

## **SPECIAL EDUCATION CITIZEN COMPLAINT (SECC) NO. 18-102**

### **PROCEDURAL HISTORY**

On October 30, 2018, the Office of Superintendent of Public Instruction (OSPI) received a Special Education Citizen Complaint from the parent (Parent) of a student (Student) attending the Renton 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 November 1, 2018, 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 November 28, 2018, OSPI received the District's response to the complaint and forwarded it to the Parent on November 29, 2018. OSPI invited the Parent to reply with any information she had that was inconsistent with the District's information.

On December 5, 2018, OSPI determined that additional information would be helpful to the investigation and contacted the District. On December 10, 2018, OSPI received the requested information from the District. OSPI forwarded this information to the Parent on December 11, 2018.

On December 5, 2018, OSPI determined that additional information would be helpful to the investigation and contacted the Parent. On December 11, 2018, OSPI received the requested information from the Parent. OSPI forwarded this information to the District on December 12, 2018.

On December 13, 2018, an OSPI Special Education Dispute Investigator interviewed the director of nonpublic agency 2 by phone. The District's special education director was also on the call.

On December 17, 2018, OSPI received the Parent's reply. OSPI forwarded that reply to the District on the same day.

On December 19, 2018, OSPI received additional information from the Parent. OSPI forwarded that information to the District on the same day.

On December 19, 2018, OSPI received additional information from the District. OSPI forwarded that information to the Parent on the same day.

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

### **SCOPE OF INVESTIGATION**

This decision references events which occurred prior to the investigation time period, which began on October 31, 2017. These references are included to add context to the issues under

investigation and are not intended to identify additional issues or potential violations, which occurred prior to the investigation time period.

## **ISSUES**

1. Did the District schedule the October 15, 2018 individualized education program (IEP) meeting at a mutually agreeable time and place?
2. Did the District implement the Student's IEPs that were in effect during the 2018-2019 school year?

## **LEGAL STANDARDS**

IEP Team Meeting Time: A school district must ensure that one or both of the parents of a student eligible for special education are present at each IEP team meeting or are afforded the opportunity to participate, including: notifying the parents of the meeting early enough to ensure that they will have an opportunity to attend; and, scheduling the meeting at a mutually agreed on time and place. In general, districts often schedule meetings before or after school to ensure that all team members can be present. The US Department of Education's Office of Special Education Programs (OSEP) has stated that it is not unreasonable for a district to schedule meetings during their regular hours and times before and after school. However, OSEP has also stated that if a parent is unable to participate during those times, districts should be flexible in scheduling the meeting, or make arrangements for other ways for the parent or parents to participate. *Letter to Thomas*, 51 IDELR 224 (OSEP 2008).

Parent Participation in IEP Meetings: A school district must ensure that one or both of the parents of a student eligible for special education are present at each IEP team meeting or are afforded the opportunity to participate, including: (1) Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and (2) Scheduling the meeting at a mutually agreed on time and place. The notification must: (a) Indicate the purpose, time, and location of the meeting and who will be in attendance; and (b) Inform the parents about the provisions relating to the participation of other individuals on the IEP team who have knowledge or special expertise about the student. If neither parent can attend an IEP team meeting, the school district must use other methods to ensure parent participation, including video or telephone conference calls.

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 services 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). A reevaluation may not occur more than once a year, unless the parent and school district agree otherwise, and must occur at least once every three years, unless the parent and school district agree that a reevaluation is unnecessary. 34 CFR §300.303(b); WAC 392-172A-03015(2).

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. 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. "When a school district does not perform exactly as called for by the IEP, the district does not violate the IDEA unless it is shown to have materially failed to implement the child's IEP. A material failure occurs when there is more than a minor discrepancy between the services provided to a disabled child and those required by the IEP." *Baker v. Van Duyn*, 502 F. 3d 811 (9th Cir. 2007).

Nonpublic Agency – Responsibility of the School District: A school district that places a student eligible for special education with an approved nonpublic agency (NPA) for special education and related services must develop a written contract, interdistrict or interagency agreement, which must include, but not be limited to, the following: the names of the parties involved; the name(s) of the student(s) eligible for special education for whom the contract is drawn; the location and setting of the services to be provided; the description of services provided, program administration, and supervision; the charges and reimbursement including billing and payment procedures; the total contract cost; and other contractual elements including those identified in WAC 392-121-188 that may be necessary to assure compliance with state and federal rules. 34 CFR §300.146; WAC 392-172A-04085.

Each school district must ensure that a student eligible for special education services placed in or referred to an NPA is provided special education and related services in conformance with an IEP that meets the requirements of this chapter and at no cost to the parents. The student must be provided with a free, appropriate public education (FAPE) that meets all general and special education regulations that apply to the student, except that the certificated special education endorsed teachers providing special education services do not have to meet the highly qualified standards for core academic content areas as described in 34 CFR §300.18. 34 CFR §300.146; WAC 392-172A-04085.

The school district remains responsible for evaluations and IEP meetings for the student. If the school district requests that the NPA conduct evaluations or IEP meetings, the district will ensure that all applicable requirements of Part B of the IDEA are met. The student has all of the rights of a student eligible for special education who is served within the school district. 34 CFR §300.146; WAC 392-172A-04085.

Change in Placement: One of the procedural requirements of the IDEA is that a reevaluation must be completed before a significant change of placement is made. *In re: Kent School District*, OSPI Cause No. 2016-SE-0111 (WA SEA 2016). The performance and skill levels of students with disabilities frequently vary, and students, accordingly, must be allowed to change from assigned classes and programs. However, a school may not make a significant change in a student with disabilities placement without a reevaluation. *Student Placement in Elementary and Secondary*

*Schools and Section 504 of the Rehabilitation Act and Title II of the Americans with Disabilities Act* (Office for Civil Rights, August 2010). In determining whether a change in placement has occurred, the district responsible for educating a student eligible for special education must determine whether the proposed change would substantially or materially alter the student's educational program. In making this determination, the following factors must be considered: whether the educational program in the student's IEP has been revised; whether the student will be educated with nondisabled children to the same extent; whether the student will have the same opportunities to participate in nonacademic and extracurricular activities; and, whether the new placement option is the same option on the continuum of alternative placements. *Letter to Fisher*, 21 IDELR 992 (OSEP, July 6, 1994).

Continuum of Alternative Placement Options: Each school district shall ensure that a continuum of alternative placements is available to meet the special education and related services needs of students. The continuum required in this section must: include the alternative placements listed in the definition of special education in WAC 392-172A-01175, such as instruction in general education classes, special education classes, special schools, home instruction, and instruction in hospitals and institutions; and make provision for supplementary services such as resource room or itinerant instruction to be provided in conjunction with general education classroom placement. 34 CFR §300.115; WAC 392-172A-02055.

Compensatory Education: A state educational agency is authorized to order compensatory education through the special education citizen complaint process. *Letter to Riffel* 34 IDELR 292 (OSEP 2000). Compensatory education is an equitable remedy that seeks to make up for education services a student should have received in the first place, and aims to place the student in the same position he or she would have been, but for the district's violations of the IDEA. *R.P. ex rel. C.P. v. Prescott Unified Sch. Dist.*, 631 F.3d 1117, 56 IDELR 31, (9<sup>th</sup> Cir. 2011). There is no requirement to provide day-for-day compensation for time missed. *Parents of Student W. v. Puyallup Sch. Dist. No. 3*, 31 F.3d 1489, 21 IDELR 723 (9<sup>th</sup> Cir. 1994); *see also In re: Mabton School District*, 2018-SE-0036 ("There is no statutory or regulatory formula for calculating compensatory remedies. However, generally services delivered on a one-to-one basis are usually delivered effectively in less time than if the services were provided in a classroom setting").

## **FINDINGS OF FACT**

### **2017-2018 School Year**

1. During the 2017-2018 school year, the Student was a resident of the District, eligible to receive special education services under the category of autism, and in the ninth grade. At the beginning of the 2017-2018 school year, the Student's individualized education program (IEP) team placed him at a nonpublic agency (NPA 1).
2. On October 26, 2017, the Student's IEP team developed a new IEP for the Student. The October 2017 IEP included annual goals in the areas of reading, writing, math, and social/emotional/behavioral. The October 2017 IEP provided the Student with the following

specially designed instruction in a *special education setting* from October 30, 2017 through October 25, 2018:

- Basic Reading – 90 minutes per week (to be provided by a special education teacher)
- Reading Comprehension – 90 minutes per week (to be provided by a special education teacher)
- Written Language – 90 minutes per week (to be provided by a special education teacher)
- Math – 180 minutes per week (to be provided by a special education teacher)
- Social/emotional/behavioral – 585 minutes per week (to be provided by a special education teacher)

The October 2017 IEP also provided the Student with the following related services in a *special education setting* from October 30, 2017 through October 25, 2018:

- Communication – 15 minutes per week (to be provided by a speech language pathologist (SLP))

The October 2017 IEP also provided the Student with the following extended school year (ESY) specially designed instruction in a *special education setting* from July 2, 2018 through August 10, 2018:

- Basic Reading – 90 minutes per week (to be provided by a special education teacher)
- Reading Comprehension – 90 minutes per week (to be provided by a special education teacher)
- Written Language – 90 minutes per week (to be provided by a special education teacher)
- Math – 180 minutes per week (to be provided by a special education teacher)
- Social/emotional/behavioral – 585 minutes per week (to be provided by a special education teacher)

The October 2017 IEP also provided the Student with the following ESY related services in a *special education setting* from July 2, 2018 through August 10, 2018:

- Communication – 15 minutes per week (to be provided by a speech language pathologist (SLP))

The October 2017 IEP provided the Student with the following accommodations and modifications:

- Alter format of materials (highlight, type, spacing, color-code)
- Shortened assignments
- Simplify test wording
- Read class materials orally
- Extra time to complete assignments
- Allow breaks (during work, between tasks, during testing, etc.)
- Provided individualized/small group instruction
- Read class materials orally
- Provide study outlines/guides/graphic organizers
- Modify/repeat/model directions
- Other: access to an alternate learning space
- Utilize oral responses to assignments/tests
- Text-to-speech
- Spelling and grammar devices
- Speech-to-tech software

### **The Timeline for this Complaint Began on October 31, 2017**

3. On November 11, 2017, the Student's attendance at NPA 1 was discontinued.

NPA 1 issued a prior written notice to the Parent on November 9, 2017. This prior written notice proposed to discontinue the Student's placement at NPA 1. According to this notice, the reasons for this action were as follows: Parental "concerns that [Student] is repeatedly being exposed to adverse behavior;" Parental "concerns around [Student's] safety;" and, Parent "stated that [Student] will not attend program full time."

4. Throughout the remainder of the 2017-2018 school year, the District and the Parent searched for an educational institution that could appropriately serve the Student's needs; during that time, the Student received intermittent contracted services from a District high school special education teacher.<sup>1</sup>

### Summer 2018

5. In July 2018, the District determined that a different NPA (NPA 2) would better serve the Student's needs.
6. According to its website, NPA 2 opened "with the...intention of servicing students struggling with the complexities of self-regulation, social integration, and/or academic frustration for whom a traditional comprehensive setting is not effective...[NPA 2] is not a consequence-based program nor do we use rigid behavioral or levels-based methods."

In an interview with an OSPI investigator, the director of NPA 2 (NPA director) described the school's approach as "collaborative" and one that would "opt for de-escalation in every case."

7. The District entered into a contract with NPA 2 to provide the Student with ESY services during the summer of 2018. The Student began attending NPA 2 on July 9, 2018. The intention was that the Student would continue to attend NPA 2 during the 2018-2019 school year.<sup>2</sup>
8. On July 27, 2018, the Student's IEP team met to amend the Student's October 2017 IEP to reflect the ESY services at NPA 2. The July 2018 IEP amendment provided the Student with the following specially designed instruction in a *special education setting* from July 27, 2018 through August 24, 2018:
  - Reading – 250 minutes per week (to be provided by special education staff)
  - Written Expression – 250 minutes per week (to be provided by special education staff)
  - Math – 250 minutes per week (to be provided by special education staff)
  - Social/emotional/behavioral – 900 minutes per week (to be provided by special education staff)

---

<sup>1</sup> This information comes from a previous special education citizen complaint decision (SECC 18-47), filed by the Parent on May 15, 2018. SECC 18-47 concerned the issues of placement procedures and the provision of progress reporting. OSPI issued a decision in SECC 18-47 on July 12, 2018.

<sup>2</sup> This information comes, in part, from the decision in SECC 18-47. The record also contains a prior written notice, dated July 27, 2018. This prior written notice does not provide detailed information on why the placement at NPA 2 was appropriate for the Student.

The July 2018 amendment did not change the non-ESY number of minutes of specially designed instruction the Student was to receive from October 30, 2017 through October 25, 2018.

The July 2018 IEP amendment contains the following written note by the Parent, dated July 30, 2018: “[Student] and I revoke our signatures [on this document] on the basis [that it] does not include “communication” [for 15 minutes per week by an SLP] under “supplementation aids and services”...as originally determined 10.26.17. No discussion took place 7.27.18 to discontinue this service. This doc is null and void.”

9. According to the District, the Student should have received communication services when he received ESY in the summer of 2018. According to the District, however, the Student did not receive these services for the approximately seven weeks that he did receive ESY in the summer of 2018.

The District stated it had been unable to contract with an SLP to provide those services to the Student while he attended NPA 2.

#### **2018-2019 School Year**

10. NPA 2's 2018-2019 school year began on September 5, 2018.
11. According to the District, at the beginning of the 2018-2019 school year, the Student's October 2017 IEP “with the amendment and ESY documentation agreed upon in July [of 2018] were in effect.”
12. According to a “Contact Attempt Report,” on September 11, 2018, the District mailed an evaluation consent form to the Parent for the Student's triennial reevaluation. The Student's previous triennial evaluation had taken place on October 15, 2015.
13. On September 13, 2018, NPA 2's IEP case manager emailed the District's director of special education (director) some “notes from [Student's] teacher and our social worker about present levels from the past two weeks.” The attached notes read, in pertinent part: “[Student] spends much of his time on his computer while wearing his earbuds.”
14. On September 14, 2018, the Student's IEP team developed a new IEP for the Student. The September 2018 IEP included goals in the areas of reading, math, written language, and social/emotional. The September 2018 provided the Student with the following specially designed instruction in a *special education setting* from September 17, 2018 through October 25, 2018:
  - Written Language – 180 minutes per week (to be provided by a special education teacher)
  - Math – 235 minutes per week (to be provided by a special education teacher)
  - Reading – 180 minutes per week (to be provided a special education teacher)
  - Social/emotional/behavioral – 650 minutes per week (to be provided by a special education teacher)

The September 2018 IEP provided the Student with the following related services in a *special education setting* from September 17, 2018 through October 25, 2018:

- Communication – 15 minutes per week (to be provided by an SLP)

The September 2018 IEP provided the Student with the following accommodations from September 17, 2018 through October 25, 2018:

- Allow breaks (between tasks, during testing, etc.)
- Extra time to complete assignments
- Format of materials (highlight, type, etc.)
- Read class materials orally
- Shortened assignments
- Simplify test wording

The September 2018 IEP provided the Student with the following modifications from September 17, 2018 through October 25, 2018:

- Utilize oral response to assignments/tests
- Speech-to-text software
- Spelling and grammar devices
- Text-to-speech (Kurzweil, WYNN, Text Help, etc.)
- Provide individualized/small group instruction
- Read class materials orally
- Modify/repeat/model directions

15. A prior written notice, dated September 17, 2018, proposing to change the Student's IEP read, in part:

District proposes to update the team considerations to include information from contract school from November 2017 to June 2018 and [NPA 2] starting in July of 2018 and continuing this placement. [Parent] did not have any concerns regarding academics or progress, but did express concerns that [Student] continue to receive his communication related services. [Parent] agreed that the District will make up the missed services from ESY and those missed in the first two weeks of school.

...

The District proposes to change the service minutes to reflect a schedule of 9:30 to 3:00 on Monday, Tuesday, and Thursday, and 9:30 to 2:00 on Friday.

16. On September 16, 2018, the director emailed NPA director, asking if NPA 2 "completes report cards quarterly or by trimester...I need this information to complete the IEP in IEP online." The director also stated, "As of now, [District] cannot provide access to IEP Online for [non-District] employees. This has to do with how our technology system is set up. We are working on changing this. Until then, IEPs will be entered into IEP Online based on information provided to me by [NPA 2]."

Later that day, NPA director responded, stating, in part: "We do a semester report, but we can probably switch to trimesters for our shared student."

17. On the evening of September 17, 2018, the Parent emailed the director, stating, in part, that the next IEP meeting would need to be a facilitated IEP meeting through Sound Options.

18. A "Reevaluation Notification/Consent" form, dated September 21, 2018, is signed by the Parent and stated, "I give consent for my child to be evaluated."

It is not clear when the District received the Parent's consent to reevaluate the Student; there is conflicting evidence on this point. For example:

- A "Contact Attempt Report" stated, in part: "Consent was sent in US mail on September 11, 2018 received September 25, 2018." That same "Contact Attempt Report" however, noted a 'Consent Date' of October 21, 2018.
- An email from the psychologist to the director, the nurse, and the SLP, dated September 24, 2018, stated, in part: "I spoke with [Parent] this morning and she indicated that the consent was signed. She put it in the mail over the weekend."

19. The record contains a "Contact Attempt Report" that documents the District's communications—attempted and actual—with the Parent to schedule a meeting to discuss the Student's reevaluation report in October of 2018.

According to this report, on September 28, 2018, and again on October 1, 2018, the District's school psychologist<sup>3</sup> called the Parent and left two voicemails for her, inquiring as to whether she could attend an evaluation meeting during the week of October 8, 2018. The Parent returned the school psychologist's phone call on October 1, 2018, indicating that the week of October 8, 2018 would not work.

20. According to the "Contact Attempt Report," on October 2, 2018, the psychologist called the Parent and left a voicemail for her, inquiring as to whether she could attend an evaluation meeting on October 15, 2018.

21. On October 2, 2018, the psychologist emailed the Parent, asking "if [a] meeting on Monday October 15, 2018 could work and allows you enough time for your work schedule. Let me know what time in the day works best and if you would plan on being at the meeting in person or via conference call."

On October 3, 2018, the Parent responded, stating:

I am not able to schedule any meeting right now. Please just email me the re-eval when it's done and I will look it over and get back to you. The IEP team will be meeting sometime at the end of this month to develop a new IEP for [Student] then.

22. On October 5, 2018, the director emailed the Parent, stating:

We have been working on scheduling an evaluation feedback meeting with you, the nurse, SLP, and psychologist, as well as the team from [NPA 2].

My understanding is that you did not have time next week, so the team has offered October 15th as a meeting date. This date is important because we are legally required by WAC 392-172A-03015 to hold the feedback meeting before or on October 15, 2018, as it is three years from [Student's] last evaluation meeting.

---

<sup>3</sup> According to the District, the psychologist was the Student's case manager.

Please send us times that you are able to attend a meeting between Monday, October 8th and Monday, October 15th. If we do not hear from you, we will be holding a meeting on the 15th and hope that you will be able to attend.

On October 7, 2018, the Parent responded:

I mentioned at the September 14, 2018 IEP meeting via phone that I would need at a minimum 30 days notice to schedule any future IEP meetings. I believe I instructed the team to look at dates then. The [District] ignored this request. This 30 day notice is required by my employer and also follows the Washington Family Leave Laws & the federal Family Medical Leave Act laws. Since the [District] has not given me sufficient notice and this is not a life or death emergency, I will not be able to attend any meeting in the next 30 days. I will also not give up my lunch time for any meeting either due to [District] not being able to sufficiently plan ahead.

On October 8, 2018, the director responded:

We are sorry you will not be attending. We have been attempting to schedule this meeting since September 28, 2018, when our psychologist was notified that you had signed the consent. The evaluation feedback meeting will be held at [NPA 2] at 10:30 on October 15th in order to remain in legal timelines. An invitation will go out in the mail.

We will need to have the annual review of the IEP on or before October 25th, 2018. Please let us know when in the next 17 days you have availability. That is the most advanced notice we are able to provide at this time.

23. On October 10, 2018, the psychologist emailed the Parent, stating, "Here is the draft copy of the [reevaluation] report. Information may be added or changed at this time and the report won't get finalized until after the meeting on the 15th. Please let me know if there are any issues or concerns."

On October 11, 2018, the Parent responded, stating that she believed the "Review of Existing Data" portion of the draft reevaluation report was over-inclusive; she believed that this section included irrelevant data. For example, the Parent took issue with the inclusion of certain diagnoses that the Parent said no longer applied to the Student. In her response, the Parent stated, "Under no circumstances is the [District] to share this draft with any staff at [NPA 2]."

On October 13, 2018, the director responded, stating, in part:

We will review your input, but we are going to be sharing a draft with [NPA 2] that may include prior history. We will be sensitive in what we discuss, and will take your input into consideration.

As for updated diagnoses and other medical issues, I believe [the nurse] had attempted to contact you for updated medical history. If you have sent that, we will add that to the draft and make appropriate changes.

24. On October 13, 2018, the Parent emailed the psychologist and the director, stating:  
Here are my edits to [the] draft. Once this is edited to my specifications, you may share it with [NPA 2].

As I stated [earlier], under no circumstances is the [District] to share the unedited draft attached to the October 10, 2018 email from [the psychologist] with any staff member of [NPA 2]. Doing so would violate the HIPAA privacy laws and I will sue the [District] if it violates my request. The [District] does not have a signed release of information from me to share such information with [NPA 2]."

I have also attached the most recent "health impaired" statement from [Student's] doctor that should be used and not the September 25, 2012 one with outdated information.

Sincerely,

Parent

P.S. [Student] will be attending the meeting and he has been instructed to call me from his cell phone if the [District] so much as mentions anything from his elementary school days.

(The Parent's edited draft had a slash drawn through the entirety of the "Review of Existing Data" section. The word "Delete" was also written overtop this section.)

25. On October 15, 2018, the District met to review the Student's reevaluation. The October 2018 reevaluation included assessments in the following areas: observation, medical-physical, cognitive, academic, social/emotional, adaptive, communication, and fine motor. Based on the results of the October 2018 reevaluation, the Student's reevaluation group determined that the Student continued to be eligible for special education services under the autism category. The October 2018 reevaluation report recommended that the Student receive specially designed instruction in the following areas: reading, math, written language, and social/emotional.

According to the "Evaluation Summary" section of the October 2018 reevaluation report, the Parent participated in the meeting via telephone. The October 2018 reevaluation read, in part, "[NPA 2] staff noted that [Student] often chose to withdraw from classroom activities and engage with his laptop with earbuds in place. Work completion and engagement in classroom activities was noted as limited."

26. According to the Parent's reply, she had difficulty attending meetings at NPA 2 because it "is located in Shoreline, Washington, [which is] a one hour drive plus depending on traffic from Renton, Washington." She also stated that the District "never offered to have any of the IEP or reevaluation meetings at another location. Per a conversation with the [District] the prior year, all meetings are held at the out-of-district...facility/school."
27. On October 17, 2018, the director emailed a representative from Sound Options, requesting that a facilitated IEP meeting be set up with the Parent. The director's email mentioned that a new IEP needed to be created for the Student by the end of the month. (The Student's September 2018 IEP only provided specially designed instruction and services through October 25, 2018.)

28. On October 24, 2018, the Sound Options representative emailed the director, stating, "I reached out to the Parent again today. I left a phone message and sent an email. I will keep you posted."
29. A prior written notice, dated October 24, 2018, stated, in pertinent part, that the Parent participated in the October 15, 2018 reevaluation meeting via speakerphone.
30. On October 29, 2018, the Parent emailed the director, stating, in part:  
Since [NPA 2] is not providing [Student] with any of the services in his IEP, the [District] is not fulfilling its FAPE requirement. To my knowledge the [District] still has not found an SLP to provide his [communication] services at [NPA 2] either.<sup>4</sup> It has been four months since he started there. Therefore, we will be discontinuing this placement as my son needs an education, not a babysitter.
31. On November 1, 2018, the director emailed the Parent, stating, in part:  
You state that [NPA 2] is no longer providing FAPE to the Student. As far as the District is aware, there have been no changes to the Student's program or the services offered by [NPA 2] since the Student's IEP team agreed that [NPA 2] was an appropriate placement in July. It is our understanding that [NPA 2] has provided the Student with all of the services, supports, and accommodations called for in his IEP other than the...related services for communication.

The Parent responded later that same day, stating, in part:

[NPA 2] has not been able to provide him with any SDI in any of the areas in his IEP...[NPA 2] has not been able to engage with [Student] and get him to do any work. I have several 'Daily Report Cards' indicating 'nothing done' for academics. [Student] also tells me he spends some days alone in the library the whole day on his laptop. On Page 7 of the Reevaluation Report it states: '[NPA 2] staff noted that [Student] often chose to withdraw from classroom activities and engage with his laptop with earbuds in place. Work completion and engagement in classroom activities was noted as limited.' [Student] told me [that] the first time and only time he has done any work at [NPA 2] is when someone from the [District] came to evaluate him and asked him to do some math problems.

On November 6, 2018, the director responded. The director mentioned the District's desire to schedule an IEP meeting to create the Student's IEP. In this email, the director did not address the Parent's concerns about the provision of special education and services to the Student at NPA 2.

32. On November 6, 2018, the Sound Options representative emailed the director, stating, "I still have not gotten a response from the Parent regarding a mediation or [Facilitated IEP Meeting]. If we don't hear from her by the end of this week, I will be closing both requests."

---

<sup>4</sup> According to the District, NPA 2 does not have an SLP on its staff. As of early November 27, 2018, the District had still not entered into a contract with an SLP to provide the Student with the communication services in his 2018-2019 IEPs.

33. On November 6, 2018, the director asked the NPA director for information on the Student, including records, emails, meeting notes, daily reports sent to the Parent, his daily schedule, copies of work samples, and grades.

On November 9, 2018, the director for NPA 2 responded, stating:

A report of [Student's] grades and academic progress is not possible at this time because [Student] is rarely, if ever, in class. When he arrives at school, he enters the classroom long enough to check in and retires to one of our approved 'safe areas' available to all students for brief de-escalation periods; however, [Student] spends the entire day in that room with adult supervision coming from the adjacent room.

When prompted to attend class or when given an assignment to work on (on paper electronically), [Student] gently refuses to work saying he can create his own projects and that all his work needs to revolve around World War Two or the policy of Mutually Assured Destruction and that he is capable of creating them himself.

We have not seen evidence of his efforts.

Aside from prompts and redirections, we have used the following strategies:

We have attempted to modify his placement within our building. We have three different classrooms with three different teachers he could attend. [Student] has refused.

We have changed the placement of other students in that classroom attempting to modify the environment and personalities. With the exception of [Student] complaining that we 'took his favorite student' away, this has had no effect on [Student's] engagement.

We have reviewed his IEP with him. Interestingly, [Student] has an ostensibly reasonably sound response to each issue: when he's playing a strategy game, he is using math; he is learning social skills by interacting briefly with peers and staff who may be in the adjoining room; and so on.

We have had a variety of staff attempt to work with him with no change in his engagement.

The good news is that [Student] has not escalated nor has he been confrontational with others; the bad news is that he is not accessing academics, social-skill building, or organizations when he is here. I am not sure that any of our methodologies—usually collaborative, differentiated, and individualized—will make a significant difference.

I am concerned that locking his room or using firmer pressure would not bring about good results.

On November 9, 2018, the director responded, "Thank you for this information. We are attempting to move forward with an IEP meeting, and will discuss these concerns then."

Later that same day, the NPA director responded, stating, "I neglected to mention that [Student] reports a problem with his vision. He talks about blurry vision, especially when reading, and says that bright lights hurt his eyes."

34. The NPA director provided the following information on what the Student's day looked like at NPA 2 whenever he would leave the classroom:

- The Student would spend no more than 5 minutes in the classroom before removing himself from the learning environment.
- The Student did not need the teacher's permission in order to leave the classroom; the Student simply informed the teacher that he was leaving.
- The Student would go to a small room off from the library. (This room was one of three rooms that NPA 2 used to allow students to deescalate.) The Student was usually the only student in that small room. There was a paraeducator in the neighboring library.
- When in the small room, the Student was usually on his laptop, phone, or listening to his headphones. NPA 2 is unclear how often the Student utilized his time in the small room to focus on academic matters.<sup>5</sup>

35. On November 9, 2018, Sound Options informed the District that its request for mediation had been closed "because one...of the parties do not agree that mediation is appropriate at this time."

36. According to the District, November 20, 2018 was the last day the Student attended NPA 2.

37. On November 21, 2018, the Parent emailed NPA 2, asking for information on the Student's schedule at NPA 2 and for a report on his progress on each of his IEP goals. In this email, she noted that she is afraid the Student "isn't getting much learning out of this placement and [I] am questioning this continued placement...[Student] has expressed an interest in discontinuing this placement as well."

38. On November 26, 2018, the director emailed the Parent, stating, in part:

Please find attached...the electronic version of the revocation form I gave you, as per your request this morning...Attached also is the home school declaration form that needs to be completed for you to legally homeschool, as you mentioned this morning. This decision could be made without the need to revoke special education services. A PWN would be created that he remains eligible, but that you are choosing not to access services at this time due to homeschooling.

On November 27, 2018, the Parent responded, stating, in part:

Thank you for the forms. I have already completed and submitted the homeschooling form to the [District] yesterday. I will email the special education revocation form signed yesterday later today.<sup>6</sup> Since the [District] was unwilling to meet with me to correct the 'reevaluation,' the revocation of special education will terminate his current placement, which has done nothing for him as SECC 18-102 will show. When I request services for him again, the [District] will have to complete a new 'initial' evaluation and will have to complete

---

<sup>5</sup> According to the NPA director, the students' wireless access at NPA 2 is limited to certain academic sites and/or programs. The NPA director was unsure how and if the Student was accessing the internet on either his phone or laptop when he was in the small room off the library.

<sup>6</sup> As of December 10, 2018, the District had not yet received a signed special education revocation form from the Parent.

the evaluation process all over again. I will make sure the psychologist...understands he or she will not have my consent to review my son's educational records.

39. On November 27, 2018, the NPA director emailed the director, stating:  
Though we usually send these daily report cards home each day, we do have one copy of one belonging to our student. This daily report card is typical. [Student] doesn't attend classes other than to check in, and then goes to a room off our library to use his phone or computer. He is visited regularly and given classwork and assistance, but he always declines.

The attached daily report card noted that a "fair" amount of reading work was completed, but that "nothing [was] done" in writing, mathematics, Washington State history, social studies, physical education, science, and art.

40. On November 29, 2018, the Parent emailed NPA 2, stating:  
[Student] will no longer be attending [NPA 2]...I do not feel he was getting FAPE or making any progress on any of his IEP goals. [Student] was not receiving the [specially designed instruction] that he needs. I notified [District] of this on Monday, I called the [District] Transportation [Department] on Tuesday and notified the bus driver this morning.

41. According to the District, the Student did not receive the communication services called for in his 2018-2019 IEPs while he attended NPA 2.

The District stated it had been unable to contract with an SLP to provide those services to the Student while he attended NPA 2. The District proposes to provide "1:1 compensatory speech services for past and prospective weeks that the Student did not receive those services." The District stated that it is "continuing to search for an appropriate provider."

42. According to the Student's attendance report, through November 27, 2018, the Student was absent for 15 out of the approximately 44 days that he was scheduled to attend NPA 2.<sup>7</sup>

According to the Parent:

[Student's] attendance record at [NPA 2] has him absent more days than he was. There were somewhere between 5 and 10 days that he came home from school without a [daily report card]. Since [Student] spent the entire day in a room next to the library by himself it is possible that the teacher(s) or substitute(s) marked him absent in error.

43. According to the District:  
The Parent has repeatedly refused to sign consent for a [functional behavior assessment] and does not wish to have a [behavior intervention plan]. Most recently, [the Parent] refused consent in September of 2017 at [NPA 1]. When [the District] brought up the subject at the September 2018 IEP, the team determined that goals and [specially designed instruction] would address the [behavioral] concerns, which were seen less over [the extended school year services].

---

<sup>7</sup> This calculation does not include the day that the Parent notified the District that she was revoking services for the Student—November 27, 2018.

According to the Parent:

The [District] has never asked for my consent to conduct an FBA or prepare a BIP. It has created a draft FBA and BIP without consulting or getting permission from [me]. When the subject has come up at IEP meetings, including at [NPA 2], the IEP team has stated [that the] student doesn't need an FBA or BIP. Even though the [District] has never asked for my consent for an FBA or BIP, I do not feel that Student needs one as Student does not have behavioral issues. See November 9, 2018 email in supplemental documentation where [NPA 2 director] states, '(Student) has not escalated nor has (Student) been confrontational with others.' Student's lack of cooperation in doing academics at [NPA 2] is because the academics was not geared towards his interests and student was not getting the 1:1 support needed. The teacher: student ratio at [NPA 2] is something like 1:10. At his prior placement where he did lots of academics, it was more like 1:2 and sometimes 1:1.

44. The District's contract with NPA 2 read, in part:

[NPA 2] shall provide monthly updates on each student's progress towards the annual goals.

...

[NPA 2 will] provide the District with the data gathered during the monitoring of the Student's performance.

...

[NPA 2 will] notify the District of the possible need for further evaluation of students who may need a revised IEP or additional instructional services.

...

[NPA 2 will] permit periodic on-site monitoring by the District of [NPA 2's] compliance and delivery of services pursuant to this Agreement, as requested by the District.

45. As part of this complaint, the Parent provided OSPI with 20 days' worth of "daily report cards" for the Student from the 2018-2019 school year. The "daily report cards" have an "academics" entry for each of the six classes he took at NPA 2. For the "academics" entry, there are four options: excellent, good, fair, nothing done. The following is a categorical breakdown of the entries for these 20 days' worth of "daily report cards:"

- Excellent, Good, or Fair: 25 entries
- Nothing Done: 53 entries
- Blank—i.e., no entry recorded: 40

At least two of the "daily report cards" had no "academics" entries: a) the November 5, 2018 "daily report card" included the following note: "Refused to come to class. Said he was going to sleep. Spent day in library. Had some positive interactions with...a fellow student. Showcasing social skills;" and b) the November 9, 2018 "daily report card" included the following note: "[Student] said his eyes would not focus today."

46. In part, the Parent's reply read:

After receiving several [daily report cards] with 'nothing done' circled under academics, I asked my son what he did all day and why he didn't want to be in the classroom. It turns out he is bothered by the lights in the classroom and the noise level from the other students. He also told me he would watch videos or shows on his laptop in his room by

the library all day long until it was time to go home. I looked at Student's browser history on his laptop and confirmed he was telling the truth...I also called [the director of NPA 2] and spoke to him...about Student's non-academic and [he] stated that [NPA 2] didn't pursue it much further 'because they didn't want to upset [Student]'...I was under the impression that [NPA 2] was a school that knew how to work with children on the autism spectrum but they seem not to have been able to establish any kind of rapport or engage with my son at all. The teacher did not spend much time talking to my son to find out his interests so he could use those interest in developing academic work around those interests. Because the academic work was not of his interest, Student quickly disregarded the work and went back to his interests on the laptop.

47. According to the NPA director, throughout the fall semester, NPA 2 used several strategies to encourage the Student to engage with his coursework:

- For a period of time, the Student's NPA 2 IEP case manager was placed in the Student's class. According to the director of NPA 2, this individual had substantial experience in special education, and, when in the Student's classroom, this individual gave the Student more personal attention.
- The Student frequently told his teachers that the lights in the classroom caused his eyes discomfort. For this reason, the Student's teacher often either turned half of the lights off or turned all of the lights off. The director of NPA 2, though, stated that, more often than not, the Student would still leave the classroom.
- The Student's teachers and paraeducators attempted to establish a closer relationship with the Student, in the hopes that the Student would share additional (or the actual) reasons for why he did not want to be in the classroom.
- NPA 2 staff would bring work for the Student to the small room off the library.
- NPA 2 spoke with the Parent about moving the Student into one of the two "high school" classrooms.<sup>8</sup> The Parent, however, rejected this option.

According to the NPA director, outside of these strategies, the District did not see the "justification to be confrontational with [Student]." (The NPA director stated that, occasionally, NPA 2 would take away a student's electronics privileges, but that it did not take this tact with the Student.)

## CONCLUSIONS

**Issue 1: Scheduling the October 15, 2018 IEP Meeting** – The Parent alleged that the October 15, 2018 IEP meeting was not scheduled at a mutually agreeable time and place. School districts are required to schedule IEP meetings at a mutually agreed on time and place. If a parent is

---

<sup>8</sup> The NPA director explained that "scheduling here is based upon a number of things, and while age is one of them, academic ability and social fluency are as important—as is the response a student has to the teacher, other staff and peers. We don't necessarily refer to the classes as elementary, middle, and high-school classes...and the only obvious distinction is that the elementary and middle school students are on one floor and the high school students are on another; also, the high-school students move between two classrooms while the other students remain together for the full day. There is also an obvious age and size difference with our elementary class."

unable to participate in person during a scheduled meeting, the district should either reschedule the meeting or make arrangements for other ways for the parent to participate.

School districts are required to complete an evaluation of a student at least once every three years, unless the parent and district agree otherwise. Here, the Student's evaluation team needed to complete a reevaluation report for the Student on or before October 15, 2018—the Student's previous evaluation report was dated October 15, 2015. The District made multiple attempts to schedule an IEP meeting with the Parent prior to this date. For example, on September 28, 2018 and October 1, 2018, the psychologist called the Parent and left her voicemails, asking if she could attend a meeting to discuss the reevaluation report during the week of October 8, 2018. On October 1, 2018, the Parent returned the psychologist's phone call, stating that the week of October 8, 2018 would not work for her. On October 2, 2018, the psychologist emailed the Parent, asking "if [a] meeting on...October 15, 2018 could work...let me know what time in the day works best and if you plan on being at the meeting in person or via conference call." On October 3, 2018, the Parent responded, stating that she was "not able to schedule any meeting right now. Please just email me the re-eval when it's done and I will look it over and get back to you. The IEP team will be meeting sometime at the end of this month to develop a new IEP for [Student] then."

On October 5, 2018, the psychologist emailed the Parent, asking if she could attend a meeting between Monday, October 8, 2018, and Monday, October 15, 2018. On October 7, 2018, the Parent responded, stating, in part, "Since the [District] has not given me sufficient notice and this is not a life or death emergency, I will not be able to attend any meeting in the next 30 days." On October 8, 2018, the director emailed the Parent, stating that the meeting would be held at 10:30 a.m. on October 15, 2018, and that the Parent was invited to attend and participate. On October 15, 2018, the Parent participated in the meeting via telephone.

On these facts, the IDEA was not violated. The District made multiple attempts to schedule a meeting with the Parent throughout the first two weeks of October. The Parent stated that she would not meet anytime within 30 days after October 7, 2018. Importantly, the Parent's participation was not actually limited because she participated in the October 15, 2018 IEP meeting via teleconference.<sup>9</sup>

## **Issue 2: IEP Implementation**

IEP Implementation: The Parent alleged that the District did not implement the Student's IEPs that were in effect during the 2018-2019 school year. 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. When a school district does not perform exactly as called for by the IEP, the district does not violate the IDEA unless it is shown to have materially failed to implement the child's IEP. A material failure

---

<sup>9</sup> In her reply, the Parent stated that NPA 2 was also an inconvenient location for her to meet on October 15, 2018. This specific allegation, however, was never articulated in the Parent's complaint. Furthermore, the documentation submitted to OSPI (by both the Parent and District) do not show that this concern was ever articulated to the District—at least as it concerned scheduling the October 15, 2018 meeting.

occurs when there is more than a minor discrepancy between the services provided to a student with a disability and those required by the IEP. Each school district must ensure that a student eligible for special education services placed in or referred to a nonpublic agency is provided special education and related services in conformance with that student's IEP.

Here, the Student's IEP team placed the Student at NPA 2 for the 2018-2019 school year. From the record, it does not appear that NPA 2 implemented the Student's IEPs that were in existence for the 2018-2019 school year. On September 13, 2018, the Student's case manager at NPA 2 emailed the District and stated that the Student spent much of his time on the computer while wearing earbuds. And, the October 2018 reevaluation read, in part: "[NPA 2] staff noted that [Student] often chose to withdraw from classroom activities and engage with his laptop with earbuds in place. Work completion and engagement in classroom activities was noted as limited."

On November 9, 2018, the NPA director emailed the District director, stating, in part:

A report of [Student's] grades and academic progress is not possible at this time because [Student] is rarely, if ever, in class. When he arrives at school, he enters the classroom long enough to check in and retires to one of our approved 'safe areas' available to all students for brief de-escalation periods; however, [Student] spends the entire day in that room with adult supervision coming from the adjacent room.

When prompted to attend class or when given an assignment to work on (on paper electronically), [Student] gently refuses to work.

"Daily report cards" show that, for at least 53 class periods, the Student received no academic instruction. It should be noted, however, that it is likely the Student received no academic instruction in additional class periods. For example, the "daily report cards" for November 5, 2018 and November 9, 2018 contain no entries for "academics," but both of those report cards do include notes suggesting the Student did not receive any academic instruction.

The District concedes that it did not provide the Student with the communication services listed in his 2018-2019 IEPs. In light of the foregoing, the District materially failed to implement the Student's IEPs, and compensatory education is warranted.

Appropriate Placement: The performance and skill levels of students with disabilities frequently vary, and students, accordingly, must be allowed to change from assigned classes and programs. Each school district shall ensure that a continuum of alternative placements is available to meet the special education and related services needs of students. The continuum required in this section must: include the alternative placements listed in the definition of special education in WAC 392-172A-01175, such as instruction in general education classes, special education classes, special schools, home instruction, and instruction in hospitals and institutions; and make provision for supplementary services, such as resource room or itinerant instruction, to be provided in conjunction with general education classroom placement.

Here, the record suggests that NPA 2 was an inappropriate placement for the Student. As established above, the Student rarely attended class; NPA 2's "collaborative," "non-consequence-based program" did not appear to help the Student. If the District had more closely monitored

NPA 2's provision of services to the Student, the Student's IEP team could have addressed these concerns earlier. For example, the record suggests that the first time the District attempted to get a full picture of how the Student's time at NPA 2 was spent was on November 6, 2018, when the District director asked the NPA director for the Student's records, daily reports, work samples, and grades. However, the District was in possession of information that indicated NPA 2 was a potentially inappropriate placement for the Student earlier than November 6, 2018. For example, on September 13, 2018, NPA 2's IEP case manager emailed the director notes on the Student that read, in pertinent part, "[Student] spends much of his time on his computer while wearing his earbuds." The October 2018 reevaluation read, in part, "[NPA 2] staff noted that [Student] often chose to withdraw from classroom activities and engage with his laptop with earbuds in place. Work completion and engagement in classroom activities was noted as limited." Therefore, the District will be required to:

- Develop procedures for monitoring students' progress when their respective IEP teams place them at a nonpublic agency;
- Provide training to specified staff members on the aforementioned monitoring procedures; and,
- If the Parent does not revoke her permission for the District to provide the Student with special education services before January 18, 2019, then, by January 18, 2019, the District and the Parent will be required to hold an IEP meeting to determine the appropriate placement for the Student.

Compensatory Education: A state educational agency is authorized to order compensatory education through the special education citizen complaint process. Compensatory education is an equitable remedy that seeks to make up for education services a student should have received in the first place, and aims to place the student in the same position he or she would have been, but for the district's violations of the IDEA. There is no requirement to provide day-for-day compensation for time missed. Generally, services delivered on a one-to-one basis are delivered effectively in less time than if the services were provided in a classroom setting.

In light of the failure to implement the Student's IEPs, the District will be required to deliver the Student compensatory services on a one-to-one basis. The District will be required to provide the Student with one-half of the specially designed instruction and related services that he missed in the first semester of the 2018-2019 school year.

For the first (approximate) week and a half of school, the Student's October 2017 IEP was in effect. Therefore, during this time, the Student missed a total of:

- 135 minutes of reading
- 135 minutes of reading comprehension
- 135 minutes of written language
- 270 minutes of math
- 877.5 minutes of social/emotional/behavioral

For the remaining (approximate) thirteen weeks of school, the Student's September 2018 IEP was in effect. Therefore, during this time, the Student missed a total of:

- 2340 minutes of reading
- 2340 minutes of written language
- 3055 minutes of math
- 8450 minutes of social/emotional/behavioral

The total figures then come out to:

- 2475 minutes of reading
- 135 minutes of reading comprehension
- 2475 minutes of written language
- 3325 minutes of math
- 9327.5 minutes of social/emotional/behavioral

One-half of these figures—the compensatory education that the District will be required to provide—comes out to:

- 1237.5 minutes (or approximately 20.5 hours) of reading
- 67.5 minutes (or approximately 1 hour) of reading comprehension
- 1237.5 minutes (or approximately 20.5 hours) of written language
- 1662.5 minutes (or approximately 28 hours) of math
- 4663.75 minutes (or approximately 78 hours) of social/emotional/behavioral

For communication services, the District has offered to provide one-to-one compensatory education to the Student for the summer and the school year. This comes out to a total of 322.5 minutes—15 minutes per week multiplied by 21.5 weeks; or, approximately 5.5 hours.

### **CORRECTIVE ACTIONS**

By or before **January 18, 2019, January 23, 2019, February 1, 2019, February 22, 2019, March 29, 2019, May 10, 2019,** and **September 23, 2019,** the District will provide documentation to OSPI that it has completed the following corrective actions.

#### **STUDENT SPECIFIC:**

1. By **January 18, 2019,** the District will work with the Parent to develop a schedule to provide the Student with the following compensatory education:
  - a) 20.5 hours of reading
  - b) 1 hour of reading comprehension
  - c) 20.5 hours of written language
  - d) 28 hours of math
  - e) 78 hours of social/emotional/behavioral
  - f) 5.5 hours of communication

The services will be provided outside of the District's regular school day. The services will be provided to the Student on a one-to-one basis—the sessions will be comprised of the Student and the service provider. If the District's provider is unable to attend a scheduled session, the session must be rescheduled. If the Student is absent, or otherwise does not attend a session without providing the District with at least 24 hours' notice of the absence, the District does not need to reschedule. The services must be completed no later than **September 18, 2019, regardless of any need to reschedule.** The District will provide OSPI with documentation of the schedule by **January 23, 2019.**

The District will be required to provide OSPI with periodic progress reports on the provision of compensatory education to the Student: On **March 29, 2019** and **May 10, 2019,** the District

will provide OSPI with documentation of the compensatory services that have been provided up until those respective dates.

No later than **September 23, 2019**, the District shall provide OSPI with documentation that all of the compensatory services have been completed. This documentation must 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.

The District must either provide the transportation necessary for the Student to access these services, or must 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. The District must provide OSPI with the documentation pertinent to this corrective action by **September 23, 2019**.

2. If the Parent does not revoke her permission for the District to provide the Student with special education services before **January 18, 2019**, then, by **January 18, 2019**, the District and the Parent will hold an IEP team meeting. At this meeting, the following issue will be discussed:
  - a) The proper placement for the Student. (The decision will reflect the information in the October 2018 reevaluation report, in addition to any other pertinent information.)

By **February 1, 2019**, the District will: 1) create a new IEP for the Student that reflects any changes resulting from this meeting; 2) provide the Parent with a copy of the Student's new IEP; and, 3) provide the Parent with a prior written notice that explains the decisions that were made (and the reasons those decisions were made).

By **February 1, 2019**, the District will provide OSPI with 1) a copy of any meeting invitations; 2) a sign-in sheet from the IEP meeting; 3) a copy of the new IEP; 4) a copy of any related prior written notices; 5) a copy of any correspondence with the Parent regarding the IEP meeting and the decisions made at that meeting; and, 6) a copy of any other relevant documentation.

#### **DISTRICT SPECIFIC:**

1. By **January 18, 2019**, the District will develop procedures for monitoring students' progress towards their measurable annual goals and the provision of special education services to them when their respective IEP teams place them at a nonpublic agency. This plan will specify: a) how frequently the District will contact the relevant nonpublic agency; b) what information the District will ask for from the relevant nonpublic agency; and, c) who at the District will be responsible for gathering the necessary information.

By **January 18, 2019**, the District will provide OSPI with a copy of the proposed plan. OSPI will review the proposed plan, and inform the District of any required changes to the plan by January 25, 2019. The plan will be implemented immediately thereafter.

2. By **February 15, 2019**, the District will provide training to all special education administrators, the principal, the assistant principal, and certified staff, including educational staff associates

(ESAs), at the District school that the Student would have attended during the 2018-2019 school year but for his placement at NPA 2, regarding the aforementioned nonpublic agency monitoring procedures. The training will include examples. The training can be presented by someone who is an employee of the District.

By or before **February 22, 2019**, the District will provide OSPI with a sign-in sheet that lists those individuals who attended the training. The District will also provide a roster of all special education administrators, the principal, the assistant principal, and certified staff, including educational staff associates (ESAs).

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**

If the Student's IEP team develops a new IEP for the Student, OSPI recommends that the team determine whether the October 2018 reevaluation contains sufficient data on the Student's eyesight; OSPI notes that, while at NPA 2, the Student frequently complained that his eyes hurt him.

Dated this \_\_\_ day of December, 2018

Glenna Gallo, M.S., M.B.A.  
Assistant Superintendent  
Special Education  
PO BOX 47200  
Olympia, WA 98504-7200

#### **THIS WRITTEN DECISION CONCLUDES OSPI'S INVESTIGATION OF THIS COMPLAINT**

IDEA provides mechanisms for resolution of disputes affecting the rights of special education students. This decision may not be appealed. However, parents (or adult students) and school districts may raise any matter addressed in this decision that pertains to the identification, evaluation, placement, or provision of FAPE to a student in a due process hearing. Decisions issued in due process hearings may be appealed. Statutes of limitations apply to due process hearings. Parties should consult legal counsel for more information about filing a due process hearing. Parents (or adult students) and districts may also use the mediation process to resolve disputes. The state regulations addressing mediation and due process hearings are found at WAC 392-172A-05060 through 05075 (mediation) and WAC 392-172A-05080 through 05125 (due process hearings.)