

## **SPECIAL EDUCATION COMMUNITY COMPLAINT (SECC) NO. 22-19**

### **PROCEDURAL HISTORY**

On February 15, 2022, the Office of Superintendent of Public Instruction (OSPI) received a Special Education Community Complaint from the parent (Parent) of a student (Student) attending the Shoreline School District (District). The Parent alleged that the District violated the Individuals with Disabilities Education Act (IDEA), or a regulation implementing the IDEA, with regard to the Student's education.

On February 16, 2022, OSPI acknowledged receipt of this complaint and forwarded a copy of it to the District superintendent on the same day. OSPI asked the District to respond to the allegations made in the complaint.

On March 4, 2022, OSPI received the District's response to the complaint and forwarded it to the Parent on March 9, 2022. OSPI invited the Parent to reply.

On March 22, 2022, OSPI received the Parent's reply. OSPI forwarded that reply to the District the same day.

On April 12, 2022, OSPI's investigator conducted a phone interview of the Student's teacher of the visually impaired (TVI).

On April 12 and 13, 2022, OSPI determined that additional information would be helpful to the investigation and contacted the District. OSPI received the requested information from the District on April 13, 2022. OSPI forwarded that information to the Parent on April 14, 2022.

On April 14, 2022, OSPI determined that additional information would be helpful to the investigation and contacted the Parent. OSPI received the requested information from the Parent on April 14, 2022 and forwarded that information to the District the same day.

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

### **ISSUE**

1. Since September 2021, has the District properly implemented the following portions of the Student's individualized education program (IEP): (a) those provisions that were to be provided by either a teacher of the visually impaired (TVI) or a 1:1 vision technician; and, (b) any accommodations that related to accessibility of classroom materials?

### **LEGAL STANDARDS**

IEP Implementation: At the beginning of each school year, each district must have in effect an IEP for every student within its jurisdiction served through enrollment who is eligible to receive special education services. 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 [student with a disability] and those required by the IEP." *Baker v. Van Duyn*, 502 F. 3d 811 (9th Cir. 2007).

Compensatory Education: A state educational agency is authorized to order compensatory education, as appropriate, through the special education community complaint process. 34 CFR §300.151(b)(1); WAC 392-172A-05030. The state educational agency, pursuant to its general supervisory authority, has broad flexibility to determine appropriate remedies to address the denial of appropriate services to an individual child or group of children. *Letter to Lipsitt*, 181 LRP 17281 (2018). 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, (9<sup>th</sup> Cir. 2011); *See also, Letter to Lipsitt*, 181 LRP 17281 (2018) ("The purpose of a compensatory services award is to remedy the public agency's failure to provide a child with a disability with 'appropriate services' during the time that the child is (or was) entitled to a free appropriate public education and was denied appropriate services.")

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 (9<sup>th</sup> Cir. 1994). "There is no statutory or regulatory formula for calculating compensatory remedies. However, generally services delivered on a one-to-one basis are usually delivered effectively in less time than if the services were provided in a classroom setting. It is common in Washington for such one-to-one services to be calculated at half of the total hours missed." *In re: Mabton School District*, 2018-SE-0036.

## **FINDINGS OF FACT**

### **Background Information**

1. The Student is eligible for special education services under the eligibility category visual impairment and is in middle school.
2. In March of 2021, an assistive technology evaluation of the Student was completed. It concluded, in part:

Student displays a relatively high level of proficiency in using his assistive technology devices to access his general education curriculum. Nevertheless, the scope of computing skills is expansive and ever-evolving. Navigating the dynamic landscape of technology will involve challenges which arise sporadically throughout a school year. Ongoing support from a skilled TSVI or Assistive Technology Instructional Specialist will help identify and address these needs as they arise. [Therefore, recommendations are as follows:]

Provide support and troubleshooting as needed on all devices and software. Considering Student's advanced use of assistive technology, this may require frequent sessions with a skilled assistive technology instructional specialist.

To allow for troubleshooting potential access issues, request that teachers provide information regarding the use of specific websites and apps at least one day prior to class.

Student would benefit from instruction in using Voiceover with gestures specifically for the use of OCR tasks with apps such as KNFB Reader or VoiceDream Scanner, and other applications as needed.

Instruct in the use of a scanning bracket, such as the ScanJig system, for increased independence when using OCR applications.

As the need arises, Student would benefit from instruction in use of Talking LabQuest. Depending on the activity, he may also require instruction in other tools.

Increase Student's involvement in hard copy braille production through instruction in using his braille embosser with braille translation software.

Student would benefit from being involved in the process of tactile graphics production with the intent to gain independence in the use of his Pictures in a Flash tactile graphic maker.

A new device from Orbit Research, the Graphiti, may offer an opportunity for Student to be more independent and efficient when there is a need to access tactile graphics. The device is a purpose-designed 60x40 refreshable pin display, and claims to provide access to 'all forms of graphical information.' The assessors do not have experience with this very new device, however we believe it warrants future exploration, especially in consideration that Student will be taking geometry next school year, which is likely to require significant tactile graphic production.

Explore products from Thinkable (thinkable.nl) as potential solutions for increased independence in tactile graphic production, including TactileView Drawing Software, TactiPad and GraphGrid drawing boards.

3. On June 18, 2021, the Student's individualized education program (IEP) team amended the Student's current IEP. The Student's June 2021 amended IEP provided the Student, in part, with the following, non-concurrent specially designed instruction in a *special education setting* from June 24, 2021 through April 3, 2022:

- **Vision Services:** 160 minutes a week (to be provided by a teacher of the visually impaired)

The Student's June 2021 amended IEP provided the Student, in part, with the following, concurrent supplementary aids and services in a *general education setting* June 24, 2021 through April 3, 2022

- **Teacher of the Visually Impaired – Consultation with General Education Staff:** 60 minutes a week (to be provided by a teacher of the visually impaired)
- **1:1 Vision Technician:** 37 hours a week (to be provided by special education staff)

The IEP also included the following, nonconcurrent, supplementary aids and services:

- **Assistive Technology Services to Support Use of Device:** 180 minutes a week (to be provided by special education staff in a *special education setting*)
- **Assistive Technology Consultation with Staff:** 30 minutes a week (to be provided by special education staff in a *general education setting*)

- **Vision Services Consultation:** 30 minutes a week (to be provided by special education staff in a general education setting)

The June 2021 amended IEP provided the Student, in part, with the following accommodations:

- Braille embosser (daily and test preparation);
- Braille translation software (daily and test preparation);
- BrailleNote Touch Plus (daily and testing);
- Electronic Braille display (daily and testing);
- Materials provided in tactile form (Braille) to fullest extent possible (daily);
- Orion TI-84 talking calculator (daily);
- PC with JAWS application (daily);
- Scribe (testing);
- Sighted orientation to graphs, charts, maps, and tactile drawings (testing);
- Sighted orientation to unfamiliar activities; tactile models, charts, diagrams, and graphs; adapted technology and measuring tools (daily);
- Signature template (as needed to replace existing);
- Talking books/books-on-tape (daily);
- Talking LabQuest Vernier Probe (daily);
- Teacher to provide the name of websites and applications at least a day in advance – preferably, as soon as Student can get it (daily);
- Test questions read aloud (testing); and,
- Text-to-speech (daily and testing).

The June 2021 amended IEP provided the Student, in part, with the following support: “TVI consultation with a paraeducator/vision technician/classroom staff on how to produce accessible educational materials (30 minutes a week).”

4. In its response, the District stated:

The Student met his relevant annual IEP goals during the 2020-21 school year. TVIs with [a school for the blind] assessed the Student’s assistive technology skills in March 2021 and reported that the Student ‘displays a relatively high level of proficiency in using his assistive technology devices to access his general education curriculum.’<sup>1</sup>

5. According to emails included in the District’s response, in August 2021:

- District staff worked with the Parent and Student to get the Student access to his Braille math book prior to the start of the school year.
- District staff worked with the Student to get the Student’s BrailleNote Touch connected to the District’s wifi.
- The Student met with the 2021–2022 teacher of the visually impaired (TVI).
- The Student’s IEP-at-a-glance was shared with the Student’s IEP team.
- The Student discussed with the TVI about using a tactile graphics machine<sup>2</sup> to complete a social studies assignment.

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<sup>1</sup> The March 2021 Assistive Technology Assessment Report does include the quoted language.

<sup>2</sup> A swell machine.

## 2021–2022 School Year

6. The District's first day of school was September 1, 2021.
7. At the start of the 2021–2022 school year, the Student continued to be eligible for special education services under the category of visual impairment, was in the eighth grade, and attended a District middle school. At that time, the Student's June 2021 amended IEP was in effect.
8. The Student's first semester schedule was as follows:
  - Period 1: Ceramics – taught by a general education teacher
  - Period 2: Honors Social Studies – taught by a general education teacher
  - Period 3: French – taught by a general education teacher
  - Period 4: Honors English – taught by a general education teacher
  - Period 5: Geometry – taught by a general education teacher
  - Period 6: Honors Science – taught by a general education teacher
  - Period 7: Roundtable – taught by a general education teacher

9. According to information submitted by the Parent in her complaint and reply to the District's response:

Student is a blind student with autism...Student is assessed as having average to high average cognitive abilities and has demonstrated that he is very capable academically when learning materials are modified so that he can access them.

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In June 2021, the District updated Student's IEP and committed to providing 340 minutes per week of specialized instruction delivered by a teacher of the visually impaired (TVI). The District also agreed to provide Student with a 1:1 vision technician to help support him in class and to make sure he can access educational materials...The District brought in a new TVI in September 2021 [but] this TVI...was not familiar with the IEP goals [and] unilaterally reduced the number of service minutes delivered to Student...based on what she personally believed was appropriate for Student and...what fit with her schedule.

[We have previously informed the District] that Student's TVI often replaced instruction with 'accommodations'...[A] major concern [is] the District's failure to provide Student with sufficient specialized instruction to allow him to achieve grade-level competence in accessible assistive technology.

...

Access to classroom materials continues to be an ongoing issue...Student's geometry materials this year are mostly posted on Canvas. The materials are largely inaccessible to Student (they do not work well with JAWS so mostly no Braille display support, only audio, etc.). It makes it virtually impossible for Student to follow along in class and to keep up with his general education peers. Even Student's most recent math test was not accessible and had to be read out loud to him during his TVI time.

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[The June 2021 amended IEP] included specially designed instruction (SDI) delivered by a TVI as direct instruction to Student in the amount of 160 minutes/week and, in addition, 180 minutes/week of assistive technology services. Between the two areas – direct SDI and

instruction in assistive technology – Student is supposed to receive 340 service minutes per week. This has not been happening during the 2021-2022 school year.

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[In geometry class], Student has not been appropriately taught how to perform basic skills such as drawing and labeling triangles and various shapes/angles with success. He has not been shown how to use a Braille protractor, an accessible compass, or measure accurately with a braille ruler. When asked how Student can show spatial work, we were told that he could use a rubber board and push pins. When I asked if he would be able to demonstrate his work in college with push pins and a rubber board, I was told that he could be taught how to use DESMOS with the embosser.<sup>3</sup>...Student told me that they later found that DESMOS is not compatible with the school embosser and no alternative plan has since been devised.

The Parent provided OSPI with a spring 2021 settlement agreement that required, in part, that: "accessible curricula materials" be provided to the Student "at the same time or earlier than those materials were provided to his non-disabled peers."

The Parent also made the following observations:

- When the Parent expressed concern all of the required minutes were not being provided, the TVI "recommended reducing the minutes from those stated in the IEP because, in her estimation, Student was doing 'fine'."
- To the extent the Student was receiving the supplementary aide and service of "assistive technology services to support use of device" in his general education classes, this was in contradiction of the June 2021 amended IEP, which required that these services be provided in a *special education setting* because—explained the Parent—the Student's IEP team had determined the Student's assistive technology needs "were so specialized that they could not be delivered during class time because doing so would take away from in-class instruction."
- "Student was not given appropriate and timely instruction" related to LabQuest.
- The Student requires some instruction in LaTeX<sup>4</sup>, has not been provided this instruction, and the TVI has stated she cannot provide the same.
- The Parent believed the spreadsheet created by the case manager in the spring of 2021 (see below, Fact 20), was being followed and/or utilized during the 2021–2022 school year, but, "at the January 2022 IEP meeting...the TVI and occupational therapist (OT) said that they had never seen the document before."

10. According to the District: "While the [June 2021 amended] IEP is not specific about which special education staff deliver assistive technology services, both the Student's TVI and the Student's 1:1 vision technician provide the Student with assistive technology services."

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<sup>3</sup> Desmos is an advanced graphing calculator implemented as a web application and a mobile application written in JavaScript. [https://en.wikipedia.org/wiki/Desmos\\_\(graphing\)](https://en.wikipedia.org/wiki/Desmos_(graphing))

<sup>4</sup> LaTeX "is a high-quality typesetting system; it includes features designed for the production of technical and scientific documentation. LaTeX is the de facto standard for the communication and publication of scientific documents." <https://www.latex-project.org/> "For many people the most useful part of LaTeX is the ability to typeset complex mathematical formulas. for the sake of simplicity, LaTeX separates the tasks of typesetting mathematics and typesetting normal text." <https://www1.cmc.edu/pages/faculty/aaksoy/latex/latexthree.html>

In its response, the District further stated:

**[1:1 Vision Technician]**

The Student's 1:1 vision technician is not equivalent to a typical 1:1 paraprofessional because he is not always in the same room as the Student throughout the school day. Rather, the 1:1 vision technician, provides 1:1 support for the Student in a variety of ways. He spends the majority of his time performing braille transcription of classroom materials for the Student. He also creates manipulatives and tactile geometry supports for the Student. The 1:1 vision technician accompanies the Student to classes only where necessary. For example, The 1:1 vision technician currently accompanies the Student to his geometry and honors science classes due to the manipulative and tactile aspects of those classes. The 1:1 vision technician also accompanied the Student to his yoga and walking class for approximately one week at the beginning of the current semester until the Student could attend that class independently. During the first semester of the 2021-22 school year, the 1:1 vision technician accompanied the Student to his ceramics class to support the Student's fine motor needs. When The 1:1 vision technician accompanies the Student to his classes, he helps the Student use and troubleshoot assistive technology.

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The 1:1 vision technician transcribes math problems posted to Canvas to the Student can access them.

**[The TVI]**

The TVI provides the Student specially designed instruction five days a week from 7:30 am to 8:30 am, totaling 300 minutes. During that time, the Student receives instruction to meet his annual IEP goals and instruction in the nine areas of the Expanded Core Curriculum (ECC), which is a disability-specific set of skills that compensate for vision loss. The nine areas of the ECC are as follows: assistive technology, career education, compensatory skills, independent living skills, orientation and mobility, recreation and leisure, self-determination, sensory efficiency, and social interaction skills. When providing instruction in the assistive technology area of the ECC, the TVI not only teaches the Student how to use certain assistive technology, but also how to determine which assistive technology to use in a particular situation, if any. The TVI also teaches the Student how to utilize non-technological skills when assistive technology fails, a circumstance the Student may face throughout his life.

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The TVI has created a number of resources to assist the Student's general education teachers<sup>5</sup> [and she] is in routine communication with the Student's general education teachers about accessibility and accommodations.

**[The 1:1 Vision Technician and the TVI – Area of Joint Responsibility]**

The 300 minutes of instruction that the TVI provides the Student each week fulfills the vision services minutes and most of the assistive technology services minutes in the Student's IEP. The 1:1 vision technician provides the Student with the remainder of the assistive

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<sup>5</sup> The District's response included certain materials it said were created by the TVI and provided to the Student's general education teacher, including, in part: programs an outside assistive technology specialist recommended as being particularly helpful; bulleted 'strategies to build social skills' and 'promoting organizational and self-advocacy skills'; an explanation of the role of the TVI and the 1:1 vision technician; helpful computer keyboard shortcuts; and, 'accessibility resources for students with print disabilities and visual impairments.'

technology services minutes required by the IEP by helping the Student utilize and troubleshoot assistive technology.

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The 1:1 Vision Technician and the TVI led an information and training session with the Student's general education teachers regarding accommodations for visually impaired students at the beginning of the 2021-22 school year.

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The 1:1 vision technician, the TVI, and the Student's general education teachers collaborate diligently to make classroom materials available to the Student.

...

The TVI and the 1:1 vision technician monitor the Student's Canvas pages to determine whether materials are accessible to the Student.

11. In relation to the Student's ability to navigate assistive technology during the 2021–2022 school year, the District's response noted, in part:

The Student's considerable progress has continued this year. For example, the Student can independently use brailleNote Touch Plus (a braille note taker and tablet) and his laptop computer. The TVI, who has a visual impairment and is a proficient user of assistive technology, reports that the Student knows more keyboard strokes than she does and that the Student is more proficient with assistive technology than many students at the high school level. Several times, the Student missed instructional minutes when he arrived late to his scheduled 7:30 am instruction with the TVI. Even so, the Student is advanced compared to his same aged peers in assistive technology.

12. In relation to District staff working to make classroom materials accessible to the Student, the District stated:

There have been some instances in which unexpected formatting or imperfect technology have resulted in imperfect accessibility. When these occasional glitches occur, the TVI and the 1:1 vision technician work with staff and materials to ensure the Student can access the course material. For example, in one situation the Student's social studies teacher believed that optical character recognition software would make a newspaper article accessible for the Student. It did not, and the TVI worked with the social studies teacher to resolve that accessibility issue...There are also times where certain materials, such as math problems, are not accessible to the Student on the District's learning management system, Canvas...The Student also has a Google Drive folder to access classroom materials. When accessibility issues infrequently occur, District staff seek creative solutions. Because navigation of an imperfectly accessible world will be an important adaptive skill for Student in postsecondary life, staff try to use these moments as a teaching opportunity to help Student learn the skills he will need to communicate and problem-solve when he confronts an accessibility issue outside the K-12 educational setting.

13. According to emails included in the District's response, in September 2021:

- At the start of the school year, the TVI began the morning sessions with the Student focusing on "assistive technology skills."
- The TVI, the IT department, and the Student collaborated on getting the Student a Braille Note Touch Plus, and on getting the same connected to the Student's laptop.
- The digital learning specialist and the TVI utilized, in part, the "Cidi Labs Tool" to make the Student's Canvas Courses more accessible.



- The Parent expressed concern that the Student was not getting access to “tactile graphs/diagrams during geometry class or at home”; the Parent acknowledged there was a Braille geometry textbook in the classroom; and, the TVI stated, in part, “We’ll make sure...this gets solved.”
- In a September 14, 2022 “check-in” email to the Student’s teachers, the Student noted the following in regard to the social studies class: “I enjoy that you took the time to apply alt-text to the pictures in the slideshows, so they’re easier to read and [I] know precisely what’s going on. I also like that you give me a preview of the next day’s work through Canvas messages (which come to my inbox), so it is easy to access.”
- In a September 24, 2022 “check-in” email to the Student’s teachers, the Student noted the following in regard to the ceramics class: “thank you for continuing to give me models to explore for what you are showing the class.” The Student also noted the following in regard to the geometry class: “So far, I can access almost all of the [work], and I enjoy being in your class. The only one thing that was confusing was question 2 on the quiz, where a number was brailled incorrectly ([though] I think I solved the correct version already).”

14. According to emails included in the District’s response, in October 2021:

- In an October 4 “check-in” email to the Student’s teachers, the Student noted the following in regard to the art class: “I am still enjoying being presented with models of what the finished project could look like.”
- On October 5, the social studies teacher responded to the Student, informing the Student that he would be absent, in part, with the following message: “Do your best with this source, but it may not be as accessible as other sources we’ve analyzed in class. You can click ‘show text’ to have the text of the newspaper written out, but note that there will be some goofy typos. It’s okay if you can’t find all the information, we can always go over it in class on Wednesday.”
- In an October 8 check-in, the Student noted his social studies PDFs “were very readable and enjoyable.”
- In an October 15 check-in, the Student noted, in relation to science class: “I appreciate you trying to make the lab accessible by collecting data with Lab Quest! Hopefully we can smooth out the bumps...we were encountering yesterday by increasing our knowledge of how to use it.”
- On October 19, the social studies teacher emailed the Student, in part: “You should already have a Braille copy of the documents, and there are digital versions in this week’s module and linked in the Announcements for today.”

15. The District’s response included a progress report for the June 2021 amended IEP goals, dated early November 2021. It read, in part:

- **Vision Services 1** (ability to determine which type of “embosser” is most appropriate for any particular project): mastered – “Student is able to communicate how the embossers are different and the kinds of benefits they would provide if he were using one.”
- **Vision Services 2** (ability “to take a PDF document...and [using software] create a Braille-ready document”): sufficient progress – “Student is able to open a PDF in word and make changes to the document before importing into Duxbury.”<sup>6</sup>
- **Vision Services 3** (ability “to self-advocate with...classroom teachers regarding specific, [needed] accommodations and/or modifications”): sufficient progress – “Student is writing his

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<sup>6</sup> Duxbury is a text-to-Braille translation software program.

teachers each week and also communicating during class about his needs and what kinds of accommodations he needs to be successful.”

- **Vision Services 4:** (ability “to express his assistive technology needs with his visually impaired peers”): sufficient progress: “Student connects with visually impaired peers outside of school. During these events and conferences, he is able to learn how other peers are utilizing assistive technology.”

16. On December 1, 2021, the Parent emailed the TVI, stating, in part:

We are also concerned the current IEP states that Student will receive 3 hours of AT a week, but it doesn't seem like that is happening. I know that we agreed to give things a trial run as is (M-F, 7:45 - 8:30am) but we feel that more time needs to be devoted to actively building upon Student's existing AT skills. We are looking ahead to prepare him for high school and college.

Last year, the district also agreed to provide Student with pre-teaching and instruction for new websites, platforms, tools, etc. so that he would be independent when encountering them in the classroom which doesn't seem to be happening consistently.

One example is the Talking LabQuest. Student said that you both met with someone from Independence Science but that was after the use of it was requested in class. Student said that even to this day, he just has basic knowledge of how to navigate the machine and he was not even able to save his data during the experiment.

Also, there was no introduction to the CPM ebook which Student is using in Geometry class in conjunction with the brailled text. He said that it is complex enough to require some amount of training. We did ask for Student's outside AT instructors to work on it with him.

May I ask what plans you have for AT instruction going forward? We had envisioned not just problem solving as things arise, but actively working to teach skills that will be needed next year and beyond? (ex: Excel, G Sheets, PPT, G Slides, annotating longer documents as already discussed, LaTeX, French Braille, instruction and access to the embosser, etc.)

Later that day, the TVI emailed the special education director (director) and the assistant principal, asking for advice on “how [to] proceed.” The TVI wrote, in part:

I didn't know that Student was using the online [geometry] textbook. It was my understanding that we weren't doing that because there are likely to be accessibility challenges. He has a physical copy of the book.

Student knows how to use the software that he needs for his courses.

As a TVI, I can teach keystrokes and how to access basic functions with a screen reader, but I am not trained to teach more than the basic functions. I know nothing about Latek. That is not covered in our program. I can introduce the French Braille code and discuss how he would use it. I however am not sure that is needed since he's accessing most of his materials on the computer. Finally, the embosser is for braille transcribers. Unless there is something in the settlement about the embosser, I'm not comfortable with instructing him on how to use it. He will not be embossing his own materials. I asked [another staff person] specifically about this, and he said he's never taught a student how to use Duxbury or an embosser.

I believe that Student needs to work on communication skills, social skills, and how to problem solve. When he gets to college, there will be no pre-teaching. He has to have the ability to use the skills he has to trouble shoot.

I'm concerned that his mom thinks it's my responsibility to teach him how to use all software and navigate all websites. That is not my job. He needs to know how to access and problem solve.

On December 6, 2021, the assistant principal responded, stating, in part:

Settlement language states that he needs to be able to access the embosser throughout the day. Mom mentioned it specifically in practical application, at the moment, to work he's doing...using maps to find his way around—Lighthouse has maps he can access but would like to print them. So that one is a yes, for sure.

Some of what you've written might be conversations for the team to decide: if he is receiving AT minutes, understandings might look different of what those should entail.

Later that day, the TVI responded, stating, in part: "He and I are going to look at the embosser on Wednesday. I however am not aware of time that him embossing will make a whole lot of sense...Most places he will travel will not have tactile maps."

17. On December 14, 2021, the Parent emailed the TVI, stating, in part:

I feel like we are rehashing a lot of things that I thought had been decided last school year at our settlement meeting and also at the last IEP meeting - training and use of the embosser, pre-teaching of new tools, apps, websites prior to when they are needed so that Student can be independent in class, 180 minutes of AT instruction a week on the AT he is using. These things were agreed upon and have not been being provided.

18. On January 27, 2022, the Student sent an email to the TVI with the subject line of "List of Possible Technological Improvements for Me." That email read, in part: "How [to] use parentheses and trigonometric functions in Windows calculator? How to be more proficient [with] charts and graphs in Excel and Google sheets? How to [use] add-ons in Google drive? [And:] do you know anything about Blooket?"

19. An IEP meeting took place on January 29, 2022. According to the agenda for that meeting, the following, in part, was discussed: parental concerns regarding the Student's use of embosser and the nature of the provision of assistive technology minutes ("direct instruction on software and platforms [and] preteaching").

The prior written notice related to the January 29, 2022 IEP meeting referenced certain IEP progress data that was utilized in a conversation regarding recovery services. The IEP progress data read, in part:

Student is independent in using required manipulatives in class and is able to manage his classroom materials independently. Using tactile maps, Student has learned to think about and describe traffic dynamics for clockwise and counterclockwise crossings.

...

Student is able to articulate how embossers differ from each other and which embosser would best meet his needs...Student is able to take a PDF, convert it to Word, and import into Duxbury with no prompting needed.

The meeting notes portion of the January 2022 IEP meeting prior written notice read, in part: [Student reports] that 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, and 6<sup>th</sup> [period classes] have sent problematic materials ahead of time [and Student] appreciate[s] that...[Student had made some use of] screen readers [and] alternative text picture descriptions in an online math textbook. Technology: [Student] knows how to navigate CPME, MS Word/Google Docs [and] can now choose which works best.

...

Embosser...Decisions: Embosser will remain available to Student to access throughout the school day, will revisit going from Word to Duxbury to embosser – will revisit goals.

Assistive Technology Instructional Minutes: Discussion: [Student would] benefit from additional support [with] CPM eBook...Decision: clarified time is 1 hour daily in the mornings; OT will reach out to teachers concerning math tactile skills needed, will coordinate on what tools are most helpful.

20. The District's response included "a spreadsheet that [Student's case manager]...created [in spring 2021] to help [the IEP team] identify various materials and skills that were probably going to be used/needed for the 2021-2022 school year."<sup>7</sup> This spreadsheet referenced, in part: models for certain subjects and/or class projects; a ruler; "picture vocabulary"; and, "Lab Quest: Vernier Software for Data."

The spreadsheet read, in part: "Student will need instruction on how to use Lab Quest and the Vernier Software. Student is being given access to the eBook for geometry so that he can determine its accessibility and practice navigating it."

21. On or about February 3, 2022, the TVI set up a meeting with someone from Independence Science to "better understand how to use the Lab Quest." (Upon knowledge and belief, Independence Science wither owned the LabQuest Technology and/or offered customer service-related assistance for use of the LabQuest.)
22. In mid-February 2022, the Student corresponded with a staff person from HumanWare regarding why a particular ".BRF file on [Student's] BrailleNote Touch+ from KeyMail" would not open.
23. The District's response included a written statement authored by the Student's geometry teacher. It read, in part:
- At the end of school year 2020/2021 the TVI and the 1:1 vision technician planned ahead for Student's arrival in Geometry the following year. Student was provided with the Geometry text CPM Integrated II in braille and other manipulatives. For each unit of study, I make sure that Student's CPM book aligns with and contains all the necessary images and work. In the cases where Student's CPM book does not align or is missing components, the

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<sup>7</sup> Attached to a January 24, 2022 email from the Parent to IEP team.

1:1 vision technician and I meet, and either I create or he creates the accommodation for Student. On days that both our books are ineffective/inadequate (not enough practice, not enough skills development, or not enough notes) I will create a Word document that the 1:1 vision technician transcribes into Braille so that Student has everything the same as his peers for his work in Geometry.

When classwork or homework is to be turned in, Student will use his tools and I will receive a braille version that then the 1:1 vision technician writes on, or it will be in a Word document that either Student uploads to the Canvas assignment or sends via email.

At times in our classwork or homework, the curriculum calls for visuals to be drawn or for images to be labeled. When this arises, the 1:1 vision technician and I meet and create the generic visuals ahead of time to be supplied to Student where he can then edit using his braille writer.

Student is provided with blank braille 30-60-90/45-45-90 triangles for ease of use.

The District's response also included several geometry-related work samples from the Student. Several of these work samples utilized braille.

24. The District's response included a written statement authored by the Student's ceramics teacher. It read, in part:

Ceramics...is a very tactile class. Student was able to complete all the projects with minimal help from the 1-1 vision technician...The main accommodation for Student in my class was during the demonstrations. He would sit right next to me and then be able to feel what was happening to the clay along with the examples of each project. During glazing he learned all the processes and even participated in a raku firing!

25. The District's response included a written statement authored by the Student's French teacher. It read, in part:

At the beginning of the school year I attended the accessibility training. In French class, almost everything is completed on paper. I have turned everything we do in class into an electronic copy for Student. I put items that Student needs for class on the shared drive as soon as they are done, so that he can access them ahead of time. I also have taken any slideshow presentations, and added alt text to images that are important to understand. If any braille items are needed (like flashcards) I let the 1:1 vision technician know ahead of time, so that he can make them... For weekly quizzes, I email Student a link to the quiz in a Google Doc.<sup>8</sup>

26. The District's response included a written statement authored by the Student's English teacher. It read, in part:

To make English 8 more accessible to Student, I have employed many strategies. Book lists were provided before school started, Braille/audio versions were obtained and Student had extra time with these materials. I attended an accessibility training from the TVI, prior to the year starting and continue to consult with the TVI as necessary.

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<sup>8</sup> Attached to the French teacher's statement were examples of some of the braille French flash cards that the Student utilized; as well as an example of a quiz placed into Google documents for the Student.

During the year, lesson plans and strategies have been adjusted to eliminate any websites or resources that are not accessible. All documents, many stories, charts, guides, and resources have been recreated in Google docs or slides for Student and electronic versions offered to the full class. For visual media we have used several strategies: audio description when available, transcripts when available, and direct one-on-one with the 1:1 vision specialist, Student's brailist. The 1:1 vision specialist has created embossed visuals for some stories we have read to give Student that added experience.

I have strategically planned Student's seat for easy access. I've created groupings with students who are friendly to Student and who are eager to work with him, to help improve his social skills. During class, I check in with Student multiple times a class period to see if things are working for him, assess his progress, and answer any questions. Student is a strong advocate for himself and will email with any questions he has when he is out of class.

Student and I discuss ways he can push himself to exceed the requirements of assignment, but to also have control over his thinking and writing. He can sometimes get carried away with enthusiasm and spend many more hours than needed. We often discuss how long something should take. Student is still working on this skill.<sup>9</sup>

27. The District's response included a written statement authored by the Student's social studies teacher. It read, in part:

**Working with the TVI and [1:1 Vision Specialist]:**

I have emailed with the TVI to discuss accessibility for different websites and resources, and sent materials to the 1:1 vision specialist to be adapted for Student. The 1:1 vision specialist has printed resources in Braille for Student to access in class, including primary source documents, tables/charts, and a timeline sorting activity that Student was able to do with other students in his table group because the Braille was printed along with visible text. I have also consulted with the 1:1 vision specialist to determine how to make certain activities (such as matching vocabulary terms) more accessible for Student in Google Docs. Note that many of these conversations and exchanges of materials with the 1:1 vision specialist happened in person and may not be reflected in my email communications. The 1:1 vision specialist comes by at the beginning of class to see what we are doing each day and that is typically when we would connect briefly to discussing upcoming assignments and necessary accommodations. At the beginning of the school year, I also attended an information/training session with the TVI and the 1:1 vision specialist to learn more about accommodations for visually impaired students.

**General Accommodations:**

- The daily agenda is posted on the whiteboard in class as well as in the 'Announcements' section of Canvas, most often before school begins to allow students to preview what we'll be doing in class that day or see what they missed if they were absent. This allows the Student to access the agenda and make up work when he is absent. The agenda is also read aloud during class time.
- I read aloud all written instructions.
- Images used in class have alt text. Google Slides presentations include alt text for visuals and graphics.

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<sup>9</sup> Attached to the English teacher's written statement was a writing example from the Student.

- When showing videos in class, I will narrate parts that may be unclear if not seen. When we watched a multi-day video about the life of Tecumseh, I provided a shorter, accessible video as a supplement for the Student (and any other student who might have missed class) and consulted with the 1:1 vision technician to determine that I would show the longer video in class and pause to describe key scenes, rather than having the Student watch the other video instead. Our thinking was that the Student would then have access to the same resources and materials as other students, and I believe the longer video provided students with more detailed information. The shorter, accessible video from the Described and Captioned Media Program was made available as well and posted on CANVAS.
- I have purposely avoided using resources that I know are inaccessible, such as Kahoot! and Peardeck.
- I will frequently check in with the Student to make sure that he is able to access the materials and if there are any issues, those resources are adapted.
- Articles and materials used in class are available in Google Doc format to be easier for the Student to access. Some articles have been manually typed into Google Docs as the original PDF format was not accessible.
- Assignments are submitted in CANVAS and some assignments are completed within CANVAS using a text box submission or the discussion board feature. I was informed that CANVAS is an accessible tool, and I have used the Accessibility Checker feature on CANVAS to make sure that pages and assignments are accessible for the Student.
- Materials and an overview of the lesson are sent to Student via CANVAS message (or shared through Google when appropriate) with as much notice as possible.

**Tactile Resources:**

- While not used every day, our Social Studies textbook is available in Braille.
- Maps used in class come from our textbook and are available in Braille.

28. The District's response included a written statement authored by the Student's round table teacher. It read, in part:

Student receives 60 minutes a week of services for Social/Emotional Skills during Round Table. Round Table meets Monday, Tuesday, Thursday, and Friday for 30 minutes each day.

Monday and Tuesday are primarily focused on Social/Emotional Skills: Most of the activities are verbal because they are all about socializing with other students.

Thursday and Friday - Student is given the opportunity to collaborate with the 1:1 vision specialist: the time is for working on assignments or preparing for a class; he will also use this time to meet with his Occupational Therapist.

29. The District's response included a written statement authored by the Student's 1:1 vision technician. It read, in part:

At the beginning of the 2021-2022 school year, most of Student's teachers had not worked with a blind or visually impaired student before. Therefore the process of coordinating and collaborating with a brailist in order to ensure accessible materials was a new one. As the school's full time brailist tasked with producing hard copy documents in braille, electronic documents in accessible formats, and tactile graphics, I actively engage with Student's teachers and other staff members. In addition to some meetings and training that occurred

before school began, I reached out to each teacher on a daily basis and talked to them in person about upcoming assignments, best practices in accessibility, possible material adaptations, etc. After the first several weeks of school, many of the classroom and homework routines were established. In order to increase Student's independence and decrease my presence in his classes, his teachers and I transitioned to communicating regularly via email and outside of class. I continued to reach out to teachers in person weekly, and I also adjusted my working hours from 8am-4pm to 7:30am-3:30pm. That way I would be more accessible before school for either email or in person consultations before the beginning of each school day. After a few more weeks of transition, we settled into our current model of communication.

Approximately 40% of the time, teachers and/or administrators email me assignments, quizzes, tests, projects, and other questions related to accessibility. I either reply via email or I follow up with them in person.

Approximately 30% of the time, teachers will stop by my office and either give me the materials that need to be adapted or they will simply leave them for me on my desk with a note.

Approximately 20% of the time, I will meet with teachers before school, after school, or during their planning period to discuss upcoming assignments. Sometimes these are upcoming assignments that I have seen listed on their Canvas sites and sometimes these are assignments that were previously mentioned and need to be followed up on.

Approximately 10% of the time, I will see a teacher in passing around the school or during a transition period and they will ask me a question or request that I adapt a certain material. When these serendipitous meetings with fellow staff members do not occur, they are easily able to connect with me through the above outlined methods.

Eventually after this communication model was established, the first semester ended and some of Student's classes and teachers changed. I worked with his new teachers, the administration, and other members of Student's IEP team to ensure a smooth transition and establish/maintain our lines of communication.

The 1:1 vision technician also provided detailed examples of how materials were made accessible to the Student for the following classes: ceramics; social studies; French; English language arts; Geometry; Science; and, after school chess club. These examples addressed, for each class, the following: learning objectives; assignment; barriers to access; and adaptations provided.

The 1:1 vision technician's written statement also read, in part:

There are often many different ways that an assignment or a material can be adapted that would still provide access to the same learning objectives. Sometimes the adaptations are affected by the availability of hardware, software, and other supplies. Lead time for an assignment as well as other factors impacting the student's ability (or peers' ability) to utilize the adapted material are also taken into consideration.

30. The District was on break November 26–26, 2021 and December 20–31, 2021. The District second quarter ended on January 27, 2022.



31. The Student's second semester schedule was as follows:

- Period 1: Honors Social Studies – taught by a general education teacher
- Period 2: Fitness: Walking and Yoga – taught by a general education teacher
- Period 3: French – taught by a general education teacher
- Period 4: Honors English – taught by a general education teacher
- Period 5: Geometry – taught by a general education teacher
- Period 6: Honors Science – taught by a general education teacher
- Period 7: Roundtable – taught by a general education teacher

32. The Student's IEP team met on January 29, 2022. According to the District:

During that meeting, the TVI did not, as the Parent alleges, state that she delivers a reduced number of assistive technology instructional minutes than the Student's IEP requires. Rather, District staff clarified that the TVI's instructional schedule with the Student is one hour daily in the mornings. No changes were made to the Student's IEP during or after the January 2022 IEP meeting.<sup>10</sup>

33. According to the District:

In...February 2022, District staff administered a math test to the Student by verbalizing the test questions. While tests are typically administered to the Student in hard copy, a confluence of unique circumstances led to the Student receiving that math test verbally. First, the 1:1 vision technician was not able to transcribe the test in braille prior to the test due to his leave from work. Additionally, the day of the test, the Student's embosser [machine]—an impact printer for creating braille text—was not functioning and needed repair. Rather than exclude the Student from the test, staff verbally delivered the test to the Student. Staff later readministered the test to the Student in hard copy.

34. The District's response included a progress report for the June 2021 amended IEP goals, dated early February 2022. It read, in part:

- **Vision Services 1:** mastered.
- **Vision Services 2:** sufficient progress – "Student has had practice using the embosser and importing a file into Duxbury. He has learned how to make simple changes in Duxbury to make sure his margins are set correctly."
- **Vision Services 3:** sufficient progress – "Student continues to make progress on this goal. He is able to explain to teachers what he needs and advocate when things are not accessible."
- **Vision Services 4:** sufficient progress: "Student is continuing to interact with his visually impaired peers outside of school. He recently participated in a tech-specific call with Department of Services for the Blind where he learned what other peers are using."

35. The District was on break February 21–25, 2022.

36. According to the Parent, during the Student's March 14, 2022 English class:

The class was required to use an interactive website with many visual components. No accessible alternative had been provided so the 1:1 vision technician was asked to come to

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<sup>10</sup> In its response, the District noted the prior written notice related to the January 29, 2022 IEP meeting stated changes were made to the Student's June 2021 amended IEP as a result of the meeting, but the District stated this is a "typographical error" and that no changes were either made to the Student's June 2021 amended IEP and/or agreed upon by the IEP team.

class and describe what was on the screen. As a result, Student was unable to start his work until approximately 20-25 minutes (halfway) into class when the 1:1 vision technician arrived. Also, unlike every other student in the class, Student was not able to engage in the assignment independently. Had the District met its obligations under the current IEP, Student would have been able to do the assignment efficiently and independently.

37. On April 12, 2022, OSPI's investigator conducted a phone interview with the TVI. OSPI's investigator's notes from that interview are as follows:

#### **Scheduling**

At the start of the school year, a starting time of 7:45 am for the Student's vision services was offered to the Parent. By the second week of school, though: District busing would have permitted the Student to arrive by 7:30 am; the TVI stated she was getting there by 7:30 am; and that she reminded the Parent she was ready and willing to work with the Student on vision services beginning at 7:30 am.

Before January 29, 2022, the TVI worked with the Student from 7:45–8:30 am each morning. After January 29, 2022, the TVI worked with the Student from 7:30–8:30 am each morning. According to the TVI, after January 29, 2022, the Parent began dropping the Student at school earlier than she was previously.

#### **Description of the Morning Sessions**

According to the TVI, the substance of the morning sessions 'varied.'<sup>11</sup> The TVI worked with the Student, in part, with the following: navigating a particular website; improving the Student's self-advocacy—helping the Student author check-in emails to the Student's teachers; 'work arounds if a particular technology was not working'; 'how to produce work for math class—[determining whether it was best to use the] computer or braille notetaker'; listening to interviews of visually impaired people with different careers.

#### **Concerning Student's Use of, and Instruction in, Certain Technologies**

PowerPoint and Google Sheets: TVI stated she went over these with the Student prior to or at the beginning of the 2021–2022 school year, and Student already had 'good knowledge' of these programs.

Excel: Student has not had to use excel this year, but the TVI is currently developing a goal to specifically focus on the Student's use of this program, and this proposed goal will be discussed at an upcoming IEP meeting with the Parent.

#### **Electronic Geometry Textbook (CPM ebook)**

The "CPM ebook" was an 'online version of the math curriculum for Student's geometry class.' The TVI stated that not all portions of the "CPM ebook" were accessible to the Student. For example: the Student's screen reader was not able to translate the graphs and charts it came across in the electronic copy of the textbook. So the hardcopy Braille textbook, which included tactile charts, was the most accessible format for the Student.

The Student had access to a hardcopy Braille textbook that included tactile graphs, etc. since the start of the 2021–2022 school year, and that, to the TVI's knowledge, the Student only ever tried to access the electronic copy of the textbook when the Student forgot to bring the hardcopy Braille textbook home. (The TVI stated it was an expectation that the

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<sup>11</sup> Single quotations denote a rough approximate of what the TVI said during the interview.

Student would take the hardcopy Braille textbook home when the Student had homework assignments in geometry class.)

TVI also states: anytime geometry materials were being presented outside the context of the text book – for example, if the teacher was creating an original example, the Student’s 1:1 vision technician would translate the example into a version that was accessible to the Student.

### **LabQuest Vernier Probes**

LabQuest was a ‘piece of hardware designed for science lab.’ You can ‘attach probes to the machine such as temperature and voltage.’ The LabQuest can ‘talk to the Student.’ The District procured a LabQuest approximately three years ago. The Student has to use keystrokes to interface with the LabQuest and the Student has ‘a basic understanding’ of these keystrokes.

The TVI estimates that, after December 1, 2021, the TVI probably had ‘2 to 3 sessions’ wherein she worked with the Student on LabQuest. After December 1, 2021, it was determined the LabQuest needed a software update, this was accomplished, ‘Student has learned to navigate the new features in the update.’

### **LaTex**

The Student has used this technological resource and has some knowledge of the same, mainly through a private education the family has hired. The TVI described LaTeX as a ‘programming language for math’ that ‘uses code and translates that code into mathematical visuals.’

### **Braille Display**

Braille Display is an electronic display that shows, in real-time, the content on the Student’s computer screen in a Braille format.

### **Embosser and Duxbury Software**

An embosser is a ‘Braille printer.’ You can take English text straight to an embosser but you’ll ‘lose all your formatting.’ So the intermediary step is taking the English text into the Duxbury software. The Duxbury software helps with formatting and is particularly helpful with translated math and science language and concepts into Braille.

### **JAWS Application**

This is an application that reads what is on the Student’s screen reader. TVI asserts: prior to 2021–2022 school, she spoke with the 1:1 vision technician who said the Student already knew all the JAWS keystrokes that were needed. The TVI has not focused on this because the Student ‘knows all keystrokes needed for the high school’ setting. Student utilized the JAWS application ‘all the time.’

### **Vision Service Goals**

Vision Services 1: ‘Student has only ever had access to one type of embosser – they cost thousands of dollars.’ The TVI had the Student research, with his math and science interests, what type of embosser would be best, and the Student opted for one that was good with tactile graphics.’

Vision Services 2: 'Student would take text from a PDF, place it in word, and then 'send to the embosser' – like 'sending something to a printer.'

Vision Services 4: This primarily looked like as follows: the Student interacted with peers in several events organized by the Department of Services for the Blind and then the TVI would 'debrief with the Student', and these debriefing sessions were just the Student and the TVI.

## CONCLUSIONS

**Issue 1: Individualized Education Program (IEP) Implementation** – The Parent alleged since September 2021, the District did not properly implement the following three portions of the Student's IEP: Allegation 1 – the 160 minutes a week of vision services (specially designed instruction) to be provided by the TVI and the 180 minutes a week of 'assistive technology services to support use of device' (supplementary aides and services) to be provided by special education staff but monitored by the TVI; Allegation 2 – those provisions that were to be provided by a 1:1 vision technician; and, Allegation 3 – any accommodations that related to accessibility of classroom materials.

A district must provide 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 a disability and those required by the IEP.

### Allegation 1

The Parent's reply stated:

[The June 2021 amended IEP] included specially designed instruction (SDI) delivered by a TVI as direct instruction to Student in the amount of 160 minutes/week and, in addition, 180 minutes/week of assistive technology services. Between the two areas – direct SDI and instruction in assistive technology - Student is supposed to receive 340 service minutes per week. This has not been happening during the 2021-2022 school year.

Here, the documentation provided to OSPI during this investigation supports the following conclusion: the Student received a total of at least 340 combined minutes in vision services (specially designed instruction) and 'assistive technology services to support use of device' (supplementary aides and services); though some of the 'assistive technology services to support use of device' minutes were provided in the wrong setting. For example, the June 2021 amended IEP stated the 'assistive technology services to support use of device' minutes were to be provided in a *special education setting*. But here, it appears a portion of these minutes were provided in a *general education setting*.

During the morning sessions, documentation and interviews support that the TVI worked with the Student on both vision services (specially designed instruction) and 'assistive technology services to support use of device' (supplementary aides and services).

For example, in relation to vision services and all of the Student's goals, OSPI notes, in part, the following: the District's response included detailed progress reporting on the Student's progress on the four vision service goals; during the TVI's interview with OSPI's investigator, the TVI was able to speak, in a detailed manner, about her work with the Student on vision services goals; the Student consistently worked on self-advocacy with his teachers throughout the school year with weekly 'check-in' emails that he authored; and, the January 29, 2022 prior written notice read, in part, "Student is able to articulate how embossers differ from each other and which embosser would best meet his needs [and] Student is able to take a PDF, convert it to Word, and import into Duxbury with no prompting needed".

In relation to 'assistive technology services to support use of device' (supplementary aides and services), OSPI notes, in part: the documentation provided to OSPI during this investigation shows the TVI worked with the Student, in part, with the following assistive technologies: PowerPoint; Google Sheets; LabQuest; an embosser; Duxbury software; JAWS application; a screen reader; a Braille Note Touch Plus; and, a "Cidi Labs Tool" to make the Student's Canvas Courses more accessible. And, in an email at the start of the 2021–2022 school year, the TVI stated the morning sessions would first be devoted to developing the Student's "assistive technology skills."

From the start of the 2021–2022 school year through January 29, 2022, the TVI worked with the Student each morning, Monday through Friday, from 7:45 through 8:30 am. This represents a total of 225 minutes each week. 225 minutes exceeds the 160 minutes a week of vision services (specially designed instruction) under the June 2021 amended IEP by 65 minutes. Based on the documentation provided to OSPI, it appears these 65 minutes were focused, in at least substantial part, on 'assistive technology services to support use of device'.

Similarly, beginning after January 29, 2022, the TVI worked with the Student each morning, Monday through Friday, from 7:30 through 8:30 am. This represents a total of 300 minutes. 300 minutes exceeds the 160 minutes a week of vision services (specially designed instruction) under the June 2021 amended IEP by 140 minutes. Based on the documentation provided to OSPI, it appears these 140 minutes were focused, in at least substantial part, on 'assistive technology services to support use of device'.

And, importantly, here, the Student was also receiving some 'assistive technology services to support use of device' (supplementary aides and services) in the general education setting. For example, in part: in its response, the District stated: "The 1:1 vision technician currently accompanies the Student to his geometry and honors science classes...When The 1:1 vision technician accompanies the Student to his classes, he helps the Student use and troubleshoot assistive technology"; and, during this investigation, the Student's English, French, social studies, and geometry each provided a statement, detailing their collaboration with both the Student and the 1:1 vision technician in utilizing assistive technology to best meet the Student's needs.

In conclusion: the Student received a total of at least 340 combined minutes in vision services (specially designed instruction) and 'assistive technology services to support use of device' (supplementary aides and services); though some of the 'assistive technology services to support use of device' minutes were provided in the *general education setting*, even though the June 2021

amended IEP stated the 'assistive technology services to support use of device' minutes were to be provided in a *special education setting*.

This does not represent a material violation to implement these portions of the Student's IEP; though it is recommended the Student's IEP team clarify—at the upcoming IEP meeting—the proper setting for the 'assistive technology services to support use of device' (supplementary aides and services)<sup>12</sup>, and then ensure the Student's schedule permits those minutes to be provided in that appropriate setting.

## **Allegation 2**

Under the June 2021 amended IEP, the 1:1 vision technician was to provide consultation (as a supplementary aid and service, in a general education setting) for 37 hours a week. In its response, the District explained:

The Student's 1:1 vision technician is not equivalent to a typical 1:1 paraprofessional because he is not always in the same room as the Student throughout the school day. Rather, the 1:1 vision technician, provides 1:1 support for the Student in a variety of ways. He spends the majority of his time performing braille transcription of classroom materials for the Student. He also creates manipulatives and tactile geometry supports for the Student. The 1:1 vision technician accompanies the Student to classes...where necessary.

Here, the documentation provided to OSPI during this investigation shows this service was materially provided to the Student. For example: the Student's TVI, English, French, social studies, and geometry teachers each provided a statement, detailing their collaboration with the 1:1 vision technician in utilizing assistive technology to best meet the Student's needs; the 1:1 vision technician himself provided a statement, detailing his work making sure materials were accessible to the Student; multiple emails reference certain documents having been translated into Braille for the Student's benefit; and the 1:1 vision technician also provided detailed examples of how materials were made accessible to the Student for the following classes: ceramics; social studies; French; English language arts; Geometry; Science; and after school chess club. These examples addressed, for each class, the following: learning objectives; assignment; barriers to access and adaptations provided.

The Parent highlighted at least one instance wherein the manner in which the 1:1 vision technician services were provided to the Student resulted in reduced access to the general education environment:

[On March 14, 2022], the class was required to use an interactive website with many visual components. No accessible alternative had been provided so the 1:1 vision technician was asked to come to class and describe what was on the screen. As a result, Student was unable to start his work until approximately 20-25 minutes (halfway) into class when the 1:1 vision technician arrived. Also, unlike every other student in the class, Student was not able to engage in the assignment independently. Had the District met its obligations under the

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<sup>12</sup> OSPI notes: a supplementary aide and service is supposed to help a student access the general education setting (whereas a related service is to help a student access specially designed instruction).

current IEP, Student would have been able to do the assignment efficiently and independently.

While OSPI acknowledges there may have been instances wherein the 1:1 vision technician services were not provided in the most optimal format, the documentation is clear that this service was materially implemented, and as that is the relevant standard for judging an IEP implementation failure under the IDEA, there has been no violation.

### **Allegation 3**

The Student's June 2021 amended IEP included many accommodations that related to accessibility of classroom materials. This investigation, as documented, in part, above, shows that these accessibility-related accommodations were materially implemented. The following support the implementation of classroom accessibility accommodations, OSPI notes, as examples:

- The 1:1 Vision Technician and the TVI led an information and training session with the Student's general education teachers regarding accommodations for visually impaired students at the beginning of the 2021–2022 school year.
- As stated above: during the 2021–2022 school year, the Student was provided, in part, with the following assistive technologies: PowerPoint; Google Sheets; LabQuest; an embosser; Duxbury software; JAWS application; a screen reader; a Braille Note Touch Plus; and, a "Cidi Labs Tool" to make the Student's Canvas Courses more accessible.
- The English teacher's statement read, in part: "audio versions [of books and reading assignments] were obtained and Student had extra time with these materials."
- The social studies' statement read, in part: "I read aloud all written instructions."

In its response, the District did acknowledge there were times that "unexpected formatting or imperfect technology" resulted in "imperfect accessibility." The District noted and OSPI finds that the TVI and 1:1 vision technician worked to address and correct such instances. OSPI notes that infrequent accessibility issues, while understandably frustrating, do not mean the IEP has not been materially implemented.

On balance, OSPI finds the accessibility-related accommodations in the June 2021 amended IEP were materially implemented and there has been no violation of the IDEA.

### **Other Parental Concerns**

In the documentation provided to OSPI, the Parent believed the Student should receive specific instruction in the following assistive technologies and/or specific instruction on how to better access the following accessibility-related accommodations: Lab Quest<sup>13</sup>; LaTeX; the online

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<sup>13</sup> Lab Quest was listed as an accommodation in the Student's June 2021 amended IEP. Documentation provided to OSPI during investigation shows some assistive technology instruction was spent on working with Lab Quest. But the Parent believes more instructional time and/or more advanced instruction is needed based on the Student's needs resulting from the Student's disability.

geometry textbook<sup>14</sup>; and as OSPI understands it, a more sophisticated and/or complex understanding of an embosser.<sup>15</sup>

In relation to the foregoing, OSPI recommends that at the upcoming April 22, 2022 IEP meeting, the Student's IEP team consider whether a specific assistive technology goal should be added to address each of these specific concerns.<sup>16</sup>

### **CORRECTIVE ACTIONS**

#### **STUDENT SPECIFIC:**

None.

#### **DISTRICT SPECIFIC:**

None.

### **RECOMMENDATION**

At the upcoming April 22, 2022 IEP meeting, the Student's IEP team consider whether a specific assistive technology goal should be added in relation to each of the following: Lab Quest; LaTeX; the online geometry textbook; and as OSPI understands it, a more sophisticated and/or complex understanding of an embosser.

Dated this \_\_\_\_ day of April, 2022

Glenna Gallo, M.S., M.B.A.  
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Olympia, WA 98504-7200

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<sup>14</sup> LaTeX and the online geometry textbook do not appear, at least explicitly, in either the IEP goals or accommodations of the Student's June 2021 amended IEP.

<sup>15</sup> As explained to OSPI, the process of producing a Braille document with an embosser involves taking text from a PDF, placing it in word, exporting it to Duxbury, and from there, exporting to the embosser. In an early December 2021 email thread started by the Parent, and continued internally amongst District staff, there is a conversation regarding whether the Student should receive instruction specific on the latter stages of this process—wherein the embosser creates the final, Braille-equipped product.

<sup>16</sup> In specific relation to the online geometry textbook, OSPI notes the TVI stated that the online geometry textbook was likely not the best method for the Student to access that material. For example, the TVI stated the Student's screen reader was not able to translate the graphs and charts it came across in the electronic copy of the textbook. So, the hardcopy Braille textbook the Student possessed, which included tactile charts, was the most accessible format for the Student.



**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.)