to be in place for ESY as there was here. Further, while the IEP was not implemented as written (discussed above), the Student continued to attend the NPA and a social skills program during the summer and was thus generally provided ESY services.

While OSPI notes that the District's communication here regarding ESY, in retrospect, caused the Parent to expect a separate ESY IEP, OSPI finds no violation as there is no requirement to create a separate IEP and the Student continued to have an IEP in place.

Expanded ESY Request: In the Parent's complaint the Parent stated she requested ESY for any breaks longer than two days and that the District denied this request. This request is also reflected in the Parent's emails, for example on January 27 and February 11, 2021 the Parent emailed to request ESY for other breaks in addition to summer. Further communications indicated the District's regional supervisor was looking into options or criteria used for other breaks. It does not appear a final decision has been made on this request; however, there is also no indication that the Student received ESY services over winter or spring break.

While ESY is often provided over the summer, the regulations do not restrict ESY to summer. ESY services are any services beyond the normal school year, in accordance with the student's IEP, and could include other district breaks or even an extended school day. School districts must develop criteria for determining the need for ESY services that include regression and recoupment time based on documented evidence, or on the determinations of the IEP team, based on their professional judgment and 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.

In this case, the Student's IEP did not specify which breaks ESY services would be provided, although the documentation in the complaint indicates the common understanding was summer break. Therefore, there is no failure to implement the IEP and OSPI finds no violation. Regardless, the IEP team should address the Parent's request and OSPI strongly recommends the District address this at the IEP meeting order as a result of this complaint.

CORRECTIVE ACTIONS

By or before **June 18, 2021, June 30, 2021, July 30, 2021, September 30, 2021, October 30, 2021, and May 14, 2022** the District will provide documentation to OSPI that it has completed the following corrective actions.

STUDENT SPECIFIC:

IEP Meeting

By or before **June 11, 2021**, the Student's IEP meeting will meet to discuss the following topics:

- The plan to ensure the Student's IEP is implemented as written moving forward and services—including those provided by private providers funded by the District—are provided in alignment with the IEP.
- Whether the Student will attend classes or social skills groups at his neighborhood school and the plan to ensure this happens if the IEP team agrees it is appropriate.
- The plan for compensatory education (see more below).
- OSPI recommends the District discuss and clarify the whether some amount of the Student's counseling and speech services are intended as indirect rather than direct services.

By **June 18, 2021**, the District will provide OSPI with documentation from the IEP meeting, including: 1) IEP meeting agenda or notes (if used/taken); 2) a copy of the IEP or amended IEP; 3) prior written notice; 4) documentation or explanation of the plan to ensure the IEP will be implemented moving forward; and 5) any other relevant documentation.

Note: OSPI notes the District maintains that the NPA cannot meet the Student's needs and the Parents disagree. While the Student remains at the NPA, and until the IEP determines another placement is the offer of a free appropriate public education (FAPE), the IEP team must ensure the Student's IEP is implemented or the IEP team must consider a proactive offer of compensatory services to address the ongoing failure to implement the IEP.

Compensatory Education

By or before **June 11, 2021**, the District and Parent will develop a schedule for the following compensatory services, taking into consideration the following allowances for agreed upon alternatives:

- Written Expression: 12 hours
- Study/Organization: 23
 - If the Parent and District agree, these hours can be provided through one or more of the programs included in the Parent's proposal.
- Social/Behavior: 23.5 hours
 - If the Parent and District agree, part of these hours can be provided at a social skills camp or program. However, at least half must be provided by a certificated special education teacher and focus on the Student's IEP goals.
- Student Counseling: 12.5 hours
- Parent Counseling: 12 hours
- Speech: 16.5 hours
 - If the Parent and District agree, the District could reimburse the Parent for the equivalent of 16.5 hours of private speech provided in lieu of providing 16.5 additional hours of speech.

Unless otherwise agreed to by the District and Parent, services will occur outside of the District's school day and may be accessed over District breaks and will be provided by a certified special education teacher or related service provider. Services may be provided in a 1:1 setting or a group setting if appropriate. The IEP team may consider other elements of the Parent's compensatory proposal provided with in her reply to this complaint; and, if the IEP team is in agreement, OSPI will consider requested modifications to the corrective action plan. The District will provide OSPI with documentation of the schedule for services by or before **June 18, 2021**.

If the District's provider is unable to attend a scheduled session, the session must be rescheduled. If the Student is absent, or otherwise does not attend a session without providing the District or provider with at least 24 hours' notice of the absence, the session does not need to be rescheduled. The services must be completed no later than **May 6, 2022**.

The District must provide OSPI with an update on the amount of compensatory services provided to the Student by providing documentation on **July 30, 2021** and **October 30, 2021** of the compensatory services provided to the Student at that point. This documentation must include the dates, times, and length of each session, and state whether any of the sessions were rescheduled or missed by the Student. By or before **May 14, 2022**, the District must provide OSPI with documentation that it has completed compensatory services for the Student.

The District either must provide the transportation necessary for the Student to access these services or reimburse the Parent for the cost of providing transportation for these services. If the District reimburses the Parent for transportation, the District must provide reimbursement for round trip mileage at the District's privately-owned vehicle rate. The District must provide OSPI with documentation of compliance with this requirement by **May 14, 2022**.

Progress Monitoring

By or before **June 18, 2021**, the District will provide OSPI with the dates at which the Student's 2021–2022 quarterly progress reports will be due. By June 30, 2021, OSPI will provide the District with further deadlines to provide OSPI copies of the progress reporting ongoing monitoring, review, and feedback.

DISTRICT SPECIFIC:

Progress Monitoring Procedures

The District will review its current internal practices and procedures addressing how progress monitoring and reporting is conducted and provided for students placed at NPAs. The District will determine whether it needs to revise internal practices or procedures in accordance with the IDEA and state special education regulations. By **June 30, 2021**, the District will provide OSPI with the results of its review, including its rationale for either maintaining or revising the current internal practices and procedures. The District will also provide a copy of the current internal practices and procedures and copies of any revised internal practices and procedures for review. OSPI will review the documentation by July 15, 2021.

By **September 30, 2021**, the District will provide OSPI with documentation that any changes to internal practices or District procedures have been approved and adopted by administration, including the date of approval. The District will also provide documentation that the District's internal practices and procedures are posted to the District's inter-district website or otherwise made accessible to appropriate staff so that District staff members can easily access the information.

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.

RECOMMENDATIONS

Given that the Parent has made multiple requests for extended school year (ESY) services outside of just the summer, OSPI strongly recommends the IEP team address the Parent's request. OSPI notes that the IEP team should review the criteria for ESY decisions and make a decision accordingly.

Dated this day of May, 2021

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.)