

SPECIAL EDUCATION CITIZEN COMPLAINT (SECC) NO. 17-12

PROCEDURAL HISTORY

On February 24, 2017, the Office of Superintendent of Public Instruction (OSPI) received a Special Education Citizen 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 27, 2017, 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. However, OSPI informed both parties that it would put one of the issues raised by the Parent into abeyance, pending a due process hearing request from the District regarding the same matter.

On March 20, 2017, OSPI received the District's response to the complaint and forwarded it to the Parent on the same day. OSPI invited the Parent to reply with any information she had that was inconsistent with the District's information.

On March 28, 2017, OSPI received notice that the District withdrew its due process hearing request and informed the District and the Parent that OSPI was including the issue, formerly in abeyance, in this investigation.

On March 30, 2017, OSPI received additional information from the District regarding the issue formerly in abeyance. OSPI forwarded a copy of that information to the Parent on April 4, 2017.

On April 4, 2017, OSPI received the Parent's reply and forwarded that reply to the District on April 5, 2017.

On April 11, 2017, OSPI received the Parent's reply to the District's additional information. OSPI forwarded that information to the District on April 11, 2017.

OSPI considered all of the information provided by the Parent and the District as part of its investigation. However, not all information is included as a finding of fact.

OVERVIEW

During the 2015-2016 school year, the Student attended eleventh grade at a District high school and was eligible for special educational services under the category of other health impaired. In March 2016, the Parent told special education staff she wanted the Student's individualized education program (IEP) team to determine the best mathematics class for the Student for the 2016-2017 school year, and the Student's father stated that after he and the Parent drafted the Student's mathematics IEP goals, the Student's IEP team should meet. On May 24, 2016, the Student's father asked to schedule an IEP team meeting for the Student before the end of the 2015-2016 school

year, noting he would send draft mathematics goals shortly, but an IEP team meeting before the end of the 2015-2016 school year was never convened.

On July 19, 2016, the Parent emailed the assistant school principal, stating she hoped the Student's IEP team could meet before the start of the 2016-2017 school year, but also noting she would be unavailable the last week of August 2016. The Parent also stated the Student was in a lot of pain, was scheduled for surgery in September 2016, and needed 1:1 support during September/October/November 2016. The District then arranged a 1:1 paraeducator for the Student at the beginning of the school year under the Americans with Disabilities Act (ADA).

September 7, 2017 was the first day of the 2016-2017 school year, and the Student's 1:1 paraeducator began supporting the Student, with a support plan based on emails/telephone calls with the Parent. On September 29, 2016, the Student's IEP team, including the Parent, met to discuss the Parent's concerns, and develop the Student's annual IEP. However, the Parent did not agree with the IEP because it did not add provisions for the Student's 1:1 paraeducator, or for the provision of occupational therapy. On October 14, 2016, the Student's IEP team met again, and continued discussions. The District agreed to add occupational therapy consulting to the Student's IEP, agreed to state on the IEP that the Student received 1:1 paraeducator support under the ADA, and agreed that the Student's progress reporting needed to include quantitative data. On October 27, 2016, the Student's IEP team met again, and discussed a possible early reevaluation of the Student, and a functional behavioral assessment (FBA) based on the Student's reported emotional distress at home. On November 2, 2016, the District received the Parent's consent to conduct an FBA. On November 29, 2016, the Student's IEP team met again, amending the Student's IEP to update the team considerations, the Parent's concerns, and reword some of the Student's IEP goals. On December 8, 2016, the Parent made a written request for a comprehensive reevaluation of the Student, and the District informed the Parent that it had 25 school days to consider the request. On December 15, 2016, the Student was reportedly suicidal after school.

On January 4, 2017, the Student's IEP team, including the Parent and the Student, met to discuss the results of the Student's FBA. The Parent did not agree with the FBA, including information about the Student's behaviors other than the Student's school refusal. On January 10, 2017, the Student was again reportedly suicidal after school, and the Parent did not return the Student to school. The District collected additional data regarding the Student's "shutting down" or being disengaged at school. On January 20, 2017, the District determined to conduct an early reevaluation of the Student, which included a behavioral assessment, and the Parent consented on January 25, 2017. On February 7, 2017, the Parent requested an IEP team meeting to discuss the Student's placement. On February 8, 2017, the District received a home/hospital request for the Student, signed by the Student's medical provider, stating the Student had a severe anxiety disorder, additional pain issues, and certified the Student would be unable to attend public school for "4+ weeks." At the direction of the District, the Student's medical provider later provided documentation recommending an amount of daily instruction for the Student. On February 12, 2017, the Parent requested

an independent educational evaluation (IEE) regarding the Student's FBA. In response to the Parent's request for an IEP team meeting before completion of the Student's reevaluation, the District and the Parent agreed to meet on March 9, 2017. On February 17, 2017, the District denied home/hospital services for the Student because the Student's issues of severe pain and anxiety did not appear to be temporary. On February 22, 2017, the District requested a due process hearing in response to the Parent's IEE request, stating the Student's FBA was not complete and the District would complete the FBA as part of the Student's reevaluation. The Parent later withdrew her IEE request.

The Parent alleged that the District did not follow procedures for developing/revising the Student's IEP, determining the Student's placement, implementing the Student's IEP, or completing the Student's FBA/reevaluation. The District denied the allegations.

ISSUES

1. Did the District follow procedures for developing/revising the Student's individualized education program (IEP), including parent participation?
2. Did the District follow procedures for determining the Student's placement, including considering the Student's least restrictive environment (LRE)?
3. Did the District follow procedures for implementing the Student's IEP?
4. Did the District follow procedures governing the Student's FBA/reevaluation?

LEGAL STANDARDS

IEP Revision: A student's IEP must be reviewed and revised periodically, but not less than annually, to address any lack of expected progress toward annual goals or in the general curriculum; the results of any reevaluations; information about the student provided to, or by, the parents; the student's anticipated needs; or any other matters. In conducting its review of a student's IEP, the IEP team must consider any special factors unique to the student. 34 CFR §300.324; WAC 392-172A-03110.

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 who is eligible to receive special education services. A school district must ensure it provides all services in a student's IEP, consistent with the student's needs as described in that IEP. Each school district must ensure that the student's IEP is accessible to each general education teacher, special education teacher, related service provider, and any other service provider who is responsible for its implementation. 34 CFR §300.323; WAC 392-172A-03105.

Progress Reports: The purpose of progress reporting is to ensure that, through whatever method chosen by a school district, the reporting provides sufficient information to enable parents to be informed of their child's progress toward the annual IEP goals and the extent to which that progress is sufficient to enable the child to achieve those goals. *Amanda J. v. Clark County Sch. Dist.*, 267 F.3d 877, 882 (9th Cir, 2001) (parents must be able to examine records and information about their child in

order to “guarantee [their] ability to make informed decisions” and participate in the IEP process). A less serious fact pattern is when a district measures according to the IEP, but fails to provide timely reporting of the measurements to the parent. A more serious fact pattern is when the district does not measure according to the IEP, and also does not timely report the measurement, because there is no IEP data to report. The more serious fact pattern constitutes a substantive violation of the IDEA. 2016-SE-0047 pg. 43. 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).

Reevaluation Procedures: A school district must ensure that a reevaluation of each student eligible for special education is conducted when the school district determines that the educational or related service needs, including improved academic achievement and functional performance of the student warrant a reevaluation, or if the parent or teacher requests a reevaluation. 34 CFR §300.303(a); WAC 392-172A-03015(1). When a district determines that a student should be reevaluated, it must provide prior written notice to the student’s parents that describe all of the evaluation procedures that the district intends to conduct. 34 CFR §300.304; WAC 392-172A-03020. The district must then obtain the parents’ consent to conduct the reevaluation and complete the reevaluation within 35 school days of receiving consent, unless a different time period is agreed to by the parents and documented by the district. WAC 392-172A-03015(3). The reevaluation determines whether the student continues to be eligible for special education and the content of the student’s IEP. 34 CFR §300.304; WAC 392-172A-03020(2)(a). The reevaluation must be conducted in all areas of suspected disability and must be sufficiently comprehensive to identify all of the student’s special education needs and any necessary related services. 34 CFR §300.304(c); WAC 392-172A-03020(3).

Functional Behavior Assessment (FBA): An FBA focuses on identifying the function or purpose behind a child’s behavior. Typically, the process involves looking closely at a wide range of child-specific factors (e.g., social, affective, environmental). Knowing why a child misbehaves is directly helpful to the IEP team in developing a behavioral intervention plan (BIP) that will reduce or eliminate the misbehavior. *Questions and Answers on Discipline Procedures* (OSERS June 2009) (Question E-2). An FBA is generally understood to be an individualized evaluation of a child in accordance with 34 CFR §§300.301 through 300.311 to assist in determining whether the child is, or continues to be, a child with a disability. The FBA process is frequently used to determine the nature and extent of the special education and related services that the child needs, including the need for a BIP. As with other individualized evaluation procedures, and consistent with 34 CFR §300.300(a) and (c), parental consent is required for an FBA to be conducted as part of the initial evaluation or a reevaluation. *Questions and Answers on Discipline Procedures* (OSERS June 2009) (Question E-4). While it is best to have an FBA to guide the creation of a BIP, it is not required if a district adequately identifies behavioral problems and effectively addresses them. 2016-SE-0039 pg 24. See *Endrew F. v. Douglas County Sch. District*. RE 1 788 F. 3rd

1328, 1337-1338 (10th Cir. 2014); *K.L. v New York City Dept. of Educ.*, 2012 U.S. Dist. LEXIS 124469, 112 LRP 44086 (S.D.N.Y. 2012). However, the lack of an FBA can lead to the development of an inappropriate BIP. See *C.F. v. New York City Dept. of Educ.*, 746 F.3d 68, 80 (2nd Cir. 2014).

Home/hospital instruction: Home or hospital instruction shall be provided to students eligible for special education and other students who are unable to attend school for an estimated period of four weeks or more because of disability or illness. As a condition to such services, the parent of a student shall request the services and provide a written statement to the school district from a qualified medical practitioner that states the student will not be able to attend school for an estimated period of at least four weeks. A school district shall not pay for the cost of the statement from a qualified medical practitioner for the purposes of qualifying a student for home/hospital instructional services pursuant to this section. Home/hospital instructional services funded in accordance with the provisions of this section shall not be used for the initial or ongoing delivery of services to students eligible for special education. It shall be limited to services necessary to provide temporary intervention as a result of a physical disability or illness. WAC 392-172A-02100.

FINDINGS OF FACT

Background Information

1. During the 2015-2016 school year, the Student attended eleventh grade at a District high school and was eligible for special education services under the category of other health impaired.
2. The District completed the Student's current evaluation on October 22, 2014. The reevaluation report stated the Student had an extensive medical history, and had been diagnosed with a number of health problems that broadly impacted her in several areas, including gross motor skills, cognition, academic skills, and communication. The report noted the Student had been receiving special education services since preschool, and currently participated in three general education courses with support, including having a special education teacher assigned to her mathematics classroom to support all eligible students in the class. The report stated the Student required significant support in a general education class, noting the Student worked well with her aide, but sometimes put her head down, as if tired or disengaged, and required modifications to general education coursework. The report recommended the Student receive specially designed instruction in the areas of gross motor, self-advocacy, reading comprehension, mathematics, written expression, and communication.
3. On October 21, 2015, the Student's IEP team, including the Parent, developed the individualized education program (IEP) in place for the Student during the 2015-2016 school year. The Student's IEP team considered that the Student was hard working, and had a positive peer group, but needed clear expectations and guided support. The Student's IEP team also considered the Parent's concern that while

the Student needed academic rigor, she also needed limited stress because of her anxiety. The Student's IEP included eleven annual goals with progress reported quarterly, including:

- Reading Comprehension (1): The Student will read aloud with prosody and "inferential monitor thinking comments," improving from 1/5 inferential comments to 4/5 inferential comments.
- Reading Comprehension (2): The Student will correctly identify sentences that are provable, using text-based evidence, and sentences that are metaphorical/opinion based, improving from 3/10 to 8/10 sentences.
- Self-Advocacy (1): The Student will request (by email or in person) a missing general education assignment (due to illness or other), improving from 2-3 missing assignments per week to 0 missing assignments per week.
- Self-Advocacy (2): The Student will correctly identify the nature of an unpleasant interaction as either "rude" or "bullying", improving from not knowing how to report unpleasant interactions to seeking help from an appropriate adult.
- Self-Advocacy (3): The Student will demonstrate "environmentally specific social behaviors," improving from level 3 (1-2 teacher prompts per discussion period) to level 4 (independent).
- Written Expression: The Student will correctly follow a five-step writing process, improving final draft of a multiple paragraph essay from a 1.0 written expression grading rubric to 2 or higher, as measured by school based assessment rubric.
- Mathematics (1): The Student will correctly answer standardized mathematics assessment questions, improving from scaled score on STAR tests from 613 to 700.
- Mathematics (2): The Student will correctly determine the mathematic model on application problems from 50% accuracy to 75% accuracy.
- Speech and Language (1): The Student will identify appropriate statements versus off-putting statements, improving appropriate conversational statements from approximately 50% of the time to 80% of the time.
- Speech and Language (2): The Student will say full sentences, in turn, with new information, improving in classroom discussions that last 5 or more minutes, from 70% to 80%.
- Gross Motor Skills: When swimming laps in a 25-yard swimming pool, the Student will improve from swimming an average of 7 laps in (head-in-water) or 12 laps (head-out-of-water) to 8 laps of (head-in-water) or 12 laps (head-out-of-water).

The Student's IEP provided the following weekly minutes of specially designed instruction, all in the special education setting:

- 40 minutes per week for communication,
- 250 minutes per week for reading comprehension,
- 125 minutes per week for mathematics,
- 125 minutes per week for self-advocacy skills,
- 210 minutes per week for written expression, and
- 30 minutes per week for gross motor skills.¹

¹ According to the Parent, at some point previously, the Student's IEP included a provision of 1:1 support. However, neither the Student's October 22, 2014 evaluation report nor her October 21, 2015 IEP included a recommendation or a provision for 1:1 paraeducator support.

The Student's IEP also provided for several accommodations/modifications, including:

- Extra time to respond,
- Modified homework,
- Reduced number of problems,
- Physical education modified to ability level,
- Pass grade, as determined by general education teacher with IEP team.

The IEP stated the Student's least restrictive environment (LRE) was spending 40%-79% of her school day in "regular class."

4. The Student's schedule for the second semester of the 2015-2016 school year included the following:
 - Shortened Period²
 - Study Skills, in a special education classroom,
 - English Skills, in a special education classroom,
 - English Skills, in a special education classroom,
 - Math Skills, in a special education classroom,
 - Health for Life, in a general education classroom, and
 - Cuisine/Culture, in a general education classroom.

Timeline for Investigation Begins on February 25, 2016

5. On March 7, 2016, the Student's father emailed the Student's special education mathematics teacher about selecting the Student's mathematics class for the first semester of the 2016-2017 school year, noting that the Student's IEP team had previously discussed a financial algebra class for the Student. The special education mathematics teacher responded, stating financial algebra would be a good option with an additional supporting class, such as study skills or mathematics skills. The special education mathematics teacher also forwarded his email to the Parent, who stated that she wanted the Student's IEP team to discuss the Student's mathematics class for the 2016-2017 school year. The Parent also stated the financial algebra class might be inappropriate for the Student, given the scope of the Student's disability. The Student's father replied, stating he had education decision making for the remainder of the year, and he wanted the recommendations of the Student's special education mathematics teacher.
6. On March 8, 2016, the Student's special education mathematics teacher emailed the assistant school principal, the Student's special education case manager, the school counselor, and the Student's father. The special education mathematics teacher stated that the Student could manage the financial algebra class, but would require extensive support, and the Student's IEP team should remember the Student's unique combination of strengths and needs when it determined the Student's

² All students at the District high school have a shortened period, lasting 35 minutes per day, four days per week. According to the District, the individual needs of students determines what occurs in the shortened period, and for students eligible for special education, the shortened period can be a special education service and might occur in the special education setting.

mathematics class. The Student's mathematics teacher further stated that in class that day, the Student cried for almost 20 minutes about the discussion of taking a financial algebra class, and recommended the Student's IEP team keep the Student's mental health in mind when making the decision.

7. On March 16, 2016, the Student's father emailed the assistant school principal, the school counselor, the Student's special education case manager, the Student's special education mathematics teacher, and the Parent. The Student's father stated that he and the Parent had agreed that the Student should enroll in a special education mathematics class with an IEP goal specifically based on the syllabus/curriculum from the financial algebra class, which he and the Parent would draft. The Student's father stated the Student's IEP team should meet after he and the Parent drafted the Student's mathematics annual IEP goals.
8. On April 7, 2016, the Student's special education study skills teacher emailed the Student's general education culinary arts instructor about the Student's current grade. The Student's special education study skills teacher stated the Student qualified for pass/fail grading, and needed modified class assignments. The Student's general education culinary arts teacher responded by forwarding an email she had just sent to the school special education department head and the assistant school principal. The forwarded email stated that the culinary arts teacher was ready to submit quarter grades, but was frustrated by missing "IEP accommodation reports and clear criteria/standards for many of [her] IEP students." The culinary arts teacher further stated she understood that most students with an IEP are graded pass/fail, but she had received very few "IEP reports" that semester, and without knowing the specific expectations for each student, she needed to grade students according to the same standards for all students. The culinary arts teacher stated there was a group of five students for whom she did 90% of their work, and suggested meeting with the special education staff. The culinary arts teacher sent another email to the Student's special education study skills teacher, stating that the Student was amongst the group of five students discussed in the forwarded email. The special education study skills teacher replied, stating she was not the Student's special education case manager, but she could help if the culinary arts teacher could not reach the Student's special education case manager.
9. On April 13, 2016, a special education paraeducator who worked with the Student emailed the Student's special education case manager and the Student's special education study skills teacher, stating the Student's grade in the culinary arts class had dropped to an "F." The paraeducator stated one of the most significant issues was that the Student was missing the signed syllabus, but if the Student submitted that assignment, it would raise her grade. The paraeducator stated she gave the Student another copy of the assignment.
10. On April 14, 2016, the Student's special education case manager forwarded the paraeducator's message to the Parent and the Student's father, asking if either of them could help the Student complete and submit the assignment. The Parent responded, stating she had signed the syllabus the previous night and it should be in

the Student's backpack. The Student's father also responded, asking the Student's special education case manager to help the Student catch up on missing assignments. The Student's special education case manager replied, stating she would help the Student, and would also discuss modifications with the culinary arts teacher.

11. Also on April 14, 2016, the District issued progress reporting for the Student's annual IEP goals.³ The progress reporting stated the Student had made sufficient progress to achieve each of her annual goals. However, the progress reporting did not include a data point or comment for her IEP goals, with the exception of the Student's gross motor skills goal, which included a comment with quantifiable data.
12. On May 24, 2016, the Student's father emailed several members of the Student's IEP team, asking to schedule an IEP team meeting for the Student before the end of the 2015-2016 school year. The Student's father stated that he would like the Student to start the 2016-2017 school year with a new IEP already in place. The Student's father further stated he would draft some IEP goals for the Student and send them to the remainder of the Student's IEP team shortly.
13. On May 26, 2016, the Student's special education case manager responded to the Student's father and other members of the Student's IEP team, including the Parent, stating that her June days were open, so scheduling an IEP team meeting for the Student was "up to the rest of you." The Student's special education mathematics teacher responded, offering to help draft the Student's mathematics goals, and stating availability on June 7, 8, 14, or 15, 2016. The Student's special education mathematics teacher also stated it was important to consider the impact of the Student's health on her progress, noting the Student had been mostly or entirely absent for 13 days that semester, and often when she was present, she was so tired or sick that she could not focus on her work.
14. On June 16, 2016, the Student's special education study skills teacher emailed the Student's general education culinary arts instructor, noting the Student appeared to be missing two assignments or quizzes, one for "measurement" and another for "matching." The special education study skills teacher asked if the Student had finished those assignments/quizzes and stated they needed to modify the class final for the Student. The culinary arts teacher responded, stating the Student was missing the measurement quiz, had taken the matching quiz that day, so it was not yet graded, and needed to give a class presentation. The special education study skills teacher replied, asking what special education staff could do to help the Student pass the class. Also that day, the Student's special education study skills teacher emailed the Student's general education health teacher, stating the Student needed modified work/grading in all classes and also qualified for pass/fail grading. The Student's special education study skills teacher also stated she had worked with the Student to modify her health class project, including removing part 2, and the health teacher should expect the Student to turn in the project that day.

³ The progress reporting for the individual goals is dated April 6, 11, 12, and 14, 2016.

15. On June 17, 2016, the culinary arts instructor emailed the Student's special education study skills teacher and special education case manager. The culinary arts instructor stated the Student tried to take the measurement quiz at lunchtime that day, but the Student could not answer any of the ten measurement questions from the flash cards, and did not have a class presentation. The culinary arts instructor stated that if the Student took another foods class, the Student needed a paraeducator with her. Later that day, the Student's father emailed the culinary arts instructor, asking if the Student could give a class presentation the next week. The culinary arts instructor responded, stating she had spoken with the Student's special education case manager and determined that the following Monday, June 20, 2016, the Student could give a four-minute presentation to the teacher, and re-take the measurement flashcard quiz. The culinary arts teacher stated that the Student could pass the culinary arts class, if she scored a minimum of 8/10 on the measurement flashcard quiz. The culinary arts teacher stated she had attached the assignment outlining the requirements for the presentation, and also attached the measurement flashcards, but the flashcards would be in a different order for the quiz.
16. On June 20, 2016, the Parent emailed the culinary arts instructor, the Student's special education case manager, and others, stating the Student had worked on several of her six missing assignments over the weekend, but did not have enough time to complete everything. Later that day, the culinary arts instructor emailed the Parent and the Student's special education case manager, stating the Student scored only 5/10 on the flashcard measurement quiz, and the circumstances did not warrant an incomplete.
17. On June 22, 2016, the District issued progress reporting for the Student's IEP annual goals.⁴ The progress reporting stated the Student had made sufficient progress to achieve each of her annual goals, except for her self-advocacy goal to request missing assignments, which stated the Student had emerging skill, but might not achieve the annual goal within duration of IEP. The progress reporting did not contain comments or data points for six of the Student's 11 annual goals but included the following five comments:
- Reading Comprehension (2): The Student had made sufficient progress on her goal to identify sentences that are provable using text-based evidence, and sentences that are metaphorical/opinion based, improving from 3/10 to 8/10 sentences. The comments stated the Student had made steady progress demonstrating this skill in book club rotation discussions.
 - Self-Advocacy (1): The Student had emerging skill to request (by email or in person) a missing general education assignment (due to illness or other), for a SAS pass, improving from 2-3 missing assignments per week to zero missing assignments per week. The comments stated, "I am seeing some of this in Study Skills – she does work on missing assignments in class."
 - Self-Advocacy (2): The Student had made sufficient progress on correctly identifying the nature of an unpleasant interaction as either "rude" or "bullying", improving from not knowing who and how to report unpleasant interactions to seeking help from appropriate adult. The comment stated the Student was showing growth in this area;

⁴ The progress reporting for the individual goals is dated June 13, 14, 16, and 22, 2016.

however, when discussing issues of concern with a teacher, she was often “hyper responsive.”

- Self-Advocacy (3): The Student had made sufficient progress on demonstrating “environmentally specific social behaviors,” improving from level three (1-2 teacher prompts per discussion period) to level four (independent). The comments stated the Student still needed prompts not to “talk out” during conversations when other students were talking.
- Gross Motor Skills: When swimming laps in a 25-yard swimming pool, the Student had made sufficient progress on improving from swimming an average of 7 laps in (head-in-water) or 12 laps (head-out-of-water) to 8 laps of (head-in-water) or 12 laps (head-out-of-water). The comments stated the Student was consistently doing 8 laps with a variety of strokes as joint inflammation dictated.

18. June 24, 2016 was the last day of the 2015-2016 school year, and the District provided report cards for all students. The Student’s report card indicated the Student received:

- “A” in study skills (special education classroom),
- “B” English skills (special education classroom),
- “B” English skills (special education classroom),
- “A-” mathematics skills (special education classroom),
- “C-” health (general education classroom), and
- “F” culinary arts (general education classroom).

19. On June 30, 2016, the Student’s father emailed the assistant school principal, attaching a draft of mathematics IEP goals for the Student. The Student’s father stated he had yet to discuss these goals with the Parent, and he anticipated a revised draft after he had done so. The Student father also stated he hoped the Student’s IEP team could meet the first week or so of the 2016-2017 school year to discuss the Student’s goals with her new mathematics teacher.

20. On July 19, 2016, the Parent emailed the assistant school principal, stating she hoped the Student’s IEP team could meet before the start of the 2016-2017 school year, but also noting she would be unavailable between August 23 and 29, 2016. The Parent stated the Student would need 1:1 support during September/October 2016, but this need might not be present by December 2016. The Parent stated the Student was scheduled for arm surgery on September 12, 2016, would be in casts/braces for some time post-surgery, and was currently in a great deal of pain. The Parent stated she expected the Student would need assistance toileting, eating, taking notes, typing classwork, and carrying her backpack. The assistant school principal responded, stating she was forwarding the Parent’s email to the Student’s special education case manager and the school special education department head.

21. On July 20, 2016, the school special education department head emailed the District secondary student services director, asking if he would approve a 1:1 paraeducator for the Student, and asking for guidance on how to proceed.

22. On August 17, 2016, the Parent emailed several members of the Student’s IEP team, asking to schedule an IEP team meeting as soon as possible. The Parent

stated the Student had surgeries scheduled on September 12 and October 28, 2016, with a third surgery yet unscheduled. The Parent also stated she would like to “get things set up” before the medical appointments. The assistant school principal responded, stating she was not sure if the Student’s case manager checked email over the summer, but she would be back in the building the last week of August 2016.

23. On August 25, 2016, the school special education department head emailed the Student’s special education case manager, attaching the Student’s proposed schedule. The school special education department head noted the Student’s schedule needed some fixing, but it did include the independent living and cooking classes requested by the Parent and the Student’s father.
24. On August 31, 2016, the Student’s special education case manager also emailed the District secondary student services director, stating the Parent was anxious for a response regarding a 1:1 paraeducator for the Student.
25. On September 1, 2016, the District secondary student services director emailed the Student’s special education case manager, the school special education department head, and the assistant school principal. The District secondary student services director stated that the Student’s need for 1:1 support was medically based, not an IEP issue, so he was forwarding the information to the school nurse, who would develop a Section 504 plan for the Student to address the 1:1 support. The same day, the school nurse emailed the Parent, attaching the release needed. The school nurse stated the school would need a specific doctor’s note, stating the Student was not able to perform self-toileting, unable to open/close doors, and carry a backpack.
26. Also on September 1, 2016, the school physical therapist emailed the Student’s special education case manager, relaying information from the Parent that the Student was scheduled to undergo hand surgeries soon, and would likely need additional support during recovery. The school physical therapist asked if there was an upcoming IEP team meeting for the Student. The Student’s special education case manager responded, stating she had not yet scheduled the Student’s IEP team meeting, as she was waiting to speak with the District secondary student services director.
27. On September 2, 2016, the assistant school principal emailed the Student’s special education case manager and the school nurse, stating the Student would have a temporary 1:1 starting the next week, to help the Student before and after surgery.
28. On September 6, 2016, the Parent emailed the Student’s special education case manager, asking when the Student’s IEP team was meeting.⁵ The Student’s special education case manager responded, stating the Student’s IEP team was not meeting that day. The Student’s special education case manager stated she had

⁵ There appears to have been verbal discussion of a meeting on September 6, 2016. However, neither the email documentation nor the written meeting invitations indicate that an IEP team meeting was scheduled for the Student.

outlined a plan for the Student's first week of school, including paraeducator and nurse support, based on her telephone conversation with the Parent, and the paraeducator and nurse would use the first week of school to assess the Student's needs. The Student's special education case manager also stated she would schedule an IEP team meeting after giving the Student's new special education mathematics teacher time to gather baseline data, and write financial mathematics goals. The Parent replied, stating she was concerned that school staff had canceled the Student's IEP team meeting. The Parent stated she understood that the District had approved a 1:1 paraeducator for the Student for the first six weeks of school, but she wanted to know the specific plans for toileting, falls, choking, splints, pain management, and behavioral outbursts, and she wanted to review those plans before the first day of school. The Parent stated she wanted to amend the Student's IEP to include that the District would not suspend the Student for hitting staff or other students, as she had new concerns about the Student's behavior, given the Student's levels of pain. The assistant school principal responded to the Parent, clarifying that the District had approved the Student's 1:1 paraeducator for the first week of school, and school staff would assess the Student's ongoing paraeducator needs during that time. The assistant school principal stated that no students' IEPs included a provision prohibiting suspension, but staff would work with the Student to ensure the Student did not escalate, and the Student's special education case manager was in the process of scheduling an IEP team meeting. The assistant school principal included the following plan to address the Student's needs:

- Pain management: The Student's 1:1 paraeducator would work through the school nurse. The Student's 1:1 will look for signs of pain or distress and/or ask the Student, and get the Student to the school nurse when necessary. The plan asked for confirmation that the Parent would provide medications and written instructions to the school nurse.
- Toileting: The Student would use the larger bathroom in the nurse's area. The Student's special education case manager would inform all of the Student's teachers that at least for the first few days, the Student's 1:1 paraeducator would walk the Student out of class to the nurse's room each period. The plan stated that staff would assess the Student's toileting needs and use the time to check the Student's pain level.
- Behavior outbursts: The Student's 1:1 will check for signs of distress.
- Splints: The plan asked the Parent to inform school staff what she wanted staff to look for and do.
- Falls: The Student's 1:1 paraeducator would walk all places with the Student, and would ensure the Student used the elevator instead of stairs.
- Choking: The plan asked the Parent for information about her concerns regarding the Student's potential choking, and information about how to address those concerns.
- Other: The plan asked if there was anything else to be addressed or information the Student's 1:1 paraeducator should know.

The Parent replied, stating the Student needed help on and off the bus, and the District's transportation office needed a specific form completed to update the Student's transportation services. The assistant school principal responded, stating she had obtained the form, and the Student's case manager would file it with the

transportation office. Later that day, the Parent emailed the assistant school principal with detailed information about the plan to address the Student's needs.

- Pain management: Staff needed to help the Student reduce using her wrists, including picking up and carrying the Student's backpack, carrying the Student's lunch, and writing. The Student could have over the counter pain medicine at 11AM, anti-anxiety medicine at 1PM, and ice anytime. The Student was not proficient at verbally identifying her pain before behaviors emerged, but it was a good idea to have the Student check-in with the school nurse, particularly given that the Student had several new teachers.
- Toileting: Staff should offer the toilet between each class, without forcing a trip to the bathroom.
- Behavior outbursts: The Student had extreme reactions to unexpected touches, such as a tap on the shoulder or being brushed by a person passing her in the store. The Student had limited tolerance for anything extra to process.
- Splints: The Student should wear the splints all day, but staff could remove the splints for icing and hand washing. The Student tended to try to tighten the splints and her shoes when her pain increased, so the Parent would send a photo of how tight they should be.
- Falls: The Student had been having balance issues associated with medical issues with her ears, back, and legs, and could not use her arms to stabilize or catch herself. The Student had fallen up the stairs, stumbled over bumpy surfaces, and stumbled over her feet, but resisted using the ramp at home.
- Choking: The Student needed food cut into bite size pieces due to pain in her jaw. The Student might try to swallow food without thoroughly chewing because chewing caused pain. The Student could have sliced apples, but had a fructose intolerance, and did not like many fruits.
- Other: The Student wanted to be independent, and tended to overdo using her wrists, leaving her with no capacity for verbal communication, or self-control in challenging social situations. The Student had communication cards, but needed someone to scribe for her, and iPad use was uncertain. The Student could carry her backpack on her back, if someone helped her with putting it on her back. The Student worried that people would stare at her, her anxiety had increased with the pain, and she was carrying a book that helped calmed her.

The assistant school principal responded, stating she would share all the information with the Student's 1:1 paraeducator. The assistant school principal also stated that all six of the Student's classes met every day that week, which might crowd the hallways, and staff might have the Student walk to classes at different times, if necessary.

29. Also on September 6, 2016, the Student's special education case manager emailed several members of school staff, informing them that the Student would be starting the school year with a 1:1 paraeducator. The Student's special education case manager stated the Student had a lot of pain, the 1:1 paraeducator would help with the Student's physical needs, and might take the Student to a quiet area if needed to help the Student cope.

30. Also on September 6, 2016, the District sent the Parent a copy of three documents, an amendment to the Student's IEP without a meeting, a prior written notice, and the

updated specialized transportation form. The amendment stated the Student would not participate with non-disabled peers for 5/6 of classes the first semester, but this might decrease at the second semester, and the Student's IEP team would discuss her second semester schedule when they met. Both the amendment and the prior written notice stated that based on the Student's increasing medical needs and accompanying safety concerns, the District was adding transportation support. The notice also stated the Student needed the Parent present for pick-up/drop-off from home, and school staff would help the Student off/on the bus to and from school. The Parent wrote on her copy of the amendment to the Student's IEP that she did not consent to forgoing a meeting.

31. September 7, 2016 was the first day of the District's 2016-2017 school year, and the Student began twelfth grade at the same District high school. The Student's 2016-2017 schedule for the first semester included:

- Shortened Period
- Study skills, in a special education classroom,
- English skills, in a special education classroom,
- Mathematic skills, in a special education classroom,
- School service (teacher assistant for Civics), in a general education classroom,
- Independent living, in a special education classroom, and
- Career exploration, in a special education classroom.

32. On September 7, 2016, the assistant school principal emailed several members of school staff, informing them that the Student would be wearing braces on her arms, would not have much use of her arms, and was experiencing a lot of pain. The assistant school principal stated that although they all knew the Student was usually very good natured, the Parent was worried the pain might cause the Student to lash out at others, physically and verbally. The assistant school principal stated there would be a temporary 1:1 to help the Student, but all staff members needed to be aware and responsive to the Student's needs.

33. Also on September 7, 2016, the assistant school principal emailed the Parent, stating the first day of school seemed to be going well and staff had been carrying the Student's backpack. The assistant school principal stated that managing the Student's pain was important, but it would be helpful if the school had information from the Student's doctor that specified what the Student could and could not do. The Parent responded, stating she hoped to have medical documentation about the Student's needs after surgery. The Parent noted the Student had seven medical providers from four offices, resulting in a complicated scenario because the surgeon did not have expertise regarding the Student's behavioral escalation. After school that day, the Parent again emailed the assistant school principal, stating the Student "fell apart" as soon they left the school parking lot, telling the Parent "it was too much," but that the Student was also talking with her private therapist.

34. On September 8, 2016, the Parent emailed the assistant school principal, attaching a "medical clearance for child to return to school and work" form from an orthopedic clinic. The form stated the Student needed aid for notetaking, extra time on

schoolwork, aid transporting between classes, and on/off the bus, and aid carrying books/trays. The form also stated the Student needed to keep the brace in place at school, and staff should discourage the Student from trying to tighten the brace, which the Student would do when in pain. The Parent stated doctors would perform surgery on the Student's right arm the next week, and her left arm in approximately 12 weeks. The Parent asked if she needed to provide additional documentation, noting that the Student had additional limitations for doing things one-handed than a typically developing student would have. The Parent further stated the Student's IEP already documented the Student's needs regarding writing and the physical therapist should be able to confirm the Student's needs associated with classwork, notes, planner, bathroom, and lunch assistance.

35. Also on September 8, 2016, the school speech language pathologist (SLP) emailed the Student's special education English teacher, stating she understood the Parent wanted the Student's communication services to occur during English class, and asking if either the beginning or ending of the period worked better for delivering those services. The Student's special education English teacher responded, stating she saw the Student first period on Wednesdays and Fridays from 7:50-9:30AM, but the Student was currently leaving class about five minutes early, so the SLP should account for that. The Student's special education English teacher stated it would be ideal for the SLP to work with the Student toward the end of the class period because the Student would have received all the instruction, and be working on the assignment, but the SLP was welcome to work with the Student anytime during the English class.

36. On September 9, 2016, the Student's SLP emailed the Student's special education case manager, stating she understood the Student had several upcoming doctor's appointments, including surgery, and asked for more information. The Student's special education case manager responded, stating the Student historically missed a lot of school due to illness and appointments, and the Student had begun to have behavioral outbursts based on the pain in her arms.

37. Also on September 9, 2016, the Student's special education case manager emailed the Parent, the Student's father, and the assistant school principal, proposing an IEP team meeting for the Student on September 29, 2016. The Student's father responded, asking to reschedule the IEP team meeting to September 28 or 30, 2016. The Parent replied, stating she was not available on the alternative dates, and wanted to hold the IEP team meeting on September 29, 2016. The Student's special education case manager responded, stating she could not facilitate the communication between the parents, and if she did not hear of an agreed upon date change, the originally scheduled time would proceed with all welcome to attend.

38. On September 13, 2016, the District secondary student services director emailed the assistant school principal, the school nurse, and the staff member in charge of student services budgets, stating the District had approved an additional five days of 1:1 paraeducator support for the Student, and asking all the staff members to collect data on the Student's needs. The District secondary student services director stated

he was unsure whether this was an IEP issue, or a medical issue best addressed by a Section 504 plan, and asked the school nurse to follow up with the Student's medical provider and the District student services director.

39. Also on September 13, 2016, the Parent emailed the school physical therapist, noting that due to the Student's current medical issues, the Student would be limited in the amount and type of exercise she could do. The physical therapist responded the next day, thanking the Parent for the updated information.
40. On September 15, 2016, the school nurse emailed the District student services director, asking how to proceed with the Student's support. The school nurse stated she had placed a call to the Student's medical provider, confirming that the Student's needs were medical in nature. However, the school nurse also stated that some of the Student's needs, such as note taking, help with carrying books, and extra time for tests/homework, were academic in nature, and the school nurse could not authorize those items within her medical plan. The District student services director responded, stating the Student needed support staff under the Americans with Disabilities Act (ADA) and the team needed to determine how many minutes per day the Student needed support.
41. On September 21, 2016, the assistant school principal emailed the school counselor, another assistant principal, the Student's special education case manager, and other school staff members, stating the Student's schedule would change such that the Student would be the teacher assistant to her special education study skills teacher, and audit the Civics class. The assistant school principal stated that the Parent thought this was a great idea, and noted the Student had 1:1 paraeducator support indefinitely through the ADA.
42. Also on September 21, 2016, the Student's special education case manager emailed the District student services director, stating she had begun drafting the Student's IEP and was wondering where to add information about the Student's 1:1 paraeducator. On September 25, 2016, the District student services director responded, stating the provision of 1:1 paraeducator support for the Student should not be included in the Student's IEP. The District student services director stated that because the Student's need for support was based on the Student's surgery/medical procedures, not the Student's disability, the paraeducator support was provided under the ADA.
43. On September 27, 2016, the Student's father again emailed the Student's special education case manager and the assistant school principal, providing a copy of the Student's draft IEP goals for mathematics. The assistant school principal responded, stating they would talk about the Student's IEP goals at the upcoming IEP team meeting.
44. On September 29, 2016, the Student's IEP team, including the Parent, met to discuss the Parent's concerns and develop the Student's annual IEP. The Student's IEP team considered that the Student was comfortable with class participation, and

good at asking for help, and also considered the Parent's concerns, which included: medical issues, social/behavioral concerns, missing work, medical appointments interfering with physical therapy services, and insufficient progress reporting. The Student's IEP included 12 annual goals with progress reported quarterly, some of the Student's IEP goals remained unchanged, and some were updated to establish a new level of mastery. The annual goals included:

- Reading Comprehension (1): After reading an 850 Lexile text, the Student will complete the associated comprehension quiz, improving answering questions correctly from fewer than 5/10 to 8/10 correct answers.
- Reading Comprehension (2): The Student will correctly identify sentences that are provable using text-based evidence, and sentences that are metaphorical/opinion based, improving from 3/10 to 8/10 sentences.⁶
- Self-Advocacy (1): When general education course assignments are stressful, the Student will request a SAS pass and talk with the teacher about how to modify work, improving from having more than 3 anxiety/stressful occurrences to 1 or less anxiety/stressful occurrences.
- Self-Advocacy (2): The Student will correctly identify the nature of an unpleasant interaction as either "rude" or "bullying", improving from not knowing who and how to report unpleasant interactions to seeking help from appropriate adult.⁷
- Self-Advocacy (3): The Student will demonstrate "environmentally specific social behaviors," improving from level 3 (1-2 teacher prompts per discussion period) to level 4 (independent).⁸
- Written Expression (1): The Student will write a response to a writing prompt, including a thesis and supporting evidence, improving from "approaching standard" to "meeting or exceeding standard," using the grading rubric for written expression.
- Written Expression (2): The Student will write a paragraph, improving writing fluency from independently writing a five-sentence paragraph, containing simple sentence to independently writing a five-sentence paragraph with simple and compound sentences that include a variety of phrases and clauses, as measured by teacher created rubric.
- Mathematics (1): The Student will correctly answer standardized mathematics assessment questions, improving from scaled score on STAR tests from 622 to 710.⁹
- Mathematics (2): The Student will correctly determine the mathematic model on financial application problems from 50% accuracy to 75% accuracy.¹⁰
- Mathematics (3): The Student will apply number sense and reasoning skills to word problems involving order of operations, improving from 2/10 problems correct to 9/10 problems correct.

⁶ This goal was also included in the Student's October 2015 IEP.

⁷ This goal was also included in the Student's October 2015 IEP.

⁸ This goal was also included in the Student's October 2015 IEP.

⁹ This goal was updated from the Student's October 2015 IEP, which previously was to improve scaled score from 613 to 700.

¹⁰ This goal was updated from the Student's October 2015 IEP to specify a financial rather than everyday context.

- Communication: The Student will make a graphic organizer to stay on topic for conversation or written work, improving from “level 2” (significant assistance) to “level 3” (minimal assistance).
- Gross Motor Skills: The Student will independently perform an interval workout, improving from 10 minutes duration (with two sets of 8 x 20 second high intensity intervals followed by 10-second recovery) to 15 minutes duration with same high intensity intervals and recovery.

The Student’s IEP provided the following weekly minutes of specially designed instruction, all in the special education setting:¹¹

- 40 minutes per week for communication,
- 250 minutes per week for reading comprehension,
- 250 minutes per week for mathematics,¹²
- 275 minutes per week for self-advocacy skills,¹³
- 210 minutes per week for written expression, and
- 40 minutes per week for gross motor skills.¹⁴

Additionally, the Student’s IEP included the following supplementary aids and services:¹⁵

- 390 minutes per day for 1:1 adult support from special education staff in the general education setting,
- 120 minutes per day for 1:1 mobility aide, from special education staff in the special education setting.

The Student’s IEP also provided for several accommodations/modifications, including:

- All medical absences excused from course work,
- Monitoring medical/social status, tracked daily, reported weekly
- Modified homework,
- Reduced number of problems,
- Pass grade, as determined by general education teacher with IEP team.

The IEP also provided classroom support with staff consultation upon request from an occupational therapist (OT), for dealing with the Student’s changing needs. Although the IEP continued to state the Student’s LRE was spending 40%-79% of her school day in the general education setting, it also stated that during the first semester, the Student’s schedule consisted of 5/6 classes in the special education

¹¹ The service matrix erroneously lists the total service minutes per week as 1900. The correct total service minutes per week is 1065, which constitutes the total weekly minutes the Student is in school. None of the Student’s services are listed as concurrent.

¹² This is an increase of 125 service minutes per week.

¹³ This is an increase of 150 service minutes per week.

¹⁴ This is an increase of 10 service minutes per week.

¹⁵ Based on the emails and the Parent’s concerns, some of these provisions were not part of the original September 29, 2016 IEP, but were later amendments, based on the Parent’s requests.

setting, but noted this might decrease when her schedule changed at the second semester. The Parent signed the September 29, 2016 IEP with the notation that she did not agree that the IEP was final, specifically regarding the lack of a specific provision for 1:1 support and the lack of occupational therapy.

45. On September 30, 2016, the Student's special education case manager emailed the school psychologist, asking if the Student's new schedule constituted a change of placement. The Student's special education case manager noted that during the 2015-2016 school year, the Student's schedule included two to three general education classes each semester, which was in the 40%-79% range, and contrasted that range with the Student's current 2016-2017 school year schedule, which included only one general education class. The Student's special education case manager noted that the service matrix in the Student's IEP reflected that the Student had three special education classes, which were 250 minutes per week each, plus 30 minutes per week of gross motor skills, which totaled 780 minutes of services per week. The Student's special education case manager asked if the Student's schedule or the service minutes determined the Student's placement. The same day, the assistant school principal emailed the District substitute coordinator, stating the District needed to provide a 1:1 paraeducator for the Student indefinitely, and she could check with the District student services office for the budget numbers.
46. On October 3, 2016, the assistant school principal emailed the Student's special education case manager, asking her to schedule another IEP team meeting for the Student. The assistant school principal stated she had received a telephone message from the Student's father, and both he and the Parent wanted another IEP team meeting.
47. On October 4, 2016, the Student's special education case manager emailed the Parent and the Student's father, asking when they could attend another IEP team meeting for the Student, and asking for specific agenda items. The Student's special education case manager also stated the District student services director had informed her the Student's 1:1 paraeducator was not an IEP provision, and if they wanted to discuss that topic, they should contact the student services director. The Parent responded, stating that before they scheduled an IEP team meeting, she wanted a copy of the most recent draft IEP, a copy of "progress notes", and documentation justifying the removal of 1:1 paraeducator support from the Student's previous IEP that included that provision. The Parent also asked for information supporting the District's decision that the Student's social/emotional deficits did not qualify the Student for services in that area. Additionally, the Parent stated the Student was reporting that she did not like school, sat with the "safe" kids at lunch, and this problem began during the 2015-2016 school year. The Parent stated that although she had Tuesdays at 11AM available, she needed the above documents by the Friday before the meeting. The Student's special education case manager replied, stating she could provide a copy of the documents by that Friday, but she taught a class at 11AM on Tuesdays, and offered alternative times. The Student's special education case manager further stated she would consult with the school

psychologist about the Student's social emotional services. The Parent responded, stating that Friday, October the 14, 2016, was acceptable.

48. Also on October 4, 2016, the Student's special education case manager emailed the school psychologist, inviting the school psychologist to the follow-up IEP team meeting for the Student on October 14, 2016. The Student's special education case manager also asked for the school psychologist's input on why the District determined the Student did not qualify for social/emotional services. The school psychologist responded the next day, stating the Student's social/emotional goal was self-advocacy focused, and if the Parent wanted to know how the Student was served in that area, that was an IEP question.
49. Also on October 4, 2016, the Parent emailed the District student services director, stating she wanted a written explanation for why the District did not consider the Student's 1:1 paraeducator to be an IEP team issue. The Parent noted the Student's surgeries were not the cause of the Student's problems; rather, the Student's surgeries were related to diagnoses made when the Student was two years old.
50. On October 6, 2016, the physical therapist emailed the Student's special education case manager, stating she could not attend the follow-up meeting on October 14, 2016, but she would contact the Parent and address any gross motor concerns before the meeting. The physical therapist further stated that occupational consulting was now included in the Student's IEP, and she would identify who would provide the consultation.
51. On October 9, 2016, the District student services director emailed the Parent, stating that when she had received the request for the Student's additional support, she had understood that it was based on supports related to the surgery. The District student services director stated she did not understand that the Student's IEP team had identified that the Student needed 1:1 support before surgery. The Parent responded, providing a lengthy narrative about the Student's medical issues and reiterating her opinion that the Student's 1:1 paraeducator should be included in the Student's IEP. The Parent stated that the IEP process provided her with participation rights, and asked why she never received a prior written notice, denying her request that the Student receive 1:1 paraeducator support as part of the IEP provisions.
52. On October 14, 2016, the Student's IEP team, including the Parent, met to continue discussion from the September 29, 2016 IEP team meeting.¹⁶
53. The District issued prior written notice, dated September 29, 2016, but which appears to be responsive to the October 14, 2016 meeting, or a later meeting that fall. The notice stated the Student had a medically challenging start to the 2016-

¹⁶ The District did not create an amended IEP document based on this meeting and it appears that the District incorporated information and provisions agreed upon at this meeting in the Student's September 29, 2016 IEP.

2017 school year, and the Student's IEP team had adjusted her course schedule to address her need for increased special education courses. The notice also stated the District had approved 1:1 support for the Student under the ADA, but IEP goals were not appropriate for this temporary medical service. Additionally, the notice stated the Parent requested that occupational therapy consultation be included in the Student's IEP, and the District added that provision after consulting with the school occupational therapist. The notice further stated the District agreed that progress reporting would include quantitative comments on goal progress. Additionally, the notice stated a behavior technician would meet with the Student to work on the social aspect of the Student's self-advocacy skills, and the District had agreed to conduct a functional behavioral analysis (FBA) for the Student.

54. On October 17, 2016, the District student services director emailed the Parent, acknowledging that the District had an obligation to provide prior written notice to any parental requests it had rejected. However, the District student services director pointed out that as a substantive matter, the Student did have 1:1 paraeducator support, and that support would continue until the Student no longer had a medical need. The District student services director stated that generally, the District did not amend an IEP until there was more information about how a medical situation, such as surgery, would effect a student's long-term educational needs. However, the District student services director stated that if the Parent wanted to hold an IEP team meeting now, the Parent could contact the Student's special education case manager, and schedule a meeting.
55. On October 18, 2016, the Parent emailed the District student services director, narrating a variety of frustrations. The Parent's frustrations included that school staff "canceled" the September 6, 2016 meeting, the Parent did not receive a draft of the Student's September 29, 2016 IEP before the IEP team meeting, and there was no one at the September 29, 2016 meeting with the authority to add new provisions to the Student's IEP. The Parent stated she did not know the details of the Student's 1:1 paraeducator support, such as what happened when the Student's 1:1 paraeducator took breaks. The Parent further stated her concerns, which included that the Student's progress reporting had stated the Student was making sufficient progress, but the Student did not meet her IEP goals, and seemed to be regressing.
56. On October 19, 2016, the Student's special education case manager emailed the Parent, attaching a prior written notice dated October 18, 2016. The notice stated the District had set a meeting to discuss 1:1 support for the Student, but then decided not to meet because the Parent and school addressed and planned for the Student's 1:1 support needs via emails. The notice further stated that because the Parent was concerned that a meeting had not occurred, the Student's IEP team met on September 29, 2016, and again on October 14, 2016, to develop the Student's IEP, and discuss the Student's needs, including 1:1 support. The notice stated the Student's IEP team would meet again to finish discussions and complete the Student's IEP, including the specifics of the Student's 1:1 support for medical needs.

57. Also on October 19, 2016, the Parent emailed the District student services director, the District secondary student services director, the school nurse, and the assistant school principal. The Parent stated there was no current release of information between the District and any of the multiple medical providers for the Student, and staff should not contact the Student's medical providers directly, but should request needed information from the Parent.

58. Also on October 19, 2016, the school nurse emailed all of the Student's providers, copying the Student's special education case manager, the assistant school principal, and the Parent. The school nurse stated she wanted to review the Student's health limitations, noting the Student had a paraeducator during the school day. The school nurse stated:

- The brace on the Student's left arm should never be removed at school, and staff should encourage the Student not to tighten it.
- The Student should not write, her paraeducator would take notes, and carry pens/pencil.
- The Student should not use her hands to push off, such as getting out of chairs, or pushing open doors.
- The Student was not to lift or carry her backpack.
- The Student was not to lift or carry trays, books.
- Staff needed to take care to keep the Student safe from falls.
- The Student was not to climb stairs, and needed standby assistance when climbing bus stairs.
- Staff needed to exercise caution during crowded passing periods.
- Staff needed to chop the Student's food into bite size pieces at lunch or in the classroom.
- Staff should notify the Parent if the Student was extra sleepy during class time.

The school nurse stated she had copied the Parent on the email for ease of communication between staff members and the Parent.

59. On October 20, 2016, the assistant school principal emailed the Parent, stating the District would schedule a three-hour IEP team meeting to discuss the Parent's concerns. The assistant school principal also reiterated their discussion from that morning, in which the Parent had stated that at the present time, the school did not need to investigate the Student's statements that she was bullied.

60. On October 24, 2016, the Parent emailed the assistant school principal, detailing her frustrations. The Parent stated the assistant school principal had stated the Student's 1:1 paraeducator could not cut the Student's food because no knives were available, and the Student would need to sit with the students in the self-contained classroom.

61. On October 27, 2016, the Student's IEP team, including the Parent, held a three-hour meeting to discuss the Parent's concerns. According to meeting notes, the Parent expressed confusion about the Student's 1:1 paraeducator being provided under ADA, and the relationship between ADA and a Section 504 plan. Also according to the meeting notes, the Student's father expressed the need for

progress reporting to include quantitative data. Additionally, the meeting notes stated the Student's IEP team discussed whether to conduct a full reevaluation of the Student before the triannual date. After the IEP team meeting, the Student's special education case manager emailed the school psychologist, stating that the Student's IEP team determined an FBA was necessary, based on the Parent's reports that the Student showed a significant decline in her social/emotional behaviors at home. Also on October 27, 2016, the District added a provision of a bus aide for the Student.

62. On November 1, 2016, the Student's special education case manager emailed the Parent, the Student's father, and the assistant school principal, stating she had drafted a template to gather data for the Student. The Student's special education case manager stated she wanted to limit the areas to monitor to about 4-5 areas, and currently had included stress/anxiety, bullying/rude behavior reporting, independent class participation, and sleeping in class. The Student's special education case manager asked if anyone had additional input. The Parent responded, listing dizziness, ear drainage, skin picking, not participating in class, limping, fussing with cast/brace, talking/interacting with peers, and talking/interacting with adults.
63. On November 2, 2016, the District received the Parent's consent to conduct an FBA. On the consent form, the Parent asked the District to consider assessing the Student in all classrooms, in school areas other than the classroom, on the bus, and before and after school. In the comments section on the form, the Parent stated that the assessment needed to include all activities and locations related to the Student's education. The Parent also stated that at home, the Student would "shut down," then explode, and the Student was not able to access education if she shut down. The Parent further stated she worried the Student would explode at school and was refusing to go to school.
64. On November 3, 2016, the assistant school principal emailed several members of school staff, alerting them that the Student's 1:1 paraeducator would be gone for a few hours that day while the assistant school principal was also out of the building. The assistant school principal went over the arrangements for substitute coverage for the Student's 1:1 paraeducator, and back-up arrangements if needed.
65. On November 15, 2016, the Parent emailed the District student services director and the District secondary student services director, reviewing her concerns. The Parent stated she had requested, but not received, the data used to determine the Student's present levels of performance. The Parent also stated that given what appeared to be a lack of data, "I think it may be best to do the full re-evaluation process now rather than wait some indefinite space of time." However, the Parent also asked if there were another way to gather data without a full reevaluation.
66. On November 16, 2016, the District secondary student services director emailed the Parent, stating the Student's special education case manager had sent the Parent a draft of the Student's amended IEP to address the Parent's concerns. The District

secondary student services director also stated he had verbally authorized the Student's 1:1 ADA paraeducator on September 1, 2016, approved the ongoing provision of the Student's 1:1 ADA paraeducator on September 20, 2016, and had attached a spreadsheet documenting the ADA process. The District secondary student services director further stated the Student's October 2015 IEP did not include a provision for 1:1 paraeducator support, but the draft of the Student's amended IEP, which was emailed to the Parent that day, did include 1:1 paraeducator support on the IEP services matrix. The District secondary student services director also asked the Parent to review the information, and let him know whether she wanted to request a reevaluation of the Student at this time.

67. On November 17, 2016, the school psychologist emailed the Parent, asking to schedule a time, either in person or over the telephone, to gather information from the Parent for the Student's FBA. According to the Parent, on November 23, 2016, the Parent provided the school psychologist with her input.¹⁷

68. On November 29, 2016, the Student's IEP team, including the Parent, met to review and amend the Student's September 29, 2016 IEP. The Student's amended IEP included updated team considerations of the Parent's concerns, including:

- The Student had developed balance issues, creating a greater risk of injury.
- The Student had multiple issues with chewing and swallowing, increasing the Student's pain while chewing, and creating a greater risk of choking.
- The Student was having more pain from osteoarthritis in her wrists.
- The Student felt bullied at school.
- The Student was having more behavioral issues (at home).
- The Student was not coping well with attending school.
- The Student's performance in mathematics and English showed regression.
- The Student was not meeting her annual goals, despite progress reporting stating the Student was making sufficient progress.
- Progress reporting not including data.
- The Student was refusing to go to school, and "falling apart" immediately after school.

The amendments also included additional input from the Parent regarding various team considerations, including considerations regarding state or district-wide testing, communication needs, assistive technology needs, and behavioral needs. Under team consideration for communication needs, the amendments stated the Parent had reported that the Student had been diagnosed with central auditory processing disorder, had moderate hearing loss in her left ear, and had a nonverbal learning disorder. Under team considerations for assistive technology needs, the amendments included that the Parent reported the Student needed the support of voice memo, and needed her medical issues monitored effectively. Under the team considerations for behavior, the amendments stated the Parent reported the Student's behavior/inability to cope, or self-advocate was impeding her learning, specifically, the Student was refusing to go to school, and falling apart immediately after the school day ended. Additionally, the amendments to the Student's IEP

¹⁷ It is unclear whether this occurred in a meeting or over the telephone.

included minimal rewording to the Student's annual goals, but did not make substitutive changes. The amendments to the Student's IEP also included some additional accommodation/modifications, such as including a scribe per essay for classroom based finals, or state assessments. The amendments did not change the service matrix or placement options section of the previous IEP.

69. Also on November 29, 2016, the District issued prior written notice, stating school staff members were currently taking data on the Student's physical symptoms, her interactions with peers, and with staff, and would begin taking data about the Student's bus ride. The notice stated the FBA was in process and the District would add bus data per the Parent's request. The notice further stated the school nurse was developing an updated health plan for the Student. Additionally, the notice stated the Student's special education teachers for mathematics and English, and the SLP would oversee the Student's 1:1 paraeducator such that the paraeducator could support the Student's specially designed instruction.

70. On December 7, 2016, the District issued progress reporting for the Student's IEP annual goals.¹⁸ The progress reporting stated:

- Reading Comprehension (1): The Student had made sufficient progress on her goal to improve her reading comprehension quizzes from 5/10 to 8/10 correct answers, and was scoring an average of 9/10, with sufficient scaffolding.
- Reading Comprehension (2): No progress code was given for the Student's goal to identify sentences that are text-based from sentences that are metaphorical/opinion based, improving from 3/10 to 8/10 sentences. The comments stated that instruction on the skill had yet to occur, but was to begin with the upcoming unit.
- Self-Advocacy (1): The Student had made sufficient progress on her goal to talk with the teacher about how to modify work, when general education courses were stressful, improving from 3 to 1 or less anxiety/stressful occurrences. The comments stated twice that semester, the Student asked to be excused from movies that had topics or words that were stressful for the Student.
- Self-Advocacy (2): No progress code was given for the Student's goal to identify the nature of an unpleasant interaction as either "rude" or "bullying", improving from not knowing who and how to report unpleasant interactions to seeking help from appropriate adult. The comments stated, "I have not had the opportunity to observe this behavior at this time."
- Self-Advocacy (3): The Student had made sufficient progress on her goal to demonstrate "environmentally specific social behaviors," improving from level 3 (1-2 teacher prompts per discussion period) to level 4 (independent). The comments stated the Student was working on raising her hand and waiting her turn to answer questions, and was making steady progress. The comments further stated the Student knew what was expected, and raised her hand with only 1 prompt, but found it more challenging to wait her turn.
- Written Expression (1): No progress code was given for the Student's goal to craft a written response to a prompt, including a thesis and supporting evidence, improving from "approaching standard" to "meeting or exceeding standard," using the grading

¹⁸ The progress reporting for the individual goals is dated November 9, 10, 16 and December 1, 2, and 7, 2016.

rubric for written expression. The comments stated instruction on the skill had yet to occur, but was to begin with the upcoming unit.

- Written Expression (2): The Student had made sufficient progress on her goal to improve from independently writing a five-sentence paragraph, containing simple sentence to independently writing a five-sentence paragraph with simple and compound sentences that include a variety of phrases and clauses, as measured by teacher created rubric. The comments stated the Student was currently able to craft a one paragraph response, but the majority of sentences were simple containing few details.
- Mathematics (1): The Student had made insufficient progress on her goal to improve scaled score on STAR tests from 622 to 710. The comments stated the Student scored a 595 standard score, placing her in the 1st percentile on most recent STAR assessment.
- Mathematics (2): The Student made sufficient progress on her goal to determine the mathematic model on financial application problems from 50% accuracy to 75% accuracy. The comments stated the Student scored 60% on recent assessment involving financial math problem solving.
- Mathematics (3): The Student made sufficient progress on her goal to improve solving word problems involving order of operations, from 2/10 problems correct to 9/10 problems correct. The comments stated the Student was able to solve 5/10 problems correctly, using order of operations and number sense.
- Communication: The Student made sufficient progress on her goal to make a graphic organizer to stay on topic for conversation or written work, improving from “level 2” (significant assistance) to “level 3” (minimal assistance). The comments stated the Student was able to supply 5 talking points on a graphic organizer with a visual cue and minimal assistance, and stayed on topic 100% of the time.
- Gross Motor Skills: The Student had emerging skill on her goal to perform an interval workout independently, improving from 10 minutes duration (with two sets of 8 x 20 second high intensity intervals followed by 10-second recovery) to 15 minutes duration with same high intensity intervals and recovery. The comments stated although the skill was only emergent, the Student was expected to achieve the goal within the year. The comments further stated due to the Student’s many orthopedic issues, she had not been able to use some fitness equipment, but worked hard and was performing floor exercises.

71. Also on December 7, 2016, the school psychologist emailed the Parent, asking if it would be acceptable to hold the Student’s FBA results meeting during the week of January 9-13, 2017, instead of on January 4, 2017, to provide additional time to gather data and easier scheduling. The Parent responded, stating she wanted to meet on January 4, 2017. The Parent also asked for the form/paperwork to request a full reevaluation for the Student. Also that day, the Student’s special education case manager emailed the Parent, asking if the Parent wanted a copy of the Student’s progress report sent home in the Student’s backpack or mailed.

72. On December 8, 2016, the Parent emailed the Student’s special education case manager, stating it was fine to send the progress report home in the Student’s backpack. The Parent also asked for the paperwork to request a full reevaluation of the Student. The Student’s special education case manager replied, copying the school psychologist, and stating the school psychologist had sent the Parent the

paperwork. The school psychologist then emailed the Parent and the Student's special education case manager, stating she had not stated she sent reevaluation paperwork to the Parent, as the Parent's email was a sufficient request for an early reevaluation, given that an email is in writing. The school psychologist stated that based on the Parent's written request, the school had 25 school days to consider whether to reevaluate the Student, but they could consider it when they meet on January 4, 2017 to discuss the results of the Student's FBA. The Parent then replied, stating she did not know the District had 25 school days to consider her reevaluation request, and asking whether her "first email request" began the process. The school psychologist responded, stating the 25 school days began with the Parent's first email request, which was December 7, 2016, and ended on January 26, 2017. The Parent replied, stating she had "talked about" a potential reevaluation of the Student at the September 29, 2016 IEP team meeting, and she would scrutinize her emails with school staff. Regarding the FBA results meeting, the Parent stated she would not agree to extend the timeline, and suggested they meet in December 2016, if necessary to meet the procedural deadline.

73. On December 9, 2016, the school psychologist emailed the Parent, copying the Student's father on the email, stating she believed the deadline for the FBA was January 10, 2017, but she could not confirm that date, as it was a snow day and she was not at school. The school psychologist stated she wanted to confirm that meeting on January 5, 2017 worked with the Parent's schedule. The Parent replied, stating that January 5, 2017 did not work for her schedule, and the school psychologist must have the date wrong. The Student's father also responded, noting that the Student's tri-annual reevaluation was not due until October 2017, and asking what was happening.
74. On December 12, 2016, the school psychologist emailed the Parent and the Student's father, stating the meeting to review the results of the FBA was scheduled for January 4, 2017, and apologizing for confusing the date.
75. On December 14, 2016, the Parent emailed the Student's special education case manager, asking for a copy of the Student's progress reporting. The Parent noted there had been no progress reporting since the beginning of the 2016-2017 school year, and she did not receive progress reporting when she received a copy of the Student's November 29, 2016 IEP.
76. On December 15, 2016, the Student's special education case manager emailed the Parent and the Student's father, stating she had mailed the progress reporting the previous week, and asking the Student's father if he had received his copy. The Student's father responded, stating he had already received his copy of the Student's progress reporting in the mail. Later that day, the Parent emailed the Student's special education case manager, stating she received a copy of the Student's progress reporting, but it did not have the Student's final progress on her former IEP goals from her October 2015 IEP. According to the Parent, after school that day, the Student was reportedly suicidal.

77. On December 19, 2016, the assistant school principal emailed the Parent, asking if the Parent wanted the school to develop a safety plan for the Student, in case the Student was feeling suicidal at school. The assistant school principal stated developing a safety plan would entail asking the Student to identify the adults she would be comfortable talking with, and identifying who that person should report to upon learning concerning information. The Parent responded, stating she was working with the Student's private therapist to determine the best plan to support the Student being safe, but identifying the school nurse and another staff member as possible people for the Student to check in with. The Parent stated she would let the assistant school principal know after she received input from the Student's private therapist. Later that day, the Parent emailed the assistant school principal again, stating the Student's therapist developed a plan for the Student to go to the tech office, and ask to use their telephone to call the Parent, noting the Student refused to use her own cellphone, because it was against school rules. The Parent stated that the Student's suicidal thoughts were closely related to pain, and she hoped they would have a better plan by January 4, 2017.
78. The last day of school before the District's winter vacation was December 20, 2016, and school resumed on January 4, 2017.
79. On January 3, 2017, the Parent emailed the assistant school principal and the school nurse, attaching a form from the Student's physician with recommendations for physical activity. The form stated it was okay for the Student to write with her right hand for short periods as determined by the Student. The Parent's email stated the new hand surgeon was okay with the Student doing some writing, and she hoped this would help the Student feel less dependent. The Parent reiterated that the Student continued to need to refrain from lifting/carrying/weight bearing. The Parent also stated surgery on the Student's left arm was scheduled for January 20, 2017.
80. On January 4, 2017, the Student's IEP team, including the Parent and the Student, met to discuss the Student's FBA results. The meeting agenda included reviewing behavioral data, a discussion of behaviors of concern, and discussion of the Parent's request for the Student's early reevaluation. Later that day, the school psychologist emailed several members of school staff, thanking those staff members who had attended the early morning meeting, and recapping the meeting for anyone who was not in attendance. The school psychologist stated they had looked over the data, and determined the focus of the Student's FBA should be increasing the Student's independence and decreasing the Student's school refusal. The school psychologist stated she would work with a District behavior specialist on developing the FBA. The school psychologist further stated that although they discussed the Parent's early reevaluation request, there was still discussion pending, due to the time constraints on the meeting. The District behavioral specialist responded, stating the Parent had referred to the Student's "safety plan" during the meeting, and asking for a copy that plan. The District behavioral specialist also stated she wanted the Student's teachers to fill out another form about when the Student "shuts down" or disengages. The District behavioral specialist stated that although she understood

they had already done this activity, the Parent indicated the previous information did not address “the issue at hand.”

81. On January 5, 2017, the Parent emailed the school nurse and the assistant school principal, attaching the plan developed by the Student’s private therapist on December 19, 2016 to help in the circumstance that the Student had thoughts of self-harm. The plan included ideas to help the Student be more successful at school, which suggested offering the Student “excessive praise” for engaging in an activity that was challenging for her and transitioning 5 minutes early between classes. The list of ideas for school staff also suggested that staff check in with the Student, especially if she was withdrawn; articulate that the Student’s acceptance of help demonstrated her maturity; and ask the Student’s permission before touching her, even a hand on her shoulder or putting on a band-aid. The school nurse responded, stating she had made a copy of the Student’s safety plan for the pertinent staff, including the staff in the tech office, and the school counselor.
82. On January 9, 2017, the school psychologist emailed the Student’s providers, asking for their input regarding the Student’s “shutting down” or showing disengaged behaviors. The Student’s special education English teacher responded, stating she rarely saw the Student disengaged, and could not readily identify times when the Student was not engaged. Another of the Student’s special education teachers also responded, stating the likelihood of the Student shutting down or showing disengaged behavior in her class was slim, specifying it was a “2” on a scale of 1-6 with 6 being high.
83. On January 10, 2017, the Student telephoned the Parent from the school nurse’s office, sobbing, and reporting there were no “safe” people. According to the Parent, when the Student came home that day, she was again suicidal, and attempted to find a knife. The Parent did not return the Student to school. Additionally, January 10, 2017 was 35 school days from November 2, 2016, when the District received the Parent’s consent to conduct the Student’s FBA.
84. On January 12, 2017, the school psychologist emailed the Parent, stating she had met with the District behavioral specialist who attended the January 4, 2017 meeting about the Student’s FBA. The school psychologist stated she had attached a draft of the Student’s FBA, which was focused on the Student’s “shutting down” and school refusal. The school psychologist stated the draft FBA was incomplete because the school psychologist wanted to work with the Parent on aspects of the FBA report, and asked to schedule a meeting.
85. On January 17, 2017, the school nurse emailed the Parent, stating that home instruction was a program for students unable to attend school for at least four weeks. The school nurse stated that in that program, a teacher came to the home about two days a week and acted as the liaison between school and home. The school nurse stated a physician needed to write an order for home instruction. The Parent responded, stating she thought the home instruction program included a stronger component of actual teaching. The school nurse replied, stating the

teacher did spend time with students in the home. The school nurse clarified that students do not have to miss four weeks of school before the program could begin, and a home instruction program for the Student could begin as soon as the Student's physician wrote a note, stating the Student could not attend school for four weeks.

86. Also on January 17, 2017, the assistant school principal emailed the District special education coordinator, stating the Student had been absent the previous week, the Parent had stated the Student was refusing to attend school, and was suggesting the Student might need home/hospital. The assistant school principal also stated the Student had another upcoming surgery, and the assistant school principal had tried twice to telephone the Parent, but they never connected. The assistant school principal further stated the school nurse had connected with the Parent, and explained that to arrange home/hospital service, the District needed a doctor's note stating the Student would be out of school for four weeks. The District special education coordinator responded, stating she was glad the Parent connected with the school nurse who knew the home/hospital procedure.

87. On January 19, 2017, the Parent emailed the school psychologist, stating her preference was to receive the school psychologist's questions about the Student's FBA in writing, rather than meeting. The Parent also stated she was displeased with the Student's FBA focusing on behaviors that were problematic for others, and the January 4, 2017 meeting had worsened the Student's school refusal because the Student now felt her behaviors were a problem at school. The Parent further asked for a prior written notice from the District regarding her request for an early reevaluation of the Student. Also that day, the assistant school principal emailed the District special education coordinator and the District secondary student services director, stating the Student had not attended school since January 6, 2017 and although the Parent had stated the Student was to have surgery on January 13, 2017, the Parent now stated the Student's surgery was scheduled for March 3, 2017. The assistant school principal stated she had tried to telephone the Parent three times that day, but had no response.

88. On January 20, 2017, the Parent emailed the school psychologist, copying several other staff members. The Parent stated she was unsure whether school staff had adequate training to conduct the Student's FBA because it did not seem that the school psychologist included any of the Parent's information or concerns. The Parent stated that based on the January 4, 2017 meeting, the Student was now concerned that staff thought she interrupted, or had other behavioral issues. The Parent stated she did not understand why there was discussion about the Student's behaviors other than those connected to school refusal. The Parent also stated that without the services and supports the Student needed, the Parent had no choice but to keep the Student home, despite that "home bound" was not the LRE for the Student. The school psychologist responded, stating that an FBA was an investigative process, requiring information from a variety of sources, which the IEP team could then use to design individually tailored interventions. The school psychologist stated that when they met, she acknowledged the Parent's concerns,

and asked the Student's teachers and 1:1 paraeducator to reflect on those concerns, but they reported they did not see the Student being overwhelmed or shutting down. The school psychologist further stated that in an effort to gather as much data as possible, she then asked the Student's teachers and paraeducator to reflect on what they would consider a "behavior of concern" from the Student. The school psychologist stated that based on the "vast" information generated from that request, she and the District behavioral specialist agreed that the Student's IEP team should review the information together to determine the focus for the Student's FBA. The school psychologist stated that at the January 4, 2017 meeting, the Student's IEP team agreed the FBA should focus on increasing the Student's independence and use of coping skills. The school psychologist stated that based on the perception that the Student felt staff had criticized her, which hurt her feelings, the District would be happy to hold a meeting to help the Student share her feelings. The school psychologist then listed seven questions for the Parent, regarding completing the Student's FBA.

- What does school refusal look like (i.e. refusing to get out of bed, picking scabs, talking back, or locking self in room)?
- How often does school refusal occur?
- How long does school refusal last? (Is it just in the morning, will she come in the afternoon, or is that it for the day?)?
- What is the intensity level of danger of the behavior?
- Most often, what happens just before school refusal? (For example, was she dwelling on another student using a bad word, did she express reprimand by her paraeducator?)
- Does the Student state she was correct earlier in the day or state that having had a failure?
- What does the Student's day look like if she does not go to school (noting the Parent had stated it did not result in more mom time)?

The school psychologist stated she had attached the following documents to the email: a prior written notice, proposing to reevaluate the Student; a request for release of medical information, so she could communicate with the Student's medical professionals; and a consent for evaluation, which included space for the Parent to provide feedback on the areas for evaluation.

89. The District's January 20, 2017 prior written notice proposed an early reevaluation for the Student, which the Parent requested in a December 7, 2016 email. The notice stated the Student's IEP discussed the Parent's request at a January 4, 2017 meeting, but school staff determined they needed input from the District secondary student services director because the Parent stated the District had agreed to the Student's early reevaluation before December 7, 2016. The notice further stated the school psychologist contacted the Parent on January 12, 2017 to discuss the Parent's reevaluation request, and on January 20, 2017, informed the Parent that the District had determined to move forward with the Student's early reevaluation.

90. On January 23, 2017, the District behavioral specialist emailed the Parent, copying several members of the Student's IEP team. The District behavioral specialist stated that at the January 4, 2017 meeting, the Student's IEP team had agreed to focus the

Student's FBA on two behaviors: school refusal and increasing independence at school. The District behavioral specialist also stated she hoped this focus addressed the Parent's primary concern, which was the Student's school refusal. The District behavioral specialist stated that because school refusal occurred in the context of home, and school staff did not report related behaviors at school, the District needed the specific and detailed information from the Parent in order to complete the Student's FBA, and the school psychologist's questions to the Parent were for that purpose. Additionally, the District behavioral specialist stated it was unfortunate that the Student's understanding of the January 4, 2017 meeting was that she had behavioral issues and interrupted too much, noting that the information from the Student's teachers was that the Student showed no behaviors of significant concern. The District behavioral specialist then asked if there was a way for the school team to help the Student reframe her understanding of the meeting, offering that they could meet with the Student.

91. Also on January 23, 2017, the assistant school principal emailed school members of the Student's IEP, stating she had asked the Parent what she needed from school staff while the Parent retrieved a wheelchair from the school. The assistant school principal relayed that the Parent stated she wanted to work with the Student's private therapist to determine how to repair the Student's bad experience at the January 4, 2017 meeting, and how staff could help the Student at school. The assistant school principal further relayed that when the Student returned to school, the Student needed a "safe" staff person identified, whom the Student would be willing to talk with if distressed, and there could be no exposure to knives, which would impact how staff would cut the Student's food into bite size pieces.
92. On January 25, 2017, the Parent emailed the school psychologist, stating she would not provide a release of information for access to information from the Student's medical providers, and asked to know what specific medical documentation the District wanted. The Parent also asked if the District could provide her with the assessments in the Student's reevaluation. The Parent stated she was requesting assessments in all areas, and was adding the areas of fine motor, study skills/organization, functional communication, and orientation & mobility to her consent form. The Parent further stated she wanted the District to assess the Student for "educational autism", and wanted a schedule for when the District would conduct each assessment so she could prepare the Student for the disruption.
93. Also on January 25, 2017, the District received the Parent's consent to reevaluate the Student. The District proposed to reevaluate the Student in the areas of review of existing data, age appropriate transition, classroom data, communication, academic, behavior, cognitive, daily living/adaptive, gross motor, medical-physical, social/emotional, and vocational. The Parent's consent included the following additional areas for evaluation: social communication, pragmatics, expressive and receptive communication, academic autism, executive functioning, anxiety at school, mathematics, English, mobility/navigating environment. Additionally, the Parent checked boxes next to the areas of fine motor, general education, study skills/organization, autism/educational, functional communication, and orientation &

mobility. The Parent also wrote on the form, asking for the names/versions of assessments and a proposed schedule.

94. Also on January 25, 2017, the Parent emailed the school psychologist, responding to her written questions as follows:

- Q: What does school refusal look like?
A: The Student calls the Parent during and after school, or expresses to the Parent before or after school, that she is upset about school. Stating she cannot handle it, asking not to go back, until January 10, 2017, when the Student came home and was suicidal.
- Q: How often does school refusal occur?
A: Daily.
- Q: How long does school refusal last?
A: It was several hours on January 10, 2017. Refusal has been morning, afternoon, evening, carrying over to the morning, even carrying over from a Friday evening to Monday morning. The Parent had been getting the Student to school by stating, "It is only part of the day," based on other appointments that day.
- Q: What is the intensity level of danger of the behavior?
A: Suicidal to the point of the Parent considering calling 911.
- Q: Most often, what happens just before school refusal?
A: Just before refusing school, the Student has been at school. Early in the fall, it occurred after the Student had decompressed. Sometimes the Student was able to express a particular difficulty, but that takes a lot of processing time. Negative situations prompt the Student to repeat the response, and can make the whole day bad. The Student did not respond well to being told "no" and negative statements were extremely hard on her. It was more productive to praise the Student's positive behaviors.
- Q: Does the Student state staff corrected her earlier in the day or state that having had a failure?
A: No.
- Q: What does the Student's day look like if she does not go to school?
A: The Parent tried to stick to a routine.

The Parent further stated that changes needed to occur before the Parent allowed the Student to return to school, and it was unacceptable to wait to implement changes until the Student's team developed a BIP based on a completed FBA.

95. On January 30, 2017, the school psychologist emailed the Parent regarding the Student's reevaluation. The school psychologist stated she had spoken with the school occupational therapist and the physical therapist, who had concerns about assessing the Student's fine and gross motor skills when the Student had orthopedic restrictions. The school psychologist asked if the Student's doctors had lifted those restrictions, and if the Student had full movement/control. The school psychologist stated that if those restrictions were still in place, the District would wait to assess the Student in those areas until the restrictions were lifted. The school psychologist stated the District agreed to include a functional communication assessment of the Student, but was rejecting the Parent's request to include an orientation & mobility assessment, providing language from the IDEA describing that assessment as pertaining to blind or visually impaired students. The school psychologist also stated that study skills/organization related to initiating, completing, and following through

with work, and asked to understand the Parent's concerns in this area, given that the Student's teachers had not noted such concerns. Additionally, the school psychologist stated that an educational diagnosis of autism was a potential disability category, just as other health impaired was the Student's current eligibility category, and when an evaluation group discussed multiple categories, they choose the category that most accurately described a student. The school psychologist further stated she could not make an educational diagnosis of autism. The school psychologist stated she had attached a list of tests that the District would use, except that any assessment for fine and gross motor skills was still to be determined, and a document listing what the District would request from the Student's medical providers/specialists. The school psychologist also stated that once they finalized the areas to assess, the District would resend the consent form but would retain the January 25, 2017 date to retain the timeframe for conducting the evaluation. The school psychologist further stated she would contact the Parent soon with potential meeting dates to review the reevaluation results, which needed to be completed by March 24, 2017.

96. Also on January 30, 2017, the assistant school principal emailed the Parent, arranging to meet on February 2, 2017 to discuss how to help the Student reframe her feelings after the meeting on January 4, 2017, and identify the supports the Student would find acceptable.

97. On February 2, 2017, several members of the Student's IEP team, including the assistant school principal, the school psychologist, the Student's private therapist, and the Parent (but not the Student), met to discuss concerns. After the meeting, the school psychologist provided the Parent with another copy of the Student's draft FBA and asked the Parent to review it. According to the Parent, the FBA report had "draft" stamped on every page and the school psychologist asked for the Parent's feedback.

98. Also on February 2, 2017, the Parent emailed the school nurse, attaching a letter from one of the Student's medical providers.¹⁹ The school nurse responded, asking if the Parent was requesting home/hospital. The Parent replied, affirming she was requesting home/hospital for the Student. The Parent stated her understanding was that after the Student had been out of school for four weeks, home/hospital was available with a doctor's letter. The school nurse forwarded the email to the assistant school principal, stating that although the doctor's note provided by the Parent was helpful, it did not state the Student was unable to attend school for the upcoming four weeks. The school nurse stated she was unsure how to communicate with the Parent, and asked for advice. The assistant school principal then forwarded the email to the District student services director and District secondary student services director, stating that at the meeting earlier that day, she had discussed the Student's school reentry plan with the Parent and the Student's therapist, and "everyone seemed pleased with the plan." The assistant school principal stated that although the Parent had previously asked about home/hospital,

¹⁹ This doctor's letter is not in the documentation.

she did not provide the associated doctor's note with the required information, and the assistant school principal had thought the Parent wanted the Student to return to school. The assistant school principal asked for guidance.

99. On February 3, 2017, the District student services director emailed several members of the school staff, clarifying that home/hospital was a service for students unable to attend school due to a medical condition, and the note from the Student's doctor did not meet the requirements for home/hospital. The District student services director suggested that the Student's IEP team, including the Parent, meet and discuss supports for the Student to come to school. The District student services director further reminded school staff to document any agreements with the Parent using a prior written notice.
100. Also on February 3, 2017, the school psychologist emailed the Parent, attaching a prior written notice, an updated form for consent to evaluate, and an updated list of evaluation tools. The school psychologist stated the Student's evaluation would include assessments for fine motor skills and study/organizational skills, as requested by the Parent, but would not include an orientation & mobility assessment or pursue an educational diagnosis of autism. The school psychologist also stated that at the re-entry meeting the day before, she gave the Parent another copy of the Student's draft FBA and asked for the Parent's feedback. The school psychologist stated she was looking forward to receiving the Parent's feedback within the next week or so.
101. The District's updated prior written notice retained the January 25, 2017 date. The notice stated the District had agreed to conduct an early reevaluation of the Student in the areas of review of existing data, age appropriate transition, classroom data, communication, fine motor, general education, study skills/organization, academic, behavior, cognitive, daily living/adaptive, functional communication, gross motor, medical-physical, social/emotional and vocation skills. The notice also stated the District had agreed to include the areas of fine motor, general education, study skills/organization, and functional communication. However, the notice stated the District had considered and rejected the Parent's request for evaluating the Student in the areas of orientation & mobility and "educational autism" because the Student was not visually impaired and the District did not evaluate for "educational autism". The notice further stated the school psychologist had provided the Parent with a list its evaluation instruments and would schedule testing sessions with the Parent. Additionally, the notice stated the Student reevaluation was due by March 24, 2017.
102. On February 7, 2017, the school psychologist emailed the Parent, stating she would like to schedule the Student's reevaluation results meeting, and asking if March 22, 2017 was acceptable. The Parent responded, stating she was concerned that the Student did not have an IEP in place that met her needs, the Student's IEP team needed to meet to discuss "homebound services" for the Student, and her email was a formal request for another IEP team meeting. The school psychologist replied the next day, stating she would let the Student's IEP team know that the

Parent wanted another IEP team meeting for the Student prior to the evaluation results meeting.

103. On February 8, 2017, the District received a home/hospital request for the Student, signed by the Student's psychiatric nurse practitioner. The form stated the Student had a severe anxiety disorder, additional pain issues, and certified the Student would be unable to attend public school for "4+ weeks."
104. On February 9, 2017, the school nurse emailed the Parent, stating that the District student services department was unable to process the Student's home/hospital paperwork, as it was incomplete. The school nurse stated there was a section that she (the school nurse) needed to complete, but needed information from the Student's medical providers to do so. The school nurse offered to contact the Student's medical providers personally, if the Parent signed a medical release. Alternatively, the school nurse stated the Parent could obtain a note from the Student's medical provider recommending the amount of time per day for the Student's schoolwork, including instruction. The Parent responded, stating she would obtain and provide the needed document.
105. The documentation provided in this complaint includes an undated written statement from the Student's psychiatric nurse practitioner, stating the Student was her patient at an autism center, was medically fragile due to several diagnosis, was scheduled for surgery later that month, and suffering from juvenile arthritis.²⁰ The Student's psychiatric nurse practitioner stated the Student had a complicated medical history, listing several diagnosis, and had significant anxiety. The Student's psychiatric nurse practitioner further stated that "home schooling" was a reasonable "short-term support" for the Student's educational needs, recommended 90 minutes of daily instruction with up to 30 minutes of homework, and other services specified in the Student's IEP, in addition to the academic instruction time. Additionally, the Student's psychiatric nurse practitioner recommended that academic services occur at a community location, such as a library.
106. On February 10, 2017, the assistant school principal emailed the Parent, stating that on February 2, 2017, they had met and discussed a reentry plan for the Student. The assistant school principal stated the reentry plan included arranging a meeting as soon as possible between the Student and her special education mathematics and English teachers, so the Student could hear an apology regarding what she interpreted from the January 4, 2017 meeting. The assistant school principal also stated that the plan included that the Student's providers would praise the Student whenever she was willing to receive help. The assistant school principal further stated that the plan included that the Parent would inform her who was a "safe" person for the Student at school, so that the Student's safety plan identified that individual by name. The assistant school principal noted that the Student's safety

²⁰ This written statement does not include the District's date stamp. Although it is unclear when the District received this narrative, it was included in the District's documentation, and the District appears to have received this document shortly after the school nurse requested it.

plan was complete except for the identification of the Student's "safe" person. The assistant school principal also stated she had previously arranged the meeting with the Student's special education mathematics and English teachers for February 3, 2017, but the Parent emailed, stating that a meeting would not be possible. The assistant school principal stated she realized the Parent had requested home/hospital services, and in a telephone call, stated the Student was not ready to return to school full time, but the meeting with the Student's teachers could occur as soon as the Parent wished, and the Student's 1:1 paraprofessional was still available to serve the Student.

107. Also on February 10, 2017, the Student's special education case manager emailed the Parent, asking to know the specific section of the Student's IEP the Parent was requesting to review. The Student's special education case manager also asked what supports and services the Parent was requesting for the Student. The Parent responded, stating she had understood that the Student's IEP team needed to amend the Student's IEP to provide the Student with appropriate supports and services. The Parent further stated that the Student's IEP was also inaccurate because the Student was "on homebound" and that should be reflected in the Student's IEP.²¹ The Parent also emailed the assistant school principal, stating she had expected further communication from the District about the plan for the Student's reentry into school because at the February 2, 2017 meeting, they discussed that "changes needed to be made before [the Student] could come to school." The Parent also stated that after the February 2, 2017 meeting, the school psychologist had implied that if the Student did not attend school full time, the District would not be responsible for the Student's IEP goals or for any regression, and advised the Parent to follow through with "homebound services." The Parent stated they needed to amend the Student's IEP before the Student returned to school.

108. On February 12, 2017, the Parent emailed the school psychologist, stating she did not agree with the results of the FBA "reported to [her] as a draft." The Parent then requested an independent educational evaluation (IEE) at public expense for an FBA by a board certified behavior analyst (BCBA).

109. On February 13, 2017, the school psychologist emailed the Parent, stating she would inform the District secondary student services director of the Parent's IEE request. In a separate email to the Parent, the school psychologist stated she had not advised the Parent to follow through with "homebound" services, but had handed the Parent a draft of the Student's FBA, and discussed how the information can be difficult to gather when the Student was not at school. The school psychologist stated the FBA hypothesis was a hypothesis, and she did not say anything about regression, IEP, or "homebound" services.

²¹ The District had not placed the Student on home/hospital services at this time. Rather, this appears to reflect the Parent's position that the Student needed home/hospital instruction.

110. Also on February 13, 2017, the Student's special education case manager emailed the Parent, asking to schedule a meeting to review the Student's IEP and discuss the Student's needs and supports. The Student's special education case manager offered March 1 or 3, 2017, at 7:15AM. The Parent responded, stating the Student was having surgery March 3, 2017 and she had a conflict on March 1, 2017 at 7:15AM. On February 14, 2017, the Student's special education case manager again emailed the Parent, offering to meet on March 1, 2017 at 2:45PM. The Parent declined, stating the Student had appointments, but not suggesting another date. The next day, the Student's special education case manager emailed the Parent, asking for dates when the Parent could attend the Student's IEP team meeting.
111. On February 15, 2017, the school SLP emailed the District secondary student services director, copying the District student services director, the assistant school principal, school physical therapist, and the school psychologist, stating she had completed the Student's communication assessment.²² The school SLP stated that afterwards, the Parent stated she did not want the Student to receive her "homebound services" at home or at the high school, but wanted the Student's IEP services provided in a public place, such as a library. The SLP stated she told the Parent that providing services in a public space was not appropriate because of the Health Insurance Portability and Accountability Act (HIPPA) regulations, but the Parent stated the District had told her that HIPPA did not protect speech, fine motor, or gross motor services. The SLP asked if it was okay to provide the Student's services in public places and whether the District considered speech, fine motor, and gross motor therapies protected by HIPPA. The school physical therapist responded, stating her understanding was that the District had yet to receive the paperwork to initiate home services. The District secondary student services director also responded, stating that the Student's service providers should not be providing home services at that time, because the District had not approved home/hospital for the Student. The District secondary student services director stated that although the assessments for the Student's reevaluation could take place elsewhere, the provision of the Student's services should occur only at the high school. The District secondary student services director then stated the District had offered to provide a re-engagement plan for the Student, which the Parent had not followed up on, and the District's offer of services at the high school was still available. The District secondary student services director also noted that this was a school refusal case, and providing services in another location would only serve to reinforce that behavior. The District student services director responded the following day, stating that FERPA not HIPPA governed all school district services, but that materials/information protected under HIPPA were protected under FERPA. The District student services director also clarified that in some circumstances, the District could provide services in public locations, but the goal here was to help the Student return to a program at school.
112. On February 16, 2017, the District secondary student services director emailed the Parent, attaching copies of the District's IEE criteria and a list of providers. The

²² This assessment appears to have occurred in the Student's home.

District secondary student services director stated the District's reevaluation of the Student, including the FBA, was not yet complete. The District secondary student services director stated there had not been a feedback meeting to review all of the data gathered, or a completed final report, and therefore, the Parent did not have the right to an IEE at public expense. However, the District secondary student services director stated that if the Parent withdrew her IEE request, she would have the right to request an IEE once the District completed the Student's reevaluation. The District secondary student services director further stated that if the Parent did not withdraw her IEE request, the District would file a due process hearing request, asking an administrative law judge (ALJ) to deny the Parent's request because it was premature. The Parent responded, stating the District had not previously informed her the FBA was not complete, and she assumed the District would notify her when it was completed. The District secondary student services director replied the next day, stating the District had not completed the Student's FBA and the District would complete the FBA as part of the Student's comprehensive reevaluation, which the Parent requested. The District secondary student services director stated they would hold a feedback meeting to review the results of the entire reevaluation, including the FBA, in March 2017. Additionally, the District secondary student services director stated that if the Parent withdrew her IEE request now, she had the option to request an IEE after the District completed the Student's reevaluation.

113. Also on February 16, 2017, the school psychologist emailed the Parent, stating that as part of the Student's reevaluation, the Student's FBA would benefit from a home observation, specifically an observation of the Student when she refused to attend school. The school psychologist further stated the District would like to pay for a clinical psychologist or psychiatrist to conduct a mental health assessment of the Student. The Parent responded, stating that given the Student was "on homebound," school staff would not be able to observe her school refusal. The Parent further stated that she did not see the value of a mental health assessment paid for by the District because the District had told her the Student's educational records were public records.

114. On February 17, 2017, the Parent emailed the school physical therapist, asking when the Student would receive homebound gross motor services. The school physical therapist responded, stating that she understood the Student still received her services at school. The Parent responded, copying the District secondary student services director on the email, stating gross motor services at the high school would not work for the Student, and she understood they needed to have an IEP team meeting to change the Student's placement to homebound.

115. Also on February 17, 2017, the Parent emailed the Student's special education case manager, stating she wanted an IEP team meeting to change the Student's placement to homebound, and offering to meet on February 28, 2017 at two different times. The Student's special education case manager responded, stating that given the District's mid-winter break, and staff schedules, they could not meet on that day. The Parent then replied, stating she was available to meet on March 6, 2017 at

7:00AM or March 9, 2017 at 7:00AM.²³ In a separate email, the Parent stated the Student needed a change of placement, and asked the Student's special education case manager to identify other programs/alternate placements.

116. Also on February 17, 2017, the District student services director emailed the Parent, stating that home/hospital services were for students who were temporarily unable to attend school, and the Student's issues of severe pain and anxiety did not appear to be temporary. The District student services director stated the Parent had not provided a release of information, which would help the District understand the Student's condition, but based on the information provided, the Student was not eligible for home/hospital services. The District student services director stated the Student's upcoming surgery might necessitate home/hospital services, if she was unable to attend school for four weeks or more, and that "could be pursued" after the surgery. The Parent responded, asking for any explanation of how the two letters from the Student's medical providers requesting "short term support" for the Student was consistent with the District's denial of home/hospital because it was not temporary.
117. February 17, 2017 was the last school day before the District's mid-winter break, and school resumed on February 27, 2017.
118. On February 22, 2017, the District filed a due process hearing request, asking an ALJ to deny the Parent's request for an IEE at public expense. The District's filing stated that its reevaluation of the Student was not yet complete.
119. On February 24, 2017, the Parent filed this complaint.
120. On March 2, 2017, the school psychologist emailed the Parent, stating that to meet the timeline and the Parent's schedule, the Student's reevaluation results meeting would be March 21, 2017.
121. On March 9, 2017, the District held an IEP team meeting for the Student to discuss the Student's placement. According to the Parent, District and school staff agreed the Student could be served at school.²⁴
122. According to the Parent's reply, the District approved home/hospital for the Student on March 30, 2017.

CONCLUSIONS

1. Developing/Revising the Student's IEP: Although imperfect, the documentation substantiates that the District followed procedures for developing/revising the Student's IEP, including parent participation. Although the Parent was frustrated that the Student's IEP team did not meet before the 2016-2017 school year began,

²³ It appears the parties agreed upon March 9, 2017 to hold the Student's IEP meeting.

²⁴ The documentation provided by the District for this complaint does not extend to this meeting.

the Parent and the Student's father contributed to the delays of scheduling a meeting. The Parent was also displeased that without a meeting, the District amended the Student's IEP on September 6, 2016 to add transportation support and schedule the Student into 5/6 classes in the special education setting. However, the Parent agreed with the substance of these amendments, the Student needed the amendments immediately as a result of her situation, and the District held an IEP team meeting with the Parent shortly thereafter, on September 29, 2016. Additionally, the Parent was displeased that at the September 29, 2016 IEP team meeting, the District did not provide her with a draft of the Student's IEP, but provision of a draft IEP is not a requirement. Rather, it is permissible for districts to bring a draft IEP to an IEP meeting, provided the draft is subject to review and discussion with the parents. The Parent also takes issue with the District's failure to provide the Student with a 1:1 paraeducator during the 2015-2016 school year, and the District's reluctance to add services for fine motor skills and social/emotional skills at the September and October 2016 IEP team meetings. In part, the Parent attributes this to a lack of an IEP team member with decision-making authority, but an administrator with such authority was present for these meetings. In fact, the Student's IEP team could not add these provisions because her current evaluation did recommend those services. Similarly, the Parent takes issue with the lack of revision to the Student's IEP after January 2017, but school staff worked to communicate with the Parent, and scheduled an IEP team meeting after the Parent's clear request on February 7, 2017. Some of the revisions desired by the Parent likely required completing the Student's reevaluation. As the District develops a new IEP for the Student, it should take care to include accurate present levels of performance, calculate the service matrix accurately, and ensure the LRE is updated to reflect IEP team decisions, based on the Student's reevaluation. OSPI reminds the District it should not "back date" prior written notice. The date on prior written notice should accurately reflect the date the District made decisions, not the date when it learned of requests or held meetings. OSPI also reminds the District that even when parents insist on drafting IEP goals, the District retains the responsibility to write appropriate, measurable IEP goals that will be understandable to both parents and providers.

2. Placement: The documentation does not substantiate that the District followed home/hospital procedures, which specify that districts "shall" provide home/hospital service upon satisfaction of the conditions to service. Conditions to service are that a parent requests the service, and provides a written statement from a qualified medical practitioner, stating a student will not be able to attend school for an estimated period of at least four weeks. Here, the District denied the Student home/hospital services on February 17, 2017, despite the Parent's request for the service and a written statement by the Student's medical provider, stating the Student needed this service for four plus weeks. The District rejected the medical provider's statement because the District interpreted the Student's need not to be temporary, despite the written description of the Student's need as a "short-term support," and the plain statement that the need was for approximately "4+ weeks." Home/hospital services are not an IEP team decision because home/hospital service does not constitute an IEP placement of homebound. In contrast, home/hospital

services are required when the conditions of such service are met, regardless of students' eligibility for special education services. Districts do not have discretion to interpret the medical needs of students contrary to a written statement provided by a medical practitioner. However, home/hospital services are limited to those services necessary to provide intervention because of temporary illness or physical disability and "shall not" be used for the ongoing delivery of services to eligible students. The District corrected the home/hospital issue on March 30, 2017. It is also possible that after completing the Student's reevaluation, the Student's IEP team determined that the Student needs a homebound placement. Nonetheless, between February 17, 2017 and March 30, 2017, the District failed to provide the Student with the home/hospital service deemed necessary by her medical provider. Compensatory services are an equitable remedy and are appropriate here. The Student's medical provider recommended the Student receive 90 minutes of daily instruction. The statements by the Student's medical provider about the Student's IEP services are not applicable and not considered. There were 24 school days during this time, which totals to 2,160 minutes or 36 hours of 1:1 instruction. As an equitable remedy, the District will provide the Student with 36 hours of compensatory services to address the Student's educational needs. These services will occur 1:1, outside of the Student's school day, and at a community location, unless the Parent agrees to a different location.

3. IEP Implementation: The documentation substantiates that the District generally implemented the Student's IEP, or has already addressed any insufficiencies. For example, the Student's progress reporting during the 2015-2016 school year lacked quantitative data and was insufficient. However, the Parent brought this to the District's attention, and afterwards, the Student's progress reporting was markedly better. OSPI reminds the District that maintaining and providing quantitative data is part of progress reporting for all eligible students. Additionally, during the 2015-2016 school year, it was not until spring quarterly grades were due that special education staff communicated information about the Student's IEP accommodations/modifications with general education staff. However, special education staff eventually advocated for application of the Student's accommodations, such as extra time, and actively modified the Student's general education assignments. Although the December 2016 progress reporting indicated that providers had not yet begun to work on some of the Student's annual goals, considering the Student's extensive absences, this does not demonstrate a failure to implement the Student's IEP.
4. FBA/Reevaluation: The timeline for the District's reevaluation of the Student extended outside the timeline of this investigation, but the District appears to have met that timeline. However, the documentation does not substantiate that the District met the procedures governing the timeline for completing the Student's FBA. Unless a parent agrees to a different time, districts have 35 school days from the date of receiving parental consent to complete evaluations. Similarly, unless a parent agrees to a different time, the receipt of parental consent to conduct a comprehensive reevaluation does not somehow trigger an extension to the deadline for an in-progress FBA. Here, the Parent made clear she did not agree to an

extension to the January 10, 2017 date for completion of the Student's FBA. Although both parental input and the evaluation report are essential components of an evaluation, an evaluation results meeting is not an essential component, and is not required. According to the Parent, she provided formal input to the FBA on November 23, 2016. Additionally, based on the documentation in this complaint, the Parent's informal input was abundant. Similarly, although parental input is an essential component of an evaluation, parental agreement is not an essential component, and is not required before completing an evaluation, including an FBA. To meet the timelines, the District needed to finalize the FBA discussed on January 4, 2017, or receive an extension from the Parent. The District did neither.

CORRECTIVE ACTIONS

By or before **May 5, 2017, May 26, 2017, June 16, 2017, and September 8, 2017**, the District will provide OSPI with documentation showing the District has completed the following corrective actions.

STUDENT SPECIFIC:

By or before **May 26, 2017**, the District will meet with the Parent to develop a schedule for 36 hours of compensatory services to address the Student's educational needs. Services may occur after school, or over vacations, and must occur outside of the Student's school day. Services are provided 1:1. The location will be at a community location, unless the Parent agrees to a different location. The District will provide OSPI with documentation of the schedule for services by or before **May 26, 2017**, and complete compensatory services by **September 8, 2017**.

The District must either provide 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 reimburse the Parent for round trip mileage at the District's privately owned vehicle rate. By or before **September 8, 2017**, the District must provide OSPI with documentation that it has completed compensatory services for the Student. This documentation will include the dates, times, and length of each session, and state whether any of the sessions were rescheduled by the District or missed by the Student. Additionally, this documentation will include payments, if any, made to the Parent for travel reimbursement.

DISTRICT SPECIFIC:

1. If the District has not completed the Student's FBA, it will do so immediately, and without requiring further information from the Parent or requiring a meeting, if the Parent does not desire a meeting. If the District has not already done so, it will provide the Parent with a copy of the Student's completed FBA by May 5, 2017. Also by **May 5, 2017**, the District will provide OSPI with documentation it has completed this action.
2. The District will develop written guidance and provide it to all certificated special education staff, including educational staff associates (ESAs), and school

psychologists. The written guidance will include examples and will focus on the issues present in this decision rather than general information. The guidance will address:

- The effective implementation of accommodations/modifications;
- The need for quantitative data in progress reporting;
- Preparing accurate present levels of performance prior to IEP team meetings;
- The importance of accurately calculated service matrices and LRE category designation;
- The date on prior written notice accurately reflecting the date of decisions, not the date when the District learned of requests or held meetings;
- The responsibility to ensure measurable IEP goals that will be understandable to providers, even if counter to parental input;
- Information describing home/hospital, and the distinction between home/hospital and homebound IEP placement;
- That while both parental input and the evaluation report are essential components of an evaluation, neither parental agreement nor an evaluation results meeting are essential components. However, evaluation results meetings are helpful and advisable, and offering to hold an evaluation results meeting is a best practice.

The District will provide OSPI with a draft of its written guidance for review and approval by **May 26, 2017**. OSPI will approve or request revisions to the guidance by June 2, 2017. If OSPI has revisions to the guidance, it will establish additional dates for the review of the document. The District will provide OSPI with documentation that it provided the pertinent District staff with the written guidance by **June 16, 2017**. The District will also provide a list of the staff members who received the written guidance and a roster of the staff members who should have received the written guidance so OSPI can cross-reference the list for verification.

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

Dated this ____ day of April, 2017

Douglas H. Gill, Ed. D.
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.)