

SPECIAL EDUCATION COMMUNITY COMPLAINT (SECC) NO. 23-110

PROCEDURAL HISTORY

On July 13, 2023, the Office of Superintendent of Public Instruction (OSPI) received and opened a Special Education Community Complaint from the parents (Parents) of a student (Student) attending the Seattle School District (District). The Parents alleged that the District violated the Individuals with Disabilities Education Act (IDEA), or a regulation implementing the IDEA, regarding the Student's education.

On July 13, 2023, OSPI acknowledged receipt of this complaint and forwarded a copy of it to the District superintendent on July 14, 2023. OSPI asked the District to respond to the allegations made in the complaint.

On September 17, 2023, the District requested an extension of the due date by which it needed to submit its response. On September 18, 2023, OSPI granted the District an extension.

On August 7, 2023, OSPI received Part 1 of the District's response to the complaint and forwarded it to the Parents on August 15, 2023. OSPI invited the Parents to reply.

On August 15, 2023, OSPI received Part 2 of the District's response to the complaint and forwarded it to the Parents on August 15, 2023. OSPI invited the Parents to reply.

On August 17, 2023, the Parents requested an extension of the due date for her reply to the District's response. That same day, OSPI granted the Parents' extension request, asking the Parents to submit their reply by September 7, 2023.

On August 31, 2023, OSPI determined that additional information would be helpful to the investigation and contacted the District. On September 1 and 7, 2023, OSPI received the requested information. OSPI provided the Parents a copy of this information on September 8, 2023.

On August 31, 2023, OSPI determined that additional information would be helpful to the investigation and contacted the District. On September 11 and 13, 2023, OSPI received the requested information. OSPI provided the Parents a copy on September 15, 2023.

On September 5 and 7, 2023, OSPI received additional information from the Parents. OSPI forwarded the additional information to the District on September 13, 2023.

On September 13, 2023, OSPI's investigator conducted separate interviews of the special education teacher and the occupational therapist (OT).

On September 14, 2023, OSPI's investigator conducted separate interviews of the speech language pathologist (SLP) and the counselor.

On September 15 and 18, 2023, OSPI's investigator consulted with four special education program supervisors at OSPI.

On September 19, 2023, OSPI requested the Student provide information and sent written questions to the Student.

On September 21, 2023, OSPI determined that additional information would be helpful to the investigation and contacted the District. That same day, OSPI received the requested information. OSPI provided the Parents a copy of this information on September 22, 2023.

On September 21, 2023, OSPI determined that additional information would be helpful to the investigation and contacted the Parents. On September 23, 2023, the Parents provided OSPI with the requested information and other additional information. OSPI provided the District a copy on September 26, 2023.

On September 22 and 25, 2023, OSPI received the Parents' reply. OSPI forwarded that reply to the District on September 26, 2023.

On September 23, 2023, the Parent provided OSPI with additional documentation. OSPI provided this documentation to the District on October 2, 2023.

On September 29, 2023, the Parent provided OSPI with access to several different meeting transcripts, chat message histories, and meeting recordings.

In late September 2023, OSPI asked the Student to submit written responses to several questions. The Student submitted said responses on October 5, 2023. (The submission also included narrative information from the Parents.) OSPI provided the District with a copy of this information on October 6, 2023.

On October 2, 2023, the Parent provided OSPI with additional information. OSPI provided a copy of that additional information to the District the same day.

On October 3, 2023, the Parent provided OSPI with additional information. OSPI provided a copy of that additional information to the District on October 4, 2023.

On October 6, 2023, the Parent provided OSPI with additional information. OSPI provided a copy of that additional information to the District the same day.

OSPI considered the information provided by the Parents, Student, District as part of its investigation.

SCOPE OF INVESTIGATION

This decision references events that occurred prior to the investigation period, which began on July 14, 2022. 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. Beginning July 14, 2022, did the District follow proper evaluation and IEP development procedures regarding the Student's needs around postsecondary goals and transition services?
2. During the 2022–23 school year, did the District follow proper evaluation and IEP development procedures regarding the Student's needs around speech language pathology and occupational therapy?
3. During the 2022–23 school year, did the District properly implement the following provisions of the Student's IEP:
 - a. Accommodations;
 - b. Specially designed instruction in adaptive, social emotional, and writing;
 - c. Any specially designed instruction that related to study and/or organization annual goals;
 - d. Any services related to assistive technology; and,
 - e. Any services related to counseling?
4. During the 2022–23 school year, did the District follow proper progress reporting procedures?
5. During the 2022–23 school year, did the District follow proper procedures to ensure the Parent's participation in evaluation and IEP development decisions?
6. During the 2022–23 school year, did the District follow proper procedures for responding to the Parent's request that the Student be provided with certain extended school year (ESY) services?

LEGAL STANDARDS

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 initial or 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.

Basis for IEP Team Decisions: Generally speaking, an IEP team's decisions must be based on a student's needs resulting from that student's disability. *See generally* WAC 392-172A-03090(1); *see also* WAC 392-172A-03110. An IEP team should base its decisions on appropriate programming for a student on sufficient, relevant data on the student's needs resulting from the student's disability. *See, e.g.,* WAC 392-172A-03020(g); *see also, generally,* WAC 392-172A-03090.

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).

Transition Services: Transition services means a coordinated set of activities for a student eligible for special education that: is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the student to facilitate his or her movement from school to post-school activities, including postsecondary education, vocational education, integrated employment, supported employment, continuing and adult education, adult services, independent living, or community participation, and is based on the individual student's needs, taking into account the student's strengths, preferences, and interests; and includes: instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and if appropriate, acquisition of daily living skills and provision of a functional vocational evaluation. Transition services for students eligible for special education may be special education, if provided as specially designed instruction, or a related service, if required to assist a student eligible for special education to benefit from special education. 34 CFR §300.43(a); WAC 392-172A-01190.

IEP Team Unable to Reach Consensus: The IEP team should work toward consensus, but the district has ultimate responsibility to ensure that the IEP includes the services that the student needs in order to receive FAPE. It is not appropriate to make IEP decisions based upon a majority "vote" and no one team member has "veto power" over individual IEP provisions or the right to dictate a particular educational program. If the team cannot reach consensus, the district must provide the parents with prior written notice of the district's proposals or refusals, or both, regarding the student's educational program and the parents have the right to seek resolution of any disagreements by initiating an impartial due process hearing. Individuals with Disabilities Education Act (IDEA), 64 Fed. Reg. 12, 472, 12,473 (March 12, 1999) (Appendix A to 34 CFR Part 300, Question 9). *Ms. S. ex rel. G. v. Vashon Island Sch. Dist.*, 337 F.3d 1115, 1131 (9th Cir. 2003). See also, *Wilson v. Marana Unified Sch. Dist.*, 735 F.2d 1178, 1182-83 (9th Cir. 1984) (Holding that a school district is responsible for providing a student with a disability an education it considers appropriate, even if the educational program is different from a program sought by the parents.)

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 also 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).

The Office of Special Education and Rehabilitative Services (OSERS) has stated: where the unavailability of school personnel means that IEP services are not made available at the regularly scheduled time, the school district is required to make other arrangements to provide the services

at that time or reschedule the required IEP services in order to meet its responsibility of providing FAPE to that student in accordance with his or her IEP. *Letter to Balkman*, 23 IDELR 646 (OSERS 1995).

OSERS has also stated, in the event a student is not present for certain services, the general rule is that if the school district makes IEP services available to the student at the normally scheduled time, the school district is not obligated to make other arrangements to provide services if the student with a disability is not present for services at that time for reasons other than his or her participation in school-sponsored activities. *Letter to Balkman*, 23 IDELR 646 (OSERS 1995).

Compensatory Education: A state educational agency is authorized to order compensatory education through the special education community complaint process. *Letter to Riffel* 34 IDELR 292 (OSEP 2000). Compensatory education is an equitable remedy that seeks to make up for education services a student should have received in the first place, and aims to place the student in the same position he or she would have been, but for the district's violations of the IDEA. *R.P. ex rel. C.P. v. Prescott Unified Sch. Dist.*, 631 F.3d 1117, 56 IDELR 31, (9th Cir. 2011). There is no requirement to provide day-for-day compensation for time missed. *Parents of Student W. v. Puyallup Sch. Dist. No. 3*, 31 F.3d 1489, 21 IDELR 723 (9th Cir. 1994). "There is no statutory or regulatory formula for calculating compensatory remedies. However, generally services delivered on a one-to-one basis are usually delivered effectively in less time than if the services were provided in a classroom setting." *In re: Mabton School District*, 2018-SE-0036.

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).

Parent Participation in IEP Development: The parents of a child with a disability are expected to be equal participants along with school personnel, in developing, reviewing, and revising the IEP for their child. This is an active role in which the parents (1) provide critical information regarding the strengths of their child and express their concerns for enhancing the education of their child; (2) participate in discussions about the child's need for special education and related services and supplementary aids and services; and (3) join with the other participants in deciding how the child will be involved and progress in the general curriculum and participate in State and district-wide assessments, and what services the agency will provide to the child and in what setting. IDEA, 64 Fed. Reg. 12,472, 12,473 (March 12, 1999) (Appendix A to 34 CFR Part 300, Question 5).

IEP Team Composition – District Representative: An IEP team must include, in part: a representative of the district who: (i) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of students eligible for special education services; (ii) Is knowledgeable about the general education curriculum; and, (iii) Is knowledgeable about the availability of resources of the school district. WAC 392-172A-03095(1)(d).

Extended School Year Services: ESY services means services meeting state standards provided to a student eligible for special education that are beyond the normal school year, in accordance with the student's IEP, and at no cost to the parents of the student. School districts must ensure that ESY services are available when necessary to provide a FAPE to a student eligible for special education services. ESY services must be provided only if the student's IEP team determines, based on the student's needs, that they are necessary in order for the student to receive a FAPE. The purpose of ESY services is the maintenance of the student's learning skills or behavior, not the teaching of new skills or behaviors. School districts must develop criteria for determining the need for ESY services that include regression and recoupment time based on documented evidence, or on the determinations of the IEP team, based on their professional judgment and considering the nature and severity of the student's disability, rate of progress, and emerging skills, among other things, with evidence to support the need. For purposes of ESY, "regression" means significant loss of skills or behaviors if educational services are interrupted in any area specified in the IEP. "Recoupment" means the recovery of skills or behaviors to a level demonstrated before interruption of services specified in the IEP. 34 CFR §300.106; WAC 392-172A-02020. A student's IEP team must decide whether the student requires ESY services and the amount of those services. In most cases, a multi-factored determination would be appropriate, but for some children, it may be appropriate to make the determination of whether the child is eligible for ESY services based only on one criterion or factor. *Letter to Given*, 39 IDELR 129 (OSEP 2003).

FINDINGS OF FACT

Background: Prior to 2022–23 School Year

1. The Student is eligible for special education services under the category of multiple disabilities and attends school in the District.
2. An April 2019 independent educational evaluation (IEE) read:
Student presents with delayed social communication and functional use of expressive language skills. Speech-language therapy is recommended to address these delays. Family is encouraged to pursue IEP goals that address his ability to self-advocate with peers and his ability to communicate with other adults when he needs support because of challenging social experiences with peers.

The IEE recommended, in part, goals related to the following: the Student's ability to "describe a personal experience," "use social problem solving to identify solutions to problems causing negative emotions", "accurately define...different emotion words," and "analyze a conflict [or] negative experience by naming his emotion." The April 2019 IEE did not recommend a specific number of weekly speech therapy minutes.

3. A July 2021 IEE recommended goals that focused on the Student's ability to restate, "in his own words," key details from a reading passage, the Student's ability to summarize reading assignments, the Student's ability to "verbally communicate his need for processing time before responding" to a question, and the Student's ability to draft and send emails. The IEE did not recommend a specific number of weekly speech therapy minutes.
4. The District's group of professionals completed a May 2022 reevaluation of the Student. The May 17, 2022 evaluation report read, in part, "Although the results of the Washington Career Bridge surveys were not consistent, Science, Technology, Engineering and Mathematics and Information Technology were the two Career Clusters consistently ranked with the top two scores for both surveys."

The May 2022 evaluation report stated, in part, "The [April 2019 and July 2021 SLP-related] IEEs [were] taken into consideration when writing this report" and quotes each of IEE reports at length. The communication portion of the May 2022 also included the results of additional assessments, principally the "Clinical Evaluation of Language Fundamentals – 5th Edition," and input from both the Student's teachers and the Student's Parent. The May 2022 evaluation report noted, in part, "While Student has strengths in language comprehension and understanding language in decontextualized environments, he demonstrates difficulty in applying these skills in everyday social interactions...Student's expressive language deficits...impact his ability to generate personal narratives or retell events with meaningful details."

5. On June 17, 2022, the Student's IEP team developed a new IEP for the Student. The June 2022 IEP included, in part, the following annual goals: adaptive (email management, use of calendar and to-do list), social emotional (self-advocacy, emotional regulation), study organization (time-management, prioritization), written language (pre-writing, written expression, elaboration/commentary, creating/choosing a graphic organizer), and speech language (social/pragmatic, perspective taking, conversation, and narrative). The Parent was to be provided a written progress report each quarter.

The June 2022 IEP provided the Student with the following specially designed instruction (SDI) and related services in a *special education setting* from June 17, 2022 through June 16, 2023:

- Adaptive: 1 hour a week (to be provided by a special education teacher)
- Written Language: 1.5 hours a week (to be provided by a general education teacher)
- Social Behavior: 1 hour a week (to be provided by a special education teacher)
- Speech Language Pathology (related service): 30 minutes a week (to be provided by an SLP)
- Counseling (related service): 1 hour a week (to be provided by a counselor)

The June 2022 IEP provided the Student with the following SDI in a *general education setting* from June 17, 2022 through June 16, 2023:

- Study Organization Skills: 30 minutes a week (to be provided by general education teacher)

The June 2022 IEP provided the Student with the following supports for school personnel in a *general education setting* from June 17, 2022 through June 16, 2023: assistive technology

(AT) staff trainings by AT staff at the beginning of the year and midyear (“twice yearly”). And the IEP provided the Student with the following supports for school personnel in a *special education setting* from June 17, 2022 through June 16, 2022: occupational therapy, “300 minutes yearly provided on a planned schedule.”

The June 2022 IEP provided the Student, in part, with the following accommodations: scaffolding for upcoming projects; access to speech-to-text software; support in creating a checklist for multi-step tasks; use of graphic organizers that have been selected and explained by teacher; verbal instructions paired with written instructions; and frequent probes for understanding to include conferencing at the end of a lecture to ensure clarity.

The June 2022 IEP provided the Student, in part, with the following modification: access to laptop and tablet computer.

In part, the June 2022 IEP included sections on the following: secondary transitions; communication; adaptive/life skills; and motor. The June 2022 IEP read, in part, “Upon leaving public school, Student will attend a college and pursue a degree in a STEM-related field.” The June 2022 IEP read, in part:

Communication: [SLP should focus on] perspective taking skills, social interaction skills, self-advocacy skills, and narrative skills, as well as support for Student’s IEP team in implementing these skills for effective participation in Student’s educational setting.

...

In three speech therapy sessions, Student worked on generating a rough draft of a summary of the given nonfiction passage with statements for the main idea, purpose of paragraph, introduction sentence and conclusion sentence. He was first asked to find evidence for 4 ideas in the text and answer 3 'why' questions. Generating a rough draft with the prescribed 4 statements then took a short 10-15 minutes.

Student’s special education teacher has been working with him 3 times per week on these written expression skills. It is recommended that SLP remain available to Student’s IEP team for consultation on written expression strategies as needed.

...

Motor: Occupational therapy will help support Student’s ability to successfully use his newly acquired AT device by providing the necessary training and consultation for use of any programs or accessibility features that are necessary for Student to access his educational environment and complete his academic tasks. Team agreed to 300 minutes per year with the intent of front loading these services at the beginning of the year in order to help Student learn how to determine which app to use with each assignment and to help determine which accessibility features will be most beneficial.

Suggestions for OT Interventions:

- Direct training on programs and accessibility features of Student’s AT device.
- Consultation for new programs/features as needed to support Student’s executive functioning deficits.
- Collaboration with team on integration of technology into the Running Start program.
- Consultation/collaboration with team on appropriate accommodations needed for Student to be successful.

- Consultation/collaboration with team on how to teach missing executive functioning skills as needed.
- A resource, as needed, for Student when he has a question or concern regarding his technology and how or when to use it.
- If needed, OT can set up and manage shared information folders for Student and his team members to share resources as well as assignments.

A prior written notice related to the June 2022 IEP read, in part:

Parent requested that communication be added as [SDI] and [that] there [be] communication support for writing as part of this [SDI]. The district rejected this request because the Special Ed teacher will be delivering SDI in writing.

...

It was noted [that] pre-teaching should be taught before Running Start classes and progress monitored first weekly, then bi-monthly, then monthly, as Student moves closer and closer to independence. As a way of keeping track of progress, a shared Google-Doc form will be used by each of his service providers.

In addition, the IEP goals for written expression will adapt to the syllabus of Student's Running Start classes based on rubrics used in the classroom.

Counseling Services: The service matrix says the service will be provided by a counselor. This does not mean an 'Academic Counselor'. Because of restrictions in IEP Online drop-down menus, we will make it clear here that...a therapist who has autism background [will be providing the counseling minutes].

...

The team agreed to reconvene in the fall to review current [SDI] and determine if services need to be added or amended based on Student's needs in the fall.

Secondary Transition pages will be discussed and updated in the fall as necessary.

6. According to the Parent, she believed the Student should have goals related to communication, in other words, that the Student should receive SDI in communication. The Parent stated, "We were concerned that [communication as a] related service – without communication goals, [was] not sufficient for Student's needs."

2022–23 School Year

7. The District's 2022–23 school year began on September 14, 2022.
8. At the start of the 2022–23 school year, the Student continued to be eligible for special education services, was in the eleventh grade, attended the Running Start program at a community college, and his June 2022 IEP was in effect.
9. The investigation showed the Student attended the college campus for running start full time and his IEP was implemented at the college campus by District staff and remotely by District staff. According to the District:

During [fall 2022], the special education teacher met with Student from 11:00 AM to 12:00 PM on Mondays and from 2:00 to 3:00 PM on Fridays to deliver adaptive and social emotional SDI.

During spring 2023, the special education teacher met with Student on Tuesdays from 10:45 AM to 11:45 AM and on Fridays from 2:15 PM to 3:15 PM to deliver adaptive and social emotional SDI.

All of Student's meetings with the special education teacher were [in a] 1:1 [setting].

The general education social studies teacher¹ delivered Student's SDI in written language and study organizational skills. He initially met with Student on Tuesdays from 9:00 AM to 9:30 AM and on Thursdays from 9:30 AM to 10:00 AM.

During spring 2023, the social studies teacher met with Student on Mondays from 10:00 AM to 10:30 AM and on Thursdays from 8:30 AM to 9:30 AM.

Many of Student's sessions with the social studies teacher were 1:1, but the social studies teacher sometimes had another student that was in the classroom. [The District does] not believe that the social studies teacher kept [service log] records, but the social studies teacher did send follow-up emails to the Student after every session.

Student also completed work related to his SDI in written language and study organization skills outside of the meetings with the social studies teacher.

Although Student did not always attend his meetings with the social studies teacher, the District denies it failed to materially implement the written language and study organization skills SDI in Student's IEPs.

...

Between September 2022 and March 2022...counseling services [were provided from] 11:30 AM to 12:30 PM on Wednesdays.

10. In the District's response, the special education teacher provided a "contact log", which provided a "summary of [the special education teacher's] service [to the Student]" during the 2022-23 school year. The special education teacher's contact log showed, in part:

- The special education teacher worked with the Student, in part, on the Student's: adaptive goals; writing needs; "impressive spreadsheet with calendar and to-do list"; "laptop issues"; self-advocacy, time management, and pre-writing goals; IEP transition goals; career interests and strengths by helping the Student navigate T-Folio; scheduling needs; organizational needs, such as by helping the Student create a to-do and helping the Student establish the relative priority of various assignments; and study and review needs.
- From the start of the 2022-23 school year, the established schedule appears to have had the special education teacher and the Student working together on three occasions each week.
- Generally, when the Student did not show up for a scheduled session with the special education teacher, the special education teacher would send the Student some form of a reminder. oftentimes, a text message.

¹ The District stated the social studies teacher was "a District employee at the [community] college who was the mentorship teacher for Student."

- Beginning on or about February 2023, and continuing through the end of the 2022–23 school year, the special education teacher and Student appear to have, functionally at least, worked together on two occasions each week.
- For various reasons, e.g., sick leave, bereavement leave, and/or an IEP team meeting for the Student, the special education teacher missed approximately three sessions scheduled with the Student during the 2022–23 school year.
- For various reasons, the Student missed approximately 15 sessions scheduled with the special education teacher during the 2022–23 school year.

11. The District’s response included an OT service log. That log is summarized as follows:

- Between October 25 and November 8, 2022, the Student was unavailable on four occasions.
- Between December 2, 2022 and January 6, 2023, the OT was unavailable on six occasions.
- Between September 23, 2022 and January 13, 2023, the OT worked with the Student on approximately 11 occasions, for a total of approximately 285 minutes (or 4.75 hours).
- During the spring 2023 semester, the Student was unable on two occasions, on April 14 and June 23, 2023.
- During the spring 2023 semester, the OT was unavailable on three occasions, on February 1, 24, and May 19, 2023.
- Between January 20 and June 16, 2023, the OT worked with the Student on approximately 18 occasions, for a total of approximately 7 hours and 20 minutes.
- In part, the OT worked with the Student on the following activities: creating a reference chart of all the AT programs the OT and Student had explored; time management strategies, such as the Student assigning comparative “weights” to his assignments, so he knows which ones to focus on and the order in which to tackle assignments; understanding the Microsoft excel program, the “co-writer” program, “the Write-or-Die platform”, “immersive reader”, “Microsoft Word’s grammar check features”, “Google Voice”, and Evernote Web Clipper; and “how to organize Student’s thoughts” in relation to writing assignments.
- The Parent attended the January 13, 2023 session with the OT and Student.

12. During this investigation, the OT provided the following statement:

The intent of having services under support for school personnel was to do a couple upfront sessions with Student to determine which AT supports would be beneficial then to move all services to supporting staff in the implementation of these programs. However, every time I attempted to pull back and move into the consultation side of the services, the parent would come up with more issues/programs that I needed to explore with Student. So, Student was actually receiving direct OT services for the entire school year. I have a log of 29 sessions with Student starting 9/23 and ending 6/16. Each session lasted between 15 and 45 minutes. The issue we ran into was that the parent wants Student using AT, however Student has no buy-in and isn’t interested. I presented every program I could find and, I don’t believe, Student has independently chosen to use any of them. He also only wants to use his own computer (vs the school provided AT device and student laptop) and he is only willing to run the Opera browser on his computer, which doesn’t run any of the programs (plus he’s also told me he has no memory to download anything new; this is also true for his phone when I tried phone apps). I also met with staff a couple times to try to brainstorm how to better support Student with regards to AT, but again ran into the issue of Student’s lack of buy-in and willingness to utilize the things we provide.

...

Student kept the District laptop and iPad at this house. I'm uncertain if they ever traveled to school with him, even though he was prompted to do so on many occasions. Often, when I would asked him to try a program on one of the devices, he had to search for [the device] and, once found, it was dead and needed to be charged.

...

Student's personal computer [had] speech-to-text software on it [and] he knew how to turn it on and off without any difficulty, as he demonstrated...to me on multiple occasions.

13. During the school year, the Student received his IEP counseling services from an outside counselor, contracted by/paid for by the District. The District's response included invoices from the outside counselor, showing the outside counselor worked with the Student on approximately 18 occasions between August 3 and November 30, 2022.
14. According to the Parent, the Student had "a private OT providing 60 minutes of services a week."
15. According to a mid-September 2022 email thread, the social studies teacher informed the Parent the Student needed to get a copy of the syllabi for his classes and the Parent responded, "I do not really even know what I'm supposed to do with this information you provided. Student will need a checklist in writing and an explanation and a probe for understanding."
16. In a September 19, 2023 email, the social studies teacher wrote, in part, "In general, I will be [at the community college] from 8 AM [to] 11:30 AM Mondays, Tuesdays, Thursdays, and Fridays."
17. On September 20, 2022, the social studies teacher emailed the Student and Parent, stating, in part, "You will be coming to our classroom space every Tuesday and Thursday from 9:30 [to] 10:00 AM to check-in with me. We can adjust the times as necessary if needed, but this will be our plan to begin with."
18. According to emails, on September 23, 2022, the Student was provided with a laptop and iPad, and the OT met with the Student virtually to help draft a visual schedule for the Student to "learn how to use different programs available on [District-provided] computer, [and] set up computer accommodations as needed (ability to use voice-to-text, use of screen reader, etc.)"

According to the District's AT specialist:

- Both the District laptop and iPad had speech-to-text software on it.
- The District laptop and iPad were issued to the Student on September 21, 2022.
- The iPad had the following apps installed: Co-Writer Universal – word prediction for writing; WordQ – word prediction; Canvas – scheduling; Google Calendar – scheduling; Voice Dream Reader – text to speech; Google Docs; Google Sheets; Edge – web browser with text to speech; and, Office Lens – Optical Character Recognition and text to speech.
- The laptop had the following Google Chrome extensions installed: Co-Writer – word prediction; Snap&Read – text to speech; and built-in Microsoft accessibility tools, such as speech to text, text to speech and word prediction.

19. The District's response read, and the later developed June 30, 2023 IEP documented: Student had access to a District laptop and an [AT] provided iPad during the 2022-2023 school year. However, he chose to use his personal computer for the majority of his academic work. On his personal computer, he used an alternative browser that did not support the majority of the accessible programs or extensions that could help support his learning needs.

District staff also received appropriate AT training on Student's use of AT.

(emphasis in original).

20. According to emails and the community college academic calendar, the Student's running start community college classes began September 26, 2022.

21. In a September 27, 2022 email, the Parent wrote, in part, "We have not heard from the SLP about when her meetings with [Student] will be."

22. On September 30, 2022, the OT emailed the Parent and Student, stating, in part:

It's now a few minutes after our meeting time and I never heard back from either of you so I'm guessing this meeting didn't make it on a calendar. I'm hoping we can find a consistent time to meet for the next several weeks to make sure Student has all the computer supports he needs to be successful...[The physical education (PE) teacher] would also like to join next week so please let me know if the 12:30 Friday time will work or if we need to find a different time.

According to emails, the Student missed the September 30, 2022 session because he "forgot his house key" and had to wait for the Parent to arrive to let him inside and because there was difficulty in finding the Zoom invite for the meeting.

23. According to emails, on October 3, 2023, the career-connected learning coordinator (career coordinator) reached out to the Parent and Student to be able to, in the future, "send...information on jobs, internships, career fairs, field trips, and other career-related opportunities throughout the year." (According to the special education teacher, the career coordinator's work "related to students' IEP transition plan" and future "collaboration" would be taking place.)

24. In an October 6–11, 2022 email thread, the career coordinator provided the Parent with details about a practice SAT administration.

25. According to emails, dated October 7, 2022: on October 4, 2022, the special education teacher and Student tried to connect via Zoom but for unknown technological reasons, were not able to meet; the Student met with the OT and the PE teacher on October 7, 2022; and the Student had not yet begun receiving SLP services.

26. According to the District's AT specialist, "We had an AT check-in on October 7, 2022. We covered word prediction and text to speech. Confirmed that Co:Writer was on his laptop. Parent, OT, and Student were present."

27. According to emails, the Student met with the OT on October 18, 2022.

According to the District's AT specialist, "We had another [AT check-in] on October 18, 2022. [We] confirmed that Co-Writer was working and offered follow ups during the school year if needed."

28. According to an email thread, dated October 20–21, 2022:

- The Parent was concerned the Student was not "using the co-writer for writing", as the Student reported it did not "work in Google Docs"²; the Parent reported the Student did not "want to use the school laptop because Student [had] his own computer with a bigger screen and a full-size keyboard that work[ed] better for him", and the Parent believed the application Bookshare would be helpful, but that this application was not on the Student's iPad;
- The OT reported: "Student expressed that it [was] not about co-writer not working (as we did get it to work), it [was] about having to use the numeric system for work prediction and [that] slows Student down"; if the Student was not willing to use either "a different laptop or a different browser", then it was not clear that the Student would be able to utilize co-writer; "I am working on exploring some other options with Student [but] the difficult piece is that he wants to use his laptop, Opera browser, and Google products while the District uses Microsoft products and that is what I'm trained in"; "Student and I experimented with office Lens and taking pictures of paper documents [and] then uploading them into OneDrive and/or Word so he could type them directly, but, again, the Student did not want to use OneDrive or Word and it does not work with Google"; and, "Student stated he does not want to use voice-to-text so I've avoided those programs entirely";
- The Parent reported: she would like "to honor" the Student's preference for his personal laptop and keyboard; the Student had "used Dragon when he was evaluated for AT by [a] children's hospital" and that was "helpful"; and she believed there was a "behavioral barrier" that meant the Student required "hands on assistance";
- The OT reported: "Student very specifically told me he did not want to go back to using speech-to-text", which was the type of program represented by Dragon; the OT was curious as to whether Dragon also had "a word prediction software with topic dictionaries" and was of the understanding it did not have that particular "functionality"; on or about October 21, 2022, the OT had the Student "do a walk-through training on using Immersive Reader in OneDrive"; and,
- The OT, special education teacher, and Parent brainstormed on whether it was possible for the Student to hook up his District laptop to a larger external monitor.

29. According to emails, on or about October 21, 2022, the SLP met with the Student on that date for approximately half an hour.

30. On October 25, 2022, the Parent emailed the District counselor and the school principal, stating, in part, "Student does not check his District email anymore because he has one for Running Start and a private one and two [email inboxes are] plenty to check for this kid."

² The Parent reported: the Student used the Opera browser; the co-writer would have worked with Chrome; the Student had previously been instructed in how to use Chrome; and the Student reported his personal computer did not have "space to download Chrome onto it."

31. On or about October 27, 2022, the District counselor met with the Student to discuss the Student's "winter quarter classes at [the community college]."
32. Separately on October 27, 2022, the Student was invited to "a one-time meeting" with the SLP scheduled for October 28, 2022. On November 7, 2022, the OT emailed the Parent, stating, in part, "This week, I plan to see Student at our regular time on Tuesday – 1:30 PM."
33. In a November 23, 2022 email to the District counselor and the special education teacher, the Parent expressed concern the Student did not "check his emails and respond...independently" and that this could be a helpful IEP goal area for the Student.
34. According to the Parent, the Student "received an incomplete grade [in his] history [class] during [the] fall quarter"³ and that "caused Student's IEP team to suggest he should only take two classes during each quarter – to make things easier, as opposed to [the IEP team] providing appropriate support."
35. On December 6, 2022, the social studies teacher emailed the Parent, stating, in part: the Student's quarter 2 schedule needed to be finalized; and one option was for the Student to "come in on Tuesdays and Thursdays, as he has...been doing this past Quarter."
36. In an email thread, dated December 11–12, 2022:
 - The Parent asked for an update regarding "the Secondary Transition assessments", as she was "getting concerned Student [was] running out of time to get what he needs to be ready for life after high school with just 1.5 years left in public school";
 - The special education teacher stated, in part, "We've started the IEP transition portfolio [but] I've been working with him mostly on his time management and...writing skills...I've found that discussing his writing at the pre-writing stage has been extremely helpful...I'd like to set up an IEP meeting in January or February regarding his transition plan";
 - The special education teacher and the Parent discussed the fact that the Student was on track to receive an Incomplete in history,⁴ and in response, the Parent requested an "emergency IEP meeting", noting the Student's IEP should be amended, in part, by potentially adding "additional service minutes"; and,
 - The special education teacher stated, in part, "It might not be possible to get everyone together this week, and the emergency IEP meeting [will] likely have to be in January."
37. According to an email, on December 13, 2022, the SLP met with the Parent regarding the Student's needs, noting he agreed focusing on "verbal expression and social pragmatic

³ In supplemental information, the District provided information on the Student's grades throughout the school year. With the following exceptions, the Student received either As or Bs in his classes: American Government and Economy – Fourth Quarter, D+; Social Studies – Fourth Quarter, D+; and Unspecified Elective – Third Quarter, C+.

⁴ There was lack of clarity regarding whether the history teacher recommended the Student request an Incomplete or whether the Student requested it. There was also a lack of clarity as to whether, if the Student was permitted to finish an outstanding history project during the next academic quarter, the Student would still be able to "get credit" for the history class.

language” were important, that he wanted to “get Student to be more forthcoming about his needs and frustrations,” and that the IEP team should discuss said matters more fully in January 2023.

The Parent responded, stating, “My understanding [was] that you are adding in minutes for the expressive language which would totally 50 minutes a week of direct services and 15 minutes a month for Parent.” The SLP responded, “I think that we should meet to discuss both transition and minutes with the entire team. I put January 26, 2023 down as a tentative date.”

Separately, on December 13, 2022, the Parent emailed the special education teacher, stating, “the SLP has already been working with Student more minutes than the 30 [SLP] minutes on his IEP.” Parent also noted the spring 2022 SLP had stated the IEP team would discuss adding additional SLP minutes in fall 2022.

38. In a December 15, 2022 email thread, the SLP and special education teacher discussed a “speech therapy log,” documenting the SLP’s work with the Student during the previous months. The SLP noted, in part, he had worked with the Student via communicating with the special education teacher on “writing and verbal expression and [moving forward it’d be helpful] to explore various kinds of social pragmatic language communication challenges.”⁵
39. In a December 16, 2022 email, the Parent stated an IEP meeting did not need to take place to make the following change effective: in June 2022, the IEP team, and on October 28, 2022, the SLP agreed to increase the Student’s “SLP minutes.”
40. On December 18, 2022, the SLP emailed the special education director (director). According to this email, the SLP had previously provided the Parent with an SLP service log, and while the SLP had “not immediately rejected out of hand,” the Parent’s suggestion that SLP minutes be increased, the SLP communicated to the Parent that additional members of the IEP team needed to be involved.
41. The District’s response read, in part, “The District denies the SLP proposed increasing Student’s speech services in October 2022. Rather, the SLP discussed Parent’s request to increase Student’s services with Parent. The SLP did not reject the request, but indicated that it needed to be discussed by Student’s IEP team.”
42. The District was on break from December 19, 2022 to January 3, 2023.
43. The community college academic calendar stated the winter quarter began on January 3, 2023.
44. The Parent alleged that during the winter quarter, the Student received an incomplete grade in his English class and a C in his communication class.

⁵ The referenced log was not attached to the copy of the December 15, 2022 email provided to OSPI during this investigation.

45. On January 4, 2023, the special education teacher emailed the director, stating he had informed the Parent in either November or December 2022, that the IEP team needed to meet in January 2023 to discuss whether an increase in SLP minutes was appropriate.

46. According to a January 4, 2023 email, certain District staff met with the Student's father on this date.

47. The District's response included a "Meeting Notice" for a January 4, 2023 meeting. An administrator, the Parent, and the Student were invited to the same. A January 4, 2023 prior written notice read, in part:

Parent requested that Student's [speech] minutes be increased...The special education teacher said that he did not feel that the minutes could be increased without having a meeting. IEP Team can have a meeting in January when it would be possible to get everyone together after the holidays...Given the time constraints in December...there was no time to get the IEP Team together in December.

...

Student was doing very well until we found out the week before break that he would receive an Incomplete in one of his classes with the idea that he would finish the mid-term project over the holidays.

...

There was no time to get an accurate progress report during the last week before the December break. The last day of his Running Start classes was December 16, and his Running Start grades will be a necessary factor for assessing Student's progress. The plan is to take the first 2 weeks of January and assess Student's progress at that time.

48. In a January 4, 2023 email to numerous District staff, the Parent stated the Student had anxiety around tracking assignments and messaging community college staff around the same, and that the Student required "direct" OT services "to teach executive functioning skills while utilizing real-life opportunities." The Parent stated, "Student's current OT [is] only providing AT support [and] that's one of the problems with Student's IEP, a big one."

49. On January 5, 2023, the Parent was invited to attend an IEP meeting scheduled for January 11, 2023, to discuss, in part, transition services.

On January 6, 2023: the Parent requested any available progress reporting data on the Student's IEP goals from fall 2022; that the special education advocate and outside counselor be invited to all future meetings; and the Parent stated the Student had not yet been administered any "secondary transition evaluations."

Later that day, the special education teacher responded, stating one purpose of the meeting would be to discuss SLP minutes. In regards to progress reporting, the special education teacher noted, in part, the Student had done a self-assessment on self-advocacy and social/behavior in November 2022 and the teacher attached said self-assessment to his email.⁶

⁶ The November 2022 self-assessment on self-advocacy and social/behavior that purportedly related to certain IEP goals, did not appear to contain information on the Student's responses. For example, the

And in regard to postsecondary goals and transition services, the special education teacher noted, in part, "Student also did a strengths self-assessment (also attached) as a start on his Transition Plan, and we will continue to work through the T-Folio as we progress through this year."

50. Separately on January 6, 2023, the special education teacher emailed IEP team members, including the Parent, stating the general education teacher could not be present on January 11, 2023, and proposing consideration of an informal meeting on January 11, 2023 and a formal IEP meeting later.
51. According to the District, on January 6, 2023, "the special education teacher agreed with Parents' suggestion to have the progress report [completed to correspond with the dates related to the] Student's college quarters at Running Start, rather than the District's quarters."
52. In a January 9, 2023 email, the Parent acknowledged having been previously provided with an SLP service log.
53. According to emails, on January 7, 2023, the special education teacher worked with the Student on "T-Folio assessments."
54. On January 10, 2023, the OT emailed the Parent, stating, in part, "I [plan] on working with Student this week on making some form of cheat sheet Student can reference to select a program that might help him based on his current need."

Separately on January 10, 2023, the special education teacher emailed the Parent, stating the principal, director, and SLP would be present at the January 11, 2023 "pre-meeting."

55. On January 11, 2023, the director provided the Parent with general information related to the fact that occasionally, ESA staff, program specialists, supervisors, and directors would be invited to IEP meetings, as appropriate.
56. In early-to-mid January 2023, the special education teacher emailed the Parent, stating, in part:
In the past quarter, I met with Student twice a week, on Tuesdays and Thursdays. During our meetings, [we discussed planning and scheduling]. Student seemed very clear on his ability to prioritize his work load, and I was impressed with his organizational skills. While he did occasionally mention that he had fallen behind on an assignment in one of his classes, he would tell me that he had spoken to the professor and was able to receive an extension on the assignment, and that instead of working on that late assignment, he wanted to make sure he would complete the work for his other classes in which he was in good standing.

Student has requested to meet virtually with me twice a week during the Second Quarter. I am able to meet with him as requested on Tuesdays and Thursdays from 9:30 – 10:00 AM [but] I [will] also be responsible for helping other students [as well during that time period].

questions and possible answers were visible, and the Student was listed as the respondent, but the Student's answers to the questions, to the extent answers were provided, were not listed in the attached document.

...

It would be great if Student could make sure he has his Canvas page for each class prepared, as well as his personal schedule for completing work...so I can see what he is planning on working on...[And] I can email Parents on a weekly or biweekly basis to communicate my understanding of where Student is at on his coursework.

...

Since I do not have access to his community college accounts or class information, Student can share with me his assignments when he receives them and then show me his personal calendar, and we can keep track in [that] manner.

In a responsive email, the Student's father reported, "Last quarter...the social studies teacher had students fill out an assignment tracking form [but] Student wanted to use his own online assignment tracker...that Student's mother [had] been sharing with staff – and not the paper form [used by the social studies teacher with certain students]."

57. The Parent emailed several District staff on January 12, 2023, following the "pre-meeting" on January 11, 2023. In her email, the Parent noted concern with the general education teachers' provision of relevant IEP services to the Student, and suggested the Student's IEP service minutes needed to be provided in a 1:1 setting.

58. On January 12, 2023, the director emailed the principal, stating, in part:

I understand Student is very smart, but if he's functionally not ready with the essential executive functioning skills to attend college courses, is there a different approach we need to take...If the Parent's perspective about his abilities [is] true, did we just ask Student to jump in the deep end without knowing how to swim?

59. In a January 12, 2023 email thread, the Parent and District staff discussed SLP scheduling moving forward. The Parent again expressed belief the Student required some form of an "organizational task independen[ce]" goal.

60. On January 13, 2023, the Parent stated an IEP meeting might be able to take place January 20, 2023⁷, but she first needed to be provided, in part, with "secondary transition assessments," the "OT service log", and "records related to progress monitoring."

61. On January 13, 2023, the special education teacher emailed the Student, asking the Student to complete "4 assessments from the T-Folio website" in the near future.⁸

62. In a separate mid-January 2023 email thread, portions of which included the Parent and portions of which consisted only of District staff:

⁷ The Parent stated this date was contingent on her special education advocate being able to attend.

⁸ According to its website, "T-Folio is a free transition portfolio tool for high school age youth with disabilities. It is designed to guide youth in exploring, identifying, and planning for their desired post-school goals. This tool represents a compilation of activities and products showcasing each youth's ongoing transition process. It is their individual story of who they are, where they have been, and where they are headed after high school." <https://www.cctstfolio.com/#/>

- The Parent stated, "whatever support has been provided to Student [around] organization and time management and effective communication with teachers does not seem to have been effective";
- The Parent wrote, "Student has not been showing up to SLP sessions and his mentorship with the social studies teacher";
- The social studies teacher stated the Parent seemed to misunderstand the Student's "supplemental support" as requiring that the Student be provided with "a private tutor." The social studies teacher stated, "While the expectation is for a twice-a-week check-in, there is no set schedule for Student...to come in...There were days in the first quarter that Student missed due to illness/snow and a few that I missed due to [being] sick [but] I was not under the impression that I needed to 'reschedule' [those] meetings"; and,
- The principal stated, "My expectation is that you are working towards having a 1:1 session with each of your seven students each week to go through Canvas and see what they are missing and make a plan for what they need to accomplish [but we can] explain that since students at [the community college] made their own schedules, there is not a set time that they are all expected to attend [and] remind Parents and Student of the hours that you are at [the community college]." The principal further stated the IEP team, including the social studies teacher, could explore providing the Student with assignment reminders via "chats [on Microsoft] teams," as that was "a District-approved method of contacting students directly."

63. According to emails, on or about January 19, 2023, the SLP worked with the Student on his communication-related IEP goals.

64. On January 20, 2023, the OT provided the Student with an excel chart that listed various "AT Programs and Extensions" the Student might find helpful.

65. Separately on January 20, 2023, the Parent emailed the special education teacher her thoughts on who should attend the next IEP meeting.

66. According to emails, the Student met with the special education teacher on both January 23 and 24, 2023.

67. On January 24, 2023, the OT emailed the Parent, stating, "I'm currently seeing Student every Friday until we get through the rest of the apps and create the AT form for him to use prior to starting his assignments...I do need to add a few more minutes to his IEP the next time it is amended as we are getting low on annual minutes available."

68. According to a January 25, 2023 email thread, the OT collaborated with another District staff person regarding "text-to-speech [applications] that [have] the most natural sounding voices" and "Voice Dream Reader" was identified and "already on Student's iPad." The other District staff person stated, "Bookshare books can be read in the Chrome browser [if the Student] signs in with his Bookshare user name and password."

69. According to emails, on January 26, 2023, the social studies teacher "start[ed] bcc'ing Parent on all communications with Student," to which the Parent replied, "For me to get his reminders will not help Student. I am well aware of when his classes are and I can only remind him so many times." The social studies teacher also stated, "The primary email address that I have

been using to communicate with Student is his gmail account. After noticing that he was not responding to his District emails...he said it was easier to receive communications via his gmail account."

70. In a January 26, 2023 email, the principal stated the District was "cautious about direct communications between students and staff members" via personal devices but if the Student would add the "Teams application to his phone and set the notifications to pop-up when received," he would know staff were attempting to communicate with him via District-approved communication vehicles, like Microsoft Teams. It also appeared, based on this email thread, that—for ease of scheduling and understanding the schedule—a single virtual meeting link began to be used for all virtual meetings for the Student's services.

In a separate January 26, 2023 email, the special education teacher provided IEP team members with a "T-Folio Introduction Lesson...Tracker" document and two informational pamphlets on Department of Vocational Rehabilitation (DVR) resources.

In a separate January 26, 2023 email, the social studies teacher emailed the SLP, stating, in part, "Student [told me this morning]...his health teacher [was not] accepting accommodations and that [health teacher] had not received the additional extension of time for a recent exam."

According to a separate email from the SLP to the special education teacher, the SLP worked with the Student on communication-related goals on January 26, 2023.

71. In a January 27, 2023 email, the Parent informed the social studies teacher, "Student can transfer his assignments from Canva into his tracking sheet independently outside of your meetings" and that the Student would best benefit from being provided with a checklist of tasks and/or assignments to complete.
72. In a January 30, 2023 email, the Parent requested a "communication accommodation" of staff calling the Student to provide reminders for assignments, etc., when needed. The Parent also expressed concern the accommodation of "verbal instructions paired with written instructions" was not being implemented.

In a separate January 30, 2023 email, the school counselor observed the Student had "access to his Naviance lessons/[high school and beyond plan]HSBP through the portal" and that she would "help him login and look at the content." The school counselor stated she was unable to attend the IEP meeting scheduled to take place the week of January 30, 2023.

In a separate January 30, 2023 email, the Parent noted the Student had reported he had been "working hard" on secondary transition assessments with the special education teacher.

73. A January 30, 2023 "Review IEP Amendment Invitation" stated a meeting was to be held on February 8, 2023, to discuss transition services and "review instructional needs." In part, the Parents and the Parents' educational advocate were invited to attend the same. The Parents and Student confirmed on January 30, that they could attend.

74. According to an email thread, the school counselor met with the Student on January 31, 2023, to discuss spring quarter classes.

On January 31, 2023, the SLP emailed the special education teacher detailed progress notes related to the Student's communication goals.

75. According to February 2023 emails:

- The Student missed some "sessions" the week of January 30, 2023, but "made it to all his meetings [the week of February 6, 2023] with the exception of the one he missed due to transportation issues."
- The SLP believed "30 minutes per week" of services continued to be appropriate. And proposed incorporating work on "a weekly independent self-advocacy assignment."
- The Parent continued to be concerned about the Student's executive functioning capabilities, and again suggested the Google Voice be used by District staff to call the Student to provide reminders, when needed.
- The Parent suggested the Student's IEP OT minutes be increased, and that the Student be provided direct OT services.
- The Parent stated the HSBP had not yet been created, and the postsecondary goals and transition services therefore could not be aligned with the HSBP.
- Regarding postsecondary goals and transition services, the Parent stated no vocational assessments had been completed, and faulted the District for only having contacted DVR on or about January 2023.
- The District acknowledged that, in or about January 2023, some portion of his sessions with either the social studies teacher or the special education teacher were used to conduct transition assessments.
- The Parent stated no progress reporting had been completed between September and December 2022.
- The Parent had several communications and at least one meeting with the school counselor regarding the classes the Student would take during the following quarter. As part of this conversation, the school counselor provided the Parent with a list of courses offered at two separate community colleges.
- The Student missed a recurring meeting with the special education teacher in early February 2023, and District staff and the Parent agreed they needed "to bring Student into [the] conversation to try and determine the reason he [was] missing appointments."
- On February 10, 2023, the special education teacher worked with the Student in Canvas to list the assignments for the Student's various classes, and mark them as either 'today', 'tomorrow', or 'Sunday', as a method to help the Student identify when he needed to complete which assignments.
- In mid-February 2023, the social studies teacher collaborated with the Student on a plan to break up the history assignment he needed to complete for the previous quarter into shorter segments of work, but as of February 28, 2023, the social studies teacher was concerned "that Student had not made any progress."
- On or about February 14, 2023, the Student told the special education teacher he had "not checked his emails in a long time", and the special education teacher sent the Parents a reminder of the importance of the Student regularly checking his email.
- The District offered the Student 3.5 hours of compensatory education for certain dates the Student did not attend sessions with the SLP. The Parent believed 5.5 hours of compensatory education were owed, but the District stated it did not believe it owed compensatory services

“for the dates that Student did not attend sessions when the SLP was scheduled and available to meet with him.”

- The social studies teacher worked with the Student on writing on March 2, 2023.

76. The District asserted the Parent’s educational advocate attended an IEP meeting with the Parent on February 1 and 8, 2023.

77. According to the District’s assistive technology specialist, “The OT and I had a brief meeting on February 6, 2023 and looked at some Google apps together. I also signed Student up for a Snap&Read license at [that] time.”

78. A February 8, 2023 prior written notice read, in part:

We met on Feb 1 to discuss SLP minutes, the IEP transition plan, and how to address Running Start issues. We met again on Feb 8 to further discuss the IEP transition plan by having a representative from DVR present.

...

Student was unable to complete all of his US history course in Running Start. He was given an incomplete for the course and a chance to turn in his mid-term and final by the end of 2nd quarter.

...

On Feb 1, it was decided to increase SLP minutes to 45 minutes per week as well as a 15 minute check-in with parent per month. We are also adding an additional 300 annual OT minutes to provide continued AT exploration and support.

...

Other concerns: Student has not been attending all of his meetings, and he is often late when he does attend. We will explore reasons for this by trying to answer questions such as: Is he just forgetting? Is he feeling overwhelmed by the number and frequency of appointments? Does he not understand the importance of the appointments? Is he too busy doing classwork and feels he will get more done if he stays focused? Is he just procrastinating and is off task? Is he starting to go into a depressive state? Etc.

79. On February 8, 2023, the Student’s IEP team met again and formally amended the Student’s June 2022 IEP.

The February 2023 amended IEP replaced the SLP services in the June 2022 IEP with the following, providing the Student with the following related services in a *special education setting* from February 9 through June 16, 2023:

- Speech Language Pathology: 45 minutes a week (to be provided by an SLP)
- Speech Language Pathology: 15 minutes a month (to be provided by an SLP)

According to the District, with the February 2023 amended IEP, “the IEP team also agreed to provide a 15-minute check-in with Parent’s each month.” (Upon knowledge and belief, with this statement, the District referred to the 15 minutes a month of non-concurrent SLP to be provided by an SLP in a special education setting.)

The February 2023 amended IEP replaced the OT supports for school personnel in the June 2022 IEP with the following, providing the Student with the following supports for school

personnel in a *special education setting* from February 9, 2023 through June 16, 2023: occupational therapy – “600 minutes yearly provided on a planned schedule.”

The other portions of the service matrix remained the same as that found in the June 2022 IEP. The February 2023 amended IEP included the same adaptive, social emotional, study organizational, and written language goals as found in the June 2022 IEP. The IEP included the same accommodations and modifications as the June 2022 IEP and the secondary transitions section of the February 2023 amended IEP remained the same as the June 2022 IEP.

The February 2023 amended IEP, though, included new speech language pathology goals, to be completed by June 2023: speech language pathology 1–3 (use of cues to discern messages – social pragmatic language; use of cues to discern messages – perspective taking; and topic-based conversations).

The Parents attended the February 8, 2023 IEP meeting via Zoom. A representative from DVR also attended the February 8, 2023 IEP meeting.

80. On February 10, 2023, the OT emailed the Parent and District staff, stating, in part:

I agree that we need to meet and collaborate regarding the AT supports I'm putting in place however, as I mentioned the last time this was discussed, I'm still exploring resources with Student and don't yet have a solid plan to train other staff to use with him. My understanding was that once I've finished developing a plan for Student's AT use, I would train the staff working with him so we all had the same expectations. The goal was to complete this earlier in the year however due to unexpected factors (the strike and Student being very rigid regarding what he is willing to use), I'm still trying to find things that will work for him. I'm spending hours every week researching new programs to try with him based on his previous feedback and consulting with the AT department but, unfortunately, don't have a fully developed plan yet and I don't want to waste people's time by calling a meeting and teaching them how to use programs that Student then refuses to use. I'm trying to find an individualized plan that meets his needs and that he has buy in to use. I'm hopeful the process I'm working through with him will be finished this Spring so we can train and fully implement before the end of the year. I'm sorry that the AT process isn't faster but it's truly a problem solving, trial and error process especially when working with a high school student who is rigid as I can't force him to use something he doesn't want to use but rather need to find the products that he will buy into because he finds them useful.

On a positive note, Student did start looking at an app named Brili habit tracker with me today and he felt it might be useful and was willing to download it on his phone and sign up for the free trial.

81. According to emails, a “HSPB Session” took place on or about March 1, 2023. In part, the following individual was involved in this work: the college and career specialist.

82. According to March 2023 emails:

- In late February and early March 2023, the social studies teacher communicated with other District staff in regard to setting up a “Google Voice” account.

- On March 3, 2023, the Parent requested ESY services because the Student becomes stressed as late and missing assignments accumulate and because the Student was not provided services during spring break and that meant the Student fell "behind even more."
- The OT worked with the Student in identifying "Google Keep" as a helpful AT tool for to-do lists and "breaking down assignments and creating outlines for an essay." And the OT and special education technology specialist worked on making the "Snap and Read" application work in conjunction with "Google Keep."
- The OT collaborated with the social studies teacher, SLP, special education teacher, and technology specialists on or about March 15, 2023, regarding how to best support the Student in staying organized and on top of his various assignments.
- On March 16, 2023, the special education teacher emailed the Parent contact information and some brief instructions on "the intake process" for DVR and/or "Group Pre-Employment Transition Services."
- The Parent did not believe that helping ensure the Student got a 'Passing' mark in history was a sufficient or appropriate response to the Student's needs resulting from the Student's disability.
- The director informed the Parent "the District would not immediately consider hiring a tutor to deliver SDI [as the District] employ[s]...teachers to do the very same."
- The Parent stated the family had been providing "six or more hours of tutoring a week for the last 2-3 weeks of each grading period, and 60 minutes of private OT services each week year round" and that the family had to provide said supports "to make up for lack of appropriate IEP supports."
- On March 21, 2023, the Parent suggested information on the Student's various meetings should be put in "Google Schedule."
- The Parent informed District staff that "Student cannot download Microsoft Teams to his phone."
- On or about March 24, 2023, the principal met with "District Network Security" to finalize the setup for "Google Voice."
- On March 24, 2023, the principal stated the District could "send messages via e-mail that get delivered as a text message," but to execute this functionality, District staff needed the Student's phone number and cellular provider. The Parent stated this would not work, and that the Student needed a call. The Parent reported the Student had also received another 'Incomplete' grade for English for the past quarter.
- On or about March 24, 2023, the special education teacher worked with the Student on a five-paragraph essay assignment.
- On or about March 28 and 30, 2023, the social studies teacher worked with the Student on an English essay.
- On March 28, 2023, the Parent reported the Student was unable to login to a remote meeting with the social studies teacher absent near constant assistance from the Parent.
- On March 28, 2023, the principal reported to several District staff that the District network security office wanted "to avoid using Google Voice" as there were "other alternatives that [could] accomplish the same function [that did not require as significant a] reconfiguring [and because the District] generally [does not] support Google products."
- On March 28, 2023, the Parent stated the point of using "Google Voice" was that text messages could be sent directly to the Student's phone. Though, in a March 27, 2023 email, the Parent stated the Student required call reminders. The Parent also stated the IEP team had previously agreed the Student required call reminders to his phone.

- On March 30, 2023, the special education teacher worked with the Parent in completing a certain "consent" form for DVR preemployment transition services.

83. On March 7, 2023, the OT emailed the Parent, stating, in part:

I'm working on setting up a meeting with the school providers to walk through what systems are working for Student and what isn't working as well as to determine what needs to be implemented to make him more successful.

I'm also pulling together executive functioning resources for everybody. I would like to try to stay away from adding more services to Student's plate as I think part of why he keeps falling behind on assignments is because he has so many meetings/appointments/classes every day and therefore isn't even able to really start working on his homework until the evening each day when his brain is now tired.

I also think the structure of college classes is hard for Student as he does better when he can complete work during class and get additional support directly from the teacher so that less time is spent explaining assignments to different providers that are trying to help him as well as getting different ideas from different people then trying to integrate those ideas.

I'm also trying to have Student start using a program called Google Keep as it integrates with Google docs and can help with keeping track of assignments, as well as sending him reminders for appointment times, and lastly it can be used for organization of an essay/research project by taking parts of articles or on line research he has done then turning the parts he's highlighted into different sticky notes (acts like the note cards we used to have to make) which he can then organize the sticky notes into paragraphs then send directly to a google doc.

...

He may need some direct teaching/guidance around assigning degrees of importance to assignments as he doesn't always seem to be aware of which assignments are most important. The other main area I see him needing some direct training around is understanding how long things take and therefore planning appropriate amount of time to different activities. While both of these need direct teaching, they could easily be implemented during sessions he already has scheduled.

84. On March 13, 2023, the school counselor emailed the Parent, stating, in part:

The [HSBP] is delivered through Naviance lessons like the Strengths Explorer we did together in February and through meetings with the college and career specialist about college planning.

Student has completed everything a junior in [District] should have completed except for uploading his resume to Naviance.

The next step that we recommend for his Naviance completion is for Student to set up a meeting with [another staff person] to work on his resume.

Some optional Naviance enrichment activities in Naviance include the College Costs Scavenger Hunt and the SuperMatch College Search Survey. These two cannot be utilized until Student has a more concrete plan for after high school. To preplan for these optional surveys [the District] suggests Student...define [his] preferences as to what kind of college

[he wants to] go to. [The Student can utilize this] article [that] goes through some factors to consider [and] the next step would be [for Student to] use those preferences to narrow down colleges based on what [he is] looking for. There are a couple of sites...that let you filter colleges by your preference.

85. According to the OT, she attended a meeting regarding the Student on March 15, 2023.

86. On March 28, 2023, the OT emailed the Parent, stating, in part:

I am trying to implement a new scheduling system for Student that we would all have access to and be able to edit (his current system was set up by him to not allow us to edit but only view and to my understanding, he stopped using it and referencing it as he didn't think it was useful).

...

That said I don't think is the best system but rather it's the only system I've found that he is open to using and is able to use given his technology issue (no memory on his phone and only willing to use the Opera browser which does not most programs). What I'd really like to see him use is the My Homework Student Planner app which could be on his phone (if he had memory space) or computer (if he would use Microsoft or chrome).

...

With Student I'm torn between honoring his sense of self and autonomy and forcing him to use method he's identified that he doesn't want to use. I've been leaning towards honoring his [self-advocacy, an] approach [I take with most] student[s] I work with but I'm starting to feel like you want us to move forward differently. I have spent many man hours trying to find a system for Student that will provide what he needs alongside what he wants but outside of google calendar (which is obviously not working) and google keep (which I want to try this Friday). I truly don't think there's another option without Student having to be flexible with the tool he will use.

87. According to April 2023 emails:

- Certain transition-related assessments had been completed by early April 2023.
- On April 4, 2023, the special education teacher worked with the Student on writing.
- On April 5, 2023, the special education teacher provided the Parent with Student's "progress report for the second quarter of [the community college program]."
- After the IEP meeting on April 5, 2023, the principal emailed the IEP team, stating, in part, the District "could not agree to [the Parents'] request [for a tutor] and ESY SDI [but] I agreed to pass the requests on to District representatives for a potential solution or agreement." (The District asserted the educational advocate attended the April 5, 2023 IEP meeting.)
- According to the Parent, as of April 6, 2023, the IEP team had not yet had the opportunity to review any T-Folio postsecondary transition assessment results.
- As of early April 2023, a District staff person had worked with the Student, in some capacity, on the following transition-related resources: College Costs Scavenger Hunt, Super Match College Search Survey, and Naviance activities.
- The Parent continued to express concern the Student was not being provided with a visual schedule.
- On April 17, 2023, the Parent wrote that the IEP team had previously agreed District staff would utilize Google Voice to call the Student to provide assignment reminders. As of April 17, 2023, the social studies teacher reported he was "still not approved by the District to use Google Voice."

- The Student missed an April 17, 2023 session with the social studies teacher.
- On April 27, 2023, the Parent responded to the OT's March 28, 2023 email, stating any changes to the "current system of assignment tracking and schedul[ing] in Google Spreadsheets [which] was developed by Student's private BCBA" would need to be completed by the Student himself.
- On April 27, 2023, the Parent stated the Student's career goals and/or pathways, the result of certain surveys, "seem to be unrelated areas."

88. Regarding progress reporting documentation provided to OSPI during this investigation:

- According to progress reporting, during the spring 2023 semester, the Student did not make as much progress on his written language and study organization goals as he had during the fall 2022 semester; and,
- On the progress report itself, the earliest entry date for the Student's adaptive, social emotional, study organization, and written language goals is November 2022, and the narrative portion of the February 2023 amended IEP that related to adaptive, social emotional, study organization, and written language remained the same as that found in the June 2022 IEP.

89. An April 3, 2023 "Meeting Notice" stated a meeting was to be held April 5, 2023. In part, the Parents, Student, and the Parents' educational advocate were invited to attend. The purpose of the meeting was to discuss transition services, adaptive goals, incomplete grades in Running Start, tutoring, OT direct services, consultation to staff as well as Parents, and instructional needs.

The same document noted the Student, Parents, and educational advocate responded that they could attend the April 5, 2023 IEP meeting on April 4, 2023. The document also said principal, OT, special education teacher, and SLP were invited to attend.

90. The community college winter quarter began on April 3, 2023.

91. According to an April 4, 2023 prior written notice, on that date, the Student's IEP team met to discuss, in part, the Student's progress in his classes, the Student's HSBP, "secondary transition evaluation results", "possible interventions for incomplete [grades] in Running Start, and adaptive goals. The notice further read, in part:

[Certain] services [were] not...provided during [the District's] spring break while he is still in school because he is enrolled in Running Start which is following the [community] College's calendar, not the school district's calendar.

Student's family requested tutoring to be paid for by [the District] and extended school year SDI to be provided during [District] breaks when Student is still in school...Although we could not agree to these requests in the meeting, the principal agreed to pass the requests on to district representatives for a potential solution or agreement.

92. According to the District, on April 4, 2023, "the Parent notified the District that the outside provider who had been delivering Student's counseling services [had] passed away."

According to the District, "after the outside counselor passed away, the District was unable to secure another provider to deliver Student's counseling. The District acknowledges the Student did not receive counseling services between April and June 2023."

93. On April 5, 2023, the special education teacher emailed the Parents an updated IEP goal progress report.

94. On April 6, 2023, the principal emailed the Parent, stating, in part:

The [HSBP] is less of a destination and more of a journey. What I mean by that is that there is not a single thing that should be checked off right now to say that he has or doesn't have a plan. Instead, he has met with both the college and career specialist and the counselor to complete the aspects of the plan that he should have completed by this point.

In a responsive email, the Parent stated, in part: "T-folio is part of [a] secondary transition evaluation and not a part of [a] HSBP"; "the IEP team has not been able to review the secondary transition assessment results"; the college and career specialist "recommended that Student defines his preferences for what kind of college he would like to go to...and expected him to make a list of preferences...This is not...a realistic expectations provided Student's disability needs"; "we would like to know specific plan with target dates of completion" [sic]; the Parent believed any remaining Naviance activities needed to be added to the Student's visual schedule; and the Parent stated the Student required assistance with completing any remaining Naviance activities, including the optional surveys.

95. On April 25, 2023, the principal emailed the Parent, stating, in part:

The counselor has provided a detailed list of the classes that Student still needs to take next year based on his identified goal of attending 4 year college after he graduates. She also shared the Career Clusters and Pathways that were generated through Student completing a Naviance survey with the college and career specialist. These surveys are not exhaustive, but they add information to our planning. They also are only one moment in time and as Student's interests evolve, we are happy to help him adjust the electives that he signs up for.

96. According to May 2023 emails:

- A meeting regarding DVR supports, which included the Parents, likely took place on or about May 8, 2023. The District's career center specialist was involved in the same meeting. The career center specialists stated, in part, the Student completed a certain "career clusters" exercise, and next steps included the Student "determining [his] college preferences [and] saving [those] options in Naviance."
- On May 4, 2023, the social studies teacher emailed the Student, stating, in part, "Your main goal this week is to find your laptop cable [and] email me the assignments that you want support with [and] I can get back to you tomorrow."
- In early May 2023, District staff worked to locate a counseling contractor to provide counseling services to the Student for the remainder of the school year.
- At least as of May 8, 2023, the career specialist noted both the Parents had accounts and passwords for Naviance and the Student's career cluster results appeared on the website.
- The special education teacher met with the Parents on May 8, 2023.
- As of early May 2023, the special education teacher had completed the following T-Folio assessments with the Student: strengths; preferences; career clusters; challenges in the classroom; and needs assessment.
- The special education teacher had a "short Teams meeting" with the Parent on May 11, 2023.

- On May 11, 2023, the career specialist emailed the Parent a detailed explanation and confirmation that she had been following the Student's various IEP accommodations during her work with the Student.
- The principal explained the District would not have staff "text or call students from their personal phones", but the District did "have a method to send Student text messages from [the] email system."
- At least one of the spring 2023 IEP meetings related, in principal part, to the Student's postsecondary goals and transition services.
- On May 16, 2023, the Parents, Student, and several District staff were invited to a June 22, 2023 IEP meeting.
- On May 17, 2023, the Parents and Student were invited to attend a June 6, 2023 IEP meeting to discuss "how the HSBP aligns with the IEP transition plan."
- On May 17, 2023, the special education teacher emailed the principal, stating, in part, "I did some assessments that helped me fill out the IEP transition plan, and those are from the T-folio website consisting of surveys, questionnaires, and self-evaluations."
- On May 18, 2023, the social studies teacher emailed the Student, asking the Student to "speak with [his] family about the missing laptop charger or [talk] to the tech department [about] purchasing a new one [as] it has been very difficult to work with your assignments without you having a functioning laptop."
- In mid-May 2023, the social studies teacher emailed the Student a detailed checklist of steps to take in completing an assignment in his Government class; the Parent stated, in part, the Student was supposed to have created the list himself; and the OT explained that, while the social studies teacher was the individual to type out the list, the product was the result of collaboration between the social studies teacher and the Student.
- In late May 2023, the SLP communicated with the Student via some form of an email-text messaging communication system.
- On May 26, 2023, the SLP asked the Student to rate various "soft skills" he believed he had on a "soft skills checklist."
- On or about May 31, 2023, the special education teacher and career specialist met to review a draft IEP transition services plan and to compare it to the HSBP.

97. A May 17, 2023 "IEP Review Invitation" noted a meeting was scheduled for June 30, 2023, the purpose of which was to discuss annual goal progress, secondary transition services and goals, review the annual IEP, and review instructional needs. In part, the Parents and the Student were invited to the same. According to this document, on both May 16 and 17, 2023, the Parents and Student confirmed they could attend the June 30, 2023 IEP meeting.

98. The OT authored a transition-related summary email on May 25, 2023. It read, in part:

Things already done for Student:

- Strengths, interests, preferences, and needs- DONE on TFOLIO
- Self-Determination lesson- Done on TFOLIO

Things in process:

- Work maturity skills- In progress on TFOLIO

Things to do:

- Get access to his Naviance and update transition plan with what he's also done there.
- Interview him on both his career and education goals
- Ask him about his independent living goals

Things we know Student needs:

- Attend IEP meetings and have a voice in his plan
- Become more independent
- Build a resume
- Practice and learn interview skills
- Practice and learn customer service skills- sped teacher will check with Student on what he does with his dad when he works for him
- Practice writing a cover letter
- Volunteer work in the industry he's interested in

Things OT will send to sped teacher:

- Soft Skills Checklist (Done)
- Personalized Pathway plan (need to do)
- Send a list of ideas for volunteer/internship opportunities (need to do)

99. According to June 2023 emails:

- On June 1, 2023, the counselor shared an "HSBP portfolio document" that represented a compilation of "Naviance [and] T-Folio work" with the Student's IEP team, including the Parent, to be discussed at the June 6, 2023 IEP meeting.
- On June 5, 2023, the Parent shared feedback from the outside counselor (who had passed): the outside counselor noted the Student "displayed more executive functioning challenges" in fall 2022.
- On June 6, 2023, the Parent stated she had reviewed certain portions of the career clusters results in Naviance with the Student and that the results "did not look like something Student would be interested in [and] we do not think this is an accurate reflection of his interests."
- On June 13, 2023, the principal emailed an educational ombudsman, stating, in part, "Student has had multiple, hours long 1:1 sessions with [the] counselor [and the] college and career specialist and his IEP teacher...Student has been led step-by-step through in Naviance and we have also provided the long, paper version from OSPI. [We aligned the IEP transition plan with the HSBP.] Student has filled out the Career Interest Survey with 1:1 support [and] we have given links to additional career interest surveys."
- The Student likely met with the special education teacher on June 15, 2023 for a "quick meeting."
- On June 16, 2023, the special education teacher shared a document with the Parent entitled, "Possible independence goals for Student."
- On or about June 16, 2023, the Parent was provided a draft IEP.
- On June 22, 2023, the Parent sent several IEP team members a link to a document entitled, in part: "adaptive goal areas."
- On June 28, 2023, the special education teacher emailed certain District staff, stating, in part, "The three career pathways that were identified in the T-Folio for Student were: education and training; information technology; and science, technology, engineering, and mathematics."
- On June 28, 2023, several District staff shared—via email—a document entitled, "Student HSBP worksheet."
- On June 28, 2023, the Parent was emailed an "updated progress report...that includ[ed] comments from the SLP."

100. According to a June 2023 prior written notice (dated June 30, 2023), on June 6, 2023, the IEP team met to discuss the Student's "transition plan and [his] [HSBP]."

101. The District's response included "Meeting Notices" for a June 8, 2023 and later a June 22, 2023 meeting. While no purpose for the meeting was selected on the document, it did have an "other" option that read, "Discuss secondary transition evaluation review, high school and beyond plan, IEP transition plan and goals, and who is responsible for each part of the plan."
102. A June 8, 2023 prior written notice read, in part, that a meeting scheduled for June 8 would be rescheduled until June 22, 2023, due to scheduling conflicts.
103. The community college spring quarter ended on June 16, 2023.
104. According to a June 22, 2023 prior written notice, on that date, the Student's IEP team met but "decided [it] need[ed] more time [to] finish [the] discussion around goals, minutes, accommodations, and [the] transition plan." The notice indicated the Student and both Parents attended the June 22, 2023 IEP meeting. In its response, the District asserted the educational advocate attended the June 22, 2023 IEP meeting.
105. According to a "Student Support Meeting Agenda" provided to OSPI by the Parent, on or about June 26, 2023, the Parents, Student, District staff, an office of educational ombud's staff person, and a university compliance and civil rights staff person had a meeting. That document read, in part:
- What's Been Done:
- Counselor:
- Created HSBP document.
 - Student says it doesn't correlate to his interests.
 - Input data that was received from strength's report.
 - Parent: parent says that pathways identified in HSBP are only what "sound good."
 - Special education teacher: Through T-Folio, strengths assessment. Student went through and identified what he liked.
- What's Needed:
- Student needs assistance with "digging deeper" into career interest surveys.
 - Help explaining what the pathways mean.
- Next Steps:
- Transfer T-Folio info to HSBP or attach.
 - Format that is more accessible for Student.
 - What classes available at college that align w/ T-Folio and College Classes and chose class.
 - College doesn't have copy of transcript so they can't sign him up for science classes until they see what he has taken.

When provided with this document, the Parent responded via email, stating she expected to receive in the future: an "updated HSBP"; a "list of classes available at [a college] that aligned with T-Folio and Student's interests and strengths"; and an "invitation to a meeting for Student with...counseling staff."

106. According to a June 30, 2023 prior written notice, the Student's IEP met on June 29, 2023, to finalize the Student's annual IEP. Both of the Student's Parents attended the late June 2023

IEP meeting via Zoom. In its response, the District asserted the educational advocate also attended late June 2023 IEP meeting.

The June 2023 IEP included progress data on the adaptive, social emotional, study organizational skills, and written language goals found in both the June 2022 IEP and February 2023 amended IEP. The IEP included an updated section related to the Student's motor skills and included a section related to age-appropriate transition assessments, secondary transition, and communication.

The June 2023 IEP included the following support for school personnel:

- Occupational therapy for trialing new supports, collaborating with team for continued implementation and family check-ins (600 minutes a year; 2 times a month direct; 1 times a month [for] team support; 1 times a month [for] parent).

In part, the IEP provided the Student with the following related services and supplementary aids and services (SAS) in a *special education setting* from June 30, 2023 through June 29, 2024:

- Speech Language Pathology (related): 45 minutes a week (to be provided by an SLP)
- SLP/Communication Consultation (SAS): 15 minutes a month (to be provided by an SLP)

The June 2023 IEP stated the Student did not require ESY services.

The June 2023 IEP read, in part:

This report is provided by [the District] OT on June 16, 2023. This present level of performance includes information gathered through skills observations, data collection, chart review, team report, parent input, review of IEE reports, [and] results of the most recent evaluation and direct work with Student.

...

SUMMARY OF PREVIOUS OT SERVICES

Student's occupational therapy services have been included in his IEP as a support for school personnel at a rate of 600 minutes per year. Occupational therapy services have been utilized to help support Student in identifying and using [AT] programs that will support his written production skills as well as identifying and implementing strategies and routines that support his executive functioning needs. Services were delivered through consultation/collaboration with teachers and direct work with Student via online meetings.

...

Occupational therapy will support Student by working directly with him twice monthly to introduce and trial new strategies and systems that will support his development of executive functioning skills. Occupational therapy will then provide training to the team one time monthly (or more if needed) on the use of the strategies and systems so that they can be taught and implemented across all his classes and assignments. Occupational therapy can also work with Student's family (one time monthly) to problem solve and brain storm systems of support for supporting Student's executive functioning needs in the home environment as they pertain to his educational programming (i.e. creating a morning schedule/routine so that Student makes it to his ride on time in the morning and doesn't miss his classes or academic support sessions).

107. The Parent alleged that in spring 2023, the Student received an incomplete grade in his English course.
108. The District's last day of school for the 2022–23 school year was June 30, 2023.

Summer 2023

109. According to July 2023 emails:
- On July 1, 2023, the special education teacher acknowledged the IEP team was not able to "discuss [all of] the many adaptive skills [concerns] Parent noted," but that additional conversations around that topic could be had in fall 2023.
 - The Parent and District staff continued to discuss the most appropriate classes for the Student for the 2023–24 school year.
 - On July 10, 2023, the Parent was "connected" via email with "two members of the CTE team who can connect Parent [with the community] college career connected learning coordinator who sets up work-based learning experiences."
110. On July 11, 2023, the District sent the Parent an offer for the following compensatory education, "counseling services to include hourly counseling not to exceed \$1,925.00." According to the District:

The District offered 11 hours of compensatory counseling services at the rate of \$175 per hour, which was the full amount of missed services between when the parents notified the District that [the outside counselor] had passed away and the end of the 2022-2023 school year. The District initially offered compensatory services as a monetary amount because the parent requested music therapy, and the District wanted to work with the family and provide them with flexibility.

After the school year ended, the District connected the student with a new counselor who began providing compensatory services over the summer. Below are the dates on which the compensatory services were provided.

Date	Length
7/13/23	1.50 Intake, parent meeting
7/19/23	1.00 Therapeutic Services
7/31/23	1.00 Therapeutic Services
8/14/23	NO SHOW
8/18/23	1.00 Therapeutic Services
9/5/23	1.00 Therapeutic Services

111. On July 13, 2023, the District received the Parents' community complaint, including in part, the following allegations:

Issue 1

- The spring 2022 re-evaluations contained "incomplete secondary transition assessments."
- The Career Bridge Survey the Student took in April 2022 was "insufficien[t]", as "Student required significant support from parents to fill out." Additionally, the Student took the survey on two separate occasions in April 2022 -- and the results "differed greatly."
- Certain "key stakeholders" that needed to be involved in the development of the Student's postsecondary goals and transition services were not included.

- There was “great delay” in District staff reaching out to the DVR, with the special education teacher contacting DVR on January 26, 2023. Furthermore, “there was not a coordinated effort to ensure enrollment in DVR [was] timely and DVR staff was invited to just one IEP meeting.”
- The Student’s June 2023 IEP “is missing [a] related service goal for SLP [that relates to] Student’s transition needs.”
- The District did not respond appropriately to the Parent’s request that a “Supported Decision-Making Agreement” be implemented for the Student.
- As of June 2023, the Student required support from District staff to choose elective courses and/or equivalent work experience opportunities and to complete an “additional career interest survey,” support that was not provided to the Student.

Issue 2

- Regarding SLP services: SLP-related IEEs conducted in April 2019 and July 2021 recommended the Student be provided with greater SLP support than was included in the June 2022 IEP⁹; the District had a practice of only permitting the special education teacher to provide SDI, and this practice dictated the decision in June 2022, that SLP services would be listed as a related service on the Student’s IEP rather than as SDI; in October 2022, the SLP “proposed to add SLP service minutes to the Student’s IEP”, but this change was improperly delayed and was not effectuated until the January 2023 IEP meeting.”
- Regarding OT services: “The OT service minutes were not sufficient [and did not comport with] the occupational therapist’s recommendation,” and “at the June 30, 2023 IEP meeting, the team proposed to continue Student’s [OT] IEP goal due to lack of progress.”

Issue 3

- The District did not follow proper procedures for implementing certain accommodations, including scaffolding projects, speech-to-text, use of a checklist,¹⁰ graphic organizers.
- The District did not follow proper procedures for implementing the following AT, “access to laptop and tablet computer,” and “twice yearly [AT] staff trainings.
- Due to the Student’s schedule at the community college, the Student missed 15 minutes of SDI in writing each week.
- Regarding the implementation of any counseling-related IEP services, “Counselors did not practice frequent probing and lacked follow-through when Student was unable to respond to their requests or their emails,” and the Student’s IEP counseling services were “not provided for months” following the passing of the Student’s counselor.
- The Student was not provided instruction in the IEP goal related to email organization.
- District staff did not work with the Student in navigating either Canvas (an assignment tracking platform the community college utilized) or a google tracking spreadsheet, skillsets that related to the Student’s study and/or organization goal.
- The Student was not provided instruction in the social emotional goal related to active, independent management of his emotional state. Specifically, the Parent alleged District staff never utilized a “self-check rating scale [or] rubric” with the Student.

⁹ The Parent alleged that generally, these IEEs recommended the Student receive greater SLP supports than were recommended by the District’s reevaluation report, and the Student’s IEP team erroneously endorsed the District SLP’s recommendations in the District’s reevaluation report.

¹⁰ Specifically, the Parent alleged it was “the general education teacher [who] did not know how to...support Student [with] making a checklist.”

- Regarding those portions of the Student’s IEP that related to AT, the Parent alleged, “The IEP team...agreed that Student should be called as opposed to email [but] the principal later denied that this was the agreement...To [date], no staff have [called] Student when he is not logging into meetings or [attending] in-person.” (The Parents’ complaint request references “Google Voice calls.”)

Issue 4–6

- Issue 4: “In the 6/22/2023 IEP meeting, the [SLP] verbally shared progress on goals and did not share their data in writing with us prior to the meeting and did not record them in the progress report any time after the meeting.”
- Issue 5: The Parents alleged the District did not facilitate their parent participation.
- Issue 6: On May 18, 2023, the Parent requested summer 2023 ESY for the following areas: written expression; study/organization; and executive functioning.

112. During this investigation, OSPI’s investigator conducted interviews of the special education teacher, the OT, the SLP, and the counselor. Information gathered from those interviews is, in part, reflected in the following:

- According to the OT, the iPad had “accessibility programs built into it that could be used without [needing access to the] internet.”¹¹
- For writing projects, the special education teacher stated the Student found it particularly helpful if the two of them utilized an outline to help ‘sort out Student’s ideas.’
- The OT also said there was a built-in speech-to-text option in the Opera browser where you could speak to ask it to search for particular queries, etc.
- The special education teacher stated, ‘We worked on task management and Student had a pretty elaborate system on Google Docs. Student would put in every assignment from all his classes and assign each task a prioritization rating – what assignment he needed to do most, versus which assignments he did not need to prioritize at that moment.’
- While the special education teacher noted the Student did not prefer to utilize graphic organizers for outlining his writing, the special education teacher noted the Student did have access to—and make substantial use of—a visual calendar on Google docs, to track his schedule and assignments.
- The District OT stated that during the spring 2022 reevaluation process, she had extensive conversations with the private OT. The District’s OT stated the private OT believed the Student’s greatest need was in the area of executive functioning.
- The special education teacher also gave detailed answers to his work with the Student on each of the Student’s adaptive and social behavior goals.¹²

¹¹ From OSPI’s investigator’s interview with the OT. In this specific context, quotations denote paraphrasing, meaning this is a rough approximation of what was said during the relevant interview with OSPI’s investigator.

¹² In relation to adaptive 1 (email management), during their separate interviews with OSPI’s investigator, both the special education teacher and the OT reported the Student preferred to utilize a personal email rather than the District-affiliated email address. Furthermore, the special education teacher and OT reported the Student did not have difficulty navigating his preferred, personal email program; the Student did have the skillset to navigate his preferred, personal email program. Additionally, the special education teacher gave a detailed description of the work he did with the Student regarding email management: in part, stating, ‘I encouraged Student to tell me what he needed. I’d help him decide which professor to email and

- Documentation and interviews showed the OT also worked with the Student on his adaptive goals, particularly adaptive 2 (use of a “schedule for personal time and important events” related to tracking academic “assignments”).
- The special education teacher, OT, and SLP each stated they worked on written language goals with the Student.

113. On October 5, 2023, the Student submitted written answers to several questions asked by OSPI’s investigator. The Student’s answers read, in part:

I did not choose to miss sessions, but I would say that one factor that played into this is that I am short on time, which leads to me being stressed, which leads to me forgetting meetings and losing track of time. Additionally, several of my meetings are quite stressful for me, so I think I tend to subconsciously avoid them when I am stressed from having a lack of time.

...

[OSPI’s Investigator’s Question:] What assistive technology do you use independently?
Some. I can’t decide what I should use for tasks and I often don’t remember to use it. I would use the programs if they were on my computers. The school laptop is not good.

In his written statement, the Student stated he made some progress, but did not necessarily master, on several of his SLP goals.

CONCLUSIONS

Issue 1: IEP Development: Postsecondary Goals and Transition Services – The Parent alleged, beginning July 2022, the District did not follow proper IEP development procedures regarding the Student’s needs around postsecondary goals and transition services. More specifically, the Parent’s complaint request included the following allegations:

- Allegation 1: Certain data related to the Student’s needs around postsecondary goals and transition services was either insufficient or inaccurate. For example, the Parent alleged: the spring 2022 re-evaluations contained “incomplete secondary transition assessments”; the Career Bridge Survey Student took in April 2022 was “insufficien[t]”, as the “Student required significant support from parents to fill out”; the Student took the Career Bridge Survey on two separate occasions in April 2022, and the results “differed greatly”; and as of June 2023, the IEP team did not have sufficient information on the Student’s postsecondary interests and strengths, and Student therefore needed to take an “additional career interest survey.”
- Allegation 2: There was “great delay” in District staff reaching out to DVR staff to include them in the work regarding the Student’s postsecondary goals and transition services.
- Allegation 3: The June 2023 postsecondary goals and transition services were missing a couple necessary components, including a “related service goal for SLP [that addressed] Student’s transition needs” and the Student had executive functioning needs around planning various scholastic activities and/or filling out certain DVR forms, and those needs were not addressed in the postsecondary goals and transition services section of the IEP.

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 initial or most

we would work [together] on drafting and sending [an] email [to that professor]. Student was pretty good at communicating with his professors.’

recent evaluation of the child, and the academic, developmental, and functional needs of the child. Generally speaking, an IEP team's decisions must be based on a student's needs resulting from that student's disability. An IEP team should base its decisions on appropriate programming for a student on sufficient, relevant data on the student's needs resulting from the student's disability. And, 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 HSBP.

Transition services means a coordinated set of activities for a student eligible for special education that is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the student to facilitate his or her movement from school to post-school activities, including postsecondary education, vocational education, integrated employment, supported employment, continuing and adult education, adult services, independent living, or community participation, and is based on the individual student's needs, taking into account the student's strengths, preferences, and interests, and includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and if appropriate, acquisition of daily living skills and provision of a functional vocational evaluation. Transition services for students eligible for special education may be special education, if provided as specially designed instruction, or a related service, if required to assist a student eligible for special education to benefit from special education.

In response to allegations around the April 2022 "Career Bridge Survey" data, while the survey was taken prior to the time period under investigation, which began on July 14, 2022, the survey data continued to be utilized to develop IEPs within the timeline. OSPI therefore notes the May 17, 2022 evaluation report read, in part, that the Student completed the survey on two occasions, one day apart, and received different results. The evaluation report read, "Although the results of the Washington Career Bridge surveys were not consistent, Science, Technology, Engineering and Mathematics and Information Technology were the two Career Clusters consistently ranked with the top two scores for both surveys."

Based on the foregoing, OSPI notes just because two career interest surveys resulted in different results, that does not mean that data is necessarily invalid. For example, it is possible—and indeed, reasonable to expect—that a student might have varied postsecondary interests. It is also possible a student's postsecondary interests would change over time. While the Student's disability likely impacts his engagement with such a survey, different results do not necessarily render the data invalid. Accordingly, the Student's IEP team was not required to disregard the different April 2022 Career Bridge results in drafting the June 2022 IEP. In fact, as observed in the May 2022 evaluation report, the June 2022 IEP focused on the commonalities between the two different survey results to craft a postsecondary education and training goal that read, "Upon leaving public school,

Student will attend a college and pursue a degree in a STEM-related field.” For the foregoing reasons, OSPI does not find a violation.

In response to allegations that as of June 2023, the IEP team did not have sufficient information on the Student’s postsecondary interests and strengths and the Student therefore needed to take an “additional career interest survey”, OSPI notes this investigation showed multiple District staff, including the special education teacher, the school counselor, and the college and career specialist, worked on numerous evaluations related to the Student’s postsecondary interests and strengths in spring 2023. In part, District staff worked with the Student on the following transition-related assessments in spring 2023: Career Interest Explorer; Strengths Inventory¹³; T-Folio; College Costs Scavenger Hunt; and Super Match College Search Survey. Based on the foregoing, the June 2023 IEP team did have sufficient, relevant data on the Student’s postsecondary goals and transition needs to inform its decisions in that area. OSPI does not find a violation. (Again, it may be that the Student’s needs around postsecondary goals and transition services changed during the 2023–24 school year, and the Student’s IEP team should be aware of this and prepared to adjust this portion of the June 2023 IEP, as needed.)

On this issue, OSPI further states the transition-related assessments were completed in a timely fashion. For example, the regulations do not impose a specific timeline on when the postsecondary goals and transition services portion of an IEP need to be revisited within any particular year. See, in part, WAC 392-172A-03090(1)(k). Rather, after an annual IEP has been created, the IEP team must revise that IEP, as appropriate, to address any lack of expected progress toward the annual goals, the results of any reevaluations, information about the student provided to the district by the parents, and the student’s anticipated needs. Here, the investigation showed: the Parent expressed concern about the postsecondary goals and transition services of the Student’s June 2022 IEP in mid-December 2022; the District began administering transition-related assessments to the Student soon thereafter, Strengths Inventory and T-Folio (January 2023), Career Interests Explorer (February 2023), and College Costs Scavenger Hunt and Super Match College Search Survey (April 2023); and the IEP team utilized the results of the foregoing assessments in drafting the postsecondary goals and transition services portion of the June 2023 IEP. For the foregoing reasons, OSPI finds no violation, the District timely utilized transition-related assessments and updated the Student’s IEP accordingly, during the 2022–23 school year.

In relation to allegations that there was an improper delay in District staff incorporating DVR in the work around the Student’s postsecondary goals and transition services, OSPI notes the employment goal in both the June 2022 and February 2023 amended IEPs read:

Upon leaving public school, Student will (or while still in high school or Running Start) obtain part-time employment, and, after completing college, Student will work in a STEM or art-related field.

Transition Services: Development of job-acquisition skills and support in acquiring and keeping a job and may include agencies such as DVR.

¹³ See, in part, the special education teacher’s January 6, 2023 email, “Student also did a strengths self-assessment (also attached) as a start on his Transition Plan.”

Staff/Agency Responsible: DVR.

And, on this issue, the investigation showed the District took several steps to incorporate DVR in the work around the Student's postsecondary goals and transition services during the 2022–23 school year. For example, in part:

- On January 26, 2023, the special education teacher provided two DVR-related informational pamphlets to the Parent;
- On March 16, 2023, the special education teacher emailed the Parent contact information and some brief instructions on "the intake process" for DVR;
- On March 30, 2023, the special education teacher worked with the Parent in completing a certain "consent" form for DVR preemployment transition services;
- A DVR representative attended the February 8, 2023 IEP meeting; and,
- Emails suggested a meeting regarding DVR supports, which included the Parents, likely took place on or about May 8, 2023.

The foregoing facts show District staff timely involved DVR in the work regarding the Student's postsecondary goals and transition services during the 2022–23 school year. OSPI finds no violation.¹⁴ OSPI reminds the District, though, as DVR is mentioned in the employment-related transition services in the June 2023 IEP, the District should continue to incorporate DVR during the 2023–24 school year.

The Parent also alleged that the June 2023 postsecondary goals and transition services section was missing necessary components, specifically a "related service goal for SLP [that addressed] Student's transition needs." The Parent further alleged the Student had executive functioning needs around planning various scholastic activities and/or filling out certain DVR forms, and those needs were not addressed in the postsecondary goals and transition services section of the IEP. For the following reasons, OSPI does not find a violation: in the June 2023 IEP, speech language pathology is listed as a related service, and separately, as a supplementary aid and service (SAS), and the regulations do not require that an IEP include separate goals for related services or SAS.¹⁵ The June 2023 IEP noted the Student's adaptive, social behavior, study/organization, and written language goals each supported the Student's postsecondary goals and transition services; many of the Student's June 2023 IEP goals related to the Student's executive functioning abilities around planning for various scholastic activities,¹⁶ and on March 30, 2023, the special education teacher worked with the Parent in completing a certain "consent" form for DVR preemployment transition

¹⁴ On this point, the following is also relevant: the regulations read, in part, "to the extent appropriate, with the consent of the parents or a student who has reached the age of majority, the public agency must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services." And, here, it is not clear DVR was necessarily going to be responsible for *paying* for certain transition services.

¹⁵ The regulations only require that goals be created for SDI.

¹⁶ See, in part, adaptive (use of available resources), study and organizational skills 2–3 and 5 (use of a calendar and a to-do list, time-management, and daily planning skills), and written language 4 (creating and choosing a graphic organizer).

services. For the foregoing reasons, OSPI does not find a violation. But OSPI does state as the June 2023 IEP identified DVR as a responsible agency for the employment goal in the postsecondary goals and transition services section, the District will have a continuing obligation to assist the Student and Parent, as needed, in filling out relevant consent paperwork for DVR, to the extent applicable.

OSPI also finds the postsecondary goals and transition service sections of the three IEPs to satisfy the other regulatory requirements. For example, the postsecondary goals and transition service section of all three relevant IEPs include “results-oriented goals” in training, education, and employment, and the “Course of Study” section of the transition-related portion of each IEP include an “Academic Instruction and Related Services” chart that identifies the academic subjects and services the Student should receive instruction in during his junior and senior years to attain his postsecondary goals. Additionally, emails show multiple District staff worked with both the Student and Parent at numerous points throughout the school year in selecting appropriate community college courses. The Student’s transition-related needs were discussed during multiple IEP meetings during the school year; on May 17, 2023, the Parents and Student were invited to attend a June 6, 2023 IEP meeting to discuss “how the HSBP aligns with the IEP transition plan”; and on June 13, 2023, the principal emailed an educational ombudsman, stating the IEP team had consciously aligned the IEP transition plan with the Student’s HSBP. For these additional reasons, OSPI does not find a violation of the IDEA.

Still, OSPI issues the following reminder to the District: a June 26, 2023 “Student Support Meeting Agenda” stated a “next step” was to determine “what classes [were] available at [the] college that align with T-Folio.” Again, the documentation showed the Student’s course of study at the community college was a continual conversation throughout the 2022–23 school year, with multiple District staff working with the Student on a regular basis to select appropriate classes. To the extent this conversation need continue with the start of the 2023–24 school year, though, OSPI reminds the IEP team of this obligation.

Issue 2: IEP Development: Speech Language Pathology and Occupational Therapy – The Parent alleged the District did not follow proper evaluation and IEP development procedures during the 2022–23 school year regarding the Student’s needs in speech language pathology and occupational therapy.

Speech Language Pathology

The Parent’s complaint request included three allegations related to IEP development around speech language pathology, each of these allegations will be addressed, in turn.

Allegation 1: The Parent alleged SLP-related IEEs conducted in April 2019 and July 2021 recommended the Student be provided with greater SLP support than was included in the June 2022 IEP.

As a preliminary matter, OSPI notes in so far as this allegation relates to June 2022 IEP team decisions, it is beyond the permitted purview of this investigation. A complaint must allege a

violation that occurred not more than one year prior to the date that the complaint is received and here, the Parent filed her community complaint request on July 13, 2023, so anything prior to July 14, 2022, is outside the permitted scope of this investigation. Still, OSPI can evaluate the information in the 2019 and 2021 SLP-related IEEs as it related to IEP decisions made during the 2022–23 school year.

In part, an April 2019 IEE read:

Student presents with delayed social communication and functional use of expressive language skills. Speech-language therapy is recommended to address these delays. family is encouraged to pursue IEP goals that address his ability to self-advocate with peers and his ability to communicate with other adults when he needs support because of challenging social experiences with peers.

This same April 2019 IEE recommended, in part, goals related to the following: the Student's ability to "describe a personal experience," the Student's ability to "use social problem solving to identify solutions to problems causing negative emotions", the Student's ability to "accurately define...different emotion words," and the Student's ability to "analyze a conflict [or] negative experience by naming his emotion." The IEE did not recommend a specific number of weekly speech therapy minutes. In part, the July 2021 IEE read, "Student demonstrates delayed oral and written language and social communication skills. Speech language therapy is warranted to address all of these areas." The July 2021 IEE recommended goals that focused on the Student's ability to restate, "in his own words," key details from a reading passage, the Student's ability to summarize reading assignments, the Student's ability to "verbally communicate his need for processing time before responding" to a question, and the Student's ability to draft and send emails. The IEE did not recommend a specific number of weekly speech therapy minutes to be provided to the Student.

The District's May 2022 evaluation report stated, in part, "The [April 2019 and July 2021 SLP-related] IEEs [were] taken into consideration when writing this report." Indeed, the May 2022 evaluation report quotes each of the IEE reports at length. The communication portion of the May 2022 also included the results of additional assessments: the Clinical Evaluation of Language Fundamentals – 5th Edition; and input from both the Student's teachers and the Student's Parent. The May 2022 evaluation report noted, in part, "While Student has strengths in language comprehension and understanding language in decontextualized environments, he demonstrates difficulty in applying these skills in everyday social interactions...Student's expressive language deficits...impact his ability to generate personal narratives or retell events with meaningful details." The May 2022 reevaluation report recommended goals in the following areas: perspective-taking skills; social interaction skills; self-advocacy skills; and narrative skills.

And, indeed, the June 2022 IEP included goals and services in several areas related to the recommendations in the April 2019 IEE, July 2021 IEE, and May 2022 reevaluation report, including email management, self-advocacy, interpersonal communication skills, perspective-taking skills, conversation skills, narrative skills, and organizational strategies for writing assignments.

Based on input from the Parent, as well as feedback from the SLP that worked with the Student in fall 2022, several changes were made to the Student's communication services effective with the February 2023 amended IEP: the Student's SLP goals were changed; the amount of time the SLP worked with the Student each week was increased by 15 minutes, to a total of 45 minutes a week; and a 15-minute once-a-month SLP consultation with the Parent was added. During the spring 2023 semester, the Student made sufficient progress on SLP 1 and 3, and some progress on SLP 2. With the new annual IEP in June 2023, the Student's SLP services remained the same, 45 minutes a week of instruction for the Student and 15 minutes a month of consultation with the Parent.

OSPI finds the District determined what communication-related services the Student would receive based on sufficient, relevant data on the Student's needs resulting from the Student's disability. As the school year progressed, and the SLP and Parent provided feedback to the IEP team, and the Student's communication-related services, and some communication-related goals, were adjusted to reflect that new information. For these reasons, OSPI does not find an IEP development violation in relation to the Student's communication needs during the 2022–23 school year.

Allegation 2: The District had a practice of only permitting the special education teacher to provide SDI, and this practice dictated the decision in June 2022 that SLP services would be listed as a related service on the Student's IEP, rather than as SDI.

As detailed above, June 2022 IEP team decisions are outside the permitted purview of this community complaint decision. Regardless, OSPI notes while the Student's SLP services were listed as a related service on the June 2022 and February 2023 IEPs, and consequently, it was not necessary that there be goals directly related to the SLP services, the June 2022 and February 2023 IEPs did include SLP-specific goals. Furthermore, these IEPs included goals in several other areas that directly related to the Student's communication-related needs, as was detailed above. OSPI does not find a violation.

Allegation 3: In October 2022, the SLP "proposed to add SLP service minutes to the Student's IEP", but this change was improperly delayed and was not effectuated until the January 2023 IEP meeting."

Here, the investigation showed in late fall 2022, the SLP did make a couple statements that might have caused the Parent to believe the SLP had the authority to unilaterally make certain changes to the IEP. For example, in part, the SLP message the Parent the following, ""For efficiency, I will just change the minutes for this amendment and we can overhaul and do a complete update at the next review," and "I will simply update the minutes." While the foregoing statements are problematic, for three reasons, they do not represent a violation of the IDEA. First, the SLP also made several other statements, suggesting he did not have the authority to unilaterally make certain IEP changes. See the December 13 and 18, 2022, and January 4, 2023 emails. Second, as a legal matter, no one IEP team member can dictate IEP provisions or a particular educational program, as the IEP team should collaborate and work toward consensus. And third, between mid-December 2022 and late January 2023, the District worked with the Parent to schedule an IEP meeting to discuss SLP services. The earliest date such a meeting was able to take place was on

February 8, 2023. And, on that date, the IEP team did in fact agree to certain changes to the Student's communication services. For example, the Student's SLP goals were changed, the Student's direct services with the SLP were increased by 15 minutes a week—from 30 minutes to 45 minutes—and a 15-minute monthly check-in with the Parent was added. Accordingly, OSPI does not find a violation of the IDEA. OSPI, though, will include at the end of this decision the following reminder: no one IEP team member can dictate IEP provisions or a particular educational program, as the IEP team should collaborate and work toward consensus.

Occupational Therapy

In her complaint request, the Parent made three separate allegations regarding the IEP team not following proper IEP development procedures during the 2022–23 school year as it related to the Student's OT-related needs: (1) the OT services included in the Student's IEPs during the 2022–23 school year did not comport with "the occupational therapist's recommendation"; (2) the OT service minutes were not sufficient to address the Student's needs in this area; and (3) the fact that certain OT-related goals were continued with the June 2023 IEP shows proper IEP development was not followed during the 2022–23 school year in regard to the Student's OT-related needs.

Allegation 1: The first allegation related to whether the Student's IEP team had sufficient, relevant data on the Student's needs resulting from his disability in the area of OT. For the following reasons, though, OSPI does not find an IDEA violation on this score:

- IEP development decisions prior to July 14, 2022 are beyond the permitted purview of this decision.
- Regardless, during her interview with OSPI's investigator, the District OT stated during the spring 2022 reevaluation process, she had extensive conversations with the private OT. The District's OT stated the private OT believed the Student's greatest need was in the area of executive functioning. And, as discussed throughout this decision, the June 2022 IEP, February 2023 amended IEP, and June 2023 IEP included numerous service areas and goals related to executive functioning.
- Each of the Student's three IEPs (June 2022, February 2023 amended, June 2023), as well as the District-completed May 2022 reevaluation report, incorporated OT-related data from numerous sources, including Parent feedback, teacher feedback, and assessment results. Regarding OT-related assessment results, the foregoing documents incorporated, *in part*, the following: fine motor testing (October 2017); an OT-related IEE (June 2021)¹⁷; "executive skills semi-structured interviews" (November 2022 and June 2021); an Autism Center Discharge Plan (July 2021); a neuropsychological IEE that related, at least in part, to the Student's OT needs (June and August 2021)¹⁸; and FBA results (December 2021). The foregoing data sources collectively supported the conclusion the Student had certain adaptive, organizational, and assistive technology needs, which were, in turn, addressed

¹⁷ OSPI notes the OT IEE, dated June 2021, did not recommend a particular amount of service minutes for the Student. Furthermore, the June 2021 OT IEE was quoted at length in the relevant District evaluation and IEPs. OSPI finds the June 2021 OT IEE directly informed the development, in part, of the Student's service areas, goals, and accommodations.

¹⁸ OSPI notes the June and August 2021 neuropsychological report did not recommend a particular amount of service minutes for the Student. Furthermore, this report was referenced multiple times in the relevant District evaluation and IEPs. OSPI finds this report directly informed the development, in part, of the Student's service areas, goals, and accommodations.

in each of the three IEPs through SDI minutes in several service areas, the drafting of relevant goals, and the development of pertinent accommodations.

As the foregoing facts show, during the 2022–23 school year, the IEP team properly considered sufficient, relevant data on the Student’s needs resulting from the Student’s disability in the area of occupational therapy. In particular, the IEP team properly considered data from occupational therapy-related IEEs. OSPI does not find a violation of the IDEA.

Allegation 2: The Parent alleged the OT’s service minutes were not sufficient to address the Student’s needs in this area. With this allegation, the Parent is presumably referring to the fact that, with the February 2023 amended IEP, the OT services minutes were increased. More specifically, the June 2022 IEP included the following supports for school personnel in a *special education setting* from June 17 through June 16, 2022: occupational therapy – “300 minutes yearly provided on a planned schedule.” The February 2023 amended IEP increased this figure to 600 minutes.

Rather than indicating an IEP development failure, though, this change represents evidence showing the IEP team was responsive to the Student’s change in need in occupational therapy during the 2022–23 school year. For example, in a January 25, 2023 email, the OT noted her work with the Student in identifying certain assistive technology supports had taken more time than the June 2022 IEP team had envisioned was necessary, and therefore, the IEP team needed to discuss “add[ing] a few more minutes to Student’s IEP.” In early February 2023, the Parent also provided feedback that the Student’s OT minutes should be increased. And, in February 2023, the IEP did exactly that, increasing the Student’s OT minutes by 300 yearly minutes, to a total of 600 yearly minutes. With the June 2023 IEP, the team was further responsive to the Parent’s input on this score—the June 2023 IEP added the following specificity to the OT Supports for School Personnel: “600 minutes a year: 2 times a month direct; 1 time a month [as] team support; [and] 1 time a month [as] parent [support].” The foregoing shows the IEP team was responsive to any potential change in need related to OT supports resulting from the Student’s disability during the 2022–23 school year. OSPI does not find a violation.

Allegation 3: The Parent alleged the fact that certain OT-related goals were continued with the June 2023 IEP shows proper IEP development was not followed during the 2022–2023 school year regarding the Student’s OT-related needs.

As a preliminary matter, OSPI notes: generally, OTs help people with disabilities function independently; and here, the OT worked, in significant part, with the Student’s AT needs. So, OSPI determines that the goals most relevant to the Parent’s allegation—on this score—relate to those goals concerning the Student’s ability to function independently, as well as to utilize AT.

And this investigation showed that generally, to the extent goals in the foregoing areas were continued in the June 2023 IEP, they were amended to reflect the Student’s most up-to-date needs resulting from the Student’s disability. For example, with the June 2023 IEP:

- The baseline for the social behavior: self-advocacy goal was updated from 20% to 80%. The performance goal for this skillset remained the same.

- The baseline for the study organization skills: time-management goal was updated from 40% to 70%. The performance goal for this skillset remained the same.
- The baseline for the study organization skills: prioritization goal was updated from 2 of 5 opportunities to 3 of 5 opportunities. The performance goal for this skillset remained the same.

The fact the IEP team updated several of the Student’s occupational therapy-related goals in June 2023 shows they were responsive to the Student’s most recent occupational therapy-related needs.¹⁹ More importantly, though, the June 2023 IEP team added two executive functioning-related goals that were not included in the February 2023 amended IEP: study organization: daily planning skills; and adaptive: use of the writing center. These two new goals further show the June 2023 IEP team was responsive to the Student’s most recent executive functioning-related needs resulting from the Student’s disability. Finally, the June 2023 IEP reflected relevant, sufficient data on the Student’s needs in OT resulting from the Student’s disability. For example, it read, in part, “This report is provided by [the District] OT on June 16, 2023. This present level of performance includes information gathered through skills observations, data collection, chart review, team report, parent input, review of IEE reports, [and] results of the most recent evaluation and direct work with Student.”

For the foregoing reasons, OSPI finds the June 2023 IEP team properly considered sufficient, relevant information on the Student’s executive functioning-related needs at that time, and was responsive to the same. OSPI does not find a violation.

Additional IEP Development Concerns

During this investigation, though, OSPI determined there were challenges with two of the June 2023 IEP goals. Generally, service providers need to be aware of their responsibilities under an IEP, specifically service providers need to know what particular skillsets they will be working on; progress reporting must be completed in such a manner that a parent is sufficiently informed of the student’s progress on IEP goals; IEP goals should be clearly written to include a discrete baseline of performance, as well as a discrete objective for performance; and OSPI has general supervisory authority to ensure all aspects of the IDEA are followed. That being said, OSPI states:

First, the social behavior: emotional regulation skills goal needs to be amended to reflect a baseline and goal. For example, in both the February 2023 amended IEP and the June 2023 amended IEP, this goal read, in part, “[The goal is to] actively reduce Student’s anxiety and improve his state of well-being, improving emotional awareness and self-management of his anxiety with structured adult support from the initial score on the rubric to a score which is at least one column higher than the initial score” (emphasis added). While progress reporting and the June 2023 IEP itself showed the Student had made some progress on this goal throughout the 2022–23 school year, the baseline for the goal, starting with implementation of the June 2023 IEP, was not identified. For the District staff and the Parent to properly understand the Student’s progress on this goal during the 2023–24 school year, this goal needs to be amended to include a baseline

¹⁹ The June 2023 IEP included the same email management goal as the February 2023 amended IEP, but this is because progress reporting noted the Student made less progress on this skillset than in other areas.

and a goal. For example, what is the Student's "initial score on the rubric"? And given this fact, what score represents "one column higher than the initial score"? The fact that this particular goal does not include this represents a violation of the IDEA. The IEP team will be required to amend this goal.

Second, the use of a calendar and to-do list goal in the February 2023 amended IEP remained the same in the June 2023 IEP. It read, in part:

Student will independently create and use a calendar...improving time management skills and calendar usage from an unclear school/life balance that leads to feeling overwhelmed and stressed to a clear school/work/life balance that leads to efficient [time management] as evidenced by no fewer than 3 missing assignments and Student being able to spend at least 1 hour 3x a week engaged in a sport activity and 1 hour each day participating in a preferred leisure activity.

Progress reporting showed the Student made significant progress on this goal throughout the 2022–23 school year, and interviews showed the Student utilize an electronic calendar for scheduling. Presumably, it was continued because, despite the Student's use of an electronic calendar, the Student continued to experience stress and/or not fail to achieve what he felt was a proper work/life balance.

Still, OSPI notes the June 2023 calendar and to-do list goal is written confusingly. For example, it incorporates the measurement of three different outcomes: number of missing assignments; amount of weekly time spent on sport activities; and amount of weekly time spent on leisure activities. So that IEP service providers can properly target this skillset, and so that the Parent can be sufficiently apprised of the Student's progress on this skill set, OSPI strongly recommends this goal be revised, either to explicitly include baselines for the foregoing three areas: for example, currently, how many assignments does the Student currently miss, and during what time period? Currently, how many weekly hours does the Student spend engaged in a sport activity? Currently, how many weekly hours does the Student spend participating in a preferred leisure activity? Or, that the goal be made into three separate goals.

Issue 3: IEP Implementation – The Parent alleged the District did not properly implement numerous provisions of the Student's IEP during the 2022–23 school year.

A school district must also 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.

Accommodations

The Parent alleged the District did not materially implement the following accommodations during the 2022–23 school year: scaffolding projects; speech-to-text; use of a checklist; graphic organizers; and "verbal instructions paired with written instructions."

This investigation showed District staff did materially implement the foregoing accommodations during the 2022–23 school year. Summarizing the information shared regarding accommodations, the following facts constitute a representative sampling of supportive evidence:

- Scaffolding Projects:
 - For writing projects, the special education teacher stated the Student found it particularly helpful if the two of them utilized an outline to help ‘sort out Student’s ideas.’
 - In mid-February 2023, the social studies teacher collaborated with the Student on a plan to break up the history assignment he needed to complete for the previous quarter into shorter segments of work.
 - The OT worked with the Student in identifying Google Keep as a helpful AT tool, in part, for “breaking down assignments and creating outlines for an essay.”
- Speech-to-Text:
 - The OT stated the Student’s personal computer had speech-to-text capabilities, both via the Opera browser itself, as well as via Google Voice. (The OT also shared that though the Student had access to speech-to-text, the Student did not prefer to utilize this resource when completing various writing assignments.)
 - The AT specialist stated the District-provided laptop and iPad both had speech-to-text software on it and provided a detailed list of the applications on each device that had speech-to-text software.
- Use of a checklist:
 - The OT worked with the Student in identifying Google Keep, in part, for creating to-do lists.
 - During his interview with OSPI’s investigator, the special education teacher stated, ‘We worked on task management and Student had a pretty elaborate system on Google Docs. Student would put in every assignment from all his classes and assign each task a prioritization rating – what assignment he needed to do most, versus which assignments he did not need to prioritize at that moment.’
 - On or about January 27, 2023, the social studies teacher worked with the Student in creating a “tracking sheet.”
- Graphic organizers: While the special education teacher noted the Student did not prefer to utilize graphic organizers for outlining his writing, the special education teacher noted the Student did have access to—and make substantial use of—a visual calendar on Google docs, to track his schedule and assignments. (Emails, including at least one from the Parent, further support the notion the Student utilized a visual calendar.)

For the foregoing reasons, OSPI finds the District did materially implement the Student’s IEP accommodations during the 2022–23 school year.

Adaptive and Social Behavior SDI

The June 2022 IEP and the February 2023 amended IEP each provided the Student with one hour a week of adaptive SDI and one hour a week of social behavior SDI. With one exception, for the following reasons, the District materially implemented those portions of the Student’s IEPs that related to SDI in adaptive and social behavior:

- The special education teacher had an established schedule whereby he met with the Student for two hours each week, to provide the Student with SDI in adaptive and social behavior;
- The special education teacher kept a contact log that documented the special education teacher’s work with the Student in the areas of adaptive and social behavior SDI;

- Emails, in particular an early-to-mid January 2023 email, showed the special education teacher worked with the Student in adaptive and social behavior SDI;
- During his interview with OSPI's investigator, the special education teacher was able to give detailed answers to his work with the Student on each of the Student's adaptive and social behavior goals²⁰;
- Documentation and interviews showed the OT also worked with the Student on his adaptive goals, particularly adaptive 2 (use of a "schedule for personal time and important events" related to tracking academic "assignments");
- Progress reports showed the Student made either "significant progress" or "some progress" on each of his social behavior and adaptive goals, throughout the entirety of the school year.

For the foregoing reasons, the District materially implemented those portions of the Student's IEPs that related to SDI in adaptive and social behavior.

OSPI does note, though, the following: for various reasons, the special education teacher missed approximately three sessions scheduled with the Student during the 2022–23 school year. The documentation did not indicate these three sessions were made up. While three missed sessions do not, in and of themselves, represent a material failure to implement the IEP, and thus do not represent a violation of the IDEA, for the following reasons, OSPI will require certain compensatory education in relation to these sessions.

First, OSPI has general supervisory authority over IDEA procedures. Second, the Office of Special Education and Rehabilitative Services (OSERS) has stated where the unavailability of school personnel means that IEP services are not made available at the regularly scheduled time, the school district is required to make other arrangements to provide the services at that time or reschedule the required IEP services in order to meet its responsibility of providing FAPE to that student in accordance with his or her IEP. Third, OSPI will be requiring certain compensatory education for other matters reviewed as part of this investigation.

Compensatory education is an equitable remedy that seeks to make up for education services a student should have received in the first place and aims to place the student in the same position he or she would have been, but for the district's violations of the IDEA. There is no requirement to provide day-for-day compensation for time missed.

Here, generally speaking, the special education teacher's sessions with the Student were to last one hour, and the special education teacher worked with the Student on both adaptive and social emotional SDI. Accordingly, the following is an equitable compensatory education remedy: the

²⁰ In relation to adaptive 1 (email management), during their separate interviews with OSPI's investigator, both the special education teacher and the OT reported the Student preferred to utilize a personal email rather than the District-affiliated email address. Furthermore, the special education teacher and OT reported the Student did not have difficulty navigating his preferred, personal email program; the Student did have the skillset to navigate his preferred, personal email program. Additionally, during his interview with OSPI's investigator, the special education teacher gave a detailed description of the work he did with the Student regarding email management: in part, stating, 'I encouraged Student to tell me what he needed. I'd help him decide which professor to email and we would work [together] on drafting and sending [an] email [to that professor]. Student was pretty good at communicating with his professors.'

District will provide the Student with 45 minutes of compensatory education in adaptive and 45 minutes of compensatory education in social behavior, with said services being non-concurrent.

Written Language and Study and Organization SDI

The June 2022 IEP and the February 2023 amended IEP each provided the Student with 1.5 hours a week of written language SDI and 30 minutes a week of study organization skills SDI. (Under the IEPs, these services were to be provided non-concurrently.)

Here, there is evidence the Student was provided with some SDI in both written language and study and organization during the 2022–23 school year. For example, in part:

- The social studies teacher was to provide the Student in written language and study and organization SDI, and the social studies teacher had a set schedule with the Student – in both the fall of 2022 and the spring of 2023 – to work with the Student on these subjects.
- Emails showed the social studies teacher worked with the Student in written language and study and organization SDI throughout the 2022-2023.²¹

Notably, though, the schedules the social studies teacher established with the Student for the provision of SDI in written language and study and organization did not permit the social studies teacher to provide the entirety of the Student’s written language and study and organization SDI himself. Although, as noted above, the special education teacher, OT, and SLP each stated they worked on written language goals with the Student as well.

During the fall 2022 semester, the social studies teacher met with the Student for a total of one hour each week, which means the Student would have missed approximately one hour of total SDI instruction in written language and/or study organization each week. And as September 26 through December 15, 2022 (the fall quarter) represents approximately 12.5 weeks of instruction at the community college, during this time, the Student would have missed approximately 12.5 total hours of SDI instruction in either written language and/or study organization.

During spring 2023, the social studies teacher met with Student for 1.5 hours each week, which means the Student would have missed approximately 30 minutes of total SDI instruction in either written language and/or study organization. And as January 3 through June 16, 2023 (the winter and spring quarters) represents approximately 23 weeks of instruction at the community college, during this time, the Student would have missed approximately 11.5 total hours of SDI instruction in either written language and/or study organization.

The total, approximate missed SDI in either written language and/or study organization then, over the course of the entire year, would have been approximately 24 hours. This represents a material failure to implement these portions of the IEP, and a violation of the IDEA. Therefore, some compensatory education is warranted.

²¹ OSPI’s investigator would have conducted an interview of the social studies teacher, but, during the course of this investigation, the District stated the social studies teacher is no longer an employee of the District.

Compensatory education is an equitable remedy that seeks to make up for education services a student should have received in the first place, and aims to place the student in the same position he or she would have been, but for the district's violations of the IDEA.

Here, it does appear the missed instruction negatively impacted the Student. For example, according to progress reporting, during the spring 2023 semester, the Student did not make as much progress on his written language and study organization goals as he had during the fall 2022 semester. It is also significant, though, that the Student did receive written language SDI from staff persons other than just the social studies teacher, for example, the special education teacher, OT, and SLP. Given these facts, the following is an equitable compensatory remedy: the District will be required to provide the Student with 16 hours of SDI in study organization, and 4 hours of SDI in written language.

AT-Related Services

The June 2022 IEP included numerous provisions related to AT support:

- It included the following supports for school personnel in a *general education setting*: AT staff trainings by AT staff at the beginning of the year and midyear ("twice yearly").
- It included the following supports for school personnel in a *special education setting*: occupational therapy – 300 minutes yearly, later increased to 600 minutes.
- In part, it provided the Student with the following modification and accommodation: access to laptop and tablet computer, access to speech-to-text software.

This investigation showed the District materially implemented the foregoing provisions of the Student's IEP during the 2022–23 school year. For example, in part, this investigation showed:

- The District provided the Student with a laptop and iPad on or about September 23, 2022, prior to the first day of running start classes, which began on September 26, 2022.
- According to the OT, the iPad had "accessibility programs built into it that could be used without [needing access to the] internet."
- During sessions with the OT, the Student demonstrated an ability to utilize the District-provided laptop and iPad, and to navigate the programs and extensions on those respective devices, but the Student preferred to use his personal computer instead.
- The OT was of the belief the District-provide laptop and iPad remained at the Student's home, and that the Student did not utilize those devices. For example, during this investigation, the OT provided the following written statement, "Often, when I would asked him to try a program on one of the devices, he had to search for [the device], and, once found, it was dead and needed to be charged."
- According to the OT: District staff "could not put downloadable browser-based programs on Student's personal computer"; on his personal computer, the Student preferred to use the Opera browser system, the Student did not like using the Chrome browser system on his personal computer; District staff "could give Student access to Chrome extensions on his desktop [on his personal computer] but he would not use those²²; on at least one occasion, the Student related that he did not have much memory remaining on his personal computer; and given the foregoing preferences and limitations, several AT programs were not available on the Student's personal

computer, including, in part, co-writer; and "Microsoft [programs that] would have [had] to be based through [the] Edge [browser] system."²³

- Even with the foregoing preferences and limitations, the OT helped the Student access the following AT programs on his personal computer: Text Compactor²⁴; Evernote Web Clipper²⁵; Google documents²⁶; Google Voice²⁷; and Google Keep.²⁸
- The OT stated the Student's personal computer had speech-to-text capabilities, both via the Opera browser itself, as well as via Google Voice.
- Between September 23, 2022 and June 16, 2023, the OT worked with the Student for a total of approximately 12 hours, over approximately 29 sessions.²⁹
- Emails and the interview showed, in part, beginning in spring 2023, at least on occasion, District staff would send text message reminders to the Student's phone regarding various assignments and/or scheduled service sessions.³⁰
- On the following occasions, multiple District staff, including over the course of different meetings, the OT, AT specialists, teachers, SLP, and Student met to discuss the Student's AT needs: October 7, 2022; October 18, 2022; January 25, 2023; February 6, 2023; and March 15, 2023.

²³ The OT stated this would have included "Word Bank," "Lens," "grammar checks," and "Immersive Reader."

²⁴ This program helped summarize the text on a website.

²⁵ The OT stated on his personal computer, the Student was limited to the trial software for Evernote Web Clipper; the Student could not access the entire program.

²⁶ The OT stated there were certain Google programs the Student could access on his personal computer that did not necessitate downloading the Google Chrome browser. The OT stated the Student used Google documents for most of his writing.

²⁷ Google Voice was a speech-to-text function available within Google documents, but the OT stated the Student did not prefer to utilize Google Voice.

²⁸ The OT said the Google Keep program "allows [an individual] to [create] sticky notes and turn those into an outline."

²⁹ The June 2022 IEP provided for approximately five hours of OT consultations over a school year; the February 2023 amended IEP provided for approximately 10 hours of OT consultations over a school year; and so, over the 2022–23 school year, the two IEPs would have collectively required OT consultations to a figure of approximately eight hours, a figure less than the approximately 12 hours that were provided.

³⁰ The OT explained, in part, 'We were able to get a phone number through Microsoft Teams and [send] text [messages] to Student's phone through Microsoft Teams.' The Parent stated at some point in early spring 2023, the IEP team agreed to call the Student with reminders, as needed, but that the IEP team did not implement this. This investigation did not show the IEP team, did agree to this; in fact, the District appeared to have a policy (even if de facto) against District staff from calling students on their personal cell phones. Furthermore, this investigation did not show the Student's needs resulting from the Student's disability necessarily required phone call reminders. Rather, this investigation showed that text message reminders was an informed, reasonable response to the Student's adaptive needs, as those needs presented in spring 2023.

The foregoing facts show, during the 2022–23 school year, the District materially implemented those portions of the Student’s IEPs that related to AT.

Counseling Services

Both the June 2022 IEP and the February 2023 amended IEP provided the Student with the related service of one hour a week of counseling.

From the beginning of the school year through roughly April 4, 2023, an outside counselor providing the foregoing services, with the District paying the outside counselor for his services. However, on April 4, 2023, the counselor passed away; and subsequent to the outside counselor’s passing, the District was unsuccessful in its attempts to find a different individual to provide the Student with counseling services, and as a result, the Student did not receive his weekly hour of counseling sessions from roughly April 4, 2023 through the end of the 2022-2023 school year. This means the Student missed approximately 11 hours of counseling services during the latter part of the school year. This represents a material failure to implement the relevant IEPs, and certain compensatory education is warranted.

Compensatory education is an equitable remedy that seeks to make up for education services a student should have received in the first place, and aims to place the student in the same position he or she would have been, but for the district’s violations of the IDEA. There is no requirement to provide minute-for-minute compensation for time missed.

Here, though, the District did offer the Student minute-for-minute compensatory counseling services: 11 hours of compensatory counseling services. OSPI finds this to be a reasonable offer of compensatory counseling services. To date, the Student has accessed approximately 4.5 hours of compensatory counseling services. Accordingly, as part of the corrective actions for this decision, the District will be required to provide the Student with 6.5 hours of compensatory counseling services.

Issue 4: Progress Reporting – The Parent alleged the District did not follow proper progress reporting procedures during the 2022–23 school year.

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, as a preliminary matter, OSPI notes the June 2022 and February 2023 amended IEPs both required that progress be reported quarterly. But, at least for the 2022-23 school year, it does not appear the District operated on a quarterly schedule. For example, the District’s 2022–23 calendar identifies the dates the first semester ended, and the second semester began, but it did not identify the beginning and end dates of academic quarters. Furthermore, according to the District, on January 6, 2023, “the special education teacher agreed with Parents’ suggestion to have the progress report [correspond with the] Student’s college quarters at Running Start, rather than the

District's quarters." During this investigation, OSPI's investigator did not see an amended IEP or a prior written notice, that clearly reflected this clarification. To avoid confusion during the 2023–24 school year, and to rectify the progress reporting errors noted below, OSPI will require the District to amend the June 2023 IEP to include the specific dates progress reporting will be provided, e.g., the dates signifying the end of the academic quarters for the community college during the 2023–24 school year.

Furthermore, based on the documentation provided to OSPI during this investigation, it appears: the first time the Parent was provided with a formal progress report on the Student's adaptive, social emotional, study organization, and written language goals was on April 5, 2023³¹; and the first time the Parent was provided with a formal progress report on the Student's speech language pathology goals was on June 28, 2023.³² OSPI finds a violation as progress reporting was not provided as outlined in the IEP or the agreement related to community college quarters.

The Parent was in frequent contact with multiple District staff throughout the 2022–23 school year, and the Parent did obtain some information on the Student's progress through those communications. Furthermore, data on the Student's progress would have been shared with the Parent during the numerous IEP meetings that took place in spring 2023. Additionally, the February 2023 amended IEP did include an updated communication section, so the Parent was provided information on the Student's communication-related goals at that time. Accordingly in addition to the IEP amendment discussed above, the following represent appropriate corrective actions for the discussed progress reporting violations:

- The District will be required to provide the District members of the Student's IEP team with written guidance regarding progress reporting requirements. That guidance will include a reminder about the 2023–24 dates on which a progress report is to be provided to the Parent.
- The District will be required to provide OSPI with documentary proof it provided the first quarter progress report to the Parent for the 2023–24 school year, within five business days of the end of the first quarter of the 2023–24 school year.

³¹ In part, the following facts support this conclusion: on the progress report itself, the earliest entry date for the Student's adaptive, social emotional, study organization, and written language goals is November 2022; the narrative portion of the February 2023 amended IEP that related to adaptive, social emotional, study organization, and written language remained the same as that found in the June 2022 IEP; in a February 2023 email, the Parent stated no progress reporting had been completed between September and December 2022; and on April 5, 2023, the special education teacher provided the Parent with a progress report for the Student.

³² In part, the following facts support this conclusion: a January 4, 2023 prior written notice suggested speech-related progress reporting could not be completed until mid-January 2023; on January 31, 2023, the SLP emailed the special education teacher detailed notes on the Student's communication goals, but it is not clear from the emails this information was ever provided to the Parent; as per the formal progress reports provided to OSPI during this investigation, with one exception, the earliest entries for the communication-related goals are June 6, 2023; and on June 28, 2023, the Parent was emailed an "updated progress report...that include[ed] comments from the SLP."

Issue 5: Parent Participation – The Parent alleged the District did not follow proper procedures for including her participation in IEP development decisions during the 2022–23 school year.

The parents of a child with a disability are expected to be equal participants along with school personnel, in developing, reviewing, and revising the IEP for their child. This is an active role in which the parents (1) provide critical information regarding the strengths of their child and express their concerns for enhancing the education of their child; (2) participate in discussions about the child’s need for special education and related services and supplementary aids and services; and (3) join with the other participants in deciding how the child will be involved and progress in the general curriculum and participate in State and district-wide assessments, and what services the agency will provide to the child and in what setting.

Overall, the investigation unequivocally showed the District properly ensured the Parent’s participation in IEP development decisions during the 2022–23 school year. For example, in part:

- Various District staff were in near-continual contact with the Parent, via email, throughout the entirety of the school year. Generally, District staff were responsive to these emails, addressing the Parent’s concerns and/or requests for more information in responsive emails.
- The February 2023 IEP decisions to increase SLP and OT time resulted, in significant part, from the Parent’s feedback on those areas.
- District staff ensured the Parent’s educational advocate was included in IEP development conversations, and this investigation showed both the Parents and the Parents’ educational advocate likely attended no less than five separate IEP meetings; February 1 and 8, 2023, on or about April 4, 2023, and June 22 and 30, 2023.
- The May 2022 reevaluation report, June 2022 IEP, February 2023 amended IEP, and June 2023 IEP each incorporated significant feedback from the Parent.
- District staff met with the Parent on numerous occasions, outside the context of a formal IEP meeting. For example, in part, the OT met with the Parent, virtually, on September 23, 2022; on December 12, 2022, the SLP met with the Parent; a “pre-[IEP] meeting” took place on January 11, 2023; on March 30, 2023, the special education teacher worked with the Parent in completing a certain “consent” form for DVR preemployment transition services; and, the special education teacher met with the Parents on May 8 and 11, 2023.

For the foregoing reasons, OSPI does not find a violation on this score; the District followed proper procedures for ensuring the Parent’s participation in IEP development decisions throughout the 2022–23 school year.

Issue 6: ESY Services – The Parent alleged the District did not follow proper ESY determination procedures during the 2022–23 school year. Specifically, the Parent alleged: (1) the Student was not provided IEP services while the District was on spring break despite the fact the Student’s community college continued to hold classes; and (2) the Student experienced regression during breaks from schooling, which necessitated ESY services.

ESY services means services meeting state standards provided to a student eligible for special education that are beyond the normal school year, in accordance with the student’s IEP, and at no cost to the parents of the student. School districts must ensure that ESY services are available when necessary to provide a FAPE to a student eligible for special education services. ESY services

must be provided only if the student's IEP team determines, based on the student's needs, that they are necessary in order for the student to receive a FAPE. The purpose of ESY services is the maintenance of the student's learning skills or behavior, not the teaching of new skills or behaviors. School districts must develop criteria for determining the need for ESY services that include regression and recoupment time based on documented evidence, or on the determinations of the IEP team, based on their professional judgment and considering the nature and severity of the student's disability, rate of progress, and emerging skills, among other things, with evidence to support the need. For purposes of ESY, "regression" means significant loss of skills or behaviors if educational services are interrupted in any area specified in the IEP. "Recoupment" means the recovery of skills or behaviors to a level demonstrated before interruption of services specified in the IEP. A student's IEP team must decide whether the student requires ESY services and the amount of those services. In most cases, a multi-factored determination would be appropriate, but for some children, it may be appropriate to make the determination of whether the child is eligible for ESY services based only on one criterion or factor.

Allegation 1: When a student attends classes at a community college through running start, the district still maintains an obligation to provide the student a FAPE. Here, where the IEP services are provided by district staff, then services are provided in accordance with that district's schedule. In other words, in the foregoing circumstances, if the district is providing all students with instruction, then it should provide special education services to the student with an IEP attending a community college fulltime. Here, that was the Student's situation. For example, the Student attended community college fulltime, the special education teacher was a District employee, and the social studies teacher was "a District employee at the [community] college who was the mentorship teacher for Student." Accordingly, in this instance, the District was not obligated to provide IEP services to the Student while the District was on spring break and not providing instruction to all students during spring break. OSPI does not find a violation of the IDEA in relation to this allegation.

Allegation 2: Additionally, the Parent alleged the Student required ESY because the Student experienced regression during school breaks. The documentation regarding the District's response to this parental concern is not clear. After the IEP meeting on April 5, 2023, the principal emailed the IEP team, stating, in part, the District "could not agree to [the Parents'] request [for a tutor] and ESY SDI [but] I agreed to pass the requests on to District representatives for a potential solution or agreement," and the June 2023 IEP stated the Student did not require ESY services. When faced with a direct request for ESY services, a student's IEP team must make a multi-factored determination as to whether the student requires ESY services, and then provide the parent with a prior written notice, documenting both the substantive decision, and the reasons for that decision. Here, it is not clear those steps were completed. For example, given the principal's post-April 5, 2023 email, and the relative lack of ESY-related detail in the June 2023 IEP, it is not clear the IEP team made a specific determination in response to the Parent's request. This represents a violation of the IDEA. The IEP team will be required to meet to determine whether the Student experienced regression in IEP goals as a result of the summer 2023 break; if so, whether the Student requires ESY services, and if so, how many services, in which topics, and when those services will be provided. The District will then provide OSPI with a copy of the prior written notice

following this IEP meeting. OSPI will then review this submission to determine whether additional corrective actions are warranted.

REMINDERS

A June 26, 2023 "Student Support Meeting Agenda" stated a "next step" was to determine "what classes [were] available at [the] college that align with T-Folio." Again, the documentation showed the Student's course of study at the community college was a continual conversation throughout the 2022–23 school year, with multiple District staff members working with the Student on a regular basis to select appropriate classes. To the extent this conversation need continue with the start of the 2023–24 school year, though, OSPI reminds the IEP team of this obligation.

No one IEP team member can dictate IEP provisions or a particular educational program, as the IEP team should collaborate and work toward consensus.

RECOMMENDATION

The June 2023 calendar and to-do list goal incorporates the measurement of three different outcomes: number of missing assignments; amount of weekly time spent on sport activities; and amount of weekly time spent on leisure activities.

So that IEP service providers can properly target this skillset, and so that the Parent can be sufficiently apprised of the Student's progress on this skillset, OSPI strongly recommends this goal be revised, either to explicitly include baselines for the foregoing three areas: for example, currently, how many assignments does the Student currently miss, and during what time period? Currently, how many weekly hours does the Student spend engaged in a sport activity? Currently, how many weekly hours does the Student spend participating in a preferred leisure activity?

Alternatively, OSPI recommends it be made into three separate goals.

CORRECTIVE ACTIONS

By or before **October 30, 2023, November 13, 2023, February 2, 2024, and May 6, 2024**, the District will provide documentation to OSPI that it has completed the following corrective actions.

STUDENT SPECIFIC:

IEP Amendment

By or before **October 27, 2023**, the Student's June 2023 IEP will be amended in the following two ways: (1) the social behavior: emotional regulation skills goal will be amended to include a more specific baseline of performance and objective for performance; and (2) the specific dates progress will be reported will be included, e.g., the dates signifying the end of the academic quarters for the community college during the 2023–24 school year will be added.

As the documentation reviewed during this investigation provided thorough data on the need for the above two steps, including the Parent's input on the same, with this requirement, OSPI states

the Parent may provide the District with any input she has on the foregoing, but the IEP team is not required to meet prior to making the above-stated two changes.

By or before **October 30, 2023**, the District will provide OSPI with the amended IEP.

Compensatory Education

By or before **October 27, 2023**, the District and Parent will develop a schedule for:

- 45 minutes of compensatory education in adaptive;
- 45 minutes of compensatory education in social behavior;
- 16 hours of compensatory education in study organization;
- 4 hours of compensatory education in written language; and,
- 6.5 hours of compensatory counseling services.

To note, the Parent should provide the District with written input on the Student's schedule, and her thoughts regarding schedule of the above-stated compensatory education, no later than **October 18, 2023**.

If the parties cannot agree on a schedule by **October 27, 2023**, then the District can choose to inform the Parent of the reasonable offer of a schedule: when and where District staff will be prepared to provide the Student with the above-stated compensatory education, and the Parent and Student can choose whether the Student will access the same.

Unless otherwise agreed to by the District and Parent, services will be provided by a certified special education teacher or related service provider. 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 schedule 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 can also choose to reimburse the Parent for a private provider for all or some of the above-stated compensatory education services. The District will provide OSPI with documentation of the schedule for services by or before **October 30, 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 **May 3, 2024**.

The District must provide OSPI with an update on the amount of compensatory services provided to the Student by providing documentation on **February 2, 2024** 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 **May 6, 2024**, 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 **May 6, 2024**.

IEP Meeting

By or before **October 27, 2023**, the Student's IEP team will meet to determine whether the Student experienced regression in IEP goals as a result of the summer 2023 break; if so, whether the Student requires ESY services, and if so, how many services, in which topics, and when those services will be provided.

By or before **October 30, 2023**, the District will provide OSPI with all documentation related to this meeting and determination.

OSPI will then review this information and determine if additional corrective actions are warranted.

Documentation of Completion of First Progress Report

The District will be required to provide OSPI with documentary proof it provided the first quarter progress report to the Parent for the 2023–24 school year, ***within five business days of the end of the first quarter of the 2023–24 school year.***

DISTRICT SPECIFIC:

Written Guidance

By **November 10, 2023**, the District will ensure that the District members of the Student's IEP team receive written guidance regarding progress reporting requirements under the IDEA. The guidance will include a reminder about the 2023–24 dates on which a progress report is to be provided to the Parent. The guidance will include examples and discussion of best practices.

By **November 13, 2023**, the District will submit documentation that all required staff received the guidance. This will include a roster of the required personnel. This roster will allow OSPI to verify that all required staff members received the guidance.

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

Dated this 6th day of October, 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.)