

SPECIAL EDUCATION CITIZEN COMPLAINT (SECC) NO. 19-50

PROCEDURAL HISTORY

On June 20, 2019, 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 June 21, 2019, 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 July 2, 2019, the District requested an extension of time to respond to this complaint and OSPI granted that extension on July 3, 2019.

On July 24, 2019, OSPI received the District's response to the complaint and forwarded it to the Parent on July 25, 2019. OSPI invited the Parent to reply with any information she had that was inconsistent with the District's information.

On August 2, 2019, the Parent requested an extension of time to reply to the District's response to this complaint. OPSI granted that extension on August 5, 2019.

On August 6, 2019, OSPI requested clarifying information from the District and the District provided the requested information on the same day. OSPI forwarded the information to the Parent on August 7, 2019.

On August 13, 2019, OSPI received the Parent's reply. OSPI forwarded that reply to the District on the same day.

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

ISSUES

1. Did the District follow procedures to determine the Student's placement, including ensuring an opportunity for Parent input in the determination?
2. Did the District follow procedures to implement the Student's June 2019 individualized education program (IEP)?
3. Did the District follow procedures for scheduling the June 20, 2019 IEP meeting at a mutually agreed upon time?

LEGAL STANDARDS

Placement: When determining the educational placement of a student eligible for special education, the placement decision shall be determined annually and made by a group of persons,

including the parents, and other persons knowledgeable about the student, the evaluation data, and the placement options. The selection of the appropriate placement for each student shall be based upon: the student's individualized education program (IEP); the least restrictive environment (LRE) requirements contained in WAC 392-172A-02050 through 392-172A-02070, including this section; the placement option(s) that provides a reasonably high probability of assisting the student to attain his or her annual goals; and a consideration of any potential harmful effect on the student or on the quality of services which he or she needs. 34 CFR §300.116; WAC 392-172A-02060.

Physical Location is Not Placement: Although the term "educational placement" is not specifically defined, the IDEA does require that students receive a free appropriate public education (FAPE) in the LRE. *A.W. v. Fairfax County School Board*, 372 F.3d 674, 681 (4th Cir. 2004). A student's educational placement should reflect the "mainstreaming" ideal of the LRE requirement. However, the precise physical location of where a student is educated does not need to be included in the statement of the student's placement. The LRE requirement directs that the student be assigned to a setting that resembles as closely as possible the setting to which he would be assigned if not disabled. *A.W. at 681* (citing *Board of Education of the Hendrick Hudson Central School District v. Rowley*, 458 U.S. 176, 202-03, 102 S. Ct. 3034, 73 L.Ed.2d 690 (1982)). The IDEA's concern with location focuses on the degree to which any particular assignment segregates a student with a disability from nondisabled students, rather than on the precise location of the assignment itself. *AW at 681*.

Parent Participation in Determining Placement: Each school district must ensure that a parent of each student eligible for special education is a member of any group that makes decisions on the educational placement of the parent's child. The school district must use procedures consistent with the procedures described in WAC 392-172A-03100 (1) through (3). If neither parent can participate in a meeting in which a decision is to be made relating to the educational placement of their child, the school district must use other methods to ensure their participation, including individual or conference telephone calls, or video conferencing. 34 CFR §300.501; WAC 392-172A-05001.

IEP Implementation: At the beginning of each school year, each district must have in effect an IEP for every student within its jurisdiction who is eligible to receive special education services. 34 CFR §300.323; WAC 392-172A-03105. A school district must develop a student's IEP in compliance with the procedural requirements of the IDEA and state regulations. 34 CFR §§300.320 through 300.328; WAC 392-172A-03090 through 392-172A-03115. It must also ensure it provides all services in a student's IEP, consistent with the student's needs as described in that IEP. The initial IEP must be implemented as soon as possible after it is developed. Each school district must ensure that the student's IEP is accessible to each general education teacher, special education teacher, related service provider, and any other service provider who is responsible for its implementation. 34 CFR §300.323; WAC 392-172A-03105.

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: 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 plan for other ways for the parent to participate. *Letter to Thomas*, 51 IDELR 224 (OSEP 2008).

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 free appropriate public education (FAPE). The regulatory framework of the IDEA places an affirmative duty on agencies to include parents in the IEP process. Most importantly, a meeting may only be conducted without a parent if, "the public agency is unable to convince the parents they should attend." When a public agency is faced with the difficult situation of being unable to meet two distinct procedural requirements of the IDEA, in this case parental participation and timely annual review of the IEP, the Supreme Court and the 9th Circuit have both repeatedly stressed the vital importance of parental participation in the IEP creation process. Delays in meeting IEP deadlines do not deny a student FAPE where they do not deprive the student of any educational benefit. *Doug C. v. State of Hawaii*, 61 IDELR 91 (9th Cir. 2013); *Shapiro v. Paradise Valley Unified Sch. Dist.*, 317 F.3d 1072, 1078 (9th Cir. 2003); *Amanda J. v. Clark Cnty. Sch. Dist.*, 267 F.3d 877, 887 (9th Cir. 2001).

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 they 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); *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

2018-2019 School Year

1. The District's 2018-2019 school year began on August 29, 2018. At the start of the school year, the Student was eligible for special education services under the category autism and the

Student attended an out-of-District nonpublic agency (NPA), where he had been placed by the District. The Student stopped attending the NPA on or around November 20, 2018.¹

2. On November 26, 2018, the Parent decided to home school the Student and provided the District with a declaration of intent. The Parent also submitted a request for “part-time attendance or ancillary services” so the Student could receive special education services.
3. On December 17, 2018, the Parent revoked consent for the Student to receive special education and related services from the District. And, on December 19, 2018, the District issued the Parent a prior written notice, documenting the Parent’s revocation of consent for special education services.
4. On December 20, 2018, a decision was issued in SECC 18-102. The decision found the District in violation related to the implementation of the Student’s IEP and ordered 153.5 total hours of compensatory services in reading, written language, math, social/emotional/behavioral, and communication.
5. The District was on break December 24, 2018 through January 4, 2019, and February 18-22, 2019.
6. On March 1, 2019, the Parent referred the Student for a special education evaluation and on March 28, 2019, the Parent signed consent for the evaluation.
7. The District was on spring break April 8-12, 2019.
8. On May 6 and 7, 2019, the District invited the Parent to a meeting scheduled on May 17, 2019, to review the Student’s evaluation report and determine eligibility.
9. On May 17, 2019, the Student’s evaluation group—including the Parent and the Student—met and determined the Student was eligible for special education under the category autism. The group recommended the Student receive specially designed instruction in reading, written language, math, and social/emotional. The evaluation report noted the Student had “previously struggled significantly in comprehensive school settings, and is currently being homeschooled” and he “previously attended specialized programs both within and outside of the [District], and was most recently spending 100% of his school day in a special education setting to address his needs.”²

¹ This fact is from special education citizen complaint (SECC) 18-102. SECC 18-102 was filed on October 30, 2018, related to this Student’s education, and a decision was issued in December 2018.

² Based on the documentation in this complaint and previous complaints, OSPI believes this is a reference to the NPA the Student attended in the fall of 2018 and not the fact that immediately prior to the events in this complaint that the Student was being homeschooled. The documentation indicates the Student was homeschooled from December 17, 2018 until June 4, 2019.

According to a later email from the school psychologist to the District's secondary director of special education (secondary director), at the evaluation meeting, the Parent shared she had been exploring a "new program in [city] for students on the Autism Spectrum, called [...(non-public agency (NPA 2))]."

10. On May 20, 2019, the Parent emailed the District's school psychologist and asked if they could start looking into dates for the individualized education program (IEP) meeting. The Parent stated she would prefer to meet on a Friday.
11. On May 21, 2019, the special education teacher/case manager (case manager) for the Student emailed the school psychologist and secondary director, and asked the secondary director to attend the IEP meeting.
12. On May 21 and 22, 2019, the District invited the Parent to a meeting scheduled for May 31, 2019, to develop the Student's IEP.
13. On May 29, 2019, the Parent forwarded the case manager an email she received from NPA 2. The Parent stated, "I would like the IEP team to discuss and consider [NPA 2] as a possible placement from my son." The Parent also stated she had asked someone from NPA 2 to attend the IEP meeting.
14. On May 30, 2019, the case manager forwarded the Parent's May 29, 2019 email to the secondary director, and stated she "wrote the IEP as an initial placement at [high school] as I'm uncertain how this will shake out." The secondary director responded and stated, "your writing of an IEP for [high school] is appropriate."
15. Also, on May 30, 2019, the secondary director emailed the Parent and stated the IEP team had shared the email from the Parent regarding placement at NPA 2 with her. The director stated the IEP team "does not determine location of services that will occur outside of their school and/or the [District]" and that tomorrow's meeting would "define the Services, Supports and Accommodations that [Student] requires for his educational programming." The director stated, "if these identified components are not able to be provided within the comprehensive setting of [high school] then District (my office) determines the location for these services," that the District "does not identify the What (needs) of the services as this is the work of the IEP team in alignment with the current Evaluation report." The director stated she had been in communication with the principal of NPA 2 and wanted to discuss with the Parent.
16. Later, on May 30, 2019, the Parent emailed a staff person at NPA 2 the Student's draft IEP and provided information about the IEP meeting. The staff person responded and stated she spoke with the principal, who "contacted the district and they did not feel his presence was necessary at this time. So he will not be attending."
17. On May 31, 2019, the Student's IEP team—including the Parent and the Student—met to develop the Student's IEP. The IEP included annual goals in math, reading, written language, and social/emotional, and several accommodations and modifications. The IEP provided the

Student with the following specially designed instruction, in the special education setting, provided by a special education teacher:

- Reading: 70 minutes, 5 times per week
- Written Language: 70 minutes, 5 times per week
- Math: 70 minutes, 5 times per week
- Social/emotional: 70 minutes, 5 times per week

The IEP noted the Student would spend 21.13% of his time in the general education setting and in the table of "placement options for [least restrictive environment] LRE" the Student's placement was listed as 0-39% in regular class.³

18. According to the District, at the May 31, 2019 IEP meeting, the team discussed "enrolling the Student in one of the District's high schools, but rejected that option based on their determination that his program could not be implemented at a District school." The team determined that an out-of-District placement was appropriate, and "the District would locate a private program that could provide the educational programming called for in his IEP."
19. Also, on May 31, 2019, the Parent signed consent for the provision of initial special education services.
20. On June 3, 2019, the Parent and various District staff emailed several times. The email communications contained the following information, in part:
 - The Parent emailed the secondary director regarding meeting with NPA 2 director. The Parent requested that they meet on a Friday afternoon and that the compensatory services teacher attend all meetings, "as she knows [Student's] academic levels the best."⁴
 - The secondary director responded and stated she was under the impression that if the Parent wanted to meet with NPA 2, the Parent would set up the meeting. The director stated, "there is no reason for the District to set up a meeting as there is not currently an appropriate placement available." The director also stated, "please be reminded that it is the District's legal obligation to provide for [Student] educational programming, the processes that support this outcome are not dictated by the IEP team" and, "as I have done in the past, I will actively seek an appropriate placement for services, if this location cannot be secured outside of the District, it becomes our responsibility to create such programming within a location of the [District]."
 - The Parent responded that "we agreed at the IEP meeting 5/31/19 that the District would meet with [NPA 2] to discuss [NPA 2's] ability to meet [Student's] educational needs" and that "as per his acceptance letter from [NPA 2], [NPA 2] is confident that they can meet his needs and are looking for a Fall start date." The Parent stated she would call NPA 2 and set up a meeting.

³ The Parent noted in her reply to the District's response that the team did not discuss the Student being in general education for any length of time and agreed an out-of-District placement was appropriate. The Parent, in her reply, asked why the "public/private day school" was not selected in the "placement options matrix with all [specially designed instruction] as 100%."

⁴ The compensatory services teacher is a special education teacher who has been working with the Student to provide compensatory education hours during the 2018-2019 school year as ordered in special education citizen complaint (SECC) 18-102.

- The Parent also emailed the case manager several questions about the IEP, including questions about extended school year (ESY) services. The Parent stated, “the IEP will also need to have ‘yes’ for ESY. He has had ‘yes’ for ESY on his last 2 IEP’s and he continues needing consistency in routine and instruction across the summer break allows for maintenance of skills. The IEP team did not discuss or address ESY during the meeting.”

21. Also, on June 3, 2019, the Parent emailed NPA 2 and wrote the secondary director had stated, at the IEP meeting, that “per her conversation [sic] with [NPA 2 principal] she feels that [NPA 2] would not be able to meet [Student’s] educational needs” because “the students at [NPA 2] are at grade level and [Student] is below grade level and that I am I can program would not meet his needs.” The Parent stated she was confused because the NPA 2’s acceptance letter stated the “admissions team was confident that the customized approach at [NPA 2] would be beneficial to him. I also feel that [NPA 2] is an appropriate placement for him and I would like to set up a meeting with [NPA 2] and the [District] to discuss this further.”

22. Later, on June 3, 2019, NPA 2 principal forwarded the Parent’s email to the secondary director, stating “I assume it can be confusing if we offer an acceptance for a student who is part of a District” and that the NPA 2’s policy is to “work with the District, per our discussion last week.”

The secondary director responded and stated the following was what she understood and communicated at the IEP meeting:

The I Can I AM [program] does have high school programming however this program is most appropriate for students that are on track for graduation and those that are at or close to grade level. This is not an appropriate placement for [Student] as [Student] is at least 3-4 grades levels behind, the more appropriate placement would be the Blended program which does not currently have high school programming. There is hope that there could/would be a high school program in the fall. This is dependent upon student numbers and staffing capacity. [NPA 2] will keep [District] informed throughout the summer as to the status of a high school program within the Blended model for this fall.

The director asked if this statement was accurate, and, if so, should be communicated to the Parent.

23. On June 4, 2019, NPA 2 principal emailed the Parent, stating “per my conversation with the District, we discuss placement options for [Student].” The principal stated:

I apologize if there has been any confusion. An acceptance letter from [NPA 2] is always dependent on both the decision of the District to support the placement and an opening in the appropriate program. I discussed the I Am I Can with [secondary director] and explained that this program is most appropriate for students that are on track for graduating with a diploma and those that are at or close to grade level. [Secondary director] reviewed the information about [Student] and since he is 3-4 grades levels behind, the more appropriate placement, at this time would be the Blended program which we do not currently have. There is a hope that there could/would be a Blended high school program in the fall. This is dependent upon student numbers and staffing capacity. I will keep [secondary director] posted throughout the summer as to the status of a high school program within the Blended model for this fall.

24. Also, on June 4, 2019, the case manager emailed the Parent in response to her IEP questions. Regarding the request for ESY, the case manager stated, "the IEP cannot include those services at this time" because "the process for determining ESY services requires data collection" and "there is currently nothing to support ESY at this time as services were revoked."

The Parent responded and requested the IEP team meet again to discuss ESY. The Parent stated the Student had been receiving compensatory services since April 3, 2019, "so there would be two months of data collection...that could have been assessed for ESY." The Parent also stated since the Student "is not being placed at [high school], we also did not address the amount of [specially designed instruction] that he would receive under contract schooling since [District] does not have a current program/placement for him at this time. I am confused on what he is now supposed to be receiving." The Parent stated the Student was getting eight hours a week of instruction from the compensatory services teacher and asked "is he not getting 8 hrs of contract schooling these last few weeks of school or is this still the compensatory hours for SECC 18-102?"

25. On June 5, 2019, the secondary director responded to the Parent's email and stated the following "contract services programming" was available, "for any special education student awaiting placement" and that the instruction was provided by the special education teacher assigned to the program: "Location: [school] - special class room location - High School program; Services: Monday - Thursday; Times: 7:20 - 10:00; Transportation: district provided."

The secondary director stated the Student could begin the contract placement on June 10, 2019, and the District would "continue to seek the appropriate placement." The director also stated the IEP team could meet again to discuss the compensatory and any academic data for the school year with respect to the request for ESY. The director stated, "the scheduling of this meeting will require great flexibility if it is to occur prior to June 21st" and asked the Parent to provide several dates and times when she could be available in person or for a phone conference.

26. On June 6, 2019, the Parent emailed the secondary directory and stated she was available via phone on Tuesdays, Thursdays, or Fridays from 12:15-1:00 pm, or any time on June 21, 2019 for an in-person meeting. The Parent also asked several questions about the contract services the director outlined in her June 5, 2019 email, and stated she had assumed the contract schooling would be done by the compensatory services teacher because "she is currently working with him and is familiar with him."

27. The Parent, in her reply to the District's response to this complaint, stated that the IEP team did not discuss the contract services offered and that the District "did not include parent or student in any communications to participate in determining the amount of services that would be appropriate for the student to receive [a free appropriate public education] FAPE."

28. On June 7, 2019, the secondary director responded and suggested she and the Parent have a phone conversation on Tuesday, June 11, 2019 at 12:15, to discuss ESY and contract services. The Parent replied, asking who would be participating in the call and stated, "ESY and services

are an IEP team discussion/decision." The director replied it would just be her and the Parent on the call, "to review all the elements on the table for [Student's] programming" to "expedite the team conversation." The director stated an IEP meeting would also be scheduled, but a phone call could occur prior. The director stated, "it may not be possible for a meeting to occur at the 12:15 or 1:00 times as school is in session with teachers in classes" and "Friday the 21st is the last day of school with a half day therefore there will not be meeting options available for teachers. Let us know if there are other non-instructional times that you could phone conference." (Emphasis in original.)

29. Later, on June 7, 2019, the Parent emailed the secondary director, stating she would "wait on any conversations until we can have an IEP team meeting to include all members input." The director responded she was waiting on a response from all team members regarding their availability.

30. Also, on June 7, 2019, the District provided the Parent with a prior written notice, which stated the IEP would be implemented beginning on June 4, 2019. The notice stated the team "discussed enrolling [Student] at [District] High School, but rejected this option as [high school] is unable to meet the educational needs for [Student] at this time." The notice further stated:

The IEP team briefly discussed out of district placement for [Student], and concluded that is appropriate at this time. However, the IEP team did not identify specifics on the out of district placement. [District] will continue to research out of district placements that are appropriate for [Student]...

The notice also noted the Student's IEP currently indicated "no" for ESY services, but that the team did not discuss ESY and a separate meeting would need to occur to discuss ESY.

31. On June 11, 2019, the Parent emailed the secondary director and stated she was "under the impression for our 5/31/19 IEP meeting that I would be getting a weekly email on the status of looking for an out of district placement" for the Student.

The secondary director responded and stated when looking for an out-of-District placement, the "initial presentation is for Consideration of possible placement" and that these "presentations cannot occur until there is a current IEP in place."⁵ The director stated they were still "awaiting team member availability," which "will be impacted by the last weeks of school and current activities and meetings scheduled." The director again offered to have an initial conversation by phone.

The Parent replied, stating the information that the District "would not be able to look for an out of district placement for my son until his IEP was finalized" was not communicated to her before. The Parent stated the following:

⁵ This statement by the director is confusing, given the Student did have an IEP in place that was supposed to be implemented June 4, 2019.

Per the IEP meeting on 5/31/19 the [District] was to start looking for a placement once I signed the consent which I did on 5/31/19. According to [case manager], his IEP is finalized (she emailed it to me already) until the next IEP team meeting where the corrections/adjustments will be made per her email. Getting this IEP meeting scheduled should be top priority then and doesn't seem to be. Any 'initial conversation' with you is not a replacement to an IEP team meeting and would be a waste of time. This delay from the [District] is extremely concerning to me. I suggest getting with the IEP team members and finding out their availability asap and forwarding me this information by the end of the day (Wednesday). The IEP team must meet before school ends. If a different district representative needs to be there then please arrange that. This delay from the district is denying him his right to services.

In order to expedite the IEP team meeting, you may excuse the general education teacher...Please send me the form and I will excuse the gen ed teacher.

32. According to the District, it continued to seek the Parent's participation in the meeting by asking her to identify other dates and times she would be available. According to the District, the Parent did not provide alternative dates or times. According to the documentation, the District continued to try to find a time to meet and by June 12, 2019, had identified June 18 or 20, 2019 at 12:15 as possible options for the District members of the IEP team.
33. On June 14, 2019, the Parent emailed the District's executive director of student support (executive director) and stated she had not received possible dates and times for the IEP meeting, that this did not seem to be a high priority for the secondary director, and that the Student was not receiving services. The Parent asked the executive director to "please look into this matter as there are only three days left now to schedule an IEP meeting (next Tues, Wed or Thurs)" (June 18, 19, or 20, 2019).
34. On June 17, 2019, the executive director responded to the Parent's email and stated, "we are working to propose IEP meeting times this week."
35. According to the email communication between District members of the IEP team, all the members of the team were available for an IEP meeting on Thursday, June 20, 2019 at 12:15. The District's elementary director of special education (elementary director) would attend in place of the secondary director. According to the District's response, this was "a [date and time] that the Parent previously indicated that she was available and willing to meet."
36. On June 18, 2019, the elementary director emailed the case manager, secondary director, and executive director regarding scheduling the meeting. The email stated, in part, "we need to call mom and offer her two or three times. A phone conference is possible."
37. On June 19, 2019, the case manager emailed the Parent and stated they were planning to hold the IEP meeting conference call the following day, June 20, 2019 at 12:15. The Parent responded and stated she was "NOT available by phone at that time." The case manager replied and stated, "We were under the impression that 12:15 Tuesday/Thursdays were good for you. When would be a good time? Our last day of school is Friday."

The Parent responded and stated, "normally yes but I already have another commitment at that time." And stated she had "asked the District last week to forward me some options on days and times. They've taken too long to respond."

38. Later, on June 19, 2019, the secondary director emailed the Parent and stated the team worked with the Parent to "convene within the options you presented for your availability for this week" and stated, "as we are down to the last two school days this week, we will move forward with the meeting as scheduled with the agreed upon agenda discussion of ESY." The director stated that in a prior email, the Parent had mentioned there would be two months of data collection from the compensatory special education services and the director asked the Parent to provide this data/information prior to the IEP meeting. The director encouraged the Parent to call in for the meeting and also asked the compensatory services teacher (copied on the email) to "submit any academic data for team consideration of ESY as well."

The Parent responded and stated she was "NOT available to meet at that time and the IEP team meeting needs to include me the parent so you will need to provide me with another day/time option." The Parent stated, "the fact that it is down to the last two days is the fault of the District. IEP meetings need to be at a mutually agreeable day and time per the WAC's. There will be NO IEP meeting by phone at 12:15 pm tomorrow."

39. On June 20, 2019, the Parent emailed the secondary director prior to the IEP meeting. The Parent stated, per the secondary director's June 7, 2019 email, "you clearly stated that 12:15 to 1pm was not possible as this was instructional time and asked me for other non instructional times that would work." The Parent stated she had replied and asked the District to provide other options to meet, and that the District had ignored this. The Parent stated she had, been waiting since June 7th for the District to propose times and dates that would work for the District. The District waited until June 19th to inform me, not propose, a time for an IEP meeting on June 20th not giving me early enough notice either. I have already made another commitment during this time which I cannot back out of with less than 24 hrs notice. The District had plenty of time to propose a mutually agreed upon meeting time and place before the school year ended and failed miserably. The outcome of yet another SECC to OSPI and their orders to the [District] will be forthcoming.

The Parent also forwarded this email to the executive director, who responded and referenced the Parent's June 14, 2019 email, which requested the executive director's "assistance in scheduling an IEP meeting this week Tuesday, Wednesday, or Thursday." The executive director said she "contacted the team as [sic] asked them to schedule an IEP meeting on one of these 3 days you proposed, with the time frame you previously requested. We have made arrangements accordingly."

40. On June 20, 2019, in the early morning prior to the IEP meeting, the elementary director emailed the Parent (and the other members of the IEP team) that the team would proceed with the meeting as scheduled. The elementary director stated to the Parent, "should you be available, you are welcome to join us in person or call in at [number.]" The director also stated

they would continue to check their email "up until the time of the meeting for any academic data for us to consider in our discussion of ESY eligibility."

41. Also, on June 20, 2019, the Parent also emailed the case manager and made a request related to assistive technology and stated the placement options for least restrictive environment (LRE) matrix needed to be changed to indicate "an out of district placement."

The case manager forwarded this email to the elementary and secondary directors and stated, in part, the Student "is not currently being placed out of district as there is not a formal decision on that yet."

The elementary director replied to the case manager and stated the IEP team would only be discussing ESY and additional meetings could be scheduled to discuss other items, such as assistive technology and placement.

Later that same morning, the case manager emailed the Parent regarding her requested changes to the IEP. The case manager stated the IEP already listed "several technological modifications" and if the Student was "going to be placed in an alternative setting, the IEP team will discuss the specifics for accommodations at that placement. It is not appropriate to change the services matrix at this time as the decision for placement has not been made (yet)." The case manager also stated the meeting that day would focus on ESY services and that, "at this time, I do not have any data." The case manager stated, "if you are able to participate via phone, or join us in person, that would be ideal," but if "you are unable to attend, please send me relevant information or data that you have."

42. On June 20, 2019, mid-morning prior to the meeting, the Parent emailed the case manager and stated,

if you do not have the data, you most certainly cannot have an IEP meeting to discuss ESY as there is no data to assess. The meeting will need to be rescheduled...Since you still do not have this data, you cannot have an IEP meeting. Please assess with...IEP team members another time to reschedule the meeting and email me the proposed times and place.

43. On June 20, 2019, the Student's IEP team met. The District's elementary director, a special education teacher, compensatory education teacher, and the high school principal attended the meeting. The prior written notice provided to the Parent following this meeting, noted the Parent did not attend, "though she was offered attendance in person and via phone."

According to the District, all of the IEP team members in attendance agreed the Student did not qualify for ESY based on the information available, including data and information collected by the compensatory services teacher during the spring of the 2018-2019 school year. The District stated it requested input, but that the Parent "did not provide any data to the team [for] the period of December 17, 2018 until June 4, 2019, during which the Student was home schooled."

44. On June 20, 2019, after the meeting, the elementary director emailed the case manager, Parent, secondary director, principal, and compensatory education teacher, and stated the IEP

meeting occurred and the Parent did not “attend, call in, or provide any data from homeschooling.” The email stated the compensatory education teacher was “in attendance and shared data in Math and Writing.” The elementary director stated, “4 team members in attendance unanimously agreed that [Student] was not found eligible for ESY. A Prior Written Notice will be sent home with procedural safeguards to parents.”

45. According to the Parent’s reply, she was “not able to show any evidence of students work due to insufficient meeting notice and parent was at work” and that “evidence in home-schooled books can’t be ‘sent’ via fax, email etc.”⁶
46. On June 21, 2019, the secondary director emailed the Parent and stated she wanted to have a discussion regarding compensatory services for the Student for the period of June 4-21, 2019. The Parent responded, asked what the secondary director was proposing, and stated, “any proposals would need to be discussed with [Student] so I would have to get back to you on any proposals.”
47. The District’s school year ended on June 21, 2019.
48. According to the Parent’s reply to the District’s response to this complaint, the District made no attempts to look for an out-of-District placement for the Student between the IEP meeting (May 31, 2019) and June 21, 2019. The Parent stated this was because she was sent no emails during this period about placement.
49. On June 26, 2019, the case manager emailed the Parent the prior written notice, signature page, and excusal form from the June 20, 2019 meeting. The prior written notice stated the IEP team met to discuss ESY service eligibility for the Student and that the “meeting was requested by [Parent], and was held at a date and time requested by her in an email sent on June 6, 2019...[Parent] did not attend, though she was offered attendance in person and via phone.” The notice indicated the “team members who were present all agreed that [Student] was not eligible for ESY services.”
50. On July 2, 2019, the secondary director emailed the Parent again regarding the offer of compensatory services. The director stated:

To answer your questions, I wanted to discuss with you the District’s compensatory services offer because it was unable to secure an out-of-District placement for [Student] for the June 4th–June 21st time period (14 school days). I understand that [Student] will continue to receive compensatory services over the summer. The District proposes adding the compensatory hours for the June 4th–21st period to his existing compensatory plan this summer...Because the compensatory education hours would be offered in a 1:1 setting, the District is offering 28 additional compensatory education hours.⁷

⁶ It is unclear how the Parent otherwise planned to get the data regarding homeschooling to the District as the documentation indicates the Parent always planned to call in for this meeting.

⁷ The Student was already receiving compensatory services per the decision in SECC 18-102. The decision found the District in violation related to the implementation of the Student’s IEP and ordered 153.5 total

51. On July 15, 2019, the Parent responded to the secondary director's email regarding compensatory services and rejected the offer. The Parent stated 28 hours was insufficient and that while the compensatory services teacher "would be able to provide him with reading, writing and math, he needs to be around other children for the social/emotional/behavior piece. He is autistic and being around other children is essential."
52. On July 17, 2019, the secondary director emailed the Parent and stated that because the Student did not receive services for fourteen days, this amounted to 84 instructional hours and that the District would increase "its compensatory education offer to 42 hours of 1:1 services provided by his current provider ([compensatory services teacher])." The director stated, alternatively, the District "is willing to fund a summer camp / program this summer for [Student] at a cost not to exceed \$2,500.00. The program would be subject to the District's approval, and the District would provide door-to-door transportation for the Student to the program."
53. On July 22, 2019, the Parent emailed the secondary director and stated she would accept the offer of 42 hours of compensatory services. The Parent stated the hours "may need to be completed during the 2019-2020 school year." The Parent stated she believed it was too late for the Student to attend a summer camp or program, but suggested "we look for something for him to participate in some kind of a program between now and Sept. for the social/emotional/behavioral part of his IEP."
54. On August 6, 2019, OSPI received additional information from the secondary director regarding the compensatory services offer. Based on this information, the Student has not yet begun accessing the compensatory services nor have sessions been scheduled. Additionally, the director clarified that the offer of 42 hours (1/2 of 84 hours) was calculated based on the Student attending school for 6 hours a day, due to "his not accessing any of the school day – inclusive of the 21% of gen ed."
55. Based on documentation provided in response to this complaint and provided related to the corrective actions in SECC 18-102, the District is scheduled to complete the provision of compensatory services ordered in SECC 18-102 by September 16, 2019.
56. According to the District, the "District has been unable to locate an out-of-District placement for the Student that is able to provide the educational program described in his IEP and has made an offer of compensatory education to the Parent." The District stated that it is continuing to search for an appropriate out-of-District placement.⁸

hours of compensatory services. The compensatory services ordered in SECC 18-102 are scheduled to be completed in September 2019. Based on the events being investigated in this complaint, the District has made a new offer of additional hours of compensatory services.

⁸ As of August 6, 2019, the secondary director stated she had sent the Student's educational profile to a different NPA for placement consideration on August 5, 2019.

57. The District's 2019-2020 school year begins on August 28, 2019.

CONCLUSIONS

Issue One: Placement – The Parent alleged that the District failed to look for placement for the Student and failed to include her in placement decisions.⁹

Placement: Placement for a student eligible for special education is determined by a group of persons, including the parents, who are knowledgeable about the student, the evaluation data, and the placement options. The district must ensure that the parent of the student is a member of any group that makes decisions on the educational placement of the student. An appropriate placement should be based upon the student's individualized education program (IEP), the least restrictive environment (LRE), the probability of assisting the student to attain their annual goals, and consideration of any potential harmful effect on the student.

On May 17, 2019, the Student's evaluation group—including the Parent—met and found him eligible for special education. The evaluation report noted: The Student had "previously struggled significantly in comprehensive school settings, and is currently being homeschooled" and he "previously attended specialized programs both within and outside of the [District]." The documentation provided in this complaint indicated, at this point, the Parent was interested in the Student attending a nonpublic agency (NPA 2). Prior to the IEP meeting, the Parent asked someone from NPA 2 to attend the IEP meeting; however, following a discussion with the District, NPA 2 declined to attend.

On May 31, 2019, the Student's IEP team—including the Parent—met and developed the Student's IEP. According to the documentation, the case manager drafted an IEP before the meeting and "wrote the IEP as an initial placement" at the District's high school. The Student's final IEP, scheduled to be implemented June 4, 2019, provided the Student with specially designed instruction and stated the Student would spend 21.13% of this time in the general education setting. On the table of "placement options for [least restrictive environment] LRE" the Student's

⁹ The Parent, in her reply, also alleged that the District is now contradicting the findings of another previous special education citizen complaint (SECC 18-47) that was filed and investigated related to the Student's program. The Parent also stated the District was not following the procedures it was required to "develop and/or review and revise" related to "determining/changing placement" ordered as a corrective action in SECC 18-47. SECC 18-47 was filed on May 15, 2018, and a decision was issued on July 12, 2018. In relevant part, the decision made conclusions regarding a change in placement and found the District: failed to consider whether a reevaluation was warranted prior to a change in placement and failed to amend the Student's IEP to reflect the change in placement. The decision also found the District failed to allow the Parent to participate in discussions regarding the amount of services for a temporary placement (contract services) after the Student could no longer attend his previous placement, and otherwise failed to include the Parent in discussions regarding placement options. However, here the determination of placement is at issue (not a change in placement) and while the District did offer temporary contract services, the Parent indicated she did not agree with the offer and so the District moved on to next steps. The circumstances presented in this complaint are different than those in 18-47 and thus lead to a different outcome as explained in this conclusion.

placement was listed as “0-39% in regular class.” According to the District’s response, the team discussed and rejected the option of enrolling the Student in the District’s high school. The team agreed that an out-of-District placement was appropriate, and the District agreed to work to locate a private program that could provide the educational programming called for in the Student’s IEP. The prior written notice documenting the May 31, 2019 IEP document the agreement that the Student would be best served in an out-of-District placement.

The documentation indicates the District followed all procedures for determining the Student’s placement: a group, knowledgeable about the Student, and including the Parent, discussed, developed the Student’s IEP, and determined placement. The team did so after considering the Student’s recent evaluation, IEP, LRE, and placement options. There is no evidence to support the Parent’s assertion she was not included in placement decisions. Nor is there any indication of an actual disagreement over placement. OSPI finds no violation related to procedures to determine the Student’s placement.

While the District followed procedures to determine the Student’s placement, the District did not accurately document the Student’s placement in the IEP. The Student’s LRE and placement on his current IEP do not match the out-of-District placement the IEP team agreed upon, as recorded in the prior written notice. Based on the documentation, it appears the District planned to amend the Student’s IEP once it determined the specific NPA the Student would attend. However, the Student’s IEP is incorrect based on the team’s agreement regarding placement; thus, OSPI finds a violation. The District will be required to convene an IEP meeting prior to the start of school to discuss placement and amend the IEP so it correctly reflects the agreed upon placement.

Location of Services: The disagreement that did arise was over the specific NPA the Parent wanted to Student to attend. The term “educational placement” is not specifically defined in law; however, the precise physical location of where a student is educated does not need to be included in the statement of the student’s placement. The IDEA’s concern with location focuses on the degree to which any particular assignment segregates a student eligible for special education from students without disabilities, rather than on the precise location of the assignment itself.

The District and NPA 2 determined NPA 2 did not have the appropriate programming for the Student and therefore, was not the appropriate location for the Student’s placement. On May 30, 2019, the secondary director emailed the Parent that the IEP team “does not determine *location of services* that will occur outside of their school and/or the [District] school district.” (Emphasis added). Instead, the IEP team develops the IEP—defining the services, supports, accommodations, and LRE. The director stated, if the Student’s IEP is not able to be implemented “within the comprehensive setting of [high school],” then the District would determine the location for these services. The director is not wrong—the IEP team determines the Student’s placement—but, the IEP team does not necessarily determine the precise location of those services (here, the particular NPA the Student would attend). The District did consider NPA 2—proposed by the Parent—and determined it could not provide the support and programming the Student needed. The District continues to try to find an out-of-District option for the Student. Again, no violation is found as the Parent and the District ultimately agree on the Student’s placement, despite some disagreement about the precise physical location of services.

However, while the District followed procedures for determining the Student's placement despite disagreement over the precise physical location of services, the District failed to *implement* his IEP in an agreed upon placement. The District did not find a location for the Student's placement at the end of the 2018-2019 school year, nor was his IEP implemented. Additionally, to date, a school or program has not yet been located for the Student for the 2019-2020 school year. This concern will be discussed below in relation to the implementation of the Student's IEP.

Issue Two: Implementation – The Parent alleged that the District failed to implement the Student's IEP, which was to be implemented on June 4, 2019. A district is required to implement a student's IEP, and provide all the services in that IEP, consistent with the student's needs as soon as possible after the IEP is developed.

The District admitted it was unable to place the Student for the final two weeks of school (June 4-21, 2019 or 14 school days). The District noted the Student therefore missed 84 hours of instruction and ultimately offered 42 hours of compensatory educational services. Per the District's own admission, the District failed to implement the Student's IEP, and thus is in violation. OSPI accepts the District's proposed corrective action of compensatory services; however, due to the amount of time missed and the reoccurring nature of the issues (placement and implementation of services were at issue in SECC 18-47 and SECC 18-102), the District will be required to provide the total amount missed: 84 hours of compensatory education to the Student (21 hours each in reading, written language, math, and social/emotional). Due to the nature of specially designed instruction in social/emotional, the District will provide the 21 hours of social/emotional specially designed instruction with peers/in a group setting as opposed to a one-on-one setting.

In addition to not providing the Student specially designed instruction, the District also failed to implement the agreed upon placement, as per the written prior notice. OSPI is very concerned that as of this decision, a location for the Student's placement has not been determined for the 2019-2020 school year given that the District's school year begins August 28, 2019. The District did note it is currently exploring another NPA as an option. Yet, based on the documentation provided in this complaint, the District considered and determined NPA 2 was not an appropriate option by June 4, 2019 and did not consider another option until August 5, 2019. OSPI's website includes a list of almost thirty currently approved NPAs located in Washington; while OSPI recognizes that some of these NPAs are likely not appropriate for the Student, there is no indication that the District has considered more than two options for the Student. OSPI is not aware of what caused the District to take little to no action in the intervening two months and is greatly concerned the Student will not be able to attend school on the first day of the 2019-2020 school year.

Thus, as the documentation clearly indicates the District has not yet corrected the underlying issues that lead the failure to implement the Student's IEP, the District will be required to complete corrective actions related to placement. These corrective actions are outlined below in the corrective action plan.

Issue Three: Meeting Scheduling – The Parent alleged that the District failed to schedule the June 20, 2019 IEP meeting early enough to ensure the Parent could attend, and alleged that the

meeting was not scheduled at a mutually agreed upon 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. This includes 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.

Parental participation in the IEP process is a central element of the IDEA and the regulatory framework places an affirmative duty on agencies to include parents in the IEP process. A meeting may only be conducted without a parent if the district is unable to convince the parents to attend. When a district is faced with the difficult situation of being unable to meet two distinct procedural requirements of the IDEA, courts have repeatedly stressed the vital importance of parental participation in the IEP creation process. Delays in meeting IEP deadlines do not deny a student a free appropriate public education (FAPE) where they do not deprive the student of any educational benefit. *Doug C. v. State of Hawaii*, 61 IDELR 91 (9th Cir. 2013).

In this case, the District found itself in a similar position to that of the student in the case *Doug C.*—the District attempted to meet the requirements to schedule an IEP meeting at a mutually agreed upon time and date, hold a timely IEP meeting in response to the Parent’s request for extended school year services (ESY) prior to the end of the school year, and ensure Parent participation.

Given the time of the year, OSPI recognizes the challenges involved in scheduling this IEP meeting and believes the District made a good faith effort to schedule the meeting. The Parent requested the IEP meeting occur on a Tuesday, Thursday, or Friday from 12:15-1:00 pm, or anytime Friday, June 21, 2019 (the District’s last day of school), and stated in a June 11, 2019 email that the meeting needed to occur before the school year ended. The District notified the Parent, following her request for the meeting, that scheduling the meeting would require greater flexibility, stated the times proposed by the Parent would be difficult to accommodate, and asked the Parent if there were other, non-instructional times that would work to meet. The Parent did not provide other availability.

By June 12, 2019, according to internal emails, the District identified June 18 or 20, 2019 at 12:15 pm as possible options that worked for the District members of the IEP team. It does not appear the District notified the Parent at this point that those were two options they were considering. On June 14, 2019, the Parent emailed the executive director that there only three days left to schedule a meeting—June 18-20, 2019. And, on June 19, 2019, the District notified the Parent that a meeting was scheduled for the following day, Thursday, June 20, 2019 at 12:15—a date and time the Parent had originally proposed as an option.

OSPI believes the District attempted to schedule the meeting at a mutually agreed on time and place, given that it was scheduled on a date and time the Parent proposed and indicated, multiple times, was the only time she was available. Despite the District originally stating this would be hard for District staff to attend, the District was ultimately able to accommodate the Parent’s request. OSPI notes the District knew on June 12, 2019 that the meeting would likely occur on

June 18 or 20, 2019, and could have notified the Parent on June 12, or, at minimum, given the Parent a heads up to keep her calendar clear on those dates. Despite this, it was not unreasonable based on the Parent's June 14, 2019 email for the District to believe June 18, 19, or 20, 2019 still worked for the Parent.

However, even if the scheduled meeting met the requirement of being *scheduled* at a mutually agreed upon time and place, ultimately, the Parent was unable to *participate* in the meeting—in part because the District did not notify the Parent of the meeting until the day before. The Parent stated this date/time did not work as she now had a commitment she could not reschedule. Unlike situations where a parent does not respond or refuses to attend an IEP meeting; here, the Parent stated multiple times she wanted to attend and to reschedule.

The District did attempt to secure the Parent's participation in a few different ways. The secondary director suggested having a pre-meeting call in addition to an IEP meeting, to expedite the conversation the IEP team would have. The Parent declined. The District encouraged the Parent several times to attend the meeting in person, to call in, and to provide data and other written input (e.g., data from the compensatory education services and home schooling). The District stated staff continued to check their email up until the meeting time to see if the Parent submitted any data for the team to consider and discuss. The District proceeded with the meeting as it was scheduled during a time the Parent originally stated she was available, and because there were only two days of school left in the school year.

However, case law is clear that parental participation is of vital importance in the special education process. Therefore, despite the District's good faith efforts to engage with the Parent and encourage her to participate in the meeting and despite the fact that the Parent did not avail herself of the opportunity to provide data regarding the Student's need for ESY, OSPI finds a violation related to parent participation in the meeting. OSPI's corrective action below requires an IEP meeting to address placement, and does recognize requiring the IEP meeting to occur prior to the first day of school greatly limits the available options. OSPI asks both the District and the Parent to be creative and flexible in scheduling this meeting, with the shared goal of ensuring the Student has access to his education and FAPE on the first day of school.

CORRECTIVE ACTIONS

By or before **August 23, 2019, September 4, 2019, September 30, 2019, October 31, 2019, December 31, 2019, March 13, 2020, and June 5, 2020**, the District will provide documentation to OSPI that it has completed the following corrective actions.

STUDENT SPECIFIC:

IEP Meeting

By or before **August 28, 2019**, the District will be required to convene an IEP meeting to discuss the Student's placement and amend the IEP so it correctly reflects the agreed upon placement.

In scheduling the meeting, the District will present the Parent with several different dates and times and offer multiple methods of participation in the meeting. OSPI recognizes that as the meeting needs to occur prior to the start of the 2019-2020 school year, there are limited days this meeting can occur, and asks both the Parent and the District to be creative and flexible with scheduling.

By or before **September 4, 2019**, the District will provide OSPI with documentation related to the IEP meeting including: 1) meeting invitation and communications related to scheduling; 2) the Student's amended IEP; 3) prior written notice; 4) meeting notes and/or agenda; and, 5) any other relevant documentation.

Placement

Within a week of receiving this decision, by or before **August 23, 2019**, the District will provide OSPI with an update regarding its attempts to locate a school for the Student to attend in the 2019-2020 school year—including consideration of multiple NPAs on the list of OSPI-approved NPAs. The District will provide OSPI with the following:

- If a location for the Student's placement has been determined, the District should provide OSPI with: 1) documentation of the Parent's involvement in the discussion; and, 2) documentation confirming enrollment.
- If a location for placement has not been determined, the District will provide OSPI with: 1) documentation of communications with potential out-of-District schools, including NPAs; 2) the referral packets provided to the NPAs considered to date, including Parent consent to share records; 3) documentation of discussion with the Parent; and, 4) identified next steps to secure a location for placement.

Upon receipt of the first update, OSPI will review and provide further dates for review, if necessary, by or before August 29, 2019. If a location for placement has not been determined, the District will be required to provide OSPI with a weekly update on progress until such time as the Student has begun school in the IEP designated placement.

If a location is not determined by **September 30, 2019**, the District will be required to develop a program for the Student within the District where in it can fully implement the Student's IEP and provide the Student a free appropriate public education (FAPE)—in other words, his full amount of specially designed instruction and accommodations and modifications in a setting where the Student is among peers (both special and general education) as appropriate.

Compensatory Services

By or before **September 30, 2019**,¹⁰ the District and Parent will develop and finalize a schedule to provide the Student with 84 hours of compensatory services (21 hours each in reading, writing,

¹⁰ OSPI notes that the District is still providing the Student compensatory education services per the corrective actions in SECC 18-102. This corrective action is scheduled to be completed by September 16, 2019. In an attempt to minimize confusion, the District will not be required to provide the compensatory

math, and social/emotional). The compensatory services should not begin until the compensatory services ordered in SECC 18-102 have been completed (i.e., should not be scheduled to begin before September 16, 2019). By **September 30, 2019**, the District will provide OSPI with a copy of the final schedule.

The services will be provided outside of the District's regular school day (services may be provided on weekends or during school breaks). The services will be provided to the Student on a one-to-one basis—the sessions will be comprised of the Student and the special education teacher—with the exception of the specially designed instruction in social/emotional, which will be provided with peers/in a group setting with certified/licensed personnel. 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 **May 29, 2020, regardless of any need to reschedule individual sessions**. No extension to the timeline will be granted.

The District will be required to provide OSPI with periodic progress reports on the provision of compensatory education to the Student: On **October 31, 2019, December 31, 2019, and March 13, 2020**, the District will provide OSPI with documentation of the compensatory services that have been provided up until those respective dates.

No later than **June 5, 2020**, 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 **June 5, 2020**.

DISTRICT SPECIFIC:

None.

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.

services ordered in this complaint until after the corrective actions in 18-102 have been completed. The timeline set above has this in mind.

RECOMMENDATIONS

OSPI also notes the District's emails appear to use "placement" in place of "location" several times. For example, there are June 20, 2019 emails between staff that reference the "placement" not being finalized. However, the documentation in this complaint makes clear that everyone agreed the Student needed an out-of-District placement. In some of these emails, OSPI believes the District meant that the precise physical location (i.e., the particular NPA) had not yet been determined wherein the Student's placement would be implemented. Although this is a technical distinction, OSPI believes the use of imprecise language may have led to some confusion. OSPI recommends the District review regulations and guidance around placement versus location.

Dated this ____ day of August, 2019

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.)