

## **SPECIAL EDUCATION CITIZEN COMPLAINT (SECC) NO. 17-13**

### **PROCEDURAL HISTORY**

On February 27, 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 Tukwila School District (District) and the Parent's partner (Complainant). The Parent and Complainant 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.

On March 3, 2017 and March 15, 2017, OSPI received additional information from the Parent and Complainant via email. The District Superintendent was copied on both emails and received the same attachments.

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 and the Complainant to reply with any information they had that was inconsistent with the District's information.

On April 3, 2017, OSPI received the Parent and Complainant's reply via email. The District Superintendent was copied on the email and received the same attachments. On April 5, 2017, OSPI received the Parent and Complainant's reply via first class mail and forwarded the reply to the District on the same day.

On April 7, 2017, OSPI requested additional information from the District. On April 12, 2017, OSPI received the requested information from the District and forwarded the information to the Parent and Complainant on April 13 and 19, 2017.

On April 17, 2017 and April 18, 2017, OSPI received additional information from the Complainant via email and forwarded it to the District on April 18, 2017.

On April 18, 2017, OSPI requested additional information from the District. On April 21, 2017, OSPI received the requested information from the District and forwarded the information to the Parent and Complainant on April 21 and 25, 2017.

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

### **OVERVIEW**

During the 2016-2017 school year, the Student attended a District high school and was eligible to receive special education and related services under the category of multiple disabilities. The Student's individualized education program (IEP) provided for specially

designed instruction in the areas of adaptive, academics, and social/emotion skills, with related services in communication and occupational therapy. The IEP also provided for several accommodations/modifications, including monthly written reports of the Student's progress towards his IEP goals, parent meetings every eight weeks, and support from special education staff when the Student attended his general education classes. In September 2016, the Parent and the Complainant contacted the Student's emergency substitute teacher and requested a meeting. The District responded by notifying the Parent and Complainant that a meeting had been scheduled for later that month. On the day of the meeting, the Parent and Complainant canceled the meeting. In January 2017, the Parent and Complainant requested another meeting, and the District notified the Parent that it had scheduled a meeting for later that month. The Parent notified the District she was not available on the day the District scheduled the meeting. The District's first semester ended in early February 2017. During the first semester, the District did not provide the Parent monthly progress reporting regarding the Student's progress toward his IEP goals, and the District and the Parent did not meet. The Parent and Complainant alleged that the District failed to follow procedures for developing the Student's IEP, including identifying transition services, failed to implement the Student's IEP in regard to paraeducator support, failed to hold parent meetings, and failed to provide monthly progress reporting consistent with the Student's then current IEP. The District admitted that it failed to provide monthly progress reporting, but denied the remaining allegations.

### **ISSUES**

1. Did the District follow procedures for developing/revising the Student's individualized education program (IEP), including but not limited to secondary transition services?
2. Did the District follow procedures for implementing the Student's IEP, including but not limited to any provision for paraeducator support and accommodations/modifications?
3. Did the District follow procedures for responding to the Parents' requests for IEP team meetings?
4. Did the District follow procedures for progress reporting?

### **LEGAL STANDARDS**

IEP Definition: An IEP must contain a statement of: (a) the student's present levels of academic achievement and functional performance; (b) measurable annual academic and functional goals designed to meet the student's needs resulting from their disability; (c) how the district will measure and report the student's progress toward their annual IEP goals; (d) the special education services, related services, and supplementary aids to be provided to the student; (e) the extent to which the student will not participate with nondisabled students in the general education classroom and extracurricular or nonacademic activities; (f) any individual modifications necessary to measure the student's academic achievement and functional performance on state or district-wide assessments; (g) ESY services, if necessary for the student to receive FAPE; (h) behavioral intervention plan, if necessary for the student to receive FAPE; (i) emergency response protocols, if necessary for the student to receive FAPE and the parent

provides consent as defined in WAC 392-172A-01040; (j) the projected date when the services and program modifications will begin, and the anticipated frequency, location, and duration of those services and modifications; (k) beginning no later than the first IEP to be in effect when the student turns 16, appropriate, measurable postsecondary goals related to training, education, employment, and independent living skills; and transition services including courses of study needed to assist the student in reaching those goals; (l) beginning no later than one year before the student reaches the age of majority (18), a statement that the student has been informed of the rights which will transfer to him or her on reaching the age of majority; and (m) the district's procedures for notifying a parent regarding the use of isolation, restraint, or a restraint device as required by RCW 28A.155.210. 34 CFR §300.320; WAC 392-172A-03090 (effective January 29, 2016).

IEP Prepared in Draft Form Prior to Meeting: It is permissible for district staff to bring a draft of some or all of the IEP content to an IEP meeting, provided that the parents are informed that it is a draft subject to review and discussion by the parents and the IEP team. The parents also have the right to bring their own recommendations to the meeting, along with whatever questions or concerns they may have about the student's educational program and services. A full discussion should take place between the parents and the other members of the IEP team regarding the content of the IEP, the student's needs, and the services to be provided to meet those needs. 64 Fed. Reg. 48, 12478 (March 12, 1999) (Appendix A to 34 CFR Part 300, Question 32).

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). 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).

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. 34 CFR § 300.323(a); WAC 392-172A-03105(1). A school district must develop a student's IEP in compliance with the procedural requirements of the IDEA and state regulations. 34 CFR §§300.320 through 300.328; WAC 392-172A-03090 through 392-172A-03115. It must also ensure it provides all services in a student's IEP, consistent with the student's needs as described in that IEP. The initial IEP must be implemented as soon as possible after it is developed. 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.

IEP Team: An IEP team is composed of: the parent(s) of the student; not less than one regular education teacher of the student (if the student is, or may be, participating in the regular education environment); not less than one special education teacher or, where appropriate, not less than one special education provider of the student; a representative of the school district who is qualified to provide or supervise the provision of specially designed instruction, who is knowledgeable about the general education curriculum, and who is knowledgeable about the availability of district resources; an individual who can interpret the instructional implications of evaluation results (who may be one of the teachers or the district representative listed above); any individuals who have knowledge or special expertise regarding the student, including related services personnel; and when appropriate, the child. 34 CFR §300.321(a); WAC 392-172A-03095(1).

IEP Meetings: A district must ensure that parents are given an opportunity to attend and/or otherwise afforded an opportunity to participate at each IEP meeting, including notifying them of the meeting early enough to ensure they can attend and scheduling the meeting at a mutually agreed on time and place. 34 CFR §§300.322 and 300.328; WAC 392-172A-03100. The IEP meeting invitation should include the purpose, time, and location of the meeting; indicate who will be in attendance; and inform the parents of the provisions relating to participation by other individuals on the IEP team who have knowledge or special expertise about the student. 34 CFR §300.322; WAC 392-172A-03100.

Parent Participation: A parent may request an IEP meeting at any time. In general, when a parent believes that a required component of the student's IEP should be changed, the district must convene an IEP team meeting if it believes the change may be necessary. If the district does not believe a meeting is necessary, it must provide the parent prior written notice of its refusal to hold an IEP meeting and include in the notice an explanation of why the district has determined the IEP meeting is not necessary to ensure the provision of a free appropriate public education to the student. 64 Fed. Reg. 48, 12476 (March 12, 1999) (Appendix A to 34 CFR Part 300, Question 20).

General Education Teacher Attendance at IEP Meetings: Not less than one of the student's general education teachers must participate as a member of the IEP team, if the student is, or may be, participating in the general education environment, to assist in the determination of appropriate annual educational goals, behavioral interventions, supplementary aids and services, program modifications, and/or supports for the student. 34 CFR §§300.321, 300.324; WACs 392-172A-03095(1)(b) and 392-172A-03110. Participation by a general education teacher is an important aspect of the IEP development process because of their knowledge of how a student with a disability might benefit from being placed in a general education classroom. 62 Fed. Reg. 204, 55124 (October 22, 1997) (Appendix C to 34 CFR Part 300). The general education teacher who serves on the IEP team should be one who is, or may be, responsible for implementing a portion of the IEP. However, the general education teacher may not,

depending upon the child's needs and the purpose of the specific IEP team meeting, be required to participate in all decisions made as part of the meeting, be present throughout the entire meeting, or attend every meeting. 64 Fed. Reg. 48, 12477 (March 12, 1999) (Appendix A to 34 CFR Part 300, Questions 24, 26).

IEP Amendments: After the annual IEP team meeting for a school year, the parent of a student eligible for special education and the school district may agree not to convene an IEP team meeting for the purposes of making changes to the IEP, and instead may develop a written document to amend or modify the student's current IEP. If changes are made to the student's IEP the school district must ensure that the student's IEP team is informed of those changes and that other providers responsible for implementing the IEP are informed of any changes that affect their responsibility to the student. 34 CFR §300.324(a)(4); WAC 392-172A-03110(c).

Provision of Services: Special education and related services must be provided by appropriately qualified staff. Other staff including general education teachers and paraprofessionals may assist in the provision of special education and related services, provided that the instruction is designed and supervised by special education certificated staff, or for related services by a certificated educational staff associate. Student progress must be monitored and evaluated by special education certificated staff or for related services, a certificated educational staff associate. 34 CFR §300.156; WAC 392-172A-02090(g).

Choice of Personnel: As a general rule, districts have discretion in personnel decisions, such as staffing assignments or hiring. *Gellerman v. Calaveras Unified Sch. Dist.*, 37 IDELR 125 (9<sup>th</sup> Cir. 2002); *see also, In the Matter of the Clover Park School District*, OSPI Cause No. 2004-SE-0072 (WA SEA 2004); *In re Los Altos Elementary School District*, 38 IDELR 111 (CA SEA 2002); *In re Freeport School District*, 34 IDELR 104 (IL SEA 2000).

## **FINDINGS OF FACT**

### **2015-2016 School Year**

1. During the 2015-2016 school year, the Student attended 9th grade at a District high school and was eligible to receive special education and related services under the category of multiple disabilities.
2. The Student's individualized education program (IEP) in place during the 2015-2016 school year was developed on April 30, 2015, and amended on November 18, 2015. The Student's educational placement was the "Learning Resource Center II" (LRC2) program, a special education program for students with moderate to severe disabilities that focused on functional skills and academics. The IEP stated the next IEP meeting must occur on or before April 30, 2016, and the next IEP must be initiated on or before May 7, 2016.

**Time for this Complaint begins on February 28, 2016**

3. On April 11, 2016, the District sent the Parent and the Parent's partner (Complainant) an invitation to attend a meeting on May 4, 2016, to develop the Student's annual IEP. Additionally, the District drafted a "Notice of Meeting" to review the results of the Student's reevaluation at a meeting scheduled for May 3, 2016.<sup>1</sup>
4. On May 4, 2016, the Student's reevaluation group met to review the results of the Student's reevaluation, and determined the Student continued to be eligible to receive special education services. The evaluation report stated the Student had been diagnosed with autism and an intellectual disability that interfered with his progress in the general education curriculum. The report further stated the Student could make connections between orally read words and pictures, follow routines, and interact with others nonverbally. The report recommended that the Student receive specially designed instruction in the areas of academics, adaptive, and social/emotional, and recommended related services in communication and occupational therapy.
5. The District's documentation included a prior written notice, dated May 3, 2016, proposing to continue the Student's special education services. It is assumed that the date of the prior written notice is in error, and the date should reflect a date of May 4, 2016, or later. The notice stated the Student's disability "continues to adversely impact" his academic, adaptive, and social skills and the Student needed specially designed instruction in these areas, as well as related services for occupational therapy and communication.
6. Also on May 4, 2016, the Student's IEP team met to develop the Student's annual IEP. Based on the District's documentation, the IEP team included the following people:
  - Parent<sup>2</sup>
  - Complainant
  - Special Education Teacher
  - General Education, Physical Education Teacher
  - Assistant Principal
  - Occupational Therapist (OT)
  - School Psychologist
  - Speech Language Pathologist (SLP)
  - District Special Education Program Specialist

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<sup>1</sup> The "Notice of Meeting" was not dated and did not indicate it was sent to the Parent.

<sup>2</sup> The Parent and the Complainant signed the IEP Cover Page with "attendance only" written by each signature. Based on information provided by the District, the high school assistant principal left the May 4<sup>th</sup> IEP meeting before signing the cover page. The IEP Cover Page did not include the date the IEP team meeting.

The program specialist's notes from the IEP meeting showed discussion of: incorporating functional environmental words into the Student's daily activities, teaching the Student to use "stop" and "wait" to self-advocate, providing written progress reporting at the end of each month, holding eight week check-in meetings, and for the paraeducator to attend general education classes with the Student because that was "not happening".

7. According to the Parent and Complainant's reply to this complaint, the special education teacher arrived at the IEP meeting without a draft copy of the Student's new IEP, and when the Student's IEP team ran out of time to complete the IEP, the Complainant suggested collaborating online.
8. Later on May 4, 2016, the District program specialist sent an email to the speech language pathologist (SLP) and copied the special education teacher, the occupational therapist (OT), the Complainant, and the Parent. The subject line of the email stated "[the Student's] IEP Goals – Invitation to the edit". The email contained a link to a shared drive at the Google website. The program specialist stated the link was to "share ideas about the Student's goals". The Complainant, the SLP, the OT, the District program specialist, and the Student's special education teacher made comments, and suggested edits to the draft of the Student's IEP.
9. The Student's May 10, 2016 IEP included annual goals in the areas of academics, adaptive, social/emotional, communication, and occupational therapy and provided for specially designed instruction and related services to address those goals.

The Student's IEP also provided for the following accommodations/modifications:

- Written progress reports – monthly – in all settings
  - Parent meeting – every 8 weeks – special and general education
  - Special education staff proximity – daily – general education
  - Small group/one-one-one – daily – special education
10. The Student's IEP also addressed postsecondary transition services. The postsecondary goals for the Student were as follows:
    - The Student will "receive training at a program specializing in daily living skills, employment and social skills leading toward paid employment";
    - The Student "upon completion of the training program, [the Student] will seek employment in the field of his choice";
    - The Student "upon completion of the transition program, [the Student] will live as independently as possible outside of his home.

The IEP also included a four-year course of study for the Student that incorporated courses in the areas of adaptive, social, and life skills. The course of study outlined for the Student's 2016-2017 school year was: "Adaptive/Life Skills, Social Skills, PE/Fitness, Digttools, and Functional Academics with a focus on prevocational skills. He will continue to take 1-2 general education classes." The IEP stated that the Student "requires clear, concise, verbal directions, a demonstration of directions, and a picture checklist to complete vocational tasks". Transition services for the Student included instruction in community navigation, training to follow a picture

schedule, and learning household safety skills. The transition services plan also stated agency linkage was “not appropriate at this time”.

11. On May 10, 2016, the District issued prior written notice, proposing to initiate the Student’s new IEP on May 10, 2016. The notice thanked the attendees of the IEP meeting and those “working on the Google Share document” and stated “the following people were in attendance and contributed: the high school assistant principal, District program coordinator, the Complainant, the Parent, the OT, the school psychologist, and the SLP”.
12. On May 13, 2016, the Complainant emailed the District program specialist, the special education teacher, SLP, OT, and the Parent regarding questions about the Student’s IEP. The Complainant asked whether staff trainings for pivotal response treatment (PRT) were included in the accommodations/modifications of the IEP. Additionally, the Complainant requested to “include a one-on-one para for general ed in the accom/mods [sic] section.”
13. On May 15, 2016, the District program specialist responded to the Complainant’s email, stating she would add the PRT training in the “Supports for Personal” section of the Student’s IEP. She further stated, “we added the 1-1 para into accommodations written as ‘special education staff proximity’ daily in general education classrooms.” The Complainant responded to the email on the same day, stating, “I do now see the 1-1 para accommodation written as mentioned below.”<sup>3</sup>
14. On May 16, 2016, the District program specialist sent a second email in response to the Complainant’s May 13<sup>th</sup> email, stating, “I added in the PRT training into ‘Supports for School Personnel’ for 3x per school year.”<sup>4</sup>
15. The Districts 2015-2016 school year ended on June 17, 2016.

### **2016-2017 School Year**

16. The District’s 2016-2017 school year began on September 6, 2016. At that time, the Student began attending 10<sup>th</sup> grade at a District high school and his May 2016 IEP was in place. The Student’s educational placement continued to be in the LRC2 program (see Finding of Fact #2).
17. The Student’s class schedule for the first semester of the 2016-2017 school year was as follows:
  - Period 0: Advisory (Special Education Setting)

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<sup>3</sup> The Parent and Complainant’s reply to this complaint stated, “our full understanding had been that staff proximity meant 1:1.” The Parent and Complainant stated they now recognized the District was “applying staff proximity in place of 1:1” and expressed their frustration about the misunderstanding of their request for a 1:1 paraeducator to provide support to the Student in the general education setting.

<sup>4</sup> The copy of the Student’s May 2016 IEP provided by the District in response to this complaint states in the “supports for school personal” section, that staff working with the Student were to receive training for pivotal response treatment (PRT) three times per year.



- Period 1: Social Skills (Special Education Setting)
- Period 2: Life Skills Writing (Special Education Setting)
- Period 3: Life Skills Reading (Special Education Setting)
- Period 4: Functional Math (Special Education Setting)
- Period 5: Team Sports (General Education Setting)
- Period 6: Sculpture (General Education Setting)

18. On September 18, 2016, the District emergency substitute teacher, who was teaching the LRC2 program, emailed the high school assistant principal and the District program coordinator to notify them that the Parent and Complainant had requested an IEP meeting.<sup>5</sup> The substitute teacher stated, “they were mostly interested in his goals more than the IEP.” According to the Parent and Complainant’s reply to the District’s response to this complaint, the Parent and Complainant were requesting to schedule dates for the parent meetings provided for in the Student’s IEP, not an IEP team meeting.

19. On September 19, 2016, the high school assistant principal responded to the emergency substitute teacher’s email, stating the assistant principal’s “take on this is that [the Parent and Complainant] want to know that you are aware of his goals in his IEP and that you are able to implement the things necessary to meet them.” The District program coordinator then responded to the emails from the substitute teacher and the assistant principal, stating, “we can certainly meet with the parents to review the IEP goals.” The program coordinator asked the substitute teacher to schedule a meeting with the Parent and Complainant for September 26, 2016, at 3 p.m. when the program coordinator and the assistant principal were available.

20. On September 26, 2016, the emergency substitute teacher emailed the District program coordinator to cancel the meeting with the Parent and the Complainant because the Parent had been in a “very serious car accident”.

21. The District was on break from December 19, 2016 through January 2, 2017.

22. On January 11, 2017, the Complainant emailed the emergency substitute teacher, notifying her the Parent and the Complainant could meet in the morning or afternoon of January 13, 2017.<sup>6</sup> The next day, the substitute teacher responded, “we are busy

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<sup>5</sup> According to OSPI’s Professional Certification Office, an emergency substitute is an individual who is not fully qualified as a teacher, but because a school district has exhausted or reasonably anticipates it will exhaust its list of qualified substitutes, the individual is allowed to act as a substitute teacher. In order to receive an emergency substitute certificate, a school district must submit an application and other required documentation to OSPI on behalf of the prospective emergency substitute. If the application is approved, the individual will be issued an emergency substitute certificate. The record shows that on March 17, 2015, OSPI issued an emergency substitute certificate to the District emergency substitute teacher who provided the Student with special education services during the 2016-2017 school year. The emergency substitute certificate is effective through June 30, 2017.

<sup>6</sup> According to the Parent and Complainant’s reply to the District’s response to this complaint, the Complainant sent this email to the emergency substitute teacher as a follow up to previous attempts to set a date for a parent meeting. Neither party provided documentation of correspondences during the time period from September 27, 2016 through January 10, 2017 regarding parent meetings.

planning and scheduling appointments and meetings, and I will get back to you as soon as I can.” According to the Parent and Complainant’s reply to this complaint, the District then sent a note home in the Student’s backpack with a meeting scheduled for the morning of January 27, 2017.

23. On January 19, 2017, the Parent emailed the emergency substitute teacher, stating that she was not available on January 27<sup>th</sup> because the Student had medical appointments that day.
24. On January 31, 2017, the emergency substitute teacher emailed the District program coordinator, the high school assistant principal, and the District director of special education, notifying them that the Parent and Complainant had requested a meeting in addition to three other students’ parents. In response, the program coordinator and assistant principal supplied dates they were available for meetings with the families.
25. The District’s first semester ended on February 3, 2017. The District did not provide the Parent monthly progress reporting regarding the Student’s progress toward his IEP goals during the first semester. Additionally, the District and the Parent did not meet during the first semester.
26. The District’s second semester began on February 6, 2017. The Student’s class schedule for the second semester of the 2016-2017 school year was as follows:
  - Period 0: Advisory (Special Education Setting)
  - Period 1: Social Skills (Special Education Setting)
  - Period 2: Life Skills Writing (Special Education Setting)
  - Period 3: Life Skills Reading (Special Education Setting)
  - Period 4: Digi Tools (General Education Setting)
  - Period 5: General Art (General Education Setting)
  - Period 6: Vocational Training (Special Education Setting)
27. On February 21, 2017, the Complainant emailed the emergency substitute teacher, requesting a copy of the Student’s May 2016 IEP. The next day, the substitute teacher emailed the Complainant a copy of the Student’s IEP.
28. On February 27, 2017, the Parent and Complainant filed this citizen complaint.
29. According to documentation provided by the Parent and Complainant, they received progress reporting toward the Student’s IEP goals on March 3, 2017. The Complainant stated the progress report failed to incorporate any “numbers or data” to indicate that the Student was making progress towards his IEP goals. The District’s response to this complaint stated, “the teacher keeps academic work samples of the Student. This is the actual data that is used to formulate lessons [sic] plans specific to the student’s needs.”
30. The March 3, 2017 progress reporting regarding the Student’s communications-expressive goal stated the following:
  - 3 word sentences (spontaneous response): 90% accuracy

- 4 word sentences (imitation): 90% accuracy
- 4 word sentences (spontaneous response): 40% accuracy
- Vocabulary: 67% accuracy
- Requesting (with verbal prompts): 53% accuracy
- Overall progress: 68% accuracy

The Student's progress toward the communication goal was rated as "3-sufficient progress demonstrated to meet annual goal and may achieve annual goal within duration of the IEP". In regard to the Student's adaptive, academic, and social skills goals, the progress reporting stated that the Student progress towards his goals was rated as "2-emerging skill demonstrated but may not achieve annual goal within duration of IEP". The progress reporting did not include any data regarding the Student's progress toward those goals.

31. On March 16, 2017, the District program coordinator emailed the emergency substitute teacher, the OT, the SLP, and copied the District director of special education and assistant principal regarding the Student's monthly progress reporting. The program coordinator stated the Parent and Complainant requested monthly progress reporting as provided in the Student's IEP and the District was required to comply. The program coordinator stated the progress reporting would be sent to the Parent and Complainant on the 5<sup>th</sup> of each month and requested that each staff member enter their data and progress notes on the shared drive. The program coordinator also created entries in the participant's calendars to serve as reminders to complete the tasks.

## **CONCLUSIONS**

### **Issue 1: IEP Development -**

IEP Team: The Parent and Complainant alleged that the May 4, 2016 IEP meeting did not include any of the Student's general education teachers. An IEP team must include not less than one regular education teacher of the student if the student is, or may be, participating in the general education environment. The District's documentation shows that the Student's general education physical education teacher signed the IEP cover page, indicating he participated in the May 4, 2016 IEP meeting to develop the Student's IEP. The District substantiated that a general education teacher participated in the May 2016 IEP meeting to develop the Student's IEP.

Review of IEP: 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 education 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. Here, the documentation shows that the Student's April 2015 IEP expired on April 30, 2015, but the District did not hold an IEP meeting to develop a new IEP for the Student until May 4, 2016 and that the Student's IEP was not completed until May 10, 2016.

IEP Amendment: After an annual IEP meeting, the parent and the district may agree to amend a student's IEP without convening an IEP meeting, and instead, develop a written document to amend, or modify a student's IEP. Here, after implementing the Student's IEP on May 10, 2016, the District agreed to add pivotal response treatment (PRT) trainings to the Student's IEP. However, the District failed to following procedures for amending the Student's IEP, which should have included documenting the change in services in a prior written notice.

Transition Services: The Parent and Complainant alleged that the District failed to develop a postsecondary transition services plan in the Student's IEP. Beginning not later than the first IEP to be in effect when a student turns 16, the student's IEP must include appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and the transition services, including courses of study needed to assist the student in reaching those goals. The Parent and Complainant have expressed concern because of the "skeletal appearance and omission of agency linkage" in the transition services section of the Student's IEP. However, the Student's IEP shows the District conducted an age appropriate transition assessment, identified transition services, and outlined a four-year course of study to assist the Student to reach his postsecondary goals. The Parent and Complainant also alleged that the Student was not receiving his prevocational training in accordance with his course work as provided in the IEP. The Student's second semester course schedule shows the Student was enrolled in a prevocational skills course, which aligns with the course of study identified in his IEP. It is appropriate to identify an outside agency and include them in IEP meetings, when it is likely the agency will be providing or paying for the transition services identified in a student's IEP. Here, the agency linkage is "not appropriate at this time" because the Student's transition services: instruction in community navigation, training to follow a picture schedule, and learning household safety skills, continue to be provided by the District. The District substantiated it followed procedures to address transition services in the Student's IEP.

**Issue 2: IEP Implementation** – The Parent and Complainant alleged that the District failed to implement the special education staff support stated in the Student's May 2016 IEP because the District did not provide 1:1 support to the Student. The May 2016 IEP provided for "special education staff proximity" as an accommodation when the Student was attending his general education classes. According to the Districts response to this complaint, the staff proximity accommodation in the Student's IEP did not mean 1:1 support; but instead, meant a special education staff person would provide support to several students eligible for special education who were also in the Student's general education classes. The District had stated it provided the staff support in a 1:4 or 1:5 ratio for the Student while in his general education classes. In their reply, the Parent and the Complainant stated that the District did not explain the level of staff support that would be provided to the Student when the IEP team developed the Student's May 2016 IEP, which led to the Parent and Complainant's misunderstanding that the support would be provided by a 1:1 paraeducator. The District is reminded that it must take steps to ensure parents fully understand the level of services and supports it will provide to a student. Here, based on what is actually written in the Student's May 2016 IEP, the

District has substantiated it has provided “special education staff proximity”, but did not specify the assignment of a 1:1 paraeducator.

**Issue 3: IEP team meetings** – A parent may request an IEP meeting at any time. Additionally, a district must ensure that parents are given an opportunity to attend and/or otherwise afforded an opportunity to participate at each IEP meeting, including notifying them of the meeting early enough to ensure they can attend and schedule the meeting at a mutually agreed upon time and place. In their reply to the District’s response to this complaint, the Parent and Complainant clarified they were alleging that the District failed to schedule parent meetings as provided for in the Student’s IEP, not IEP meetings. In September, when the Parent and Complainant requested a meeting, the District scheduled a meeting for the 26<sup>th</sup> that was later canceled due to the Parent’s car accident. In January, when the Parent and Complainant again requested a meeting, the District scheduled a meeting for the 27<sup>th</sup> but the Parent could not attend due to a scheduling conflict. As of the filing of this complaint, the Parent and Complainant had not yet had a parent meeting with the District during the 2016-2017 school year. It is the District’s responsibility to implement an IEP as written, which includes taking steps to schedule agreed upon meetings at mutually agreed upon times. It is not the parent’s responsibility to request the required meetings. The District did not follow procedures to implement the Student’s accommodation to have parent meetings every eight weeks as specified in the Student’s IEP.

**Issue 4: Progress Reporting** – The Parent and Complainant alleged that the District failed to follow procedures for progress reporting. The District admitted that it failed to provide the Parent with progress reporting as outlined in the Student’s IEP. After the Parent and Complainant filed this complaint, the District drafted a monthly progress reporting template specific to the Student’s IEP goals and established a monthly schedule to issue the updates to the Parent, and issued March 2017 progress reporting. However, the March progress reporting provided little information about the Student’s progress toward his academic, adaptive, and social skills goals. 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. The District needs to ensure it is providing progress reporting that includes sufficient information to inform the Parent about the Student’s progress toward all of his annual IEP goals.

### **CORRECTIVE ACTIONS**

By or before **May 31, 2017** and **July 7, 2017**, the District will provide documentation to OSPI that it has completed the following corrective actions.

#### **STUDENT SPECIFIC:**

None.

### **DISTRICT SPECIFIC:**

The District will develop written guidance to be provided to all District certificated special education staff, including educational staff associates (ESAs) responsible for providing progress reporting, principals and assistant principals, which will address the procedures for providing parents with progress reporting toward IEP goals and will address data collection practices. The guidance will include examples.

By **May 31, 2017**, the District will submit a draft of the written guidance. OSPI will approve the written guidance or provide comments by June 9, 2017, and provide additional dates for review, if needed. By **June 21, 2017**, the District will provide all District certificated special education staff, including ESAs, principals and assistant principal with the written guidance. By **July 7, 2017**, the District will provide OSPI with documentation showing all required staff received the written guidance. This documentation will include a roster of all staff members who were required to receive the written guidance, so OSPI can cross-reference the list with the actual recipients.

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

### **RECOMMENDATIONS**

OSPI recommends the District consider using OSPI's third-party facilitator for future IEP meetings with the Parent (and Complainant) to ensure that all members of the IEP team understand the proceeding, and are able to make informed decisions about the services the Student receives.

OSPI also recommends the District develop policies or procedures to ensure that its school records accurately reflect the dates that meetings occurred, and who participated in the meetings.

OSPI further recommends the District consider establishing timelines well in advance of the annual deadline date to review a student's individualized education program (IEP) to ensure the District will meet its deadline.

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.)