



# Special Education Monthly Webinar Series:

Paraeducators & Prior Written Notice  
Tips for Avoiding Complaints in These Areas

March 5, 2019

Office of Superintendent of Public Instruction

# Today's Presenters

- Alyssa Fairbanks, Dispute Resolution Investigator/Specialist
- Bill Elvey, Dispute Resolution Investigator/Specialist
- Kathryn Mayer, Dispute Resolution Investigator/Specialist
- Scott Raub, Special Education Parent & Community Liaison



# Today's Discussion

- ❑ Introduction
- ❑ Paraeducators
- ❑ Prior Written Notice
- ❑ Closing: Q&A
- ❑ Resources





# OSPI Equity Statement:

Each student, family, and community possesses strengths and cultural knowledge that benefit their peers, educators, and schools.

Ensuring educational equity:

- Goes beyond equality; it requires education leaders to examine the ways current policies and practices result in disparate outcomes for our students of color, students living in poverty, students receiving special education and English Learner services, students who identify as LGBTQ+, and highly mobile student populations.
- **Requires education leaders to develop an understanding of historical contexts; engage students, families, and community representatives as partners in decision-making; and actively dismantle systemic barriers, replacing them with policies and practices that ensure all students have access to the instruction and support they need to succeed in our schools.**

# OSPI Priorities: Improving Outcomes for Students with Disabilities



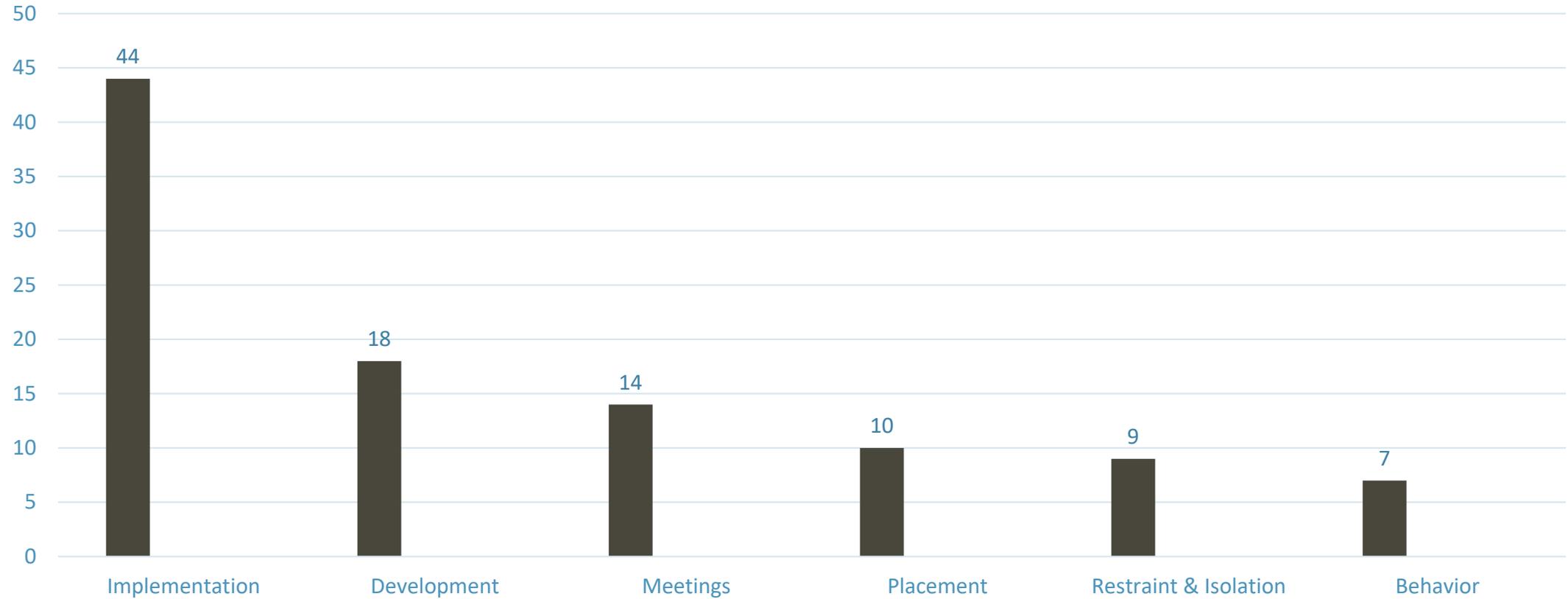
Source: [OSPI Priorities for Improving Outcomes for Students with Disabilities](#), Office of Superintendent of Public Instruction



# 2018 Citizen Complaints by the Numbers



# Issue Allegation Trends



# Common Issues: Paraeducators

- IEP Development
  - Considering Requests for Paraeducator Support
  - Considerations around Independence – “Independence Plans”
- IEP Implementation
  - Lack of clarity in IEP regarding what “support” entails



# Paraeducators: IEP Team Considerations

What are the needs of the student which necessitate the assignment of a 1:1 aide?	
What skills and goals must the student achieve to reduce or eliminate the need for a 1:1 aide?	
What are the potential benefits of the assignment of a 1:1 aide?	
What is the potential negative impact of assignment of a 1:1 aide?	
What role will 1:1 aide fulfill (e.g., instructional; behavior support; personal hygiene assistance)?	
For what specific activities (e.g., toileting) and/or times of day (e.g., transition to and from the bus) is the aide needed? (See Attachment 3)	
What qualifications of the individual (i.e., teaching assistant or teacher aide) is necessary to meet the needs of the student?	
What is the plan to monitor the student's progress toward the goals to be addressed by the assignment of the one-to-one aide and the student's continuing need for the one-to-one aide?	
What is the plan for progressively reducing the support provided to the student and his or her dependence on an aide over time?	
If student's one-to-one aide is absent, who will cover in order to ensure the student receives the recommended IEP services of the one-to-one aide or how will substitute staff support be arranged?	
Who/how will one-to-one aide have access to a copy of the student's IEP, and be informed of his or her responsibilities for IEP implementation for the student?	
What, if any professional development and supervision will aide need to carry out these responsibilities?	



# Tips for Avoiding Disputes

- When a parent requests a paraeducator, consider holding an IEP meeting.
- Carefully document in a prior written notice:
  - The parent's request;
  - The IEP team's consideration;
  - The parent's input – why does the parent believe the student needs paraeducator support; and,
  - The reason for granting or refusing the request.



# Independence vs. LRE

- Facts: The IEP team rejected the Parent's request to increase the Student's time in a general education setting to 50% with the provision of a 1:1 paraeducator, because a 1:1 paraeducator "is the most restrictive level of service, and the data needed to address the request would need to be collected by the district elementary school special-education team."
- Question: Was the IEP team correct in its reasoning?



# Independence vs. LRE

- Answer: No. This District was incorrect that 1:1 paraeducator support is the most restrictive environment.

*Paraeducator support is a supplementary aid and service, not a placement option on the continuum of alternative placements.*



# Independence & Data

- 1:1 Paraeducator Support – *Can* potentially limit a student's independence/increase dependence on the paraeducator.
- Consider and include in the IEP:

What is the plan to monitor the student's progress toward the goals to be addressed by the assignment of the one-to-one aide and the student's continuing need for the one-to-one aide?	
<b>What is the plan for progressively reducing the support provided to the student and his or her dependence on an aide over time?</b>	
If student's one-to-one aide is absent, who will cover in order to ensure the student receives the recommended IEP services of the one-to-one aide or how will substitute staff support be arranged?	

- Complaint Example: "the data needed to address the request [for a 1:1] would need to be collected by the district elementary school special-education team"



# Other Considerations for Paraeducators

- Consider where in the IEP to record
  - Supplementary aid and service
  - Related service
  - Accommodation
- Frequency and setting of support
  - All the time
  - When needed
  - Only during specific time of day, class, testing
- Degree of support
  - “Attached at the hip”
  - Line of sight



# Paraeducators & IEP Implementation

- Confusion, misunderstanding, or disagreement over the term used in the IEP
- Examples from IEPs:
  - 1:1 Paraeducator
  - Paraeducator Support
  - Additional Adult Support
  - Dedicated 1:1
  - 1:2:8 (teacher: paraeducator: student staffing ratio)
  - 1:1 Assistance/Support
  - Adult Supervision



# Paraeducators & IEP Implementation

## **Facts:**

- The January 2018 IEP provided the Student with the following supplementary aids and services whenever the Student was in a *special education setting*:
  - One-on-one assistance (to be provided by 1:1 support)

## **Question:**

- What does this mean?



# Paraeducators & IEP Implementation

## **Potential Interpretation:**

- 1:1 = 1 paraeducator to 1 student
- The student receives support when he is in the special education setting from one paraeducator
- This paraeducator is not supporting any other students at the same time
- The paraeducator providing support might change throughout the day



# Paraeducators & IEP Implementation

## **Potential Interpretation:**

The Student will be provided with a specifically named paraeducator—in other words, a specific individual will be the only person that provides the Student with “one-on-one assistance.”



# Paraeducators & IEP Implementation

## Potential Answers:

- One paraeducator will not necessarily be designated for the student.
- However, given the staffing ratios of the classroom—for example, 1 teacher, 4 paraeducators, 10 students—the Student will be constantly observed to see if Student requires “one-on-one assistance.” Then, if Student does require “one-on-one assistance,” any paraeducator can and will provide this.



# Tips for Avoiding Disputes

- During IEP meeting – attempt to reach consensus on paraeducator support is being requested and provided.
- Be **clear, specific, and consistent!** – clearly document what support is being provided, what that means, and use the same language through the IEP and prior written notice.
- Other considerations:
  - Consider where in the IEP to record – supplementary aid and service, related service, accommodation?
  - Frequency and setting of support – all the time, when needed, during testing?
  - Degree of support – “attached at the hip”, line of sight, etc.?



# Prior Written Notice: Overview

(WAC 392-172A-05010)

- PWN – When is it required?
- It is a “thank you” not an invitation...
- Detail – best practices
- Examples of sufficient and insufficient PWNs



# Prior Written Notice (WAC 392-172A-05010)

Must be sent every time the district ***proposes*** or ***refuses*** to initiate a change to the identification, evaluation, educational placement or provision of FAPE to a student.



# Prior Written Notice

- Remember that the **Parent is part of the IEP team**. This means that when the Parent requests something that if the other IEP team members disagree, the PWN should reflect the Parent's request and include the reasons why the action was not taken.
- Must include the reasons why an action will be taken or will not be taken.



# Prior Written Notice

- A “thank you note” not an invitation...
  - “Providing prior written notice sent before a meeting could suggest, in some circumstances, that the public agency’s proposal was improperly arrived at before the meeting and without parent input.”

.... Do not need to use PWN to say you are “proposing to hold an IEP meeting.” That is what a meeting notice is for.



# Prior Written Notice (PWN) (WAC 392-172A-05010)

## January 1<sup>st</sup>:

Send invitation to an IEP team meeting (after selecting a mutually agreeable time and place.)

## January 15<sup>th</sup>:

Hold the IEP team meeting, at which time options are discussed and decisions are made. (These are your proposals and refusals.)

## After the meeting, ideally within 1-2 days:

Provide PWN to parents explaining the team's decision(s), the action the District is taking/refusing to take, and the date on which the change will take effect.

## A reasonable time after you provide the parent PWN:

Implement changes outlined in the PWN. Make sure that you allow enough time for the parents to receive the PWN before implementation. Depending on issues, (such as placement changes) the implementation date may need to be later, giving the parents time to exercise their due process option.



# Tips for Drafting PWN:

- In the **Description of the proposed or refused action** section:
  - Listing all action(s) that include issues related to identification, evaluation, educational placement of, or the provision of FAPE to a student.
- In the **“The reason why we are proposing or refusing to take action is”** section:
  - State the action(s) that you are taking/refusing to take and *each reason* why you are proposing/refusing to take action.



# Tips for Drafting PWN:

- In the “**Description of any other options considered and rejected**” section, describe *in detail* each of the other option that we considered and rejected.
- In the “**Reasons why we Rejected**” section:
  - State *each reason* why you rejected other options.
  - Do not list options or reasons that are unavoidable (i.e. don’t state that you considered and rejected holding an annual IEP meeting when you didn’t have the option of not holding an annual meeting).
- In the “**Description of Each Evaluation Procedure, etc.**” section:
  - List each evaluation, test, record or report that the team used in making the decisions to take or refuse to take action, if applicable.
  - If PWN is being sent to inform the parent of an evaluation, include the areas in which the student will be evaluated or reevaluated (e.g. cognitive, behavioral, reading etc.) either in the PWN or referenced document.



# Tips for Using PWN to Minimize Disputes

- Use PWN to demonstrate that the district considered parent input and requests when making decisions about FAPE.
- Use language that shows the District understands the Parent is part of the IEP team
- Describe the facts (who said what and when) in a neutral tone.
- Avoid emotional, judgmental, or speculative statements.
- PWN must be in parents native language or other mode of communication used by parents if feasible (WAC 392-172A-05010).



# Tips for Using PWN to Minimize Disputes

- Try to be consistent with language (language in PWN should reflect language used at meeting).
- Send PWN after every decision even if no meeting was held; use PWN to document and explain your refusal to hold a meeting in response to a parent request.
- Somewhere on your PWN try to list all of your meeting participants so help you document that you had a properly assembled team for your meeting if you do not already have documentation of the participants elsewhere.





# Resources & Professional Learning

Paraeducator Technical Assistance Paper (TAP) in progress!

PESB: The Paraeducator Certificate Program Webinar:

[https://youtu.be/3JbM\\_4zXzeE](https://youtu.be/3JbM_4zXzeE)

Understanding Prior Written Notice:

[http://www.k12.wa.us/SpecialEd/pubdocs/Understanding\\_PWN.pdf](http://www.k12.wa.us/SpecialEd/pubdocs/Understanding_PWN.pdf)







Except where otherwise noted, this work by the [Office of Superintendent of Public Instruction](#) is licensed under a [Creative Commons Attribution License](#).

*This presentation may contain or reference links to websites operated by third parties. These links are provided for your convenience only and do not constitute or imply any affiliation, endorsement, sponsorship, approval, verification, or monitoring by OSPI of any product, service or content offered on the third party websites. In no event will OSPI be responsible for the information or content in linked third party websites or for your use or inability to use such websites. Please confirm the license status of any third-party resources and understand their terms of use before reusing them.*

