

assessment of student achievement, a statement of why: the student cannot participate in the regular assessment and the particular alternate assessment selected is appropriate for the student; (g) Extended School Year (ESY) services, if necessary for the student to receive a free and appropriate public education (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.

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. The district 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, case manager, related service provider, and any other service provider who is responsible for its implementation. 34 CFR §300.323; WAC 392-172A-03105.

IEP Revision: A student's IEP must be reviewed and revised periodically, but not less than annually, to address: any lack of expected progress toward annual goals or in the general 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. In conducting its review of a student's IEP, the IEP team must consider any special factors unique to the student, such as: the use of positive behavioral interventions and supports for a student whose behavior continues to impede the student's learning; the language needs of a student with limited language proficiency; instruction in the use of Braille for a student who is blind or visually impaired; the communication and language needs of a student who is deaf or hard of hearing; or the student's assistive technology needs. 34 CFR §300.324; WAC 392-172A-03110. Part of the information the IEP team considers when reviewing and revising a student's IEP is the result of the most recent evaluation. When the student's service providers or parents believe that the IEP is no longer appropriate, the team must meet to determine whether additional data and a reevaluation are needed. 34 CFR §300.303; WAC 392-172A-03015.

financial information (at the postsecondary level), and student discipline files. The information may be recorded in any way, including, but not limited to, handwriting, print, computer media, videotape, audiotape, film, microfilm, microfiche, and e-mail. 34 CFR §99.3.

The term “education records” does not include records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto which are in the sole possession of the maker thereof and which are not accessible or revealed to any other person except a substitute; records maintained by a law enforcement unit of the educational agency or institution that were created by that law enforcement unit for the purpose of law enforcement; or, in the case of persons who are employed by an educational agency or institution but who are not in attendance at such agency or institution, records made and maintained in the normal course of business which relate exclusively to such person in that person’s capacity as an employee and are not available for use for any other purpose. 20 USC §1232 (g)(4)(b).

Parents’ Access Rights to Student Records: Districts must permit the parents of a student eligible for special education to inspect and review, during school business hours, any educational records relating to the student that are collected, maintained, or used by the district. The district must comply with a request promptly and before any meeting regarding an individualized education program (IEP), hearing, or resolution session relating to the identification, evaluation, educational placement of the student, or provision of a free appropriate public education (FAPE) to the student, including disciplinary proceedings. The district must respond in no more than 45 calendar days after the request has been made. The right to inspect and review educational records includes: the right to a response from the district to a reasonable request for explanations and interpretations of the records; the right to request that the district provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising their right to inspect and review the records; and the right to have a representative of the parent or adult student inspect and review records. 34 CFR §300.613; WAC 392-172A-05190.

Amendment of Student Records: FERPA allows a parent to request that the school district amend their child’s educational records if the parent believes that the information is inaccurate, misleading, or in violation of their child’s privacy or other rights. 34 CFR §300.618; WAC 392-172A-05215. The Family Policy Compliance Office (FPCO) has explained that this right is not unlimited. A school is not required by FERPA to afford a parent the right to change substantive decisions made by school officials, such as grades, opinions, or other evaluations. *Letter to Anonymous*, 107 LRP 52770 (July 30, 2007). When a parent requests an amendment of student records, the district shall decide whether to amend the information within a reasonable period of time. If the school refuses to amend the information, it shall inform the parent of the refusal and advise the parent of the right to a hearing, conducted by the district, in accordance with district procedures. If, as a result of the hearing, the district decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, the parents have a right to place a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the district in the records it maintains on the student. WAC 392-172A-05215.

substantiates that the Student was provided specially designed instruction in math during the 2017-2018 school year. There is some indication that the Student's general education math teacher did not fully understand or was not able to articulate what the Student's specially designed instruction consisted of in her math class. Thus, the District will provide training on specially designed instruction for general education teachers who are responsible for providing specially designed instruction to students eligible for special education in their classes. Because the Student received specially designed instruction in math, there are no Student specific corrective actions for the 2017-2018 school year period of the complaint.

Accommodations

The Student's November 2016 IEP listed extensive accommodations, including an alphabet strip, dictation to a scribe, audio books, and access to Bookshare (among others). Throughout the 2016-2017 and 2017-2018 school years, there were several instances when the Student refused to use his accommodations. When this occurred, the District would notify the Parents and the special education teacher began using social stories to help teach the Student the importance of accepting or asking for help. At the beginning of September 2017, and continuing throughout the school year, the Parents began to express concern that the Student's accommodations were not being provided or implemented, that the District was not notifying the Parents when the Student refused an accommodation, and that if the Student refused an accommodation, this was an indication that the District was not effectively implementing the accommodations. At the October 6, 2017 IEP meeting, the team discussed the Student's accommodations, decided to request an assistive technology evaluation from the Special Education Technology Center (SETC), and discussed setting up a meeting with the Student's teachers to ensure that all teachers were aware of and implementing the Student's accommodations, although there is no indication in the documentation that this meeting occurred. On October 23, 2017, the Parents provided the District with the Student's login information for his Bookshare account. In December 2017, the Student began to use speech-to-text as an accommodation, but had technical difficulties that prevented effective use of the software. The District attempted to fix the technical issues with the speech-to-text software, but to date has not seemed to have resolved them. On January 29, 2018, the Student's new annual IEP was implemented and the IEP provided the Student with many of the same accommodations, including an alphabet strip, speech-to-text, audio books, and access to Bookshare (among others), as stated in his November 2016 IEP. On January 30, 2018, the Parents emailed the Student's language arts teacher and requested that she provide the Student with an audio book or a book through Bookshare for the Student to use on a class project. The language arts teacher indicated that she was not aware that this was one of the Student's accommodations. During February 2018, the District provided the Student's teachers with training regarding Bookshare and on February 12, 2018, the Student was provided with a letter strip card to use. On March 5, 2018, the Parents attended a meeting with school staff, District staff, and the SETC regarding assistive technology and additional training on the Student's accommodations.

Because speech-to-text was not listed as an accommodation until the Student's January 2018 IEP, it is not a violation that the District did not provide this as an accommodation until after January

29, 2018. However, there is some indication that the speech-to-text has still not been implemented. The documentation in this complaint also indicates that many of the other accommodations first listed in the Student's November 2016 IEP were not provided until the 2017-2018 school year, and when the accommodations were provided, they may not have been implemented effectively due to technical difficulties or due to a lack of training. The District will schedule a meeting for all of the Student's current teachers to review the Student's January 2018 IEP and ensure that all accommodations are being implemented. The District will also hold a similar meeting in August 2018, prior to the beginning of the 2018-2019 school year, to review the accommodations with the Student's new teachers. The District also proposed corrective actions, which OSPI accepts with the below modifications.

Issue 3 – Progress Reporting: The one-year timeline for this complaint begins on March 1, 2017; therefore, OSPI will not address any issues regarding the progress reporting prior to that date.

The Parents alleged that the District failed to provide them with progress reporting as outlined in the Student's IEPs. IEPs must include a statement indicating how a student's progress toward the annual goals will be measured and when the district will provide those periodic reports to the parents. The purpose of progress reporting is to ensure that, through whatever method the district chooses, 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 Student's November 2016 IEP stated that the Parents would be provided with progress reporting quarterly, at the annual IEP review, and at parent-teacher conferences. During the timeline for this complaint, the District updated the Student's IEP "Report of Student Progress" page on March 30, June 9, and November 2, 2017. However, the March 30, 2017 progress reporting only included information regarding the Student's communication goal. On June 9 and November 2, 2017, the progress reporting stated that the Student had made adequate progress and provided notes on the Student's math, written expression, behavior (social), and communication goals. The District stated that it provided the Parents with the Student's progress reporting and also stated that its system does not contain a record of how progress reporting was provided or provide proof that progress reporting was delivered. The Parents stated that they were not provided any progress reporting until they requested the Student's records, including progress reporting on December 21, 2017. Based on the documentation provided in this complaint, there is no evidence that the District provided the Parents with progress reporting as stated in the Student's 2016 November IEP during the timeline for this complaint. However, it is noted that the documentation provided in this complaint also shows that during the 2016-2017 school year, the Parents were provided with daily communication via the Student's planner, and therefore did receive information about the Student's progress.

The Student's January 2018 IEP stated that the Parents would be provided with progress reporting quarterly and at the Student's annual IEP review, and the IEP stated that "IEP Progress Reports, Report Card, State and District Tests-Sent Scanned via E-mail" and that the Parents would be provided with work samples or other testing material that is used to determine

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

The District, in its response, stated that it is currently exploring how to document when progress reporting is communicated to parents. OSPI recommends that the District continue this work and develop policies and procedures to standardize how progress reporting is collected and communicated to parents.

Dated this ____ day of April, 2018

Glenna Gallo, M.S., M.B.A.
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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.)