

SPECIAL EDUCATION COMMUNITY COMPLAINT (SECC) NO. 21-78

PROCEDURAL HISTORY

On October 7, 2021, the Office of Superintendent of Public Instruction (OSPI) received a Special Education Community Complaint from the parent (Parent) of a student (Student) attending the Central Valley 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 October 11, 2021, 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 October 29, 2021, OSPI received the District's response to the complaint and forwarded it to the Parent on November 4, 2021. OSPI invited the Parent to reply. The Parent did not reply.

On November 19, 2021, OSPI determined that additional information would be helpful to the investigation and contacted the District. OSPI received the requested information from the District on November 23, 2021. OSPI forwarded that information to the Parent on November 23, 2021.

On November 19, 2021, OSPI determined that additional information would be helpful to the investigation and contacted the Parent. OSPI received the requested information from the Parent on December 2, 2021. OSPI forwarded that information to the District on December 2, 2021.

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

SCOPE OF INVESTIGATION

The time period under investigation begins on October 8, 2020, as OSPI may investigate only those issues occurring during a one-year period. Any information included from events prior to October 8, 2020 is mentioned for informative, background purposes only.

ISSUES

1. Did the District follow proper procedures during the 2021–2022 school year for determining whether the Student required recovery services, and if so, the nature of those recovery services?
2. Did the District follow proper implementation procedures for any determination regarding appropriate recovery services for the 2021–2022 school year?
3. Did the District follow proper reevaluation procedures in December 2020; specifically, did the District follow proper procedures in not pursuing a triennial evaluation at that time?
4. Since October 8, 2020, did the District follow proper procedures for inviting representatives of participating agencies, to the extent their presence was warranted, to any IEP meetings wherein postsecondary goals and transition services were discussed, in accordance with WAC 392-172A-03095(2)(c)?

LEGAL STANDARDS

IDEA Eligibility Period: A student who is determined eligible for special education services shall remain eligible until one of four different possible eventualities takes place. One of these eventualities is: the student enrolled in the district has reached age twenty-one. The student whose twenty-first birthday occurs on or before August 31 would no longer be eligible for special education services. The student whose twenty-first birthday occurs after August 31, shall continue to be eligible for special education and any necessary related services for the remainder of the school year. WAC 392-172A-02000(2)(c).

Recovery Services: Recovery services are intended to mitigate the impact of COVID-19 school facility closures and to enable the student to make progress on individualized education program (IEP) goals, used if students have not been provided or were unable to access IEP services during the COVID-19 pandemic. While the need for recovery services may not be able to be fully measured until in-person school operations resume, districts were not prohibited from providing recovery services during the 2020-2021 school year and recovery services should be determined by IEP teams on a case-by-case basis. Districts should examine the effect of COVID-19 and the special education and related services provided during school building closures and during the 2020-2021 school year on the student's overall progress and engagement, including progress toward their IEP goals. *Questions and Answers: Provision of Services to Students with Disabilities During COVID-19 in Fall 2020* (OSPI, August 26, 2020).

School districts can provide recovery services to students even after they have turned 21 years of age. And, a student may be eligible for recovery services in goal areas that do not relate to postsecondary goals – in addition to recovery services that do relate exclusively to postsecondary goals. *Q&A: Provision of Services to Students with Disabilities during COVID-19 in the 2021-2022 School Year* (OSPI October 4, 2021); *Washington's Roadmap for Special Education Recovery Services 2021 & Beyond* (OSPI May 7, 2021).

IEP Implementation: Each district must ensure it provides all services in a student's IEP, consistent with the student's needs as described in that IEP. 34 CFR §300.323; WAC 392-172A-03105. "When a school district does not perform exactly as called for by the IEP, the district does not violate the IDEA unless it is shown to have materially failed to implement the child's IEP. A material failure occurs when there is more than a minor discrepancy between the services provided to a disabled child and those required by the IEP." *Baker v. Van Duyn*, 502 F. 3d 811 (9th Cir. 2007).

Compensatory Education: A state educational agency is authorized to order compensatory education, as appropriate, through the special education community complaint process. 34 CFR §300.151(b)(1); WAC 392-172A-05030. The state educational agency, pursuant to its general supervisory authority, has broad flexibility to determine appropriate remedies to address the denial of appropriate services to an individual child or group of children. *Letter to Lipsitt*, 181 LRP 17281 (2018). 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); *See also, Letter*

to *Lipsitt*, 181 LRP 17281 (2018) (“The purpose of a compensatory services award is to remedy the public agency’s failure to provide a child with a disability with ‘appropriate services’ during the time that the child is (or was) entitled to a free appropriate public education and was denied appropriate services.”)

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). “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. It is common in Washington for such one-to-one services to be calculated at half of the total hours missed.” *In re: Mabton School District*, 2018-SE-0036.

Basis for IEP Team Decisions: An IEP team should base its decisions on appropriate programming for a student on sufficient, relevant data on the student’s needs resulting from the student’s disability. See, e.g., WAC 392-172A-03020)(g); see also, generally, WAC 392-172A-03090.

Reevaluation Procedures: A reevaluation and must occur at least once every three years, unless the parent and school district agree that a reevaluation is unnecessary. 34 CFR §300.303(b); WAC 392-172A-03015(2).

IEP Team Membership – Other Knowledgeable Individuals: At the discretion of the parent or the school district, an IEP team can include other individuals who have knowledge or special expertise regarding the student, including related services personnel as appropriate. WAC 392-172A-03095(1)(f).

IEP Team Membership – Other Public Agencies: To the extent appropriate, with the consent of the parents or a student who has reached the age of majority, the public agency must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services. WAC 392-172A-03095(2)(c).

IEP Team Member Excusal: Parents and districts can agree in writing that an IEP team member’s participation is not necessary and that the team member may be excused from attending an IEP meeting, in whole or part, if the team member’s area of curriculum or related services is not being modified or discussed in the meeting. If the meeting involves a modification to or discussion of the team member’s area of the curriculum or related services and the parties both consent in writing to the excusal of the team member, the excused team member must submit written input into the development of the IEP in prior to the meeting. 34 CFR §300.321(e); WAC 392-172A-03095(5).

FINDINGS OF FACT

2020–2021 School Year

1. At the start of the 2020–2021 school year, the Student was eligible for special education services under the category of autism, was 20 years old, and consequently, according to the

District, in the "12+ grade." At the start of the 2020–2021 school year, the Student attended a District high school and his November 14, 2019 individualized education program (IEP) was in effect.

In relation to the Student's 2020–2021 school year schedule, the District stated:

For 2020-2021, the Student received in-person services for 100% of his LRE; during the 2020-2021 school year, the Student was in school from 7:15-11:45 daily (Monday through Friday) working on transition services [and postsecondary goals] and specially designed instruction areas. While these reading, writing, math, etc. goals are driving toward improving postsecondary outcomes, they technically fall outside the scope of postsecondary goals.

As agreed upon by the IEP team, the Student was on a reduced day because he received services at SOAR from 12:00 PM to 3:00 PM daily, per Parent's request.

2. The Student's 2020–2021 school year schedule was as follows: the Student had an advisory period, in addition to six periods of vocational/life skills.
3. On November 12, 2020, the District's evaluation group completed a reevaluation of the Student. Several sections in the November 2020 evaluation report appear to contain new or updated information.¹ For example:
 - Communication: Observations by a speech language pathologist. No new assessments were conducted.
 - Medical-Health Concerns: Observations by the psychologist; feedback from the Parent. No new assessments were conducted.
 - Reading, Math, and Written Language: Results from the Assessment of Basic Language and Learning Skills (ABLLS); observations by one of Student's teachers.
 - Adaptive/Self-Help Skills: Results from the Vineland-3.
 - Behavior/Social Skills: Results from the Behavioral Assessment System for Children, 3rd Edition (BASC-III).
 - Social Emotional: Results from the Vineland-3 and BASC-III.
 - Transition/Vocational: Observations by both the Parent and the psychologist.

The Parent participated in the November 12, 2020 evaluation meeting. For example:

- Under the Parent's name in the Group Signatures portion of November 12, 2020 evaluation report, the following text appears: "Zoom Meeting at 12:45 [on] November 12, 2020."
- Additionally, on November 13, 2020, the Parent emailed the psychologist, stating, in part: "I attended the evaluation results meeting for Student and agree to requalification [as per the] document that was presented on November 12, 2020."

As part of the November 2020 reevaluation of the Student, the Parent completed a "Reevaluation Developmental History Information" form for the Student on November 9, 2020, and providing input via the Vineland-3 and BASC-III.

¹ Some of the information in the November 2020 evaluation report appears to have been carried over from the Student's prior evaluation, which was dated on or about December 6, 2017.

4. The Student's IEP team developed a new IEP for the Student on November 12, 2020. According to the November 2020 IEP, the Student had an "Extended Graduation Date" of June 18, 2021. The Secondary Transition portion of the November 2020 IEP read, in part:

Needs

Student can become aggressive when he is upset/tired/sick. Student's aggression is often non-dangerous but can become self-injurious or harmful to others. To help him deescalate he responds well to things that are funny or silly (silly voices, silly phrasing, etc.). Behaviorally, he often needs redirection, verbal cues, and prompts to transition.

...

Community/Vocational: [Parent] would like Student to have a job coach at a sheltered workshop or supported employment. Student will likely work with SOAR Behavior Services (SOAR)², the Developmental Disabilities Administration (DDA)³, the Division of Vocational Rehabilitation (DVR), and/or an agency post high school in order to obtain employment. He may also be supported by Social Security and other forms of social services. He will require ongoing support to perform at a job. He will continue living at home after high school, but will eventually transition to an adult living facility. After graduation he will continue to be transported by family, friends, and/or para transit.

Strengths

Interpersonal: [Parent] reports that he has a nice personality when he is happy and follows directions well with prompting. Student has great communication skills and can obtain desired items verbally. His teacher reports that he has a happy disposition and loves interaction. Student is playful and loves to laugh. He will engage in peer interaction when facilitated by an adult, for both small and large group activities.

Academic: Student has made excellent gains in functional academic and life skills. He can chunk and decode new words. He is able to conceptually learn and understand information. He has good typing and literacy skills. Student is a quick learner and will try almost anything he is presented with. Student is capable of learning a new job and does well with more physical [tasks].

Community/Vocational: Student can write his name, address, and phone number when prompted by a familiar person. Student is also working on adding the cost of grocery store items using the dollar-up strategy. Student visits the community daily to practice math and social skills.

Preferences

Student prefers playing independently, unless he is playing on the trampoline. He loves tasks that are hands-on or ones that promote physical movement. He also likes machines with loud motors, such as semi-trucks, riverboats, lawn mowers, and snow blowers. Student also enjoys

² According to its website, SOAR's "mission is to provide individualized, compassionate therapy to people with autism and other developmental disabilities [including] applied behavioral (ABA) therapy to teach lifelong skills and eliminate harmful behaviors." [Applied Behavior Analysis \(ABA\) Therapy | SOAR Behavior Services Spokane \(soarbehaviorwa.com\)](http://soarbehaviorwa.com)

³ According to its website, the DDA "strives to develop and implement public policies that will promote individual worth, self-respect, and dignity such that each individual is valued as a contributing member of the community." <https://www.dshs.wa.gov/dda>

bouncing on a yoga ball. He likes to watch items ricochet off of the ground as a form of sensory input.

...

Experiences

Community-based experiences: Student has a been experience in vacuuming sweep, sort dishes, put away dishes, clean windows, clean tables, and tidy up.

School based experience: Since entering the University High School A.I. program Student has progressed from school wide tasks to job site tasks in the community. Those included: running the school-wide recycling program, delivering mail to teacher mailboxes, collecting shredding from around the school to shred, packaging canned food for Meals on Wheels, packaging backpack food for elementary students. He progressed to community outings where he worked at...church doing custodial tasks, delivered food to Elementary schools (loading and unloading the bus), delivered recycling to the recycling center. He has also worked on sorting and hanging clothing...He's straightened clothing at [a clothing retailer] and also returned carts at [a grocery store].

Education/Training

Measurable Post-Secondary Goal: Student will receive on the job training in an area of interest Student enjoys jobs where he can be active and on the go vs stagnant.

Transition Service: Student will continue to work on typing information into a work document. He will be working towards completing his sentences at a faster pace and making sure he doesn't have any errors. He will type a script that he can use to access the community via para transit outings. Since going into grocery stores is not in Student's best interest he will practice the job of collecting carts from the parking lot using a token economy system. Upon completion of high school Student will work in his community with a job coach and receive training on the job.

Staff/Agency Responsible: case manager; and, special education staff.

Employment

Measurable Post-Secondary Goal: Student will have a job coach at a sheltered workshop or supported employment. He will require ongoing support to perform a job. During the 2019-2020 school year summer break his grandmother talked about contacting DVR to work on employment opportunities for Student. [Student] also attends SOAR behavior where he receives functional life skill training. Upon completion of high school Student will work with SOAR, DVR/DDA, and possibly an agency in order to work in a supported work environment.

Transition Service: Student will work towards being able to independently locate items in a worksite to be able to complete a job. Student will start working at a job site (grocery store or store) to practice simple tasks such as cart retrieval or put backs. He will expand to more work after he learns the basic procedures. Student does best in jobs that don't require a timeline.

Staff/Agency Responsible: case manager; and, special education staff.

Independent Living Skills

Measurable Post-Secondary Goal: Student will continue living at home after high school. In the future Student's grandmother discussed that he will eventually transition into a group home setting so any independent self-care tasks he can learn now will benefit him later during that

transition. Student has been working with SOAR behavior to practice a wide range of self-care and at home learning skills. Student is working on things such as: taking out the garbage, personal safety, sharing, cleaning his home, cooking for himself.

Transition Service: Student will continue to work towards independence. He will work on independently doing laundry (fold, wash, put away), making recipes, and cleaning up after himself. Student will continue to work on completing his hygiene routine.

...

Staff/Agency Responsible: case manager; and, special education staff.

Student will continue to find work towards independence in both the school and community settings. Student will work on self-living skills such as laundry, personal hygiene, basic cooking and dishes.

The November 2020 IEP included the following annual goals:

- **Math 1** (ability to complete purchases using money)⁴
- **Math 2** (ability to read analog clock)⁵
- **Math 3** (ability to operate a financial budget)⁶
- **Reading 1** (ability to create a shopping list)
- **Reading 2** (ability to identify when food is expired)
- **Writing 1** (ability to identify function of various community locations (e.g., post-office, grocery store, etc.))
- **Writing 2** (ability to "type a script for registering for a para-transit ride"⁷)
- **Behavior 1** (ability to utilize self-calm strategies)
- **Behavior 2** (ability to take turns when playing a social board game)
- **Adaptive 1** (ability to select clothing appropriate for the weather)
- **Adaptive 2** (ability to call, schedule, and pay for a para-transit ride)
- **Social 1** (ability to be aware of another individual's personal space)
- **Social 2** (ability to ask for assistance in locating items in a store)

According to the November 2020 IEP, the following annual goals related, in part, to the Student's Independent Living goal in the Secondary Transition portion of the IEP: **reading 1;** and, **reading 2.**

⁴ "When making a purchase, Student will be able to use the dollar up strategy to accurately exchange the correct amount required going from accurately exchanging the correct amount in 0/5 trials with 2 or less verbal prompt to 5/5 trials with 1 or less verbal prompt, as collected by teacher data, by 11 /11 /21."

⁵ "When using an analog clock Student will be able to independently interpret time at :01 minute increments in 5 out of 5 trials, going from telling time at the :01 mark independently in 2/5 trials to telling time at :01 minute increments independently in 5/5 trials, as collected by teacher data, by 11 /11/21."

⁶ "When purchasing an item, Student will accurately practice following a budget (only spending a set amount or less) and keeping track of how much money he has left over, going from accurately budgeting what he spends and keeping track of his left over money, with 3 or less verbal prompts in 0/5 trials, to 5/5 trials with 1 or less verbal prompts, as observed by classroom data, by 11/11/2021."

⁷ "Para-transit is the term...for transportation services that supplement fixed-route mass transit by providing individualized rides without fixed routes or timetables." <https://en.wikipedia.org/wiki/Paratransit>

The November 2020 IEP further read, in part:

Student will access the general education population via daily community outings at various locations in our community ([Church], grocery stores & other various environments that are found appropriate). While in the community, he will work in the areas of Reading and Adaptive...Student will access the community weekly for up to 110 minutes serving the areas of reading and adaptive unless Student's behaviors restrict him from accessing the general education setting via community. COVID has placed restrictions upon how we are able to access the general education environment.

5. In relation to the participation of outside agencies in the November 12, 2020 IEP meeting, the District's response stated, in part:

An ABA therapist from SOAR was invited and in attendance with the knowledge and consent of the Parent.

No representative from the DDA or the DVR was invited or in attendance. At this meeting, the team determined that information about agencies would be sent home, as the Student would 'likely work with SOAR and an agency or DVR/DDA in order to obtain supervised employment' (documented by the prior written notice dated November 12, 2020).

6. The District was on break November 26–27, 2020.

7. The Parent's complaint read, in part: "The transition [recovery services] plan [developed in September 2021, see below,] was based on outdated information. For example, the District was required to reevaluate Student on or before December 5, 2020.^[8] The District failed to reevaluate and never asked for my permission to skip a triennial evaluation."

8. The District was on break December 21, 2020 through January 1, 2021.

9. [REDACTED]

10. The District's response included a progress report with entries related to the November 2020 IEP, dated early April 2021. Each goal was noted as "not mastered" and included the following comments, in part:

- **Math 1:** Student is able to complete this goal with at least 3 verbal or visual prompts. His self-talk prevents him from completing this goal with less prompts.
- **Math 2:** Student is able to identify time in :01 increments, with 2 or less prompts in 2/5 trials. He can complete it with 3 or less prompts in 3/5 trials.
- **Math 3:** Student continues to require ample amounts of prompting to complete this goal. He can complete it with about 4 prompts per trial.
- **Reading 1:** Student is able to locate 9/10 items, with 2 or less prompts, across 5/5 trials.
- **Reading 2:** Student has been working on correlating the month name with the month number...Student is currently able to identify month numbers in 4/5 trials. He can identify expiration dates accurately in 3/5 trials.
- **Writing 1:** Student is able to complete the goal accurately with 2 or less prompts, in 3/5 trials at locations such as the post office, hospital, restaurant, fire station, dentist, and grocery store.

⁸ In its response, the District acknowledged this requirement, stating the Student's prior evaluation was dated December 6, 2017.

- **Writing 2:** Student averages taking 10 minutes to type 5 sentences...He usually needs 5 prompts to complete his typing across 5/5 trials.
- **Behavior 1:** When Student is extremely agitated it can take about an hour to switch his negative self-talk back. It typical requires 5+ prompts in order to get Student back to baseline.
- **Behavior 2:** Student is able to identify whose turn is next with 2 or less prompts in 3/5 trials.
- **Adaptive 1:** Student is able to look up the weather with one or less prompt in 4/5 trials. He is able to identify the correct clothing to wear with 4 or less prompts in 3/5 trials.
- **Adaptive 2:** Student is able to read the script for para transit and pay a fake fare with 3 or less prompts in 3/5 trials.
- **Social 1:** Student is able to complete this goal with 3 or less prompts in 4/5 trials.
- **Social 2:** Student is able to complete this goal with 3 or less prompts in 4/5 trials.

11. On June 15, 2021, the special education director (director) emailed certain District staff, stating, in part: "Based on the most current guidance from OSPI⁹, the District has developed a plan (see attached) for you to work with your students and their families...to determine if they are interested in Transition Recovery Services."¹⁰

12. The District's response included a progress report with entries related to the November 2020 IEP, dated mid-June 2021. Each goal was noted as "not mastered" and included the following comments, in part:

- **Math 1:** Student is able to complete this goal with at least 3 verbal or visual prompts. His self-talk prevents him from completing this goal with less prompts. Student has not made progress on this goal because of his negative self-talk and self-injurious behaviors.
- **Math 2:** Student has progressed to being more focused on the skill of telling him. He will typically do clocks if he isn't doing any negative self-talk. Student is able to accurately complete his clocks in 4/5 trials with 3 or less prompts.
- **Math 3:** Student typically struggles to stay focused on this math task. When he is focused on it he is able to follow a budget and keep track of money in 3/5 trials but he does require 5+ prompts in order to complete this goal.
- **Reading 1:** Student is able to locate 9/10 items, with 2 or less prompts, across 5/5 trials.
- **Reading 2:** Student has made progress in this goal over the last couple of weeks. He's learned all the months numbers and can now identify expired items with more accuracy. Student is accurate across 4/5 trials with 1 or less prompts.
- **Writing 1:** Student is accurate on community places in 4/5 trials but requires 3 or less prompts in order to do so.

⁹ Included as attachments in the District's response were two OSPI presentations, both dating from late May 2021, "Information Session for Families: Transition Recovery Services" and "Transition Recovery Services for Students with an IEP." Both presentations provide that a student may be eligible for recovery services in goal areas that do not relate to that student's postsecondary goals and transition services, in addition to recovery services that related exclusively to that student's postsecondary goals. For example, both presentations describe "transition recovery services" as one "component of recovery services."

¹⁰ While the District's "Transition Recovery Services Plan" does appear to include language acknowledging that a student may be eligible for recovery services in goal areas that do not relate to that particular student's postsecondary goals – in addition to recovery services that relate exclusively to that student's postsecondary goals, the majority of the District's "Transition Recovery Services Plan" relates exclusively to the process whereby IEP teams were to determine appropriate transition recovery services.

- **Writing 2:** Student's negative self-talk prevents him from typing this goal faster. Student requires lots of prompting to get back on task. Student is able to complete this goal across 2/5 trials in 30 minutes or less.
- **Behavior 1:** When practicing self-calming strategies Student tends to require a lot of prompting to pull himself back to baseline. Student does not typically pull himself out of his negative self-talk. Student has started requesting items/people/tasks that he cannot have when he is angry. Then he gets aggressive with staff when he is unable to obtain those items.
- **Behavior 2:** Because of Student's aggressive behaviors he cannot play board games with friends currently. He practices this goal with his paraeducator or teacher. Student is able to complete this goal with an adult in 4/5 trials.
- **Adaptive 1:** Student is able to look up the weather with one or less prompt In 5/5 trials. He is able to identify the correct clothing to wear with 3 or less prompts in 3/5 trials.
- **Adaptive 2:** Student is able to read the script for para transit and pay a fake fare with 3 or less prompts in 3/5 trials. Getting to obtain to this goal has been a struggle this spring with his growing behaviors.
- **Social 1:** Student still requires prompting to have personal space in 4/5 trials.
- **Social 2:** Student is able to complete this goal with 3 or less prompts in 4/5 trials. Again, Student's progress is greatly determined by the mood he is in or the self-talk levels he has that day.

2021–2022 School Year

13. The District's first day of school was September 8, 2021.
14. According to the District: at the start of the 2021–2022 school year, the Student was eligible for special education services under the category of autism, "had turned 21 during the pandemic, and, as a result, the Transition Plan of his November 12, 2020 IEP was in effect."
15. The Student's IEP team met on September 2, 2021 to discuss, in part, whether the Student required certain transition recovery services. In relation to the September 2, 2021 IEP meeting, the District's response stated, in part:

The IEP team met to review the Student's transition plan and to discuss transition recovery services...The IEP Team also discussed anecdotal concerns held by [the Parent] and SOAR behavior services advocate, which were raised in the meeting by the Parent. Additionally, as set forth in the guidance provided by the OSPI Webinar, and in accordance with the District's 'Transition Recovery Services Plan', the IEP team also reviewed each of the transition goals, made a determination about the Student's progress toward each of the goals...Based on this evidence, and in accordance with the OSPI webinar guidance and the District's 'Transition Recovery Services Plan', the IEP team determined that...the Student would benefit from transition recovery services.

...

The District proposed that the Student complete work-based tasks at the District's Family Engagement Center, a community hub that serves the social, emotional, academic, medical, mental health and nutritional needs of students and families in the District community...to provide comprehensive wrap around services.

...

[In terms of the IEP team's determination concerning] the frequency and duration of the [transition recovery] services: the District proposed one (1) hour of recovery services instruction per day (from 10:45 AM to 11:45 AM).

The [Parent] expressed that no less than three (3) hours of recovery services per day would be sufficient, as the Student's DDA caseworker and the Parent both felt that a DVR counselor would still deem the Student unemployable.^{11 12 13} The Parent and SOAR advocate also expressed that the Student is only able to attend to task for fifteen (15) minutes and regularly exhibits "problem behaviors." Such "problem behaviors" were identified by the Student's DDA caseworker as: assaulting, becoming agitated, throwing items, and being aggressive.

After a discussion, the team agreed on 2.5 hours per day to begin working on typing, jobsite tasks, and transportation through Paratransit.

The team agreed that 2.5 hours per day would be on an interim basis until the team could assess the Student's progress toward his IEP transition goals and the ultimate duration of needed transition recovery services.¹⁴

The District proposed that the services start at 10:45 AM and continue through 1:15 PM. The Parent informed the District that that would not work, as the Student ha[d] SOAR behavioral support from 12:00 PM to 6:30 PM daily. The team [therefore] agreed that...the

¹¹ In its response, the District noted: "[To date], there have been no concrete assessment[s] or observation[s] from [a] DVR [representative] that would substantiate [these] concerns. As a result, the Student's IEP team [believes] that, at future meetings, a representative from DVR [will] be essential to [properly] discuss [the] efficacy of transition recovery services." The District stated: "In order [for the Student] to get a DVR case manager...the Parent or adult student must fill out a verification form and submit it to DVR and be willing to attend an intake meeting."

¹² In its response, the District clarified: "The DDA caseworker was not in attendance at the September 2, 2021 IEP meeting. The [DDA caseworker's] opinion was relayed by the Parent." The District further stated: "[At the September 2, 2021 IEP meeting, the Parent] gave the District the name and contact information of the DDA caseworker at a later time. The District did reach out to the DDA caseworker and received concerns consistent with the opinion shared by the Parent that a DVR counselor would deem the Student unemployable; however, the DDA caseworker did not express an opinion regarding the number of hours of recovery services per day that would be appropriate for the Student."

¹³ In its response, the District stated it was "unsure...when the DDA caseworker was assigned to the Student; what activities the DDA caseworker works [on] with the Student; [and], the service times...associated with the DDA caseworker." The Parent stated the Student was assigned a DDA case worker at a "very young" age and that the principal purpose of the DDA case worker is "to determine what services, for example, respite care, or personal care...Student qualifies for in the home setting."

¹⁴ In its response, the District clarified: "No definitive end date for the 2.5 hours a day of transition services was discussed or agreed upon at the September 2, 2021 IEP meeting."

Student would be able to receive transition recovery services from 9:15 AM to 11:45 AM daily.¹⁵

...

As the Student is 21 1/2 years old, the goals and services associated with the transition plan of the IEP were the only areas discussed. At the time of the meeting, the team discussed that the broad scope of the Student's IEP was no longer supported under IDEA, and that the team would focus on any academic, behavioral, or social concerns as they arose in direct correlation to his Transition goals and services. The team agreed that the Student needed specially designed instruction to support his transition goals and services, but the primary discrepancy arose around his employability. The District maintains that the Student would qualify for supported employment, but the Parent maintains her fear that he is not employable.

16. The District's response included a September 3, 2021 prior written notice that read, in part: This meeting on...September 2, 2021 was to look over Student's transition plan and to talk specifically about the needs to Student during the time that he is able to receive recovery services through the...District.

The people in attendance were: a SOAR representative, [Parent], learning specialists 1 - 2, the director...[Student will start] his recovery services on Monday, September 13, 2021. He will be served 2.5 hours a day to work on typing (education goal), jobsite tasks, and transportation through para transit. The district will also work towards connecting with SOAR and DDA services for the student...We are proposing this action to meet the needs of Student for him to successfully meet his transition goals through recovery services.

In her complaint request, the Parent stated: "I...objected that the [recovery] services [offered] did not include any instruction to address Student's lack of progress in math, writing, behavior, or social skills [during the 2020-2021 school year]."

17. According to the District, from September 21 through October 7, 2021, the District provided the Student with two and a half hours of transition recovery services each day.¹⁶

According to the District, its understanding of the Student's schedule beginning September 21, 2021 was as follows:

9:15: Student arrives at Family Engagement Center.

11:45: Student leaves Family Engagement Center, transported to SOAR.

12:00: Student attends SOAR.¹⁷

¹⁵ In its response, the District clarified that this 2.5 hours of daily transition recovery services were to be provided in-person at the District's Family Engagement Center.

¹⁶ The September 2, 2021 prior written notice stated the 2.5 hours of daily transition recovery services were to begin September 13, 2021. According to the District, it was because of "staffing and scheduling issues regarding location of [the] services [to be provided to] the Student, and with consent of the Parent, [that] implementation of the agreed-upon services [did not begin until] September 21, 2021."

¹⁷ In its response, the District stated it was "unsure about the specifics around the activities that are provided during those times [the Student works with SOAR]."

3:00: Student leaves SOAR, transported home.

3:30: SOAR staff support in home (not sure if this support occurs daily or not).

6:30: SOAR staff leave.

According to the District, the following goals were addressed during the Student's transition recovery services:

Personal information (for resume writing) – type/recite name, address, birthdate, phone number.

Variety of job tasks – sorting, organizing, stocking/facing shelves, vacuuming, cleaning windows, folding and hanging clothes, following 2-3 step directions, assembling nuts/bolts/washers.

Independent Living skills – cleaning, washing hands, typing/reciting grocery lists, telling time, single digit addition/subtraction problems, counting money, knowing the value of coins/dollar bills.

18. The District's response included an excel chart that tracked the Student's ability to focus on tasks (focus chart). The focus chart includes entries for 24 days between September 21 and October 27, 2021. According to the focus chart:

- If given an approximate 5 minute break, the Student could generally focus for anywhere from 15 to 30 minutes.
- Student only demonstrated an inability to focus on 3 or 4 of the 24 observations days. According to the focus chart, this was usually due to either negative "self-talk" or the Student being sleepy.
- The types of activities the Student engaged in during the 24 observation days were, in part, as follows: organizing materials; cleaning; and, typing.

19. On September 27, 2021, the Parent emailed the transition learning specialist, stating, in part: "Please send an invitation to the Student's SOAR [representative] for tomorrow's zoom meeting."

20. On September 28, 2021, the Student's IEP team met to revisit the issue of appropriate transition services for the Student. The District's response included a prior written notice, dated September 28, 2021, documenting the meeting that read, in part:

Description of the proposed or refused action:

Proposed action for Student's recovery services: The school district will continue to provide 2.5 hours of support through October 7, 2021, and will offer 1 hour of instruction a day for Student to access recovery services to work on job skills and tasks, beginning October 11, 2021. The District team will provide 1 hour of support a day to address any pre-employment skills Student needs, in addition to partnering with his Parent to connect with the Department of Vocational Rehabilitation (DVR). The team will schedule a meeting with a representative of DVR at the earliest opportunity to initiate DVR placement and discuss Student's progress toward supported employment.

People in attendance: special education teacher, SOAR representative, Parent, learning specialist, and the director.^[18]

The reason we are proposing or refusing to take action is:

The school district is proposing this action to support Student during the transition of school to supported employment through recovery services. Student currently has an DDA case manager and a team at SOAR to support positive transition to post-high school education/training, employment and daily living skills. The District team will support Student and his Parent in connecting with DVR and assessing his pre-employment skill needs. During the meeting, the Parent shared that she last reached out to DVR "pre-pandemic" (before March 2020). The school will help connect DVR with Student and his Parent.

In addition, transition students have been unable to access public transportation ([transit authority] and paratransit) due to the District's requirement to adhere to current COVID protocols and expectations.

Description of any other options considered and rejected:

Continuing Student's 2.5 hours of services daily beyond October 7, 2021 has been considered and rejected.

The reason(s) we rejected those options was:

This option was rejected because, at this time, the only long-term scheduling option for Student in the morning before he attends SOAR is from 10:45 to 11:45 am. The District is willing to provide longer service times during periods of ESY in the future, once partnership with a DVR counselor can be solidified, but the team feels that engaging Student in transition recovery services as soon as possible is in his best interest.^[19] We are transitioning down to an hour until DVR is on the team. We will reconvene when this service takes place to work with the team for supported employment.

...

Any other factors that are relevant to the action: ...At this time, Student is able to recite and write his name, phone number, and address and do job skills/tasks of sorting, facing/stocking shelves, bolt, washer assembly, vacuuming, sorting and hanging clothes.

21. In relation to the September 28, 2021 IEP meeting, the District's response stated:

[The IEP team made the decision it did at the September 28, 2021 IEP meeting because of] the progress the Student had demonstrated and the fact that, due to COVID restrictions, the District is still unable to allow students to access Paratransit...Specifically, as of September 28, 2021, the Student was able to recite and write his name, phone number, and address as well as complete job skills/tasks of sorting, facing/stocking shelves, bolt, washer assembly, vacuuming, sorting and hanging clothes. The Student is also able to complete pre-vocational and daily living skills such as reciting personal information from memory,

¹⁸ In its response, the District confirmed that "no representative from [either] DDA or DVR was invited or in attendance" at the September 28, 2021 IEP meeting.

¹⁹ On this specific point, the Parent's complaint request read, in part: "The District suggested [at the September 28, 2021 IEP meeting] that if DVR started partnering on services, the District might offer a few more hours during the summer of 2022."

typing and reading up to 10 grocery items. With the exception of accessing community outings via Paratransit, which is still outside of the scope of the District's COVID protocols, the District determined that the Student is able to complete all tasks necessary to meet his IEP goals, including time on task and minimizing his behaviors...Further, the observation data demonstrates that the Student is capable of attending to task for twenty (20) to thirty (30) minutes without any of the aforementioned "problem behaviors" voiced by the Student's DDA caseworker.

22. On October 1, 2021, the transition learning specialist emailed the Parent, stating, in part: "The District will move forward with 1 hour of support a day until we are able to partner with DVR as part of the team to see how the District can support Student's skills moving forward."
23. According to the District, beginning October 11, 2021 (and continuing through the present), the District provided the Student with one hour of transition recovery services each day.
24. The District was on break November 25–26, 2021.

CONCLUSIONS

Issues 1 & 2: Determination and Implementation of Recovery Services – The Parent alleged the District did not follow proper procedures for determining the Student's need for recovery services, nor did it follow proper procedures for implementing its determination of those services.

Recovery services are intended to mitigate the impact of the COVID-19 pandemic and spring 2020 school facility closures and to enable the student to make progress on individualized education program (IEP) goals. Recovery services may be used if students have not been provided or were unable to access IEP services during the COVID-19 pandemic. Recovery services should be determined by IEP teams on a case-by-case basis. Districts should examine the effect of COVID-19 and the special education and related services provided during school building closures and during the affected school years on the student's overall progress and engagement, including progress toward their IEP goals.

Here, there were two IEP meetings in the fall of 2021 that related, at least in part, to appropriate recovery services for the Student: September 2 and 28, 2021. Each meeting will be analyzed in turn.

September 2, 2021

At the September 2, 2021 meeting, the IEP team determined the Student required the following recovery services: 2.5 hours of instruction each day, with said instruction to focus on the postsecondary goals in the Student's November 2020 IEP.²⁰

The decision to provide the Student with 2.5 hours of instruction in postsecondary goals, as recovery services, was based on the Student's needs resulting from the Student's disability. For

²⁰ According to the District, as of September 2, 2021, the IEP team had not determined an 'end date' for the 2.5 hours of daily transition recovery services.

example, on September 2, 2021, the IEP team, including the Parent and a SOAR representative, had an extended conversation regarding: the Student's progress on his postsecondary goals; the Student's behaviors that had the potential to interfere with mastery of his postsecondary goals; and, the amount of daily instruction the Student required to address any lack of progress the Student made on his postsecondary goals due to COVID-related disruptions.

Importantly, though, at the September 2, 2021 IEP meeting, "goals and services associated with the transition plan [in] the IEP were the only areas discussed, "meaning the IEP team did not discuss whether the Student required recovery services for the Student's non-postsecondary goals. The District explained, in part: "[T]he Student [was] 21 1/2 years old [as of the September 2, 2021 IEP meeting and] the broad scope of the Student's IEP was no longer supported under [the] IDEA."

This represents a violation of the applicable guidance.

First, districts can provide recovery services to students who have turned 21 years of age. For example:

- OSPI's *Q&A: Provision of Services to Students with Disabilities during COVID-19 in the 2021-2022 School Year* reads, in part:
 - "For students who may be exiting school, IEP teams should determine the need for transition recovery services prior to the student exiting."
 - "Students over the age of 21 are no longer eligible for FAPE through an IEP [but] the IEP team would [still] need to meet to determine whether recovery services should be continued [past the date a particular student turns 21]."
- And OSPI's *Washington's Roadmap for Special Education Recovery Services 2021 & Beyond* reads, in part: "Students who turned age 21 during the pandemic may **also** need transition recovery services" (emphasis added).

Second, two May 2021 OSPI presentations²¹ state a student may be eligible for recovery services in goal areas that do **not** relate to postsecondary goals—in addition to recovery services that do relate exclusively to postsecondary goals. For example, both presentations describe "transition recovery services" as only one "component of recovery services." Additionally, OSPI's *Q&A: Provision of Services to Students with Disabilities during COVID-19 in the 2021-2022 School Year* describes transition recovery services as "extra [recovery] services."

It was in error, then, that the IEP team did not consider whether the Student required recovery services in non-postsecondary goals.

Here, the November 2020 IEP explicitly identified **reading 1-2** as relating, at least in part, to the Student's postsecondary goals. Additionally, a fair reading of **writing 2**, **adaptive 1-2**, and **social 3** shows these goals had a particularly close connection to the Student's postsecondary goals. Thus, these goals were addressed somewhat through the recovery services agreed upon.

²¹ "Information Session for Families: Transition Recovery Services;" and, "Transition Recovery Services for Students with an IEP."

Therefore, the Student's IEP team should have considered—at a minimum—whether the Student required recovery services in the remaining goals: **math 1–3; writing 1; behavior 1–2; and, social 1.**

The District's response included progress reporting for these goals, dated June 2021. As OSPI reads this progress reporting:

- The Student made some progress on **math 2.**
- The Student did not make progress in: **math 3; behavior 2; and, social 1.**
- The Student experienced a slight regression in **math 1.**
- The Student appears to have either made no progress, or experienced a slight regression in: **writing 1; and, behavior 1.**

Accordingly, the Student's IEP team will be required to meet to discuss whether the Student requires additional recovery services to address any impact on progress due to COVID-related disruptions during the 2020–2021 school year, in the following goal areas: **math 1; math 3; behavior 1–2; social 1; and, writing 1.**

Additionally, the District will be required to disseminate the following written guidance to select staff:

- School districts can provide recovery services to students even after they have turned 21 years of age. And, a student may be eligible for recovery services in goal areas that do not relate to postsecondary goals—in addition to recovery services that do relate exclusively to postsecondary goals.

Delay in Implementation of Recovery Services Determination

The September 3, 2021 prior written notice stated the Student was to be provided with 2.5 hours of transition recovery services each day beginning September 13, 2021. Due to staffing issues, though, the Student was not provided with these services until September 21, 2021. September 13 through September 21, 2021 represents approximately six school days (or 15 hours of transition recovery services). This represents a failure to implement an IEP team decision regarding necessary services. Therefore, compensatory services are warranted.

There is no requirement to provide day-for-day compensation for time missed. 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. In determining appropriate compensatory education, it is also important to consider the student's progress on the student's goals—despite the implementation failure.

Here, as detailed in greater detail below, there was some data showing the Student was able to make progress on his postsecondary goals between September 21 and September 28, 2021—the latter date being that on which the IEP team revisited the issue of appropriate transition recovery services for the Student.

Accordingly, as compensatory education, the District will be required to provide the Student with five hours of transition recovery services. These five hours of transition recovery services will be provided in a one-on-one setting—meaning—just the Student and the service provider.

September 28, 2021

At the September 28, 2021 IEP meeting, the IEP team determined that, beginning October 8, 2021, the Student would be provided with one hour a day of transition recovery services. In evaluating the appropriateness of this decision, it is important to ask: was this decision made based on sufficient, relevant data on the Student's needs resulting from the Student's disability?

Here, a fair reading of the September 28, 2021 prior written notice does suggest scheduling matters influenced the determination to reduce the amount of daily transition recovery services offered to the Student. For example, the September 28, 2021 prior written notice read, in part: "The reason we rejected [the option of] continuing Student's 2.5 hours of services beyond October 7, 2021 [was] because...the only long-term scheduling option for Student in the morning before he attends SOAR is from 10:45 to 11:45 am."

In its response, though, the District was able to present data showing a reduction in the Student's daily transition recovery services was warranted based on the Student's needs resulting from the Student's disability—specifically—the progress the Student made on the Student's postsecondary goals from September 21 through September 28, 2021. For example, in part, the District stated:

As of September 28, 2021, the Student was able to recite and write his name, phone number, and address as well as complete job skills/tasks of sorting, facing/stocking shelves, bolt, washer assembly, vacuuming, sorting and hanging clothes. The Student is also able to complete pre-vocational and daily living skills such as reciting personal information from memory, typing and reading up to 10 grocery items...The District determined that the Student is able to complete all tasks necessary to meet his IEP goals, including time on task and minimizing his behaviors...Further, the observation data demonstrates that the Student is capable of attending to task for twenty (20) to thirty (30) minutes without any of the aforementioned "problem behaviors" voiced by the Student's DDA caseworker.

On this issue, it is also relevant that the Student's time with SOAR in the afternoons—after October 7, 2021—would be devoted, principally, to skills sets directly related to the Student's independent living postsecondary goal.

Based on the foregoing data, the decision to reduce the Student's daily transition services from 2.5 hours to 1 hour, beginning October 8, 2021, does not represent a violation of the IDEA, and no corrective actions are warranted.

Issue 3: Reevaluation Timeline – The Parent alleged the District did not complete a triennial evaluation for the Student. The Parent also alleged "the District...never asked for my permission to skip a triennial evaluation."

A reevaluation must occur at least once every three years, unless the parent and school district agree that a reevaluation is unnecessary. Here, the Student was evaluated on December 6, 2017. Accordingly, the Student's triennial reevaluation was due by December 5, 2020. Based on the documentation provided to OSPI during this investigation, the District met this deadline. For example, on November 20, 2020, the District's evaluation group completed a triennial reevaluation of the Student. Importantly:

- No less than 11 areas of the November 2020 reevaluation report contained updated and/or new content, beyond what was included in the previous reevaluation report;
- Three new assessments were administered as part of the November 2020 reevaluation: the ABLLS; the Vineland-3; and, the BASC-III; and,
- The Parent participated in the November 2020 reevaluation process.²²

In conclusion, the District conducted the Student’s triennial reevaluation in a timely manner, and the IDEA was not violated.

Issue 4: IEP Meeting Participants – The Parent alleged “the District never invited a representative of a participating agency such as...DDA to participate in IEP meetings where potential transition services were discussed.”

At the discretion of the parent or the school district, an IEP team can include other individuals who have knowledge or special expertise regarding the student, including related services personnel as appropriate. And, to the extent appropriate, with the consent of the parents or a student who has reached the age of majority, the public agency must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services. If an IEP meeting involves a modification to or discussion of a particular team member’s area of the curriculum or related services and the parent and district both consent in writing to the excusal of that team member, the excused team member must submit written input into the development of the IEP in prior to the meeting.

Here, during the relevant time period—there were three IEP meetings—wherein postsecondary goals and transition services were discussed: November 12, 2020; September 2, 2021; and, September 28, 2021.

During the period relevant to this investigation, the Student worked with two agencies—other than the District—in ways that related, at least in part, to the Student’s postsecondary goals and transition services: SOAR and DDA.²³ The documentation provided to OSPI during this investigation was not clear on when the Student began working with these two agencies. As best OSPI can tell: the Student was working with SOAR at some point early in the 2020–2021 school year. And the Parent stated the Student was assigned a DDA case manager at a “very young” age. Each of the foregoing three IEP meetings will be analyzed in turn.

November 12, 2020

At the time of the November 12, 2020 IEP meeting, the Student was receiving functional life skills training and adaptive support from SOAR. The Student’s work with SOAR is explicitly mentioned

²² For example: the Parent completed a Reevaluation Developmental History Information form; and, the Parent emailed the psychologist on November 13, 2020, stating, in part, “I attended the evaluation results meeting for Student and agree to requalification [as per the] document that was presented on November 12, 2020.”

²³ SOAR provided the Student with behavioral supports and DDA provided the Student with adaptive and behavioral supports to, in part, help navigate the home and public settings.

in the Secondary Transition portion of the November 2020 IEP, acknowledging that the Student's work with SOAR related, in part, to the Student's postsecondary goals and transition services. Accordingly, the District was required to, with the consent of the Parent, invite a SOAR representative to attend the November 12, 2020 IEP meeting. And, here, a SOAR representative attended and participated in the November 12, 2020 IEP meeting. Therefore, this does not represent a violation of the IDEA.

A DDA representative was neither invited to participate in nor attended the November 12, 2020 IEP meeting. The Parent stated the Student did have a DDA case manager at that time. Importantly, though, it does not appear the Student's IEP team had determined—as of November 12, 2020—that DDA would be providing the Student with any transition-related services prior to the Student being exited from special education. For example, in relation to DDA, the November 2020 IEP read, in part: "Student will likely work with...DDA...post-high school in order to obtain employment." And this makes sense, considering the Parent stated the principal purpose of the DDA case manager was "to determine what services, for example, respite care or personal care...Student qualifies for in the home setting." Therefore, it was not a violation of the IDEA for a DDA representative to not be present for the November 12, 2020 IEP meeting.

September 2, 2021

The purpose of the September 2, 2021 IEP meeting was to discuss transition recovery services for the Student. As detailed above, the District should have invited a SOAR representative to participate in this meeting. And, here, a SOAR representative did attend, and participate in, the September 2, 2021 meeting. Importantly, the detailed narrative included in the District's response, in addition to the September 3, 2021 prior written notice, show the SOAR representative's input was considered during the deliberations on September 2, 2021. This does not represent a violation of the IDEA.

As of September 2, 2021, the Student had a DDA caseworker. Based on the documentation provided to OSPI during this investigation, it appears the DDA caseworker's input was important for the Student's IEP team to consider—in particular—in relation to the Student's postsecondary employment goals. For example, in relation to the September 2, 2021 IEP meeting, the narrative portion of the District's response summarized information from the DDA caseworker²⁴ concerning Student behaviors that impacted employability. Additionally, the September 3, 2021 prior written notice explicitly stated the Student needed to work with DDA to make progress during the provision of transition recovery services: "The District will also work towards connecting with...DDA services for the Student...We are proposing this action to meet the needs of Student for him to successfully meet his transition goals through recovery services." Accordingly, the District was required to, with the consent of the Parent, invite a DDA representative to attend the September 2, 2021 IEP meeting.

Here, though, a DDA representative was neither invited nor attended the September 2, 2021 IEP meeting. This is a violation of the IDEA.

²⁴ The DDA caseworker's input was shared by the Parent at the September 2, 2021 IEP meeting.

Importantly, though, it does not appear that this IDEA violation impacted the Student's ability to access a free appropriate public education (FAPE). For example, during this investigation, the District stated: "The District did reach out to the DDA caseworker [after the September 2, 2021 IEP meeting] and received concerns consistent with the opinion shared by the Parent [at the meeting itself – namely], that a DVR counselor would deem the Student unemployable." Accordingly, an appropriate remedy for this IDEA violation is: the dissemination of written guidance to select staff.

September 28, 2021

The purpose of the September 28, 2021 IEP meeting was to discuss transition recovery services for the Student. A SOAR representative did attend, and participate in, the September 28, 2021 IEP meeting. This does not represent a violation of the IDEA.

A DDA representative, though, was not invited to attend the September 28, 2021 IEP meeting. Importantly, the September 28, 2021 prior written notice again affirmed the DDA representative's involvement in transition recovery services: "Student currently has a DDA case manager...to support post-high school education/training, employment, and daily living skills." This represents a violation of the IDEA and will be remedied via the dissemination of written guidance.

In relation to DVR, it was not until the September 28, 2021 IEP meeting that the IEP team conclusively determined the Student needed to work with this agency in relation to postsecondary goals and transition services. For example, the September 28, 2021 prior written notice read, in part: "The District team will [be] partnering with Parent to connect with DVR. The team will schedule a meeting with a representative of DVR at the earliest opportunity to initiate DVR placement and discuss Student's progress toward supported employment." The documentation, though, shows, in order to partner with DVR, either the Parent or the Student needed to fill out a verification form and participate in an intake meeting, but, as of September 28, 2021 IEP meeting, this had not yet happened—meaning—the Student was not working with DVR as of September 28, 2021. Therefore, it was not a violation of the IDEA for a DVR representative to not be present at that meeting.

CORRECTIVE ACTIONS

By or before **December 17, 2021, January 21, 2022, and January 28, 2022**, the District will provide documentation to OSPI that it has completed the following corrective actions.

STUDENT SPECIFIC:

Compensatory Education

By or before **December 17, 2021**, the District and the Parent will develop a schedule for providing the following compensatory education to the Student: five hours of transition recovery services. The District will provide OSPI with documentation of the schedule for services by or before **December 17, 2021**.

The compensatory education will occur in a one-on-one setting and be provided by a certificated special education teacher. The instruction will occur outside of the District's school day and may

occur on weekends or during District breaks. Because of the COVID-19 pandemic, the compensatory education may be provided remotely.

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 **January 28, 2022**, including those needing to be rescheduled.

No later than **January 28, 2022**, the District shall provide OSPI with documentation that all of the compensatory education has 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 either must provide the transportation necessary for the Student to access these services, or reimburse the Parent for the cost of providing transportation for these services. If the District reimburses the Parent for transportation, the District must provide reimbursement for round trip mileage at the District's privately-owned vehicle rate. The District must provide OSPI with documentation of compliance with this requirement by **January 28, 2022**.

IEP Meeting

By or before **January 21, 2022**, the Student's IEP team will meet.

At the meeting, the IEP team will discuss whether the Student requires additional recovery services to address any impact on progress due to COVID-related disruptions during the 2020–2021 school year, in the following goal areas: **math 1; math 3; behavior 1–2; social 1**; and, **writing 1**.

By **January 21, 2022**, the District will provide OSPI with: i) a prior written notice, summarizing the group's discussion and decisions concerning the above matter; ii) a copy of the Student's amended IEP, if relevant; iii) any relevant meeting invitations and prior written notices; iv) a list of people, including their roles, who attended the meeting; and, v) any other relevant documentation.

DISTRICT SPECIFIC:

Dissemination of Written Guidance

By **December 17, 2021**, the District will ensure that the following individuals receive the written guidance detailed below: special education administrators, the principal, the assistant principal, and special education-certified staff, including educational staff associates (ESAs)²⁵, at the school that the Student was enrolled in during the 2020–2021 and 2021–2022 school years. The guidance will read:

- **Recovery Services**

School districts can provide recovery services to students even after they have turned 21 years of age. And, a student may be eligible for recovery services in goal areas that do not relate to

²⁵ ESAs include school psychologists, physical therapists, occupational therapists, speech language pathologists, school counselors, school nurses, and other service providers.

postsecondary goals—in addition to recovery services that do relate exclusively to postsecondary goals.

- **IEP Team Membership – Discussion of Postsecondary Goals and Transition Services**

At the discretion of the parent or the school district, an IEP team can include other individuals who have knowledge or special expertise regarding the student, including related services personnel as appropriate. And, to the extent appropriate, with the consent of the parents or a student who has reached the age of majority, the public agency must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services.

By **December 17, 2021**, the District will submit documentation that all required staff received the guidance. This will include a roster of the required personnel. This roster will allow OSPI to verify that all required staff members received the guidance.

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 December, 2021

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.)