

SPECIAL EDUCATION COMMUNITY COMPLAINT (SECC) NO. 22-132

PROCEDURAL HISTORY

On November 8, 2022, the Office of Superintendent of Public Instruction (OSPI) received a Special Education Community Complaint from the parent (Parent) of a student (Student) attending the [REDACTED] School District (District). The Parent alleged that the District violated the Individuals with Disabilities Education Act (IDEA), or a regulation implementing the IDEA, regarding the Student's education.

On November 8, 2022, OSPI acknowledged receipt of this complaint and forwarded a copy of it to the District superintendent on the same day. OSPI asked the District to respond to the allegations made in the complaint.

On November 23, 2022, the District requested an extension of time to respond to the complaint. OSPI granted the extension to December 2, 2022.

On November 28, 2022, OSPI received the part one of the District's response to the complaint and forwarded it to the Parent the same day.

On December 2, 2022, OSPI received part two of the District's response to the complaint and forwarded it to the Parent on December 5, 2022. OSPI invited the Parent to reply.

On December 15, 2022, OSPI received the Parent's reply. OSPI forwarded that reply to the District on the same day.

On December 21, 2022, OSPI requested that the District provide additional information. On January 5, 2023, OSPI received part of the requested information and forwarded it to the Parent on January 5, 2023.

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

SCOPE OF INVESTIGATION

This decision references events that occurred prior to the investigation period, which began on November 9, 2021. These references are included to add context to the issues under investigation and are not intended to identify additional issues or potential violations, which occurred prior to the investigation period.

ISSUES

1. Whether the District followed procedures to respond to the Parent's request for educational records per WAC 392-172A-05190 since November 9, 2021?
2. Whether the District followed transfer procedures per WAC 392-172A-03105(4), following the Student's transfer into the District in November 2021?
3. Whether the District implemented the Student's individualized education program (IEP) between November 9, 2021 and the end of the 2021–2022 school year?

4. Whether the District conducted progress monitoring and provided sufficient progress reporting between November 9, 2021 and the end of the 2021–2022 school year?
5. Whether the District appropriately amended the Student’s IEP regarding participation in 18-21 transition services, including:
 - a. Whether the District amended the IEP without an IEP meeting on June 2, 2022 and/or ensured the Parent participated in the IEP meeting/decisions around June 2, 2022?
 - b. Whether the IEP appropriately addressed how transition services aligned with the high school and beyond plan (WAC 392-172A-03090(1)(k))?
 - c. Whether the IEP was amended based on the Student’s transition needs with respect to goals and minutes of special education services?
6. Whether the District implemented the Student’s IEP during the 2022–2023 school year with respect to transition services, including participation in an internship?

LEGAL STANDARDS

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

Transfer Students Who Transfer from an In-State School District: If a student eligible for special education transfers from one Washington State school district to Washington State school district and has an IEP that was in effect for the current school year from the previous district, the new school district, in consultation with the parents, must provide comparable services to those described in the student’s IEP, until the new school district either: adopts the student’s IEP from the previous school district; or develops, adopts, and implements a new IEP that meets the applicable requirements in WACs 392-172A-03090 through 392-172A-03110. 34 CFR §300.323(e); WAC 392-172A-03105(4). “Comparable services” means services that are similar or equivalent to those described in the IEP from the previous district, as determined by the student’s new district. Individuals with Disabilities Education Act (IDEA), 71 Fed. Reg. 46681 (August 14, 2006) (comments to the final regulations).

IEP Implementation: At the beginning of each school year, each district must have in effect an IEP for every student within its jurisdiction served through enrollment who is eligible to receive special education services. A school district must ensure it provides all services in a student’s IEP, consistent with the student’s needs as described in that IEP. Each school district must ensure that

the student's IEP is accessible to each general education teacher, special education teacher, related service provider, and any other service provider who is responsible for its implementation. 34 CFR §300.323; WAC 392-172A-03105.

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

Progress Reporting: The purpose of progress reporting is to ensure that, through whatever method chosen by a school district, the reporting provides sufficient information to enable parents to be informed of their child's progress toward the annual IEP goals and the extent to which that progress is sufficient to enable the child to achieve those goals. *Amanda J. v. Clark County Sch. Dist.*, 267 F.3d 877, 882 (9th Cir, 2001) (parents must be able to examine records and information about their child in order to "guarantee [their] ability to make informed decisions" and participate in the IEP process). IEPs must include a statement indicating how the student's progress toward the annual goals will be measured and when the district will provide periodic reports to the parents on the student's progress toward meeting those annual goals, such as through the use of quarterly or other periodic reports concurrent with the issuance of report cards. 34 CFR §300.320(a)(3); WAC 392-172A-03090(1)(c).

IEP Amendments: After the annual IEP team meeting for a school year, the parent of a student eligible for special education and the school district may agree not to convene an IEP team meeting for the purposes of making changes to the IEP, and instead may develop a written document to amend or modify the student's current IEP. If changes are made to the student's IEP the school district must ensure that the student's IEP team is informed of those changes and that other providers responsible for implementing the IEP are informed of any changes that affect their responsibility to the student. Changes to the IEP may be made either by the entire IEP team at an IEP team meeting, or by amending the IEP rather than by redrafting the entire IEP. Upon request, a parent must be provided with a revised copy of the IEP with the amendments incorporated. 34 CFR §300.324; WAC 392-172A-03110.

IEP Development: When developing each child's IEP, the IEP team must consider the strengths of the child, the concerns of the parents for enhancing the education of their child, the results of the most recent evaluation of the child, and the academic, developmental, and functional needs of the child. 34 CFR §300.324(a). WAC 392-172A-03110.

Transition Requirements for IEPs: Beginning not later than with the first IEP to be in effect when a student eligible for special education turns 16, or younger if determined appropriate by the IEP team, the student's IEP must include appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; the transition services including courses of study needed to assist the student in reaching those goals; and a description of how the postsecondary goals and

transition services align with the high school and beyond plan. 34 CFR §300.320(b); WAC 392-172A-03090(1)(k).

ISSUE ONE: RECORDS

Findings of Fact

1. The Student is eligible for special education services under the eligibility category other health impairment, is 19 years old, and his Parent has legal guardianship of the Student. The Student transferred from a different Washington school district into the current District in November 2021.
2. The Parent's complaint included an allegation that she was not provided records related to several incidents involving the Student within the required 45 days.

The Parent stated these incidents were situations where, following an incident, District staff spoke with the Student without the Parent present. The Parent stated, "My son isn't able to provide and/or remember details...so when he came home he couldn't explain what was said and the school only gave me a very brief explanation." The Parent noted that, "After each incident I would ask for a copy of the documentation associated with the incident, including any meeting notes and a copy of the report or write up for the incident." The Parent stated the school did not respond.

3. The Parent's complaint included documentation, indicating the Parent requested these records several times between March and May 2022.
4. On May 26, 2022, the Parent emailed the District superintendent, requesting copies of the Student's discipline records. The Parent stated, in her email, that she had previously asked for these records beginning on March 7, 2022, from the building administrator, and did not receive the records.
5. On May 30, 2022, the superintendent responded to the Parent's email and stated he would ask the director of student services to contact the Parent. The director of student services contacted the Parent the next day and stated she would have the school pull the Student's educational records, clarifying what records the Parent wanted.
6. On June 2, 2022, the director of student services emailed the Parent and requested she fill out a records request form and return it to the District's public records request email/office.

The Parent responded, objecting to being asked to fill out the request form given that she had requested the records several times already over the last two months. In addition, in her reply to the District's response, the Parent stated she "took issue with having to fill out the form as [she] had previously requested those records multiple times directly from [the high school]."

7. On June 3, 2022, the Parent contacted a District records secretary and requested the records related to disciplinary allegations and incidents between January and May 2022.

8. On June 17, 2022, the records secretary sent the Parent a request for records form.
9. On June 19, 2022, the Parent emailed the completed request for records form, and requested copies of the records. The Parent stated in her reply that she did not receive the records she requested until August 24, 2022.
10. The District stated in its response that the Parent did not complete the records request form and thus was not provided copies of the discipline records. The District acknowledged it did not provide these records to the Parent and proposed training on responding to educational records requests as a corrective action.

Conclusion

The Parent alleged she requested the Student's discipline records/records related to behavioral incidents, beginning in March 2022, and was not provided the records until August 2022.

Districts must permit the parents of a student eligible for special education to inspect and review, during school business hours, any educational records relating to the student that are collected, maintained, or used by the district. The district must comply with a request promptly and before any meeting regarding an IEP. The district must respond in no more than 45 calendar days after the request has been made.

Here, the Parent began requesting records related to the Student and disciplinary actions/behavioral incidents in March 2022. The District did not initially provide the records. After numerous requests, the Parent was told she needed to fill out a records request form, which she objected to since she had already been requesting the records for several months. In June 2022, the Parent eventually filled out the records request form, but was not provided the records until August 2022. The District acknowledged it did not provide these records to the Parent and proposed training on responding to educational records requests as a corrective action.

OSPI finds a violation as the District did not provide the records within 45 calendar days of the request. OSPI accepts the District's proposed corrective action.

ISSUE TWO: TRANSFER PROCEDURES

Findings of Fact

11. The Student began attending a high school in the District on or around November 5, 2021.
12. On November 8, 2021, the Parent shared some documents with the District about the Student, including "'testing' I did with [Student] at home", a document listing the Student's challenges, and assessments from the previous district from the start of the 2021-2022 school year.
13. The complaint investigation timeline began on November 9, 2021.

14. The Parent's complaint included allegations that the services the Student received in the District were different than the services received in his previous school district.

15. The Student's previous IEP, a January 2021 IEP, was created by the previous school district he attended. The IEP included annual goals in social/emotional, adaptive, behavior, math, reading, written expression, and speech language. The IEP also contained a secondary transition plan and several accommodations. The IEP provided the Student with the following specially designed instruction, all to be provided in the special education setting by a special education teacher:

- Social/Emotional: 123 minutes per week
- Adaptive: 123 minutes per week
- Reading Fluency (Concurrent): 50 minutes per week
- Reading Comprehension (Concurrent): 150 minutes per week
- Basic Reading Skills: 246 minutes per week
- Math Problem Solving: 246 minutes per week
- Written Expression: 54 minutes, 3 times per week
- Behavior (Concurrent): 30 minutes, 5 times per week
- Written Expression: 30 minutes per week
- Written Expression: 54 minutes per month

The IEP also included 25 minutes, 3 times per month of occupational therapy provided by an occupational therapist (OT) and 25 minutes, 3 times per month of speech language services provided by a speech language pathologist (SLP) as related services. The Student would spend 981 minutes per week in the special education setting and 47.8% of his time in the general education setting. The IEP noted the Student's special education services were provided through four classes: reading, writing, math, and an elective focusing on social/emotional and adaptive skills.

16. On November 21, 2021, the Student's IEP team met and reviewed the information for the Student's transfer.

The prior written notice indicated the District accepted the Student's "records from your prior school district documenting eligibility for special education and will be providing comparable services documented on the attached Transfer-In form." The "transfer IEP" included the same goals as the Student's January 2021 IEP and the following specially designed instruction, all to be provided in the special education setting by a special education teacher:

- Social/Emotional: 123 minutes per week
- Adaptive: 123 minutes per week
- Reading: 50 minutes per week
- Reading: 246 minutes per week
- Math: 246 minutes per week
- Writing: 162 minutes per week
- Writing: 30 minutes per week
- Writing: 54 minutes per month

The IEP also included 75 minutes per month each of occupational therapy and speech language services as related services.

17. In its response, the District stated the IEP team determined it could provide comparable special education services. The District noted that the one difference between the previous district IEP and the District was that “generally, the District does not provide concurrent services” and thus, “there were two services in the [previous] IEP, reading comprehension (150 minutes per week) and behavioral instruction (30 minutes per week)” that the District did not provide in the same manner. The District stated, however, that other than the previously provided concurrent services, the District “provided the special education services that the Student received at his previous school district.” The District noted it implemented comparable services under the “transfer IEP” until the Student’s annual IEP was developed on December 7, 2021.

The District’s response further provided that the Student would be in the following classes: advisory (special education), food and nutrition, physical education, literacy (special education), occupational study (vocational skills), math (special education), and theatre.

18. In her reply to the District’s response, the Parent stated that the District should have provided the Student with concurrent services. Further, the Parent stated that the Student, in his previous IEP, received “SEPARATE reading and writing minutes because he has TWO DIFFERENT levels.” The Parent stated that the Student’s reading level is higher than his writing level, and that he needed to “receive the same services at [District] that he had at [previous school district], which would’ve been SEPARATE reading and writing education. That clearly focused on his 2 different levels.” (Emphasis in original.)

Conclusion

The Parent alleged the services the Student received in the District were different than the services he received in his previous school district. The Parent’s main objection was that the Student’s previous district IEP had separate minutes of specially designed instruction for reading and writing and that reading and writing instruction were provided in two different class periods because the Student was at a different level for reading and writing.

If a student eligible for special education transfers from one Washington State school district to Washington State school district and has an IEP that was in effect for the current school year from the previous district, the new school district, in consultation with the parents, must provide comparable services to those described in the student’s IEP, until the new school district either: adopts the student’s IEP from the previous school district, or develops, adopts, and implements a new IEP.

Following the Student’s transfer into the District in November 2021, the District provided the Student with comparable services until a new annual IEP was developed for the Student on December 7, 2021. Prior to the annual IEP, the Student’s IEP team met on November 21, 2021 to review the information and documentation for the Student’s transfer and the District documented the comparable services in a “transfer IEP.” The Student’s previous district services and current District comparable services were as follows (all services were to be provided in a special education setting by a special education teacher):

Service Area	Previous IEP Minutes	District IEP Minutes
Social/Emotional	123 minutes per week	123 minutes per week
Adaptive	123 minutes per week	123 minutes per week
Reading Fluency/Reading	50 minutes per week (concurrent)	50 minutes per week
Reading Comprehension	150 minutes per week (concurrent)	
Basic Reading Skills/Reading	246 minutes per week	246 minutes per week
Math Problem Solving/Math	246 minutes per week	246 minutes per week
Written Expression	54 minutes, 3 times per week	162 minutes per week
Behavior	30 minutes, 5 times per week (concurrent)	
Written Expression	30 minutes per week	30 minutes per week
Written Expression	54 minutes per month	54 minutes per month
Related Services	25 minutes, 3 times per month of occupational therapy and 25 minutes, 3 times per month of speech language services	75 minutes per month each of occupational therapy and speech language services

The District’s response noted the Student would be in the following classes: advisory (special education), food and nutrition, physical education, literacy (special education), occupational study (vocational skills), math (special education), and theatre.

The main difference between the comparable services and the previous IEP were that services previously provided concurrently (behavior and reading comprehension) were not. And the Student had a special education literacy class instead of separate classes for reading and writing.

The primary issue here becomes whether the services were “comparable.” The IDEA allows for comparable services to be *similar to* the previous district—the special education services do not have to be exactly the same. Here, the services were comparable—the Student received services in all the same areas, the goals were the same, the setting and provider for services was the same, and only the use of a concurrent service model was different. However, the Student still had specially designed instruction in social emotional and separate minutes for reading and writing instruction. Overall, OSPI finds that the services were comparable, and the District followed transfer procedures. OSPI finds no violation.

ISSUE THREE: 2021–2022 IEP IMPLEMENTATION

Findings of Fact

19. On December 7, 2021, the Student’s IEP team met and developed his annual IEP.

The IEP included a secondary transition plan and an IEP-determined graduation date of June 6, 2024. The IEP included annual goals in reading, adaptive, writing, math, social/emotional/behavioral, communication, and occupational therapy. Progress was to be reported quarterly and at the annual IEP meeting.

The IEP included several accommodations and modifications. The IEP provided the Student with the following specially designed instruction, all to be provided in the special education setting by a special education teacher:

- Reading: 110 minutes per week
- Writing: 110 minutes per week
- Math: 180 minutes per week
- Social: 60 minutes per week
- Adaptive: 60 minutes per week
- Reading: 130 minutes per week
- Writing: 90 minutes per week
- Adaptive: 20 minutes per week
- Social: 20 minutes per week

The IEP also included 30 minutes per month of occupational therapy and 60 minutes per month of speech language as related services. The IEP indicated the Student would spend 802.5 minutes in a special education setting at 55.4% of the day in general education.

20. The District's response stated that the Student would be in the following classes: advisory (special education), food and nutrition, physical education, literacy (special education), occupational study (vocational skills), math (special education), and theatre.¹

21. The Parent stated in her complaint that the Student did not receive the full amount of specially designed instruction as outlined in his IEP and listed concerns about specific classes and IEP implementation, summarized as follows:

- Advisory Period: The Parent stated this was 15–20 minutes and the Students were supposed to work on their high school and beyond plans (HSBPs). The Parent stated the Student was not provided any instruction during this period.
- English Language Arts: The Parent stated the Student was not provided instruction in adaptive or social during this class, and "occasionally they did writing but they weren't taught anything." The Parent stated for reading, the teacher "did the reading" or a computer read to students. The Parent stated that after she raised a concern, they started pulling the Student to do silent reading on his own and then answer comprehension questions.
- Math: The Parent stated the Student should have, and was not, provided instruction in reading, writing, math, social, and adaptive in this class. She stated she was "not sure how the reading and writing played into it", although indicated the Student may have received some math.
- CTE/Internship: The Parent stated the Student reported he would "help fold towels for the kitchen class and do other odds and ends."

The Parent also alleged that the only time the Student worked on his IEP goals was when he was being tested for progress.

In her reply to the District's response, the Parent stated that in the Student's ELA class, the Student did not read or learn how to read better, although later in the year, "they changed what my son worked on in [ELA]...instead they had him on his own reading silently and

¹ The District did not provide a bell schedule in its response for the 2021–2022 school year; however, the 2022–2023 high school bell schedule provides an approximate schedule for the previous year. The 2022–2023 high school bell schedule indicates that students attend six class periods per day and class periods are 46 minutes on Mondays, 51 minutes on Tuesday, Wednesday, and Thursday, and 56 minutes on Fridays. The advisory period is 25 minutes on Tuesday, Wednesday, and Thursdays. See, [School Website Name Redacted](#).

nothing else. NO instructions and no services." The Parent stated the Student "hardly ever [worked] on writing skills either and very rarely received services that were part of his goals."

22. The District provided, in its response, the Student's quarterly progress reports and underlying assessments (see Exhibit A). The District stated that the Student's special education teacher "provided the Parent with copies of assessments used to gauge the Student's progress toward his educational goals" and that, "District staff and the Parent were in almost daily communication with one another, discussing the Student's strengths, opportunities, progress toward his goals, and his secondary transition."
23. The Student's 2021–2022 case manager also provided information about the Student's instruction, noting that the Student was provided specially designed instruction as follows:
- 1st Period (Food and Nutrition): "Inclusion with support 55 minutes per day." The Student participated in a variety of activities, including reading and writing. The case manager stated the Student "with support [was] included in this inclusion class [where] he received specially designed instruction and modifications as needed." The case manager stated she met with the teacher weekly, or more if needed.
 - 3rd Period (Literacy Class): Reading and writing specially designed instruction daily.
 - 4th Period: 55 minutes focused on math, social, behavior and follow up on reading and writing.
 - 5th Period: 55 minutes focused on social, behavior, and work experience. The case manager stated that at least 3 times a week (55-minute periods), the Student "helped with folding/laundry from his Food & Nutrition class." The case manager stated the Student displayed independence in these tasks.

The case manager described the Student's math and reading and writing instruction, including his use of curriculum/programs with a self-paced format. The case manager explained that the Student "was provided with self paced story units to compete on his own. When needed I would reteach concepts to him. He did grammar and spelling units. He wanted to prepare for his driving test so he was learning different signs." The case manager also stated the Student "learned to fill out a job application and put together references." The case manager stated the Student received specially designed instruction as needed and that she "monitored his progress weekly."

The case manager stated:

His 4th/5th period classes on Monday-Thursday had up to 2 other students in the room so his questions could be answered immediately. Reteaching was one on one. When necessary he would receive instruction/help on work for his inclusion classes which included PR, Foods & Nutrition, and Drama. I had an open dialogue with his general ed teachers on a regular basis. Mom was given nine week progress reports with all protocols to back up growth. When [Student] completed large units, those units were sent home...[Student] was working at the 8th grade level and higher curriculum.

24. A November 23, 2021 email from the Student's case manager indicated the Student was receiving his speech services during his advisory period on Thursdays, and that the occupational therapist had observed the Student in his classroom.
25. The District was on winter break from December 20–31, 2021.

26. On March 3, 2022, the Parent emailed the director a "complaint" regarding her concerns about the worksite program, "missing/incomplete progress reports", and not being provided requested documentation. The Parent, in her complaint email, also shared concerns that the Student did not "appear to be receiving instruction on his IEP goals a lot of times." For example, the Parent stated:
- He comes home and like for his 3rd period language arts class, he doesn't see the point to it and neither do I. He does NO reading of his own. Either he listens to the computer reading to him and then answer questions or the teacher reads to them. They don't do any actual reading of their own. For working on editing, they have a worksheet they sometimes do at the beginning of class, but its own their own and then review it together. Nothing is being pre-taught. He does hardly any writing of his own too. What exactly is he being taught to help him post HS? Nothing as far as I can see. His 2 afternoon classes don't seem much better or much use either.
27. On March 6, 2022, the director emailed the Parent regarding the worksite placement questions/concerns and responded to the Parent's "complaint" email. The director stated she wanted to schedule an IEP meeting to discuss the Parent's concerns.
28. On March 16, 2022, the Parent provided a signed permission slip for the Student to participate in the CTE worksite/worksite learning.
29. On March 18, 2022, the case manager emailed the Parent that the off-campus jobsite they had previously been discussing for the Student was no longer available, but that they were working to establish another off-campus worksite. The case manager stated that in the meantime, the Student was "folding towels and aprons for the CTE Food classes and helping out with Theater clothing" and they hoped "in the near future that we can assist more in the theater."
30. The Parent stated in her complaint that she had signed permission for the CTE worksite and that this was permission "for a very specific location and nothing else." The Parent stated in her complaint and reply that she did not approve the "work" he was doing and that his IEP minutes were not updated to "reflect he wasn't scheduled to receive the minutes anymore from [case manager]" and this resulted in a "loss of 2 special education classes."²
31. The District was on break April 4–8 and the District's school year ended on June 17, 2022.

Conclusion

The Parent alleged the Student did not receive the full amount of specially designed instruction as outlined in his IEP.

A school district must ensure it provides all services in a student's IEP, consistent with the student's needs as described in that IEP. When a school district does not perform exactly as called for by

² The Parent noted in her reply that she "asked my son every day when he got home school what he did and I wrote it down in a small journal, so I have record" of what he did at school each day.

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 student with a disability and those required by the IEP.

Here, the Student's December 2021 IEP provided the Student with the following, total specially designed instruction, to be provided in a special education setting:

- Reading: 240 minutes per week
- Writing: 200 minutes per week
- Math: 180 minutes per week
- Social: 80 minutes per week
- Adaptive: 80 minutes per week

The Student's IEP also provided him 30 minutes per month of occupational therapy and 60 minutes per month of speech language services.

The District's response stated the Student would be in the following classes: advisory (special education), food and nutrition, physical education, literacy (special education), occupational study (vocational skills), math (special education), and theatre. Based on the high school schedule, students spend approximately 255 minutes per week in each class and 75 minutes in advisory. Information from the Student's case manager indicated he received specially designed instruction in reading and writing in his literacy class (255 minutes per week) and some additional "follow up on reading and writing in 4th period." However, the case manager also noted the Student's 4th period focused on math, social, and behavior instruction and 5th period focused on social, behavior, and work experience. The case manager also indicated the Student received specially designed instruction and did reading and writing activities during 1st period, his food and nutrition class, although this was a general education setting.

Based on the schedule, it is not clear how the Student was able to receive all the minutes of specially designed instruction in his IEP, as the IEP was written. The Student needed to receive 440 minutes of reading and writing, but only had 255 minutes per week of literacy (a shortfall of up to 185 minutes per week) and possibly some additional reading and writing instruction in other periods. However, the Student's IEP indicated that he would be provided specially designed instruction in a special education, so while specially designed instruction may have been provided in the food and nutrition class, the IEP was still not being implemented *as written*. It is possible, based on the Student's goals, that the adaptive minutes would have been provided in the occupational study class and the math instruction would have been provided in the math class. Although, the case manager described 4th and 5th period as focusing on math, social, behavior, and work experience, so it is not clear exactly how many minutes in each area was provided each class.

In addition to the schedule not clearly permitting the IEP to be implemented as written, the Parent raised several concerns related to specially designed instruction. For example, the Parent alleged that the Student was not provided instruction during the advisory period and was supposed to be working on his HSBP during this period anyway. Thus, it is not clear whether the Student would have received adaptive or social instruction during advisory. The Parent disagreed with how instruction was provided in the literacy class, raising concerns that the Student was not being taught, did not work on writing, and that the teacher largely read to the students until the Parent

raised a concern and after that, “they started pulling the Student to do silent reading on his own and then answer comprehension questions.” In a March 3, 2022 email, the Parent raised concerns about the literacy class, and in part stated that “For working on editing, they have a worksheet they sometimes do at the beginning of class, but its own their own and then review it together. Nothing is being pre-taught. He does hardly any writing of his own too.” The Parent stated that she maintained a record related to the 2021–2022 school year, where she “asked [the Student] every day when he got home school what he did and I wrote it down in a small journal, so I have record” of what he did at school each day. Further, while the case manager provided information that support specially designed instruction being provided, the information did not sufficiently indicate the *full* amount of specially designed instruction required by the IEP was provided. For example, the case manager described the Student doing self-paced reading units on his own, and then the case manager reteaching concepts “when needed” or providing “specially designed instruction as needed.” This indicates some specially designed instruction was provided, but also supports some of the Parent’s concerns that the Student was doing a fair amount of independent work. And, providing specially designed instruction “as needed” means it was unlikely that the full number of minutes was provided. Overall, this indicates the Student likely did not receive the full amount of specially designed instruction he was entitled to.

Further, the Parent stated that once the Student began his CTE/job placement in spring 2022, he lost two special education classes and instead would “help fold towels for the kitchen class and do other odds and ends.” An email from the case manager indicated the Student was “folding towels and aprons for the CTE Food classes and helping out with Theater clothing” and they hoped “in the near future that we can assist more in the theater.” Based on information from the Student’s case manager, this occurred during the Student’s 5th period where he also was working on social and behavior skills. Thus, it is likely that the “work experience” activities did take the place of some specially designed instruction.

Overall, the case manager did provide information that she provided some amount of specially designed instruction and described how instruction was provided. Additionally, the Student’s progress reports and work samples indicate the Student was provided some specially designed instruction throughout the year, as he did make some progress, and there are work samples related to his goals.

However, the Student’s schedule did not clearly allow for the IEP to be implemented *as written*, both with respect to the number of minutes and the setting for some of the instruction (e.g., statements that specially designed instruction was provided in a general education rather than special education setting as required by the IEP). Of particular concern is the approximate gap of 185 minutes in reading and writing as the literacy class provided 255 minutes of instruction per week and the IEP required 440 minutes of reading and writing. There is some indication reading and writing specially designed instruction was provided in other classes, but it is unlikely that 185 minutes were provided in other classes given that the Student was also supposed to be receiving math, social, and behavior instruction in those classes. Given the Parent’s concerns and information about how instruction was provided, particularly about how reading and writing instruction was provided, and insufficient information that reading and writing instruction was

provided, OSPI concludes that the Student's IEP was not fully implemented. While the implementation of other areas of specially designed instruction may have been imperfect, OSPI finds that the IEP was not materially implemented in reading and writing. Between December 7, 2021 (the Student's annual IEP) and the end of school on June 17, 2022 (excluding school breaks), the Student was not provided 4,625 minutes or 77 hours of reading instruction (185 minutes multiplied by 25 weeks).

Considering that other areas of specially designed instruction may not have been implemented fully, the District will be required to provide 77 hours of compensatory education, as follows: 35 hours of reading instruction, 35 hours of writing instruction, and 7 hours of compensatory education in the area or areas of the Parent and Student's choosing.

ISSUE FOUR: PROGRESS MONITORING/REPORTING

Findings of Fact

32. On December 7, 2021, the Student's IEP team met and developed his annual IEP. The IEP included annual goals in reading (comprehension, key details); adaptive (job application forms, community signs); writing (editing), math (real-world 2-step story problems, money problems); social/emotional/behavioral (social awareness/perspective taking, independent decision-making); communication (word retrieval strategies); and occupational therapy (filling out forms). Progress was to be reported quarterly and at the annual IEP meeting.
33. On January 31, April 15, and June 3, 2022, the District recorded the Student's progress and subsequently provided the Parent with the Student's quarterly progress reports (see, Exhibit A). The District's response also included the underlying assessments and probes used for the progress reporting.
34. In her complaint, the Parent included concerns about the substance of the Student's progress reports—primarily that the assessments the District provided her did not match the Student's goals and therefore were not valid (see Exhibit A for detailed concerns).
35. On February 4 and 7, 2022, the Student's case manager attempted to email the Parent the Student's progress reporting, but the emails indicate there were technical issues with getting the document to load. Later emails indicated the Parent received the progress reports.
36. On February 15 and March 7, 2022, the Parent emailed the assistant principal and requested a copy of the Student's occupational therapy and speech-language pathology progress reports, along with "copies of documentation for goals and progress made."
37. On March 3, 2022, the Parent emailed the director a "complaint" regarding her concerns about the worksite program, "missing/incomplete progress reports", and not being provided requested documentation.

Regarding the progress reports, the Parent stated she was "missing part of [Student's] 2nd quarter progress report," specifically progress reporting from the OT and SLP.

38. On March 7, 2022, the director of special education services emailed the Parent the occupational and speech therapy progress reports.
39. On November 17, 2022, the Images teacher emailed the Parent a copy of the Student's progress report for the first quarter of the 2022–2023 school year, along with supporting data (assignments, assessments, etc.) related to the Student's goal progress.

Conclusion

The Parent in her complaint alleged that the substance of the Student's progress reports was in violation of special education regulations—primarily that the assessments the District provided her did not match the Student's goals and therefore were not valid assessments of the Student's progress.

IEPs must include a statement indicating how the student's progress toward the annual goals will be measured and when the district will provide periodic reports to the parents on the student's progress toward meeting those annual goals.

Here, the Student's IEP included annual goals in reading, adaptive, writing, math, social/emotional/behavioral, communication, and occupational therapy. Progress reporting was to be provided quarterly and at the annual IEP meeting. The documentation reviewed indicates that apart from the communication and occupational therapy goal progress reporting, the progress reporting was provided to the Parent quarterly. However, progress reporting must be provided at the frequency stated in the IEP on *all* goals, including for related services goals if an IEP team chooses to create related services goals. Thus, OSPI finds a violation. As the communication and occupational therapy progress reports were eventually provided to the Parent, for corrective action, the District will be required to conduct training on progress reporting.

The purpose of progress reporting is to ensure that, through whatever method chosen by a school district, the reporting provides sufficient information to enable parents to be informed of their child's progress toward the annual IEP goals and the extent to which that progress is sufficient to enable the child to achieve those goals. Here, the Parent provided feedback and raised concerns specific to many of the goals as to why she did not think the progress reporting was sufficient.

Some of the Parent's concerns are disagreements with how the progress was monitored or disagreement with the underlying goal—e.g., whether the Student used a resume when completing a job application (note the goal stated "independently," but does not indicate whether that means a resume should not be used), whether the goal should be related to completing the assignment or the accuracy of answering the problems, whether a math goal is assessed at the Student's level (note the math goal related to counting money does not specify the level), or whether the use of a self-assessment checklist was appropriate. OSPI notes that for many of these concerns, the issues are things the IEP team should discuss in terms of what the goal meant or whether the goal should be amended.

Other concerns are related to how clearly the progress report showed progress, such as the goals not being assessed with the same metrics which with the goal was written—e.g., testing six questions when the goal is written as an assessment of 10 questions, not testing 2-step story problems—and providing adult assistance when assessing the goals. Finally, there are examples of the progress reporting being inaccurate in comparison to the underlying assessment data—e.g., progress being reported as 100% when there were errors.

While OSPI understands the Parent’s frustration, OSPI still finds that the Student’s progress reports provide information about his progress. For example, noting that the Student was provided adult assistance tells us something about progress—namely that the Student is not independent on the goal yet. Additionally, OSPI finds that understanding the Student’s progress was not hindered by differences between the reporting and the goal. For example, progress out of six questions instead of ten still tells the IEP team something about the Student’s progress.

Overall, even given examples of inaccurate reporting on a goal, the progress reporting provided the Parent information about progress. OSPI does not find that the imperfections in some of the progress reporting renders the progress reports inaccurate or insufficient. OSPI finds no violation. However, as training on progress reporting is ordered above, OSPI recommends the District take into consideration the concerns raised by the Parent and how that can inform professional development around best practices with respect to progress reporting.

ISSUES FIVE & SIX: IEP AMENDMENT & TRANSITION SERVICES IMPLEMENTATION

Findings of Fact

40. The Student’s December 2021 IEP included a secondary transition plan, consisting of information on the Student’s needs, strengths, preferences, interests, and experiences from age-appropriate transition assessments, and a course of study. The IEP included post-secondary goals and transition services:
- “After graduation [Student] will participate in on the job training with supports to increase employability skills in arts or social sciences” – transition services include safety, self-advocacy, and social skills instruction/interactions (case manager).
 - “After graduation [Student] will be employed in the arts or social sciences” – transition services include that the Student would apply to attend the “Post Secondary Transition Program for the next two years” (case manager).
 - “After graduation [Student] will utilize public transportation...to access training, school, employment, social, recreational and personal appointments” – transition services include instruction in self-advocacy to express needs/wants (case manager).
41. On February 24, 2022, the Parent contacted the case manager and stated the Student was interested in the District’s “secondary transition program, ‘Images.’”
42. On March 16, 2022, the Student’s case manager emailed the Student and Parent that the Student would be interviewing “with the transitions program on March 22” and she attached the interview questions.

43. On May 19 and 24, 2022, the District invited the Parent to attend an IEP meeting scheduled for June 2, 2022. The meeting invitation indicated the purpose of the meeting was related to "transition planning."
44. In her reply to the District's response, the Parent stated the invitation did not say "IEP meeting. It doesn't say IEP meeting without convening the IEP team. It doesn't say IEP amendment" and that this contributed to confusion over what the meeting was about—"were we doing an IEP meeting or just discussing transition services." The Parent also stated that her "signature on the form" was for attendance only.
45. On June 2, 2022, the Student's IEP team met and reviewed the Student's IEP. The IEP team revised the IEP to prepare for the Student beginning an "18-21 program" for transition services during the 2022-2023 school year.³

The IEP included the same secondary transition plan as the December 2021 IEP. The only reference to the HSBP in the IEP was in the "points to consider" section of the IEP for secondary transition, which stated "Secondary Transition information and services should support rather than replace the student's...HSBP."

The IEP included the same annual goals as the December 2021 IEP and included several accommodations and modifications.

The IEP provided the Student with weekly specially designed instruction, all to be provided in the special education setting by a special education teacher until June 13, 2022. And it provided the Student with the following weekly specially designed instruction, all to be provided in the special education setting by a special education teacher between June 13 and December 6, 2022:

- Reading: 120 minutes
- Writing: 180 minutes
- Math: 120 minutes
- Social: 30 minutes
- Adaptive: 120 minutes

Between June 13 and December 6, 2022, the IEP provided 60 minutes per month of speech language as a related service. The IEP indicated the Student would spend 1,387.5 minutes in a special education setting and 22.9% of the day in general education.

46. Also, on June 2, 2022, the Student's case manager emailed the Parent and the IEP team a copy of the Student's amended IEP.
47. In the Parent's complaint, she alleged the District did not address the concerns she raised at the meeting, including concerns over the Student's graduation and HSBP:
At my son's transfer IEP meeting I told his new IEP team I didn't know where he was at with

³ OSPI notes that the amended IEP was on an "IEP Amendment without Reconvening the IEP Team" IEP form; however, the District's documentation also included a signature sheet signed by the Parent, case manager, transition teachers, transition principal, special education teacher, and assistant principal. The handwritten portion of the signature sheet was labeled "revision meeting for [Student] on 06/02/2022."

his [HSBP]. I was informed that my son should NOT complete his [HSBP] and that if he does complete then he does a full graduation and would no longer be eligible for the transition program. However at some point between that meeting in December 2021 and the IEP meeting on 6/2/22, his case manager had my son complete his [HSPB]. I tried to ask at the IEP meeting I thought you said he couldn't finish it or wouldn't be eligible for transition...Both the HS IEP and the transition IEP team were giving me different answers.

The Parent also stated that she agreed to an IEP meeting on June 2, 2022, and then the team "decided to hold an IEP meeting without convening the IEP meeting." The Parent stated she did not agree to this. Further, with respect to the amendment of the Student's IEP, the Parent alleged in her complaint that the IEP was incorrect as it "no longer showed the correct # of minutes", in that the Parent alleged the IEP was amended to reflect the structure of the transition program instead of the services based on the Student's needs.

- 48. The District's 2021–2022 school year ended on June 17, 2022, and the 2022–2023 school year began on September 6, 2022.
- 49. At the start of the 2022–2023 school year, the Student continued to be eligible for special education services and attended the District's "secondary transition program" (Images) to receive transition services. The Student's June 2022 IEP was in effect. Images began in mid-September 2022.
- 50. The District provided information about Images, which stated it was one of three sites for the District's "Transition Program." Images was housed on a local community college campus, and the students who attended were 18–21 and were "referred to the...application process by their high school IEP team after completing their high school credits and state assessments." The program focused on employment readiness. The information noted that student schedules were "tailored to meet individual needs" and did not typical reflect a standard high school six-period day. Students utilize public transportation to access the college campus, internship sites, and the community. The program information included details about the following curriculum areas: vocational training, social skills and personal management, recreation and leisure, functional daily living and adaptive behavior, and self-advocacy.

51. The Student's schedule during the 2022–2023 school year at Images was as follows, per an updated copy of the schedule provided on January 5, 2022:

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
9–11:15 am (135min) Community Tours/Guest Speakers Writing tour or speaker sheet	8:30–10:45am IMAGES Classes: Includes: reading, writing, math, adaptive Social skills	8:30–10:45 am IMAGES Classes: Includes: reading, writing, math, adaptive Social skills	8:30–10:45 am IMAGES Classes: Includes: reading, writing, math, adaptive Social skills	8:30–10:30 am SOCIAL CLUB Games, crafts, social skills Student First Club

Time varies depending on tour	(135 min)	(135 min)	(135 min)	(120 min)
11:15–11:30 am Writing daily notes, editing, writing skills, specific goal skills (15 min)	10:45–11 am Writing daily notes, editing, writing skills, specific goal skills (15 min)	10:45–11:0 am Writing daily notes, editing, writing skills, specific goal skills (15 min)	10:45–11 am Writing daily notes, editing, writing skills, specific goal skills (15 min)	
Lunch at home	Lunch 11–11:30	Lunch 11–11:30	Lunch 11–11:30	Lunch at home
	STA to internship (30 min)	STA to internship (30 min)	STA to internship (30 min)	
	Internship 12–2:30 pm (150 min)	Internship 12–2:30 pm (150 min)	Internship 12–2:30 pm (150 min)	

52. In her complaint, the Parent stated:

His minutes were updated supposedly to match what they would be starting with the transition program. However when I read the amendment, it only shows the amendment for special education minutes...Even though they updated and decreased the # of SDI minutes, they never updated the general ed minutes or the % of minutes. When he started the transition program, he hasn't been receiving any general education, only a very limited amount of special education.

...they put on his transition IEP that my son will receive 30 minutes a week social minutes. I asked about that item specifically during the IEP meeting, because on Friday's, my son has 2 hours of free time, usually with no adult present socializing with his friends...the minutes he spends on his own without supervision socializing is a joke and shouldn't count for any minutes at all. Also [Student's] 15 minute break time Tuesday/Wednesday and Thursday between his (2) 1hr classes shouldn't count for IEP minutes either. He's also received maybe 30 minutes math since the start of the transition program, nothing else... [sic]

The Parent also stated she was still trying to get the Student enrolled in an internship, and that issues that had occurred the previous year with the paperwork continued to be a problem.

53. The District noted in its response that the Student's June 2022 IEP did not specify whether the Student would participate in an internship as part of his secondary transition services. Regardless, the District stated it "has been attempting to work with the Parent to amend the Student's IEP to include an internship placement to support his goals and secondary transition." With respect to an internship, the District stated it:

Placed the Student in an internship that was scheduled to start in mid-September. However, the delay in placing the Student in an internship for his transition services was not caused by the District's fault. From September until November 9, 2022, the Parent has refused to sign the consent form, which is necessary for the Student to begin his internship. On November 10, 2022, the Student submitted a consent form signed by the Parent. Within

two days of receiving the completed consent form, the District could place the Student in an internship.

54. Regarding an internship, the Parent stated that "an internship is a mandatory part of the program for the transition program [the Student] is in" and that if the District was arguing that the internship was not on his IEP, then it was the District's error to not include that on the IEP when the IEP was amended in June 2022.

55. On September 6, 15, and 16, 2022, the District proposed and invited the Parent to an IEP meeting scheduled for September 28, 2022.

56. On September 28, 2022, the Student's IEP team met to develop the Student's annual IEP.

According to the District's response and the prior written notice from the meeting, the IEP team proposed new goals, but the IEP was not finalized because the Parent disagreed with the proposed draft goals. The Parent "requested current baseline on each goal before moving forward" and requested the team review the minutes on the matrix. The prior written notice indicated the team agreed to amend the proposed goals and send the draft goals to the Parent prior to the October 13, 2022 meeting (the IEP team agreed to hold a second IEP meeting on October 13, 2022).

57. According to the Parent's complaint and reply, she had several concerns with the IEP, including:

- The baseline for all the goals was zero and the District had not done any testing. The Parent stated these were not valid baselines and therefore, she did not accept the goals.
- Concerns with updated goals, including, for example: "if they're under the correct goal header, such as filling out an application, why is it listed as a writing goal when its always been an adaptive goal?"
- The goals did not align with the Student's HSBP because the Student's HSBP was "blank for the most part."

58. On October 7, 2022, the District emailed the Parent an invitation to the October 13, 2022 IEP meeting.

59. On October 11, 2022, the District sent the Parent the new proposed draft goals and the Student's schedule.

60. According to the District's response, for the October 13, 2022 IEP meeting:

Before ending the IEP meeting on September 28, the Team, including the Parent, scheduled a follow-up meeting for October 13, 2022...The IEP team initially planned to meet at [local] Community College...After confirming that she could attend the meeting, the Parent later informed the Team that she could not attend the meeting in person as she did not want to pay for parking. Wanting to ensure maximum parental participation, the District suggested holding the meeting at [another location], which offered free parking.

On October 7, 2022, the District sent the Parent a second meeting invitation for the October 13 meeting...However, the Parent did not respond to the District's offer to change the

location of the meeting to STEP. On October 10, 2022, the Student's special education teacher at [transition program] reached out to the Parent to ensure that she received forms for the meeting and to see if the Parent was planning to attend the meeting at STEP.

On October 13, 2022, the District sent the Parent a Zoom link for the previously agreed-upon time so she had the option to participate in the IEP meeting remotely. Unsure where or how the Parent would attend the meeting, Team members met at the two locations they offered as meeting locations...were all logged into the Zoom meeting. However, despite the District's multiple contact attempts and availability to hold a meeting at two locations and over Zoom, the Parent did not attend the IEP meeting on October 13.

The draft IEP that the District intended to finalize at the IEP meeting on October 13 addresses how the Student's transition services align with High School & Beyond requirements...Since October 13, the Parent has not responded to the District's attempts to reschedule the meeting to finalize the Student's IEP.

...

Since October 13, the District has made several attempts to contact the Parent to reschedule the October 13 IEP meeting but has been unsuccessful, as the Parent is refusing to respond...The District has been working to provide the Parent with every opportunity to participate in an IEP amendment. Unfortunately, the Parent's delay in responding to the District has resulted in the continued use of an IEP that does not properly address the Student's current placement.

61. According to the Parent, she requested a virtual IEP meeting and never agreed to an in-person meeting. The Parent also stated she did not receive a meeting invitation and only received the link to the meeting 75 minutes prior to the meeting. The Parent stated she required 48 hours' notice before meetings to be able to take time off work.
62. The District's response included two draft IEPs—a draft for the September 28 and October 13, 2022 IEP meetings.

The October 13, 2022 draft IEP indicated the Student was participating in the "high school transition program to address skills needed after graduating from public school into adult pursuits for daily living and working." The IEP included a secondary transition section, including information about the Student's needs, strengths, preferences, interests, and experiences, including observations from the Student's participation in Images and input from the Student and Parent. The IEP included secondary transition goals (employment in the arts or a helping profession, budgeting money to manage personal finances), transition services (CTE nonpaid internship; specially designed instruction in completing applications, interview skills, money management and budget), and the course of study ("IMAGES, High School Transition Program to support movement towards their Post-Secondary Goals.")

The IEP included accommodations and modifications, and included the following proposed weekly specially designed instruction, to be provided in a special education setting by a special education teacher or special education transitions teacher:

- Reading: 100 minutes
- Reading: 25 minutes
- Reading: 25 minutes
- Writing: 210 minutes

- Math: 120 minutes
- Social: 40 minutes
- Behavior: 15 minutes
- Adaptive: 30 minutes

63. On October 13, 2022, the Parent sent the District a letter with concerns regarding the Student's internship, the draft IEP, and implementation of the Student's IEP. These concerns included the following, summarized:

- Concerns around not being provided the paperwork and schedule for the Student's internship.
- Concerns about the September 28, 2022 IEP meeting, including that they reviewed a summary of certain items via powerpoint instead of reviewing the IEP, that the information provided by the Student was inaccurate, and that the Parent did not have an opportunity to provide input or feedback.
- Concerns about the goals, baselines, and placement of the goals in the IEP.
- Concerns about what the Images program was or would be "teaching [the Student]."
- Concerns that the program was not utilizing visual aids; for example, the Student has memory challenges, "So they have him write things down in a binder and said they would provide an extra 15 minutes per day to HELP HIM write things down. Well they aren't doing it. he's had 2 speakers this week at least, if not three and sure enough, no info sheet or anything on the agency, speak or anything else – services they provide or anything else [sic]." (Emphasis in original.)
- Concerns regarding the minutes of instruction and services in the IEP.

64. In the Parent's reply to the District response, she stated that the IEP draft for the October 13, 2022 meeting did not meet the Student's needs and listed several concerns, including that the draft IEP did not include goals and instead draft goals were written in a separate document.⁴

Further regarding implementation of special education services, the Parent stated:

The transition program my son is in, provides very little...Monday is usually tour day where they go visit an agency to see what programs and services it may provide. Sometimes he receives a document that explains the agency and services, most of the time not. They do maybe 10 minutes writing about the agency. Tuesday thru Thursday they have (2) 1 hour sessions. Most of them time its not useful...They're also working on a Power Point to explain how the transition program can help other students...being told to write about their program is not helpful in the long run. They no math. They play Kahoots⁵ on a regular basis. How is that providing my son's minutes and services as prescribed in his IEP? [sic]

The Parent stated that she asked the Student and the Student stated he was not "learning much."

65. On October 13 and 16, 2022 the District emailed the Parent to schedule an IEP meeting.

⁴ The Parent provided a document of October 13, 2022 draft goals. OSPI notes these drafted goals did have updated baselines in comparison to the draft goals for the September 28, 2022 IEP meeting, in other words the goals had non-zero baselines.

⁵ "Kahoot" is a web-based learning platform with read-to-play learning games or applications to create original content. <https://kahoot.com/student-centered-learning/>

66. On November 2, 2022, the Images teacher and Parent emailed regarding the Student's internship and schedule. The teacher clarified that the Student's internship would be 2.5 hours on Tuesday, Wednesday, and Thursday afternoons.
67. On November 10, 2022, the Images teacher emailed District staff that the Student brought in his signed paperwork for an internship. Subsequent emails discussed when the Student would start, which appeared to be scheduled for November 15, 2022.
68. In her reply to the District response, the Parent stated that on November 10, 2022, the District sent another set of IEP goals and added some goals. The Parent included in her reply a document with November 10, 2022 present levels and proposed goals with updated (non-zero) baselines and associated assessments determining the Student's baselines.

In her reply, the Parent continued to express concerns with the goals, stating some of them "don't make sense" and she was not "sure where they came up with some of them." The Parent stated she felt that some of the goals were not "valid" or appropriate. The Parent also stated that the some of the baseline assessments were inaccurate.
69. On November 17, 2022, the Images teacher emailed the Parent a copy of the Student's progress report and supporting data related to the Student's progress. (See Exhibit A)
70. On November 18, 2022, the Images teacher emailed the Parent a copy of the updated draft IEP, noting that "the goals are not inserted until after we meet for the IEP."
71. Regarding the provision of special education services during the 2022–2023 school year, the District noted that because a new annual IEP has not been finalized, the District is continuing to implement the goals from the Student's December 2021 IEP (amended in June 2022).

The Student's current case manager described general instructional strategies:

Instruction is provided by utilizing systematic and explicit instruction, faded prompts to increase independence toward goal, scaffolded instruction, pre-teaching with modeling, supporting him through his task and then fading prompts to independent practice... supporting him through his task and then fading prompts to independent practice (Model, Lead, Test model). We break things into small parts and build on skills once a skill is mastered.

The case manager provided examples of instructional activities and daily entry task activities the Student was working on for each of his goals. The case manager also described next step areas for the Student's scaffolded learning, class activities, the class discussions for problem solving, and role-playing. As one example, the case manager described how the Student, for one of the social emotional goals, would work "with peers in work groups or social situations such as with preteaching, redirecting, prompting and supporting him through social situations or relationship repair if needed" and described various situations this occurred. The case manager also provided examples of the skills the Student would learn through his internship.

Conclusions

Issue Five – IEP Amendment/Development: The Parent made several allegations related to the development and amendment of the Student’s IEP with respect to the Student’s access to 18–21 transition services.

June 2, 2022 IEP Meeting: The Parent alleged that the IEP team “decided to hold an IEP meeting without convening the IEP meeting,” which the Parent stated she did not agree to.

After the annual IEP team meeting for a school year, the parent of a student eligible for special education and the school district may agree not to convene an IEP team meeting for the purposes of making changes to the IEP, and instead may develop a written document to amend or modify the student's current IEP. Changes to the IEP may be made either by the entire IEP team at an IEP team meeting, or by amending the IEP rather than by redrafting the entire IEP.

Based on the documentation, exactly what occurred on June 2, 2022 is confusing—primarily because the IEP amendment form used is titled “IEP Amendment without Reconvening the IEP Team.” However, there is a signature sheet signed by the Parent, case manager, transition teachers, transition principal, special education teacher, and assistant principal. The handwritten portion of the signature sheet was labeled “revision meeting for [Student] on 06/02/2022.” Further, the Parent referenced raising concerns at the meeting and stated that her signature on the sheet was to document her attendance, indicating she did attend an IEP meeting. Thus, the totality of the documentation indicates the IEP team did meet and that the wrong IEP form was used. OSPI acknowledges this caused confusion as to whether the IEP was amended at a meeting or without a meeting; however, this does not amount to a violation as the Parent attended and participated in the IEP meeting. OSPI finds no violation.

The Parent additionally alleged that the District did not address some of the concerns she raised at the June 2, 2022 IEP meeting. These concerns are intertwined with the other allegations with respect to IEP development/amendment and will be discussed below.

Transition Services & HSBP: The Parent alleged the District did not address concerns and confusion over the Student’s graduation and HSBP plan.

Beginning not later than with the first IEP to be in effect when a student eligible for special education turns 16, or younger if determined appropriate by the IEP team, the student’s IEP must include elements related to postsecondary and transition services. Additionally, beginning in October 2021,⁶ an IEP must include a description of how the student’s postsecondary goals and transition services align with the HSBP.

During the 2022–2023 school year, the Student’s IEP team met on September 28, 2022, to develop the Student’s annual IEP. The IEP was not completed, and the IEP team agreed to hold a second IEP meeting on October 13, 2022, which the Parent ultimately did not attend. The District stated

⁶ Revisions to WAC 392-172A took effect October 15, 2021, this included WAC updates to align IEP transition services and the HSBP.

in its response to this complaint that it intended to finalize the IEP at the October 13 meeting, including addressing how the Student's transition services aligned with the HSBP requirements, but that the Parent has not responded to attempts to schedule another IEP meeting.

Regardless, the Student's IEP should have already discussed how transition services aligned with the HSBP as far back as the December 2021 IEP. Importantly, the June 2, 2022 IEP meeting (discussed above) seemed to have been scheduled primarily to address and amend the IEP with respect to transition services, and despite the Parent raising questions and concerns at and after that meeting regarding the HSBP, how that impacted the Student's access to transition services, and how it related to graduation, the IEP team did not discuss this at the June 2, 2022 IEP meeting. The December 2021 and June 2022 IEPs' only reference to the HSBP in the IEP was in the "points to consider" section of the IEP for secondary transition, which stated, "Secondary Transition information and services should support rather than replace the student's...HSBP." But the IEP did not indicate the IEP team discussed the Student's specific transition services and HSBP, and the alignment between the two. Thus, OSPI finds a violation as the Student's IEP should have discussed this and the IEP should have been amended to address this as of December 2021. As corrective action, the District will be required to hold an IEP meeting to discuss and describe how the postsecondary goals and transition services align with the HSBP, amending the IEP if necessary.

Transition Services: Goals & Minutes: The Parent alleged the IEP was amended to reflect the structure of the transition services and not the Student's needs. Additionally, throughout the investigation and in documentation reviewed, the Parent raised numerous concerns about the draft IEPs created during fall 2022.

When developing each child's IEP, the IEP team must consider the strengths of the child, the concerns of the parents for enhancing the education of their child, the results of the most recent evaluation of the child, and the academic, developmental, and functional needs of the child.

At the June 2, 2022 IEP meeting, the Student's IEP team amended the Student's specially designed instruction, reducing the amount of reading, math, and social instruction. The Student's minutes of writing instruction remained the same, and the amount of adaptive instruction was increased. It does appear that the Student's specially designed instruction was, at least in part, adjusted due to the structure of Images. This is supported by the information about Images, which notes that student schedules did not typically reflect a standard high school six-period day. Further, curriculum areas in Images focus on vocational training, social skills and personal management, recreation and leisure, functional daily living and adaptive behavior, and self-advocacy.

However, the IEP still appears to reflect consideration of the Student's needs. For example, the Student's IEP goals and service areas remained the same, he continued to be scheduled to receive instruction in academic areas, despite the Images program focus on vocational, functional living, and adaptive areas. Further, the writing minutes remained the same, which is notable given the Parent's feedback that writing is a particular area of need for the Student. And the Images information indicated that schedules were "tailored to meet individual needs." Overall, OSPI finds that the IEP was not improperly amended on June 2, 2022, given that while the structure of Images

likely influenced the amendment, the consideration of the Student's unique needs was also a factor. OSPI finds no violation.

Since the IEP meeting on September 28, 2022, the Parent has raised a variety of concerns about the draft IEPs, including generally that the draft IEPs did not meet the Student's needs. These concerns include concerns around the accuracy of the goal baselines, the topic areas and wording and appropriateness of the goals, and errors (or discrepancies with the Student's schedule) the Parent had identified in the minutes of instruction and services in the draft IEPs.

Documentation indicates the District has been working to address the Parent's concerns—providing updated draft goals in response to the Parent's input, updating the goal baselines, and ongoing attempts to schedule another IEP meeting.

While the Parent should have an opportunity to share her concerns about the draft IEP and the IEP team should discuss and address, this is part of developing an IEP. Disagreement with elements of a draft IEP do not necessarily indicate there has been a violation of special education regulations or a failure to appropriately develop the IEP, as the IEP development is still in progress. OSPI finds no violation with respect to the content of the draft IEPs created in fall 2022.

However, while this was not the case when the complaint was filed, the Student's IEP is now out of date as the June 2022 IEP indicated services were to be provided between June 13 and December 6, 2022. Thus, OSPI encourages the Student's IEP team to make scheduling a meeting and developing a new annual IEP a high priority; and, as an IEP meeting was ordered above as part of the corrective actions, OSPI encourages the IEP team to make sure of that time to both address the corrective actions and develop the annual IEP. OSPI credits the District for its efforts to schedule an IEP meeting, including having District staff at two separate locations and creating a video conference option for the October 13, 2022 IEP meeting to attempt to facilitate the Parent's ability to attend. OSPI does not find the Parent's explanation that the Zoom link was only sent 75 minutes prior to the meeting a persuasive reason for her not to attend, given that the meeting had previously been scheduled and agreed upon by the IEP team at the September 28, 2022 meeting. The Parent had sufficient notice of the meeting, even if there was some confusion over the location. OSPI notes that much of the IEP development and implementation concerns could likely have been resolved had the Parent attended the October 13, 2022 IEP meeting.

Issue Six – IEP Implementation 2022–2023: The Parent alleged the District failed to implement the Student's IEP during the 2022–2023 school year, including transition services and participation in an internship.

A school district must ensure it provides all services in a student's IEP, consistent with the student's needs as described in that IEP. When a school district does not perform exactly as called for by the IEP, the district does not violate the IDEA unless it is shown to have materially failed to implement the child's IEP. A material failure occurs when there is more than a minor discrepancy between the services provided to a student with a disability and those required by the IEP.

The IEP in place at the start of the 2022–2023 school year provided the Student with the following specially designed instruction between June 13 and December 6, 2022:

- Reading: 120 minutes
- Writing: 180 minutes
- Math: 120 minutes
- Social: 30 minutes
- Adaptive: 120 minutes

The Student's schedule at Images provided him between 585 and 720 available minutes of instructional time, while his IEP had 570 total minutes of specially designed instruction. Thus, the Student's schedule indicates that he would receive his specially designed instruction (although more social instruction than required by the IEP).

The Parent raised concerns about the Student's specially designed instruction, including that his social instruction is free time for socializing without an adult present/supervising or providing instruction; that the Student has only received 30 minutes of math since the start of the program; that the Student had not receive the writing worksheets related to speakers or that the writing is maybe 10 minutes; and finally, that the Student stated he was "not learning much."

The Student's progress reporting and work samples indicates he was making progress on all his goals, and approaching mastery on a few, indicating that some amount of specially designed instruction has been provided. Further, the Student's 2022-2023 case manager provided information—both general and specific—about how she provided specially designed instruction and the specific activities and skills the Student had been working on.

In her concerns, the Parent shared information that indicates that she disagrees with *how* instruction is being provided, but also implied that instruction *was* being provided. For example, the Parent stated the Student has an assignment to explain how the transition program can help other students and thus is writing about the program. The Parent also raised concern that they use an online program, "Kahoots", for math. However, while the Parent may disagree with the instructional method, "Kahoots" is an option for web-based learning wherein teachers can use ready-to-play learning games or create original connect. Just because web-based learning is being used does not necessarily mean it is specially designed instruction.

Overall, given the Student's schedule, the Student has scheduled time to receive all of his specially designed instruction. Although specifically with respect to social instruction, the IEP does not appear to be implemented *as written* as more social instruction time is provided than required on the IEP. As discussed above, the District has been trying to schedule an IEP meeting and it is clear the IEP needs to be updated. In fact, the District acknowledged that because an IEP meeting has not occurred, this has resulted in the "use of an IEP that does not properly address the Student's current placement." Thus, OSPI finds a violation as the IEP is not being implemented *as written* with respect to social emotional instruction and because the IEP does not reflect the Student's current placement. As already noted above, the IEP team will be required to meet.

At the same time, while the Parent does raise concerns about whether instruction is being provided, many of her concerns related largely to her disagreement with *how* instruction is being provided. A parent's disagreement with the curriculum or instructional methodology used by a

teacher does not necessarily mean that instruction is not being provided. There are examples of the Student being provided instruction and progress reporting indicates that instruction has been provided. Thus, OSPI finds that there has not been a material impact on the Student requiring compensatory education as specially designed instruction has been provided and the Student is making progress.

Regarding the Student's internship, the documentation indicated that for a variety of reasons, the Student did not start his internship placement until November 2022. The District stated that it had been attempting to place the Student in an internship, and although the June 2022 IEP does not specify whether the Student will participate in an internship, the District "has been attempting to work with the Parent to amend the Student's IEP to include an internship placement to support his goals and secondary transition." The District further noted the District placed the Student in an internship within several days of receiving the Parent's signed consent for the Student's internship participation. The Parent argued that the internship was part of Images and that this should have been added to the Student's June 2022 when it was amended. However, for this particular allegation, the Parent alleged the internship was not implemented. And, as it was not a part of the IEP, OSPI finds no violation within respect to the Student's delayed start in an internship.

CORRECTIVE ACTIONS

By or before **February 3, 2023, March 3, 2023, April 21, 2023, May 31, 2023, September 15, 2023,** and **December 22, 2023,** the District will provide documentation to OSPI that it has completed the following corrective actions.

STUDENT SPECIFIC:

IEP Meeting

By or before **January 27, 2023,** the Student's IEP team, including the Student, will meet to discuss and amend the Student's IEP to address the alignment between the transition services and goals and the Student's High School and Beyond Plan (HSBP). OSPI also recommends the IEP team finalize the development of the Student's annual IEP at this meeting.

By or before **February 3, 2023,** the District will provide OSPI with the following documentation: a) any relevant meeting invitations, b) prior written notice; c) the Student's IEP; and d) any other relevant documentation.

Compensatory Education

By or before **January 31, 2023,** the District and Parent will develop a schedule for 77 hours of compensatory education, divided as follows: 35 hours of writing instruction, and 7 hours of compensatory education in the area(s) of the Parent and Student's choosing.

Unless otherwise agreed to by the District and Parent, services will be provided by a certified special education teacher. Services may be provided in a 1:1 setting or a group setting, if appropriate. Services will be provided outside the District's school day and can be scheduled on

weekends, over District breaks, or before or after school. The compensatory services can be provided through a District summer program, if that program will provide specially designed instruction in the Student's areas of service. The District will provide OSPI with documentation of the schedule for services by or before **February 3, 2023**.

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 or provider with at least 24 hours' notice of the absence, the session does not need to be rescheduled. The services must be completed no later than **December 15, 2023**.

The District must provide OSPI with an update on the amount of compensatory services provided to the Student by providing documentation on **May 31, 2023** and **September 15, 2023** of the compensatory services provided to the Student at that point. This documentation must include the dates, times, and length of each session, and state whether any of the sessions were rescheduled or missed by the Student. By or before **December 22, 2023**, the District must provide OSPI with documentation that it has completed compensatory services for 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 **December 22, 2023**.

DISTRICT SPECIFIC:

Training

The District, in cooperation and collaboration with a non-District employee (e.g., the ESD or other trainer), will develop and conduct a training(s) on the below topics. The District will provide the trainer with a copy of this decision, SECC 22-132.

The following District staff will receive training: District special education administrators; the following at the high school the Student's attended: principal, assistant principal, and special education certified staff (teachers); and District staff that provide transition services to students 18-21. The training will cover the following topics and will include examples:

- Responding to education records requests.
- Progress reporting. OSPI recommends the District use the eLearning module on progress reporting as part of the training. The training module has been developed by OSPI special education division and eLearning for Educators in Canvas, an online learning management system. Access to the training module in Canvas can be found here <https://www.evergreen.edu/elearningforeducators/>.
- IEP development and amendment with respect to transition services and HSBP alignment. OSPI recommends the District use the [Guidelines for Aligning High School & Beyond Plans \(HSBP\) and IEP Transitions Plan](#) guidance document and the training modules available through eLearning for Educators—[Meaningful Transitions: Connecting IEP Transition Planning, HSBP, and Graduation Pathways](#)—for this portion of the training.

OSPI notes that the District may wish to include additional staff in the responding to record requests portion of the training if there are additional staff—e.g., central office staff, records secretaries, that are involved with responding to records requests. The District may also want to conduct a series of trainings, splitting the required topics up. If the District would like to propose an alternate training plan, please contact OSPI for consideration.

By or before **February 3, 2023**, the District will notify OSPI of the name of the trainer and provide documentation that the District has provided the trainer with a copy of this decision for use in preparing the training materials.

By or before **March 3, 2023**, the District will submit a draft of the training materials for OSPI to review. OSPI will approve the materials or provide comments by March 17, 2023.

By **April 14, 2023**, the District will conduct the training regarding the topics raised in this complaint decision.

By **April 21, 2023**, the District will submit documentation that required staff participated in the training. This will include 1) a sign-in sheet from the training, and 2) a separate official human resources roster of all staff required to attend the training, so OSPI can verify that all required staff participated in the training.

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 6th day of January, 2023

Dr. Tania May
Assistant Superintendent of 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.)