

SPECIAL EDUCATION CITIZEN COMPLAINT (SECC) NO. 18-78

PROCEDURAL HISTORY

On August 22, 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 Kent 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 August 22, 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 September 10, 2018, the District requested an extension of time for the submission of its response. On September 10, 2018, OSPI granted the District an extension until September 20, 2018 to submit its response.

On September 21, 2018, OSPI received the District's response to the complaint and forwarded it to the Parent on September 24, 2018. OSPI invited the Parent to reply with any information she had that was inconsistent with the District's information.

On September 27, 2018, the Parent requested an extension of time for the submission of her reply. On September 28, 2018, OSPI granted the Parent an extension until October 12, 2018 to submit her reply to the District's response.

On September 28, 2018, OSPI determined that additional information would be helpful to the investigation and contacted the District. On October 4, 2018 and October 8, 2018, OSPI received the requested information from the District. On October 10, 2018, OSPI forwarded the combined additional information from the District to the Parent.

On October 12, 2018, OSPI received the Parent's reply. OSPI forwarded that reply to the District on October 16, 2018.

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 August 23, 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 follow procedures for developing the Student's individualized education programs (IEPs) that were in effect during the 2017-2018 school year, including determining present levels of performance and whether the Student needed modified grading?
2. Did the District provide the Parent with progress reporting consistent with the Student's IEPs during the 2017-2018 school year?

LEGAL STANDARDS

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, (9th 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 (9th Cir. 1994).

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. Changes to the IEP may be made either by the entire IEP team at an IEP team meeting, or by amending the IEP rather than by redrafting the entire IEP. Upon request, a parent must be provided with a revised copy of the IEP with the amendments incorporated. Furthermore, a general education teacher must participate in the revision of an IEP. 34 CFR §300.324; WAC 392-172A-03110.

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 and if the IEP team determines that the student must take an alternate assessment instead of a particular regular state or district-wide 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 Development: In developing each student's IEP, the IEP team must consider: the strengths of the student, the concerns of the parents for enhancing the education of their student, the results of the initial or most recent evaluation of the student, and the academic, developmental, and functional needs of the student. WAC 392-172A-03110(1).

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); at the discretion of the parent or the school district, other 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). Under the IDEA, a public agency must ensure that all individuals who are necessary to develop an IEP that will meet the child's unique needs and ensure the provision of a free appropriate public education (FAPE) to the child, participate in the child's IEP team meeting. The IDEA does not expressly require that related services personnel attend IEP team meetings. However, if a child with a disability has an identified need for related services, it would be appropriate for the related services personnel to attend the meeting. *Letter to Rangel-Diaz* (OSERS April 2011).

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. Parental participation in the IEP and educational placement process is central to the IDEA's goal of protecting disabled students' rights and providing each disabled

student with a FAPE. The regulatory framework of the IDEA places an affirmative duty on agencies to include parents in the IEP process. WAC 392-172A-03100; *see also* WAC 392-172A-05001(1)(a)(b).

Present Levels: IEPs must include a statement of the student's present levels of academic achievement¹ and functional performance², including: how the student's disability affects the student's involvement and progress in the general education curriculum; or, for preschool children, as appropriate, how the disability affects the child's participation in appropriate activities. 34 CFR §300.320(a)(1); WAC 392-172A-03090(1)(a).

Progress Reporting: The purpose of progress reporting is to ensure that, through whatever method chosen by an IEP team, the reporting provides sufficient information to enable parents to be informed of their child's progress toward the annual IEP goals. 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).

Student Participation in IEP Meetings: Beginning not later than the first IEP to be in effect when the student turns sixteen, the notice of an IEP meeting must also indicate that a purpose of the meeting will be the consideration of the postsecondary goals and transition services for the student and that the agency will invite the student. WAC 392-172A-03100(4)(a)-(b). Similarly, a student must be invited to an IEP meeting when the purpose of the meeting will be the consideration of the postsecondary goals for the student and the transition services needed to assist the student in reaching those goals. If the student does not attend the IEP meeting, the school district must take other steps to ensure that the student's preferences and interests are considered. WAC 392-172A-03095(2).

FINDINGS OF FACT

Background Information

1. During the 2016-2017 school year, the Student attended a District middle school and was eligible to receive special education services under the category specific learning disability.

¹ 'Academic achievement' "generally refers to a child's performance in academic areas (e.g., reading or language arts, math, science, and history). [It is a definition that varies] depending on a child's circumstance or situation." Individuals with Disabilities Education Act (IDEA), 71 Fed. Reg. 46662 (August 14, 2006) (comments to final regulations).

² 'Functional performance' "is a term that is generally understood to refer to skills or activities that are not considered academic or related to a child's academic achievement." 'Functional' "is often used in the context of routine activities of everyday living." IDEA, 71 Fed. Reg. 46661 (August 14, 2006) (comments to final regulations).

2. On April 5, 2017, the District completed a reevaluation of the Student. The reevaluation included assessments in the areas of medical-physical, general education, social/emotional, cognitive, academic, communication, and fine motor. In relevant part, the reevaluation noted:
- General Education: Teacher observations –
 - “When [Student] has help he does ok. When he does not have help very little gets completed. [Student] is constantly off task, making inappropriate comments and noises.”
 - “He does a good job of trying to correct his behavior after it has been brought to his attention. [Student] needs many reminders to remain on task. He also takes a while in the classroom to get started on classwork. He does need one on one attention from me to take him from step to step.”
 - “Most [of] the time [Student] is on task. He is not a distraction, but will put his head down and not engage for extended periods of time...the biggest concerns I have for [Student] is when he shuts down and disengages in class. I have asked him about it and he tells me it is because he is tired.”
 - Social/emotional: Results from the Behavior Assessment System for Children, 3rd Edition (BASC-3)³ – “Based on the results...[Student] is demonstrating some extremely hyperactive behaviors that may be distracting in class and could impact him socially. [Student] also has difficulty controlling his anger or de-escalating if provoked.”
 - Cognitive: Review of existing data—specifically, the results of cognitive assessments the Student took in 2012 and 2014.⁴
 - Academic
 - Results from the Woodcock Johnson Tests of Achievement, 4th Edition (WJIV)⁵ – “[Student] meets the discrepancy criteria in reading fluency, math calculation, and math problem solving.”
 - Observations from the administrator of the WJIV
 - “[Student] was very wiggly during testing...[Student] moved almost constantly during testing, and would often make noises, either with his body or the chair...These distractions often led him to miss or mishear some parts of some questions.”
 - “[D]espite moving nearly constantly, and taking a bathroom break, [Student] began to complain after just over an hour. He complained that he had been there too long, that he needed to go, etc. This is about the length of one class period, and it was clearly difficult for him to sustain attention for that amount of time, even with 1:1 prompting. [Parent] may want to follow-up with a pediatrician regarding [Student’s] attention and hyperactivity.”
 - Communication
 - Review of existing data—specifically, notes from the Student’s previous speech therapy sessions: Student “continue[s] with more complex words that contain the /r/ sound.

³ The BASC-3 “is a dynamic behavior evaluation system which can be completed by parents, teachers and older students in a self-report. It provides primary composite scores for Adaptive Skills, Internalizing Problems, Externalizing Problems, and an overall Behavioral Symptoms Index.”

⁴ The Student’s April 2017 reevaluation team determined that, “[b]ased on the relative stability of cognitive functioning over time...additional cognitive assessment was unnecessary.”

⁵ The WJ IV ACH is a “battery” of tests “for accurately screening, diagnosing, and monitoring progress in reading, writing, and mathematics achievement areas.” <https://www.hmhco.com/programs/woodcock-johnson-iv/overview>.

[Student] demonstrates most difficulty when producing the /r/ sound at the beginning of words."

- Results from the Comprehensive Assessment of Spoken Language (CASL): Student's score "falls within the 'below average' range for what is expected for students his same age."
- Results from the Peabody Picture Vocabulary Test (PPVT-4) form B: "[Student] received a...score...which is in the 'low average' range of what is expected of a student his same age. This score demonstrates that he has sufficient vocabulary acquisition and is able to identify various vocabulary words."
- Fine Motor: "[Student] demonstrates functional fine motor skills to participate in classroom tasks such as writing and typing assignments. [Student] does not demonstrate an adverse educational impact and need for specially designed instruction in the area of fine motor. [Student] reported that he would like to be better at spelling and writing faster. Therefore, it is suggested that [Student] receive access to word prediction software to support spelling during writing assignments as an accommodation.

Although [Student's] self-rating on the Sensory Profile does not indicate sensory processing needs that adversely impact his participation in the classroom, this was not consistent with his teacher's reports and other statements made by [Student]. For instance, [Student] stated that he needs to move throughout the day and is distracted by noise occasionally. His teachers report that his need for movement between classes causes him to be frequently tardy, and his movements in the classroom are distracting to others and himself. They also report that he is frequently distracted by other students, and can be distracted by noise, lighting, and other visual stimuli. This indicates that [Student] has a lack of insight into his sensory needs and the tools needed to support his attention and participation in the classroom. The following are suggested accommodations: access to alternate seating options that do not distract student (ex. Tennis balls on diagonal chair legs to create rocking chair, or allow to stand at desk) and access to meaningful movement jobs as needed (ex. Ask student to deliver note to another teacher or to bring books back to the library).

Therefore, the team agreed that [Student] should be eligible for occupational therapy as supplementary aids and services, to provide consultation to [Student] and the classroom staff support his sensory processing needs. These services are typically of short term duration with the need, length, and frequency of the services determined by the IEP team at each annual IEP meeting."

The Student's April 2017 reevaluation team determined that the Student continued to qualify for special education under the category of 'Specific Learning Disability.' The Student's April 2017 reevaluation team recommended that the Student receive specially designed instruction in the following areas: social/emotional, behavioral instruction, reading fluency, math calculation, math problem solving, speech language-language, speech language-articulation. The Student's April 2017 reevaluation team recommended that the Student receive the following supplementary aids and services: occupational therapy.

3. On April 24, 2017, a new individualized education program (IEP) was created for the Student. The April 2017 IEP included goals in the areas of reading fluency, math problem solving, math calculation, social emotional, behavior-classroom communication, behavioral instruction, speech language-articulation, and speech language-language. The speech language goals

required quarterly progress reporting in the form of a copy of the goal page. Each of the other goals required quarterly progress reporting in the form of a copy of the goal page and a written progress report.

The April 2017 IEP provided the following accommodations in *all educational settings* from April 27, 2017 through April 26, 2018:

- Check in frequently to ensure understanding of test questions – When testing
- Check work frequently to ensure understanding – Daily
- Difficult assignments to be completed in resource room – Daily
- Give verbal reminders for tasks, schedule or assignments – Daily
- Increased time on tests – When testing
- Provide seating choices – Daily
- Small group testing – When testing

The April 2017 IEP provided the Student with the following specially designed instruction in a *general education setting* from April 27, 2017 through April 26, 2018:

- Math calculation – 20 minutes 5 times weekly (to be provided by a special education teacher)
- Math problem solving – 20 minutes 5 times weekly (to be provided by a special education teacher)

The April 2017 IEP provided the Student with the following specially designed instruction in a *special education setting* from April 27, 2017 through April 26, 2018:

- Social/emotional – 30 minutes once a week (to be provided by a special education teacher)
- Social/emotional – 30 minutes once a week (to be provided by a special education teacher)
- Behavioral Instruction – 30 minutes once a week (to be provided by special education teacher)
- Reading Fluency – 40 minutes once a day (to be provided by a special education teacher)
- Speech Language: articulation – 30 minutes 3 times monthly (to be provided by a speech language pathologist (SLP))
- Speech Language: language – 30 minutes 3 times monthly (to be provided by an SLP)

The “Present Levels of Performance” section of the April 2017 IEP is attached as Exhibit A of the Appendix. The “Measurable Annual Goals” section of the April 2017 IEP is attached as Exhibit B of the Appendix.

4. While the April 2017 reevaluation group recommended the Student receive occupational therapy as a supplementary aid and service, occupational therapy was not included in the service matrix of the Student’s April 2017 IEP. In its response, the District explained:

The occupational therapist assigned to the Student’s program was on maternity leave in the spring of 2017, and a different occupational therapist was covering her caseload. It appears that it was oversight to not include [OT] in the IEP following the 2017 evaluation. That was corrected when the oversight was noticed.⁶

⁶ The oversight was corrected on November 7, 2017, when the Student’s IEP was amended to add OT as a supplementary aid and service. See below. In its Response, the District confirmed that the Student did not receive OT as a supplementary aid and service between April 27, 2017 and November 8, 2017.

2017-2018 School Year

5. During the 2017-2018 school year, the Student continued to attend a District middle school and his April 2017 IEP was in place. The District's 2017-2018 school year began on August 31, 2017.
6. On September 20, 2017, the occupational therapist (OT 1) emailed the case manager, stating:
[H]ow [is Student] doing this year? Do you have any concerns? He is eligible for [occupational therapy] services to support use of sensory strategies in the classroom to help attend to lessons and tasks. Here are a few ideas that were recommended in his evaluation last year.

Access to alternative seating options that do not distract student (ex. Tennis balls on diagonal chair legs to create rocking chair, or allow to stand at desk) and access to meaningful movement jobs as needed (ex. Ask student to deliver note to another teacher or bring books back to the library).

Let me know what you think. I believe we can add [supplementary aids and services] with an amendment if needed.
7. On October 20, 2017, the District contacted the Parent by phone regarding scheduling a meeting on November 7, 2017, during which the IEP team would discuss whether occupational therapy needed to be added to the Student's April 2017 IEP as a supplementary aid and service. According to the District's contact attempt report, the Parent gave the District permission to proceed without a meeting.
8. On November 1, 2017, the District contacted the Parent by phone, again inviting the Parent to attend the meeting scheduled for November 7, 2017. During this phone call, the Parent gave the District permission to proceed without a meeting.
9. According to the District, the Student started the year in math teacher 1's class room, but:
Towards the end of 1st quarter⁷ [Student] was switched from [math teacher 1's] classroom and placed into [math teacher 2's] classroom to give him more support with a smaller class size and [the] benefits of having the [inclusive education co-teacher] in the room full time. Throughout the year this class stayed at 14 students with two teachers every day. This allowed [the teachers] to monitor and work with [Student] on more of a one-on-one basis.

[The inclusive education co-teacher] and [math teacher 2] were intentional in...placing students with the right groupings for work time, which types of questions and at what level students were at, [adjusting] the number of problems given as needed, [simplifying] wording and concepts into more manageable pieces, and [providing] various scaffolds and access points for students to build their knowledge.
10. A prior written notice, dated November 6, 2017, and proposing to add occupational therapy as a supplementary aid and service to the Student's April 2017 IEP, included the following

⁷ The first quarter ended on November 6, 2017.

statement: "Reason we are proposing [this action]: [T]o support [Student] and classroom staff with developing and implementing strategies in the classroom to support participation." This prior written notice also stated, "The IEP team (including the parent) agreed that a meeting was not needed in order to make the proposed change to the IEP."

11. On November 7, 2017, the Student's April 2017 IEP was amended to add occupational therapy as a supplementary aid and service. The Student's November 2017 IEP provided the Student with the following supplementary aids and services in a *general education setting* from November 8, 2017 through April 26, 2018:

- OT – 30 minutes once a month (to be provided by an OT)

The Student's November 2017 IEP provided the Student with the following supplementary aides and services in a *special education setting* from November 8, 2017 through January 31, 2018:

- OT – 30 minutes once a month (to be provided by an OT)

The Student's IEP team also added information on the Student's fine motor skills to the "Present Level of Educational Performance" section of his IEP. (This section is attached as Exhibit C of the Appendix.) The other portions of the "Present Levels of Education Performance" remained the same as that found in the April 2017 IEP. Similarly, the "Measurable Annual Goals" section of the IEP was not changed with the amendment on November 7, 2017.

12. The District was on break November 23-24, 2017.

13. On December 9, 2017, the Parent emailed the world studies teacher, asking what the Student could do to get his grade up in that class before January 30, 2018. On December 12, 2017, the world studies teacher responded, stating, "I have changed [Student's] grades for National History Day research because [Student] will be working with his brother...I will try to help [Student] with some of his missing work (he does it just fine with minimal help from me, I just need to make him)."⁸

14. The District was on break December 18, 2017 through January 1, 2018.

15. On January 4, 2018, the science teacher emailed the Parent, stating, "I just had [Student] retake the element memorization quiz orally with me. He did much better...his quarter grade is now 70% and his semester grade is 66% D."

16. On January 4, 2018, the Parent emailed the school principal, the world studies teacher, the science teacher, and the language arts teacher, expressing frustration that the Student was

⁸ OSPI requested clarification from the District on the meaning of this email. The District submitted the following in response to this request: "The world studies teacher is no longer employed by [District], and specific information to respond to this question is not available from him. The building principal, counselor, and the Student's IEP case manager indicate that as a general matter the Student's grades were not being modified in any of his classes."

failing three classes. In her email, the Parent requested a meeting with OT 1, the science teacher, the world studies teacher, and the language arts teacher, to discuss how to improve the Student's academic performance.

17. On January 5, 2018, the case manager emailed the Parent, stating:

I wanted to reach out to you regarding your email about [Student] struggling in classes. I do not want to speak for his other teachers but I can give you what I found in his [English language arts] class with [the language arts teacher] and myself (we spoke at conferences about how I co-teach in that class). When I pulled his grades it looks like he hasn't turned in his articles of the week. These are the assignments I showed you guys on canvas at conferences and he made up a bunch of them that weekend with your guys' help at home. I have seen [Student] work on these in class and know that at least some of them he has completed so I am wondering if he is still confused on turning them in on canvas even though we went over it and he says he understands how to do it.

I am going to pull him aside today and help him submit any of them that he has completed just sitting on his computer. These should see an immediate improvement of his grade (once the grades get put in after submission). I will walk through the whole process we did at conferences with him again too. I know he may get irritated by that since he says he's got it down but I want to make sure he is getting credit for the work he is doing because it looks like there is something he is missing with his turn in process....After I meet with [Student] in his 6th period we will have a better idea of exactly what he has done and not done and we will be able to re-teach how to turn things in if needed or find the confusion he had in turning things in. Either way, once that is corrected his grade will improve as soon as the new grades get entered.

[Student] also has a Narrative Story he is writing that we have been working on piece by piece the past two weeks in class. The powerpoints that accompany each portion of the writing were sent to [Student] via skyward⁹ to reference in case he needed the notes at home. Today we will be doing some editing and getting final drafts for this so I will make sure I take a look at [Student's] work after he does his peer review.

I will get back to you with an update after meeting with [Student] today. Again I do not want to speak for his other teachers but please know if there is anything I can do to check in or help support...whether it is our class or another I am happy to do what I can.

⁹ According to the District, the Skyward System is a software application that helps with student scheduling, attendance tracking, and parent-teacher communications. Parents of secondary students, and secondary students themselves, can [also] access...grades, student schedule[s], test scores, and academic history. According to the District: (a) grades on the Skyward System were entered by teachers on an irregular basis—in other words, school administrators did not establish a required schedule for the teachers to upload grades to the Skyward System; (b) once uploaded, grades were instantaneously viewable by secondary students and their parents; and, (c) throughout the school year, the District provided instruction to secondary students and their parents on how to use the Skyward System.

18. On January 9, 2018, OT 1 emailed the school principal, and stated that she was happy to meet with the Parent to discuss how occupational therapy could support the Student in the classroom.
19. Also on January 9, 2018, the world studies teacher emailed the school principal, stating:
I've emailed back and forth with [Parent] a few times, mostly about what he can do to make up work or get his grades up. I've given [Student] extra time in class to work on assignments, and even worked...to modify the National History Day assignment, but it seems like 1 on 1 work with [Student] is the only effective method to get him to finish his work.
20. Later on January 9, 2018, the school counselor emailed the world studies teacher, stating, "[H]ow is [Student] doing in your class? Have you had any parent communication?" The world studies teacher responded, stating:
I have emailed back and forth with his mom a few times about things he needs to make up, and about his NHD Modification.¹⁰ [Student] gets easily distracted in class, even when I give him specific things to get done. I have tried giving him checklists, modifying work, sitting by himself, letting him listen to music, but the only thing that gets work done is when I sit down with him one on one, which is something I can't do all of the time.
21. On January 10, 2018, the school counselor and the world studies teacher exchanged emails, wherein they discussed setting up a meeting with the Student on January 11, 2018, to "go over everything [Student] needs to know about how to access things on his lap[top]."
22. On January 12, 2018, the Parent emailed the world studies teacher, asking what the Student could do to get his grade up in that class before January 30, 2018. Later that same day, the world studies teacher responded, stating:
[Student] has been working on his "River Civilization Notes" in class to make up that missing assignment. When I can, I have been sitting with [Student] to help him focus, but I have been helping other students with their assignments as well. I expect that [Student] should be done with this assignment by the end of next week, which would bring his grade up. [Student] has this assignment on OneNote and should be able to work on this assignment as well.
23. On January 16, 2018, the science teacher emailed the Parent, stating, "With 9 days left in the semester [Student] has now raised his grade to a C for the quarter and a C- for the semester."
24. On January 18, 2018, the science teacher emailed the Parent, stating, "I took the 2 tests that he had and graded them as he retakes. He did well. His current 2nd quarter grade is now a C+ and his semester grade is now a C. His extra effort has helped a lot."

¹⁰ According to the District's Response, 'NHD' "is a reference to the National History Day project, which is a very large project where students enter into a nationwide contest for their selected presentation. Students work on it for almost an entire semester, and due to the size of the project, it is often modified for both special education and general education students."

25. On January 19, 2018, a new occupational therapist (OT 2) emailed math teacher 2, the science teacher, the world studies teacher, the language arts teacher, and the case manager, stating:
Hi teachers...I am an [OT] that just started here...last week. I am new to the district so wanted to introduce myself. I have [Student] on my caseload and [occupational therapy] will focus on self-regulation and strategies to help him pay attention and stay focused. He said he has a hard time staying focused especially during testing. Please know I am here to help in anyway I can. I am planning to see him once a month in my room...and then talk with you teachers once a month to check in on how he is doing or come into the classroom and assist if needed. Please let me know how he is doing and if there are any concerns. If there is a big project coming up that he is having a hard time with I can help him organize if needed. Thanks so much!!
26. On January 25, 2018, the Parent and the case manager exchanged emails, wherein the Student's grade in his language arts class was discussed.
27. The District was on break February 19-23, 2018.
28. On February 28, 2018, OT 2 emailed OT 1, stating:
[Student's annual IEP] is coming up at end of April. And honestly he is doing well per his report and teacher reports, I have observed him in class, and [he is] doing ok in [occupational therapy] sessions. He is able to name appropriate strategies for self-regulation, is staying on task 70-90% of time per teachers and class observations. He is [supplementary aids and services] and wondering if we need to follow him to high school under consult or exit him??
29. On March 8, 2018, the Parent emailed math teacher 2, asking how the Student was doing in math class. Math teacher 2 responded later that day, stating, "[Student is] doing pretty well in class. [Student still has] some issues with sitting up and not falling asleep though...I would encourage [Student] to pay more attention during class when I am going through an example or giving notes but otherwise [he is] doing well."
30. On March 9, 2018, the science teacher emailed the Parent, stating, "[Student] is almost caught up...his current grade is C- 70%."
31. On March 18, 2018, the Parent emailed math teacher 2, asking how the Student was doing in math class. Math teacher 2 responded later that day, stating:
[Student] is falling asleep in class everyday that he isn't eating something. Eating seems to help him stay awake and attentive to class. [The special education teacher] has been giving him something to snack on but on the days he doesn't have anything to give [Student] lays his head down and falls asleep. He won't keep his head up or participate at all without the snack.
32. On April 3, 2018, math teacher 2 emailed the Parent, stating, in part, "[Student] did finish a[n]...assignment though and that brought his grade back up to a B."
33. On April 6, 2018, the case manager emailed the language arts teacher, stating:

[Student] literally had like 8/10 missing assignments done just sitting on his computer...He literally had like 1-2 questions left on some of them and the rest were complete just never turned in. I went through his laptop and found all of them and put in the gradebook...SMH¹¹, we ask him every day if he needs help submitting assignments...clearly I am not going to be able to take his word on that anymore lol.

34. The District was on break April 9-13, 2018.
35. On April 18, 2018, the Student emailed the school counselor, stating, "I still have [an] F in art class...[due] to that assignment and I wasn't even in that class when this was happening. I was told she was supposed to not grade on things I wasn't there for. Can you please speak to her again?" Later that same day, the school counselor forwarded the Student's email to the art teacher. In her subsequent response, the art teacher stated, "It was getting the Art syllabus signed but I took it off. I'll email [Student]."¹²
36. On April 18, 2018, the District contacted the Parent by letter and email, inviting the Parent and the Student to attend a meeting on April 23, 2018, where a new IEP would be created for the Student. Later that same day, the Parent responded to the District, stating that both she and the Student's father would attend the proposed meeting.
37. On April 23, 2018, a new IEP was created for the Student. This IEP was to be implemented starting April 27, 2018. The April 2018 IEP included goals in the areas of reading fluency, math calculation, math problem solving, speech language-articulation, speech language-language, behavior, and social emotional. The speech language goals required quarterly progress reporting in the form of a copy of the goal page. Each of the other goals required quarterly progress reporting in the form of a copy of the goal page and a written progress report. The April 2018 IEP included each of the accommodations listed in the April 2017 IEP and added the following accommodations in *all educational settings* from April 27, 2018 through April 26, 2019:
 - Homework assignment sheet/agenda – Daily
 - Permission to eat snacks brought from home – Daily between meals
 - Sensory strategies and tools – Daily
 - Use of a fidget to eliminate self-distracting behaviors – Daily
 - Word prediction software – Daily
 - Word processor/computer – Classes

¹¹ SMH stands for "shaking my head."

¹² OSPI requested clarification from the District on the meaning of this email. The District submitted the following in response to this request: "The art teacher is no longer employed by [District], but according to the building principal, the Student's counselor and his IEP case manager, there was no modification of his grade in Art. Art is a semester course, and the Student transferred into it during the second semester. The semester started on January 30, 2018 and he transferred into the class on February 27, 2018. The transfer was made at the request of the Parent due to the Student having food allergies—he transferred out of Food/Fads/Finance class."

The April 2018 IEP provided the Student with the following specially designed instruction in a *general education setting* from April 27, 2018 through April 26, 2019:

- Math calculation – 20 minutes 5 times weekly (to be provided by a special education teacher)
- Math problem solving – 20 minutes 5 times weekly (to be provided by a special education teacher)

The April 2018 IEP provided the Student with the following specially designed instruction in a *special education setting* from April 27, 2018 through April 26, 2019:

- Social/emotional – 30 minutes once a week (to be provided by a special education teacher)
- Behavioral instruction – 30 minutes once a week (to be provided by special education teacher)
- Reading fluency – 20 minutes 5 times weekly (to be provided by a special education teacher)
- Speech language: articulation – 30 minutes 3 times monthly (to be provided by an SLP)
- Speech language: language – 30 minutes 3 times monthly (to be provided by an SLP)

The April 2018 IEP provided the Student with the following supplementary aids and services in a *general education setting* from April 27, 2018 through April 26, 2019:

- Occupational therapy – 30 minutes 1 times monthly (to be provided by an OT)

The “Team Considerations” section of the April 2018 IEP included the following: “Parents have concerns about how services will look at the high school next year.”

The “Present Levels of Performance” section of the April 2018 IEP is attached as Exhibit D of the Appendix. In large part, the “Present Levels of Performance” section of the April 2018 IEP consisted of information on how the Student has advanced (or not advanced) towards achieving the measurable annual goals listed in his April 2017 IEP.

The “Progress Report” section of the April 2018 IEP is attached as Exhibit E of the Appendix. The “Progress Report” section of the April 2018 IEP consisted solely of new measurable annual goals for the Student. In other words, the “Progress Report” section of the April 2018 IEP does not include information on how the Student has advanced (or not advanced) towards achieving the measurable annual goals listed in his April 2017 IEP.

The following individuals attended the April 23, 2018 IEP meeting: OT 3, the world studies teacher, the case manager, the SLP, the school principal, the science teacher, the Parent, and the Student’s father.

38. A prior written notice, dated April 23, 2018, and proposing to continue with the IEP developed that same day, included the following statement: “A description of each procedure, test, record, or report we used or plan to use as the basis for taking this action is as follows: Skyward data, student work samples, teacher observations, student input, parent input.”
39. On May 8, 2018, the case manager emailed the Parent a copy of the April 2018 IEP.
40. On May 10, 2018, the Parent emailed the art teacher, asking what the Student could do to get his grade up in that class. Later that same day, the art teacher responded, stating:

[Student] and I talked about his grade today. He has been so distracted lately in class that his work hasn't been completed. He has a D+ in the class because I graded the assignments even though they were incomplete because I didn't want them to be missing...He can come in after school or during sixth period if he would like to complete [some partially finished assignments] and get a better grade...I have noticed [Student] wandering and talking to others in the class lately.

41. In an email thread, dated May 10, 2018 through May 15, 2018, the Parent and the case manager discussed having the case manager check the Student's laptop to make sure he had turned in all the assignments he had completed.
42. On May 17, 2018, the inclusive education assistant emailed the case manager, stating, "We have the IEP for [Student]. Was [Student] in attendance or invited to the meeting? There's nothing indicating that this happened, and the student is 15." On May 18, 2018, the case manager responded, stating, "[Student] was invited but elected to go to track practice instead."
43. On May 18, 2018, the art teacher emailed the Parent, stating:

Tuesday and then again yesterday [Student] would not participate in Art class. He seems really tired and just put his head down and didn't talk to me when I tried to talk to him. I am hoping to talk to him today and see if we can come up with a plan for Art class.
44. On May 24, 2018, the case manager emailed the Parent, stating:

[C]an you please speak to [Student] about what he needs to do to stay awake in class. For the past few weeks (which is state testing) I am giving [Student] 6+ reminders a day to not fall asleep in class. I have asked him if he needs a snack or anything else I can do to help him and he always says "no" and that he is just sleepy. I have talked to him about going to bed earlier and different strategies to manage his time at home to make sure he's getting enough sleep but it doesn't seem to be making a difference. I know that testing is a long process (teachers are drained from it as well) but it is getting to the point where he is completing very little work and I am spending most of my time continuing to ask him not to put his head down or not to close his eyes or not to sleep.
45. On May 26, 2018, the District's "Skyward System" sent the Parent an email with the subject line, "[Student's] Progress Report." This email set forth the Student's grades in the following classes: Health/Fitness, Core Math, Integrated Science, World Studies, Applications in the Arts, and Core Language Arts.
46. On May 30, 2018, the health tech emailed the school counselor, the case manager, and the school principal, stating:

I received a phone call this morning from [Parent]. She is extremely frustrated and upset about the fact that [Student] is not being allowed to bring his computer to work on missing assignments to help bring up his grades, and feels that homework club is useless. She would like a call back TODAY to see if there is another way [Student] can get his assignments to work on. She suggested maybe a flash drive she can put on her computer...She feels in not letting the students bring home their computers is a detriment to their learning.

Later that same day, the school counselor responded, asking the case manager if he could "give [Student] paper copies of his missing assignments or whatever he needs to fix his F?"

The case manager responded later that same day, stating:

I have given it to him hard copy and email multiple times this year including twice last week. I have sent copies to mom, along with emails and a step by step instructions on how to turn it in with pictures. I email mom about once a week and give her that info each time.

My last email I finally asked mom to talk to him about sleeping through every day (and testing). I will say that on me and [the language arts teacher's] part it is very clear what is needed and I communicate this with [Student] and home on a regular basis. Again, she emails me almost once a week asking for this information. We have even gone away from requiring him to turn stuff into canvas and I have either been accepting and grading hard copies or email attachments of work...he is getting a ton of support and just not doing the work.

47. In a separate email on May 30, 2018, the school counselor emailed the case manager, the language arts teacher, the world studies teacher, the art teacher, and the Parent, stating:

[Student] is currently failing your classes. Students are expected to take their laptops home until Monday the 4th or when all students are done with testing. Between now and then, can you please provide [Student] with paper copies of any assignments he is missing or will help his grade?

[Parent] is included in this email. Please also let her know what [Student] can be working on while he waits to take his laptop home.

48. In its Response, the District explained its policy on allowing students to take their laptops home: "The policy is that students are allowed to take laptops home, except during the following periods: (1) first month or so of school while digital citizenship instruction is being delivered; and (2) during testing periods (i-ready (September, January, and May-June), Smarter Balance Assessment (May), and Next Generation Science (May))."

49. In a separate email on May 30, 2018, the school principal emailed the world studies teacher, the case manager, the language arts teacher, and the Parent, stating:

I spoke with [Parent] this afternoon and discovered there are some communication gaps between [Student] at school and [Student] at home. [Student] shares with mom that he has completed work that has yet to be graded. (I have heard that one before).

Could you please share with [Student] and [Parent] the work needed to catch up. She will be working with him at home this weekend to complete missing assignments.

[Parent] will be reiterating with [Student] tonight the importance of staying engaged in class, not putting his head down/sleeping, as she acknowledges this can be a deficit to engagement.

Later that same day, the case manager responded with a detailed list of the assignments the Student was still missing.

50. On May 30, 2018, the Parent and the art teacher exchanged emails, wherein it was agreed that the art teacher would work with the Student after school one day that week since the Student had "seemed tired" and "just wanted to put his head down and sleep" in art class earlier in the week.
51. On June 2, 2018, the Parent received a "Skyward System" progress report update on the Student. This update set forth the Student's grades in the following classes: Health/Fitness, Core Math, Integrated Science, World Studies, Applications in the Arts, and Core Language Arts.
52. On June 2, 2018, the assistant principal emailed the Parent, stating the Student got upset in art class recently and knocked over some chairs because he was hit with sunflower seeds thrown by other students. According to the assistant principal, the Student de-escalated appropriately, apologized to the teacher, and re-set the room.
53. On June 9, 2018, the Parent received a "Skyward System" progress report update on the Student. This update set forth the Student's grades in the following classes: Health/Fitness, Core Math, Integrated Science, World Studies, Applications in the Arts, and Core Language Arts.
54. The District's school year ended on June 21, 2018.
55. According to the District's response, "no progress reporting was done during the 2017-2018 school year in the form of written reports on IEP goal progress." The District asserts, however, that "the Parent was continually informed and aware of how the Student was doing in his classes, as she engaged in regular e-mail communication with his teachers."
56. In its response, the District noted the following in regards to the issue of modified grading: "None of the [Student's] IEPs in effect during the 2017-2018 school year contained a program accommodation or modification for modified grading. None of the Student's teachers indicated that he needed modified grading and no teacher provided it." The District's response included the following statement from math teacher 2:

In the class that [Student] was a part of we did not modify grading for him. The structure of the class allowed for material to be covered during class time with little to no homework. There were only 14 students and a full time co-teacher that allowed the opportunity for more one-on-one time with [Student] to ensure understanding. Grading itself wasn't modified for [Student] but the structure of class gave him the opportunity to show solid understanding of the 8th grade state standards.

CONCLUSIONS

Issue 1: IEP Development – The one-year timeline for this complaint begins on August 23, 2017; therefore, OSPI will not address any issues regarding the development of the Student's IEPs prior to that date. The Parent alleged that the Student's 2017-2018 IEPs were improperly developed. Specifically, the Parent alleged: (1) she was not provided with the progress reporting required by

the Student's 2017-2018 IEPs; and (2) the "Present Levels of Educational Performance" sections of the Student's 2017-2018 IEPs were insufficient.

Required Considerations: In developing a student's IEP, the IEP team must consider the results of the most recent evaluation of the student, the strengths of the student, and the academic, developmental, and functional needs of the student.

The Student's most recent evaluation occurred in April 2017. The Student's IEP team considered this evaluation in amending the Student's April 2017 IEP in November 2017, to include OT as a supplementary aid and service. For example, the Student's April 2017 evaluation is referenced in the following areas of the 'Present Level of Educational Performance' section of the Student's November 2017 IEP amendment: academic, communication, and fine motor. Additionally, it appears that OT was added as a supplementary aid and service to the Student's IEP in November 2017, in large part, because of the April 2017 evaluation report. For example, on September 20, 2017, OT 1 emailed the case manager and stated that the Student's evaluation noted that the Student was eligible for occupational therapy services and included related recommendations.

The Student's IEP team also considered the April 2017 evaluation in creating the Student's April 2018 IEP. For example, the Student's April 2017 evaluation is referenced in the following area of the 'Present Level of Educational Performance' section of the Student's April 2018 IEP: academic. Therefore, the Student's IEP team properly considered the results of his most recent evaluation in developing his 2017-2018 IEPs.

The Student's IEP team also considered the Student's strengths when developing his 2017-2018 IEPs. For example, the Student's November 2017 IEP amendment stated, "Strengths for [Student] are wanting to do well and asking for clarification when he is unsure about the work." The April 2018 IEP noted that the Student had made substantial progress on his social/emotional goal, one of his behavioral goals, two of his math goals, and one of his communication goals. The April 2018 IEP also noted that the Student had demonstrated improved ability to name and choose appropriate sensory and self-regulation strategies. Therefore, the Student's IEP team properly considered the Student's strengths when developing his 2017-2018 IEPs.

In drafting the Student's 2017-2018 IEPs, the Student's IEP team considered the Student's academic, developmental, and functional needs. For example, both IEPs provided the Student with numerous accommodations, services, and supplementary aids and services. (The following section in this decision contains further proof that the Student's IEP teams considered the Student's academic, developmental, and functional needs: 'IEP Development: Present Levels of Academic and Functional Performance.')

In conclusion, the Student's IEP team considered appropriate data in drafting the Student's 2017-2018 IEPs.

Present Levels of Academic and Functional Performance: IEPs must include a statement of the student's present levels of academic achievement and functional performance, including how

the student's disability affects the student's involvement and progress in the general education curriculum.

Both of the Student's 2017-2018 IEPs noted that the Student's specific learning disability negatively affects his ability to meet reading and math standards and to progress in the general education curriculum.

Both of the Student's 2017-2018 IEPs included a statement of the Student's present level of functional performance. For example, the November 2017 IEP noted that "[Student] struggles with self-distracting behaviors. He will often find something to occupy his attention other than the task the class is working on. Some behaviors that have been observed include: tapping pencils, humming, walking around, and repeatedly sharpening pencils." The November 2017 IEP amendment also noted that "[Student] states that he needs to move throughout the day and is distracted by noise occasionally." The April 2018 IEP noted:

[Student] has demonstrated improved ability to name and choose appropriate [self-regulation] strategies. Teaching staff report that [Student] is able to stay on task and self-regulate in class 75-90% of the time. However, he has been struggling with staying awake and alert in class, and has frequently been observed resting with his head on the desk and acting very tired.

Both of the Student's 2017-2018 IEPs included a statement of the Student's present level of academic performance. For example, both IEPs included a statement on the Student's grades. The 'Present Level of Educational Performance' section of the April 2018 IEP included information on the Student's progress towards the measurable annual goals listed in his April 2017 IEP.

In conclusion, the 'Present Level of Educational Performance' sections of both of the Student's 2017-2018 IEPs are sufficient. OSPI advises the District, however, that when relevant, it is helpful to include both teacher observations and discrete information from the student's most recent evaluation in the present levels section of the IEP. This information can help the IEP team determine what new measurable annual goals the student requires depending on the amount of progress made on previously-created measurable annual goals.

Parent Participation: 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. However, after the annual IEP meeting, the parent of a student eligible for special education and the district may agree to not convene an IEP meeting for purposes of making changes to the IEP.

Here, the Parent agreed to amend the April 2017 IEP on November 7, 2017, without reconvening the IEP team. The Parent was also provided a prior written notice that explained the reason the April 2017 IEP needed to be amended. Therefore, the Parent was not denied the opportunity to participate in the decision to amend the April 2017 IEP in November of 2017.

The Parent attended the April 23, 2018 IEP meeting to create a new annual IEP for the Student. The Parent was invited to attend the meeting on April 18, 2018, and the Parent responded that

same day, stating that she could attend the meeting on April 23, 2018. On the day of the meeting, the Parent was provided with a prior written notice that explained that a new annual IEP needed to be created for the Student. Importantly, the April 2018 IEP included feedback from the Parent. For example, under 'Team Considerations,' it stated, "Parents have concerns about how services will look at the high school next year." Therefore, the Parent was not denied an opportunity to participate in the April 23, 2018 IEP meeting.

Student Participation: Beginning not later than the first IEP to be in effect when the student turns sixteen, the notice of an IEP meeting must also indicate that a purpose of the meeting will be the consideration of the postsecondary goals and transition services for the student and that the agency will invite the student. Similarly, a student must be invited to an IEP meeting when the purpose of the meeting will be the consideration of the postsecondary goals for the student and the transition services needed to assist the student in reaching those goals. If the student does not attend the IEP meeting, the school district must take other steps to ensure that the student's preferences and interests are considered. Here, the Student was fifteen years old on April 24, 2018; the Student will turn sixteen while the April 2018 IEP is in effect. Therefore, it was proper for the District to invite the Student to attend the April 24, 2018 IEP meeting. However, the record does not contain a meeting notice that indicates that a purpose of the meeting would be the consideration of postsecondary goals and transition services for the Student.¹³ Furthermore, it does not appear that the District took steps to ensure consideration of the Student's preferences and interests once the Student communicated that he would not be attending the meeting – the April 2018 IEP does not include any information on postsecondary goals and transition services. This is a violation of the IDEA. Therefore, the District will be required to hold an IEP meeting to consider appropriate postsecondary goals and transition services for the Student. The Student will be invited to attend this IEP meeting. If the Student opts not to attend the meeting, then the District shall take other steps to ensure the consideration of the Student's preferences and interests. The District shall document its attempts to invite and ensure the consideration of the Student's preferences and interests.

Modified Grading: The Parent alleged that the Student was provided with the modification of modified grading, but that she was never informed of this and that the IEP was never amended to reflect the provision of modified grading. The record does not support this contention. For example, the Student's grade for the National History Day Project was modified slightly. However, the District states that, due to the nature of the project, each general education students' grade was also modified for this project. The Student's grade in art class was also modified slightly, but this was only because he transferred into the class after it started; the Student's grade in art class was not modified because of any needs resulting from his specific learning disability. The record does not contain any other examples of the Student's grades being modified. In fact, in the District's response, the case manager, math teacher 2, school counselor, and the principal all assert

¹³ The April 18, 2018 letter inviting the Parent and the Student to the April 23, 2018 meeting was not included in the District's response. The prior written notice, dated April 23, 2018, which was addressed solely to the Parent and the Student's father, does not mention that postsecondary goals and transition services for the Student will be discussed at the upcoming meeting—it merely stated, "This is an annual IEP meeting."

that the Student was not provided with modified grading in his classes. In conclusion, the Student was not provided the modification of modified grading in any systematic fashion.

Failure to Provide OT in September and October 2017– In developing each student’s IEP, the IEP team must consider the results of the most recent evaluation of the student. An IEP must also include a statement of supplementary aids and services to be provided to the student that will enable the student to advance appropriately toward attaining the annual goals, be involved in and make progress in the general education curriculum, and to be educated and participate with other students, including nondisabled students. Here, the Student’s April 2017 IEP team intended to provide the Student with occupational therapy as a supplementary aid and service, as was recommended by the April 2017 reevaluation team. They failed, however, to include this on the Student’s April 2017 IEP. While the development of the April 2017 IEP is outside of the one-year citizen complaint timeline, this failure resulted in the Student not receiving occupational therapy services until his IEP was amended in early November 2017. The Student’s April 2017 IEP should have been amended earlier in the 2017-2018 school year to account for the supplementary aid and service of occupational therapy.

The Student’s November 2017 IEP provided the Student with thirty minutes once a month of OT services. Since the District’s 2017-2018 school year began on August 31, 2017, the Student missed approximately two months of OT services. Therefore, the District will be required to provide the Student with sixty minutes of compensatory OT services.

Issue 2: Progress Reporting – The Parent alleged that the District did not provide her with the progress reporting required by the Student’s IEPs during the 2017-2018 school year. 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. The purpose of progress reporting is to ensure that, through whatever method chosen by an IEP team, the reporting provides sufficient information to enable parents to be informed of their child’s progress toward the annual IEP goals.

Here, most of the Student’s measurable annual goals required progress to be reported with a copy of the goal page and a written progress report each quarter. (The Student’s progress on his speech language goals was only required to be reported with a copy of the goal page each quarter.) The District concedes that “no progress reporting was done during the 2017-2018 school year in the form of written reports on IEP goal progress.”

Still, the District asserts that the Parent “was continually informed and aware of the how the Student was doing in his classes, as she engaged in regular e-mail communication with his teachers.” The record does support the statement that the Parent was semi-regularly updated on the Student’s grades. For example, throughout the school year, the Parent exchanged numerous emails with the Student’s teachers concerning his grades and assignments. Additionally, the Parent had access to the Student’s grades via the Skyward System. However, access to student grades is not the equivalent of special education progress reporting because a letter grade for a class or assignment does not provide sufficient information regarding a student’s progress toward the measurable annual goals. Providing the Parent with semi-regular updates on the Student’s

grades was insufficient to inform the Parent of the Student's progress (or lack of progress) towards his annual goals. (The 'Present Level of Educational Performance' section of the April 2018 IEP does include information on the Student's progress towards achieving the measurable annual goals listed in his April 2017 IEP. However, the record suggests that the Parent first saw a draft of the April 2018 IEP on April 23, 2018 (the date of the meeting) or on May 8, 2018.) Therefore, this is a violation of the IDEA, and certain personnel at the Student's 2017-2018 school will be required to receive written guidance on the IDEA's progress reporting requirements.

APPENDIX

Exhibit A: April 2017 IEP—Present Level of Educational Performance

Exhibit B: April 2017 IEP—Measurable Annual Goals

Exhibit C: November 2017 IEP—Present Level of Educational Performance

Exhibit D: April 2018 IEP—Present Level of Educational Performance

Exhibit E: April 2018 IEP—Measurable Annual Goals

CORRECTIVE ACTIONS

By or before **November 2, 2018, November 7, 2018, November 9, 2018, November 14, 2018, November 16, 2018, November 21, 2018,** and **November 30, 2018,** the District will provide documentation to OSPI that it has completed the following corrective actions.

STUDENT SPECIFIC:

By **November 2, 2018,** the District will work with the Parent to develop a schedule to provide the Student with a total of 1 hour of compensatory services in the area of occupational therapy. The services will be provided outside of the District's regular school day. 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 **November 21, 2018.** The District will provide OSPI with documentation of the schedule by **November 7, 2018.**

No later than **November 30, 2018,** the District shall provide OSPI with documentation that 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 **November 30, 2018.**

By **November 16, 2018,** the District and the Parent will hold an IEP meeting to consider appropriate postsecondary goals and transition services for the Student. The Student will be

invited to attend this IEP meeting. If the Student opts not to attend the meeting, then the District shall take other steps to ensure the consideration of the Student's preferences and interests. The District shall document its attempts to ensure the consideration of the Student's preferences and interests.

By **November 21, 2018**, the District will: 1) amend the Student's April 2018 IEP to reflect any changes resulting from this meeting; 2) provide the Parent with a copy of the Student's amended IEP; and, 3) provide the Parent with a prior written notice that explains the changes that were made to the Student's April 2018 IEP.

By **November 21, 2018**, the District will provide OSPI with 1) a copy of any meeting invitations that show the Student was invited; 2) a sign-in sheet from the IEP meeting; 3) a copy of the amended or 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, including how the student's preferences and interests were included.

By **November 9, 2018**, the District will provide OSPI with a copy of the Student's quarterly progress reports for the quarter ending November 5, 2018. The District will also submit documentation that it has provided these quarterly progress reports to the Parent.

DISTRICT SPECIFIC:

By **November 21, 2018**, the District will ensure that all special education administrators, the principal, the assistant principal, and certified staff, including educational staff associates (ESAs), at the Student's 2017-2018 middle school receive written guidance regarding the requirements of WAC 392-172A-03100(4)(a)-(b) and WAC 392-172A-03095(2) (postsecondary goals and transition services) and WAC 392-172A-03090(1)(c) (progress reporting). ESAs include school psychologists, physical therapists, occupational therapists, speech language pathologists, school counselors, school nurses, and other service providers. The guidance will include examples.

By **November 2, 2018**, the District will submit a draft of the written guidance to OSPI for review. OSPI will approve the guidance or provide comments by November 9, 2018.

By **November 30, 2018**, the District will submit documentation that all required staff received the guidance. This will include a roster of the following personnel at the Student's 2017-2018 middle school: special education administrators, the principal, the assistant principal, and certified staff, including educational staff associates (ESAs). This roster will allow OSPI to verify that all required staff members received the guidance.

By **November 16, 2018**, the District will provide OSPI with the following sample of progress reporting completed for other students at the Student's 2017-2018 middle school during the 2017-2018 school year: the second semester progress reports for three students with IEPs from each grade level at the Student's 2017-2018 middle school. The only student-specific information that will be present on the copies provided to OSPI will be student numbers—in other words, the students' names will be redacted.

By **November 9, 2018**, the District will develop a master calendar that tracks when progress reporting must be completed for each of the students at the Student's 2017-2018 middle school that are currently enrolled and have IEPs.

By **November 14, 2018**, the District will provide OSPI with a copy of this master calendar. The only student-specific information that will be present on the copy provided to OSPI will be student numbers—in other words, the students' names will be redacted.

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

Dated this ____ day of October, 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.)