

SPECIAL EDUCATION COMMUNITY COMPLAINT (SECC) NO. 23-112

PROCEDURAL HISTORY

On July 27, 2023 the Office of Superintendent of Public Instruction (OSPI) received and opened a Special Education Community Complaint from the grandparent (Grandparent)¹ of a student (Student) attending the [REDACTED] School District (District). The Parent alleged that the District violated the Individuals with Disabilities Education Act (IDEA), or a regulation implementing the IDEA, regarding the Student's education.

On July 27, 2023, OSPI acknowledged receipt of this complaint and forwarded a copy of it to the District superintendent July 28, 2023. OSPI asked the District to respond to the allegations made in the complaint.

On August 10, 2023, the District requested an extension of time to respond to the complaint. OSPI granted the extension to August 18, 2023.

On August 21, 2023, OSPI received part 1 of the District's response to the complaint and forwarded it to the Parent the same day. OSPI invited the Grandparent to reply.

On August 31, 2023, OSPI received part 2 of the District's response to the complaint and forwarded it to the Parent the same day. OSPI invited the Grandparent to reply.

On September 13, 2023, OSPI interviewed the Grandparent and a family representative/advocate.²

OSPI considered all information provided by the Grandparent and the District as part of its investigation. It also considered the information received and observations made by the complaint investigator during interviews.

SCOPE OF INVESTIGATION

This decision references events that occurred prior to the investigation period, which began on July 28, 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. Whether, during the 2022–23 school year, the District implemented the Student's individualized education program (IEP), including but not limited to specially designed instruction and transition services?

¹ The individual that filed the complaint is the Student's grandparent and legal guardian.

² The family representative stated he previously worked at the District and assisted in the creation of a transition guide. He stated he was not an "advocate" but a family representative that attended IEP meetings with the Grandparent.

2. Whether, during the 2022–23 school year, the District developed an appropriate IEP that met the Student’s needs, including addressing the request for assistive technology and developing appropriate, measurable goals and an appropriate transition plan?

LEGAL STANDARDS

IEP Implementation: At the beginning of each school year, each district must have in effect an individualized education program (IEP) for every student within its jurisdiction served through enrollment who is eligible to receive special education services. A school district must develop a student’s IEP in compliance with the procedural requirements of the IDEA and state regulations. 34 CFR §§300.320 through 300.328; WAC 392-172A-03090 through 392-172A-03115. It must also ensure it provides all services in a student’s IEP, consistent with the student’s needs as described in that IEP. 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).

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.

IEP Definition: An IEP must contain a statement of: (a) the student’s present levels of academic achievement and functional performance; (b) measurable annual academic and functional goals designed to meet the student’s needs resulting from their disability; (c) how the district will measure and report the student’s progress toward their annual IEP goals; (d) the special education services, related services, and supplementary aids to be provided to the student; (e) the extent to which the student will not participate with nondisabled students in the general education classroom and extracurricular or nonacademic activities; (f) any individual modifications necessary to measure the student’s academic achievement and functional performance on state or district-wide assessments and if the IEP team determines that the student must take an alternate assessment instead of a particular regular state or district-wide assessment of student achievement, a statement of why: the student cannot participate in the regular assessment and the particular alternate assessment selected is appropriate for the student; (g) Extended School Year (ESY) services, if necessary for the student to receive a free and appropriate public education (FAPE); (h) behavioral intervention plan, if necessary for the student to receive FAPE; (i) emergency response protocols, if necessary for the student to receive FAPE and the parent provides consent as defined in WAC 392-172A-01040; (j) the projected date when the services and program modifications will begin, and the anticipated frequency, location, and duration of those services and modifications; (k) beginning no later than the first IEP to be in effect when the student turns 16, appropriate, measurable postsecondary goals related to training, education, employment, and independent living skills; and transition services including courses of study needed to assist the student in reaching those goals; (l) beginning no later than one year before the student reaches

the age of majority (18), a statement that the student has been informed of the rights which will transfer to him or her on reaching the age of majority; and (m) the district's procedures for notifying a parent regarding the use of isolation, restraint, or a restraint device as required by RCW 28A.155.210. 34 CFR §300.320; WAC 392-172A-03090.

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. Individuals with Disabilities Education Act (IDEA), 64 Fed. Reg. 12,472, 12,473 (March 12, 1999) (Appendix A to 34 CFR Part 300, Question 5).

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. Beginning no later than one year before the student reaches the age of majority under state law (18), the IEP must include a statement that the district has informed the student of the rights under IDEA Part B that will transfer to him or her on reaching the age of majority, unless an exception applies. 34 CFR §300.320(c); WAC 392-172A-03090(l).

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.

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

student's involvement and progress in the general education curriculum; or for preschool children, as appropriate, how the disability affects the child's participation in appropriate activities. 34 CFR §300.320(a)(1); WAC 392-172A-03090(1)(a).

Measurable Annual Goals: IEPs must include a statement of the student's measurable annual goals, including academic and functional goals designed to: meet the student's needs that result from the student's disability so that he or she can be involved in and make progress in the general education curriculum; and meet each of the student's other educational needs that result from the student's disability. Additionally, for students who take alternate assessments aligned to alternate achievement standards, the statement of measurable annual goals should include a description of the benchmarks or short-term objectives the student should meet. 34 CFR §300.320(a)(2); WAC 392-172A-03090(1)(b).

FINDINGS OF FACT

Background

1. The Student was eligible for special education services under the category of intellectual disability and attended school in the District.
2. On October 20, 2021, the Student's IEP team, including the Grandparent and Student, met and developed the Student's annual IEP, to be implemented October 25, 2021.

The IEP included present levels with baselines and annual goals with short-term objectives in reading (functional sight words), writing (writing sentences), math (measurements), adaptive (following expectations to complete non-preferred tasks), and communication (repairing communications breakdowns), with progress reporting at the semester.

The Student's IEP provided the Student with several accommodations and modifications, transportation as a related service, and the following specially designed instruction in a *special education setting*:

- Adaptive/Self Help: 80 minutes, 5 times a week (to be provided by a special education teacher)
- Communication: 15 minutes daily (provided by a special education teacher)
- Reading: 70 minutes, 5 times a week (to be provided by a special education teacher)
- Written Expression: 70 minutes, 5 times a week (to be provided by a special education teacher)
- Math: 70 minutes, 5 times a week (to be provided by a special education teacher)

The IEP also included speech language services provided by a speech language pathologist (SLP) as a supplementary aid and service for 15 minutes, twice a month, in a special education setting.

The IEP included a transition plan, detailing the Student's needs, strengths, preferences, and interests. The transition plan included a course of study and post-secondary goals and outcomes with transition services, as follows:

- Education/Training: "Upon leaving public school [Student] will attend a technical school or apprentice to study construction/building."

- Transition Services: Research supported positions in his field of interest “building/construction, horticulture, automotive, food handling, and stocking shelves”; “Participate in post-secondary activities to understand his disability and advocate for himself with a transition facilitator or designee once bi-weekly for 30 minutes for the remainder of the 2020-2021 school year”; Take occupation specific courses such as woodshop.
- Employment: “Upon leaving public school [Student] will be employed at a construction company.”
 - Transition Services: Meet workers in the construction field; Follow expectations from teachers and supervisors.
- Independent Living: “Upon leaving public school [Student] will...live with a roommate in an apartment.”
 - Transition Services: Participate in community-based instruction at school “shopping, cooking, laundry, and practice making appointments, applications”; Research obtaining driver’s license; Participate in public transportation training.

2022–23 School Year

3. At the start of the 2022–23 school year, the Student continued to be eligible for special education services, was in the twelfth grade, attended a District high school, and his October 2021 IEP was in effect.
4. The District’s 2022–23 school year began on September 8, 2022.
5. The Student’s schedule during the 2022–23 school year included the following courses:

• Study Skills	• Functional Math
• Individualized English	• Basic Math
• Student Assistant	• Career Choices
• Daily Living Skills	• Business & Marketing (Cab Café)
• Wood Technology	
6. On October 3, 2022, the District contacted the Grandparent to schedule an IEP meeting and on October 17, 2022, the District shared a draft IEP.
7. On October 19, 2022, the Grandparent contacted the District regarding establishing guardianship, power of attorney, and Developmental Disability Administration (DDA) services. The District provided resources and offered assistance with next steps.
8. On October 20, 2022, the evaluation group met to review the Student’s triennial reevaluation. The reevaluation report documented that the Student continued to be eligible for special education services under the category intellectual disability and documented recommendations that the Student received specially designed instruction in math (“which may include but not limited to: use of currency, time telling and calendar skills and interpreting graphs and tables”), reading (“which may include but not limited to: reading/recognizing community access and safety signs, common grocery and restaurant words and common words used on forms and applications”), written expression (“which may include but not limited to: writing of personal information such as address and phone number, writing short

correspondences and correct spelling for high frequency community/functional words commonly found on forms”), and adaptive/self-help (“which may include but not limited to: functional written communication skills, functional numeric skills...and coping skills”).

9. Also, on October 20, 2022, the Student’s IEP team, including the Grandparent and Student, met and developed the Student’s annual IEP, to be implemented October 25, 2022. The IEP noted that the Student would “walk with his cohort year at graduation” in June 2023 and then would have the option to continue with transition services and programming until June 2026.

The IEP indicated the Student participated in the WA-AIM (state alternative assessment) in June 2021. The general education teacher report indicated the Student was taking “Wood Tech” in a general education setting and “TA this year in the office.” The IEP included present levels and annual goals with baselines in reading (comprehension questions about work-related documents), writing (writing daily reports with 3 or more complete sentences, correct grammar and punctuation), math (making change), and, adaptive (arriving in class on time), with progress reporting at the semester.

The Student’s IEP provided the Student with several accommodations and modifications, transportation as a related service, and the following specially designed instruction in a *special education setting*:

- Adaptive/Self Help: 80 minutes, 5 times a week (to be provided by a special education teacher)
- Reading: 70 minutes, 5 times a week (to be provided by a special education teacher)
- Written Expression: 70 minutes, 5 times a week (to be provided by a special education teacher)
- Math: 70 minutes, 5 times a week (to be provided by a special education teacher)

The IEP included speech language services provided by an SLP as a supplementary aid and service for 15 minutes, twice a month, in a special education setting.

The IEP also included a transition plan, detailing the Student’s needs, strengths, preferences, and interests. The transition plan included a course of study and post-secondary goals and outcomes with transition services, as follows:

- Education/Training: “Upon leaving public school [Student] will attend a technical school or apprentice to study construction/building.”
 - Transition Services: Research supported positions in his field of interest “building/construction, horticulture, automotive, food handling, and stocking shelves”; “Participate in post-secondary activities to understand his disability and advocate for himself with a transition facilitator or designee once bi-weekly for 30 minutes for the remainder of the 2021-2022 school year”
- Employment: “Upon leaving public school [Student] will be employed at a construction company.”
 - Transition Services: Meet workers in the construction field; Learn workplace skills “while working at the CAB café: timeliness and being where he needs to be when he needs to be there; attending to his assigned duties; maintaining the case register”
- Independent Living: “Upon leaving public school [Student] will...live with a roommate in an apartment.”

- Transition Services: Participate in community based instruction at school “shopping, cooking, laundry, and practice making appointments, applications”; Research obtaining driver’s license; Participate in public transportation training

10. The prior written notice, documenting the IEP meeting, indicated the team updated the Student’s present levels and goals, revisited and edited the post-secondary transition goals to make services less ambiguous and per the Grandparent’s request, and discussed community-based transition services. The notice also noted that the Grandparent requested “informal progress monitoring on a more frequent basis, than semester” and that the team discussed this and determined information could be sent via email.

Regarding community-based transition services, the notice indicated this would be further discussed in spring following an open house and the notice recorded:

Community Based Transition Services were discussed as an option for [Student], where he would go to the PDC or job site from 7:30-1:30 and be provided transportation. Some options of job sites for interns were: a greenhouse, [city] arts live...Hardware, and several Elementary sites. This was not an exhaustive list. At minimum 1 day per week is a ‘lab’ day with instruction more towards functional and workplace skills. [Student’s] family voiced an interest in pursuing additional opportunities for him after 1:30 and partnering with DDA to do so, if he does participate in CBT services.

11. According to the complaint, the District failed to provide the Student services that were determined needed in the Student’s October 2022 triennial reevaluation. These services included functional math, reading, writing, and written communication.

12. On October 26, 2022, the District sent the Grandparent the IEP, procedural safeguards, and prior written notice.

13. On October 27, 2022, the Student’s draft IEP was updated to include information from the Student’s woodshop teacher and regarding the implementation of transition services. The District emailed the Grandparent and stated this information would be added to the IEP.

14. On November 3, 2022, the Grandparent expressed concern that revisions were made to the IEP and requested a meeting to “discuss the changes so everyone’s [sic] on the same page.”

15. On November 4, 2022, the case manager sent the Grandparent the finalized IEP from the October 2022 meeting.

16. On November 28, 2022, the Grandparent requested the monthly progress reports.

The District stated that after this progress reports were provided monthly.

17. On December 5, 2022, the Grandparent emailed the District questions about the progress report.

The District responded to the email, noting that this sounded like the Grandparent wanted more information directly from the Student's teachers and to "more closely track is day-to-day learning." The District stated that the IEP from the previous meeting had been finalized, but that they could amend the IEP if additional items needed to be addressed. The District also stated the Grandparent was also welcome to contact teachers directly "to clarify Schoology and grading."

18. On December 7, 2022, the Grandparent emailed the District, requesting an IEP meeting so they could "get a more Detailed covered [sic] IEP in place."
19. The District was on winter break from December 19–30, 2022. The District's first day back at school was January 3, 2023.
20. On January 2, 2023, the Grandparent emailed the IEP team a list of concerns and requested they schedule an IEP meeting. The Grandparent's concerns included missing contact information, signatures, and data. The Grandparent stated the IEP didn't reflect the agreement to provide progress reporting monthly and she raised concerns regarding the goals and transition plan.
21. On January 3, 2023, the District responded to the Grandparent via phone, but the Grandparent was unavailable to talk. The Student's case manager also emailed and provided the Grandparent a progress report and requested availability for an IEP meeting.
22. On January 5, 2023, the District also emailed the Grandparent regarding her concerns and proposed scheduling an IEP meeting. The District addressed the Grandparent's questions and agreed to update the Student's transition plan and assessment data.
23. On January 6, 2023, the Students career technical education (CTE) teacher sent an email, noting they could not attend the upcoming IEP meeting, but noted that they spoke with the Grandparent and "she has nothing but positive feedback regarding our program and I have been communicating with her directly on [Student's] progress."
24. On January 9, 2023, the Student's CTE teacher emailed input for the Student's IEP on what the Student was working on in "Career Choices/CAB Café." In a later email, the assistant principal provided information about the Student's office assistant role.
25. On January 9, 2023, the Grandparent confirmed she was available for the proposed IEP meeting.
26. On January 11, 2023, the District sent the Grandparent a new transition planning assessment for families via both an emailed link and a hardcopy.

The District noted the Grandparent did not return this assessment, although the Student completed the Student version on January 11 and 13, 2023.

27. On January 17, 2023, according to the "Contact Attempt Report," the District called the Grandparent to get information related to transition services, explain the "AIR Self Determination Scale," and offered to do assessments over the phone or resend the link.
28. On January 18, 2023, the Grandparent emailed the District a "consent form...for me to be the contact person at setting up IEP meetings and anything to do with school." The District responded and asked the Grandparent to provide "any official guardianship or power of attorney documents," noting that they were still required to invite the Student to the IEP meetings.

A copy of the "consent form" referenced was included in the District's response and stated, in part, with components filled in by the Student, "I want [Grandparent] to help me with my IEPs/school. Please call [Grandparent] to set up a time for my IEP." It was signed by the Student and dated January 6, 2023.

29. On January 19, 2023, an IEP meeting was convened. The District noted that when they arrived, the Student was not in attendance and the District requested to reschedule for a time the Student would be able to attend as the Student was 18.

The prior written notice, and a contemporaneous email from District staff, stated that the team proposed to reschedule the IEP meeting to a time the Student could attend because the Student is 18 and the Grandparent did not yet have guardianship or power of attorney. The notice stated, "The district will reschedule for a time where Student can participate in order to ensure no decisions are made without him."

30. The Grandparent stated that this IEP meeting should not have been rescheduled because, as she stated in an interview with the OSPI investigator, she "has power of attorney, guardianship."
31. On February 15, 2023, a teacher emailed out the Student's progress notes and offered to reschedule the IEP meeting. A follow up email regarding scheduling was sent on February 22, 2023, and additional emails discussed dates for an IEP meeting.
32. The documentation provided by the District in response to the complaint included a power of attorney, signed by the Student and notarized on February 17, 2023.
33. On March 8, 2023, the case manager emailed the Grandparent a draft IEP, stating, "this should address the concerns you brought up regarding the previous IEP."
34. On March 13, 2023, the Student's IEP team, including the Grandparent and Student, met. Based on documentation in the complaint, an amended IEP was not finalized at this meeting.
35. The prior written notice, documenting the March 13, 2023 IEP meeting, indicated the team met at the request of the Grandparent, as she had recently obtained power of attorney, and wanted to address, "missing contact information, having another conversation about options

for after high school other than CBT services, questions about behavior, developing an understanding about CCSS goals, reporting progress every 4/5 weeks, transition skills, adding transition assessments, and developing an understanding of the transition matrix."

The notice also indicated the Grandparent requested the Student be provided with an "OrCam Read Smart - Artificial Intelligence (AI) Assistive Reader". In response, the District members of the IEP team agreed to consider this but recommended they explore accessibility functions on the Student's phone first and noted the Student has access to "LearningAlly (an online audiobook platform), and speech to text through Office 365." The prior written notice also recorded that:

All original concerns and requests emailed to the team were addressed in email in January, as well as again at this meeting. New transition assessments were reviewed. The [Grandparent] was sent 2 assessments in January digitally, and 1 printed out. [Grandparent] responses were not returned. The team discussed DVR and DDA...[Student] was offered an online opportunity to receive pre-employment transition services after school to continue providing instruction in self-advocacy, post secondary education, career exploration, work based learning, and work place readiness.

Progress reporting was changed from draft to reflect every 4 weeks.

Reading: The use of the word 'novel' meaning 'new' was removed from baseline and goal in the reading present levels at the request of the guardian's advocate. The team discussed and clarified that reading comprehension is not limited to specific questions, but rather is the understanding and interpretation of what is being read. The family requested that [Student] be assessed on how many of the '300 most common words for readers' he knows. The team agreed to support them in that.

Math: it was requested that the phrases 'among other things' and 'algebraic thinking;' and the word 'contrived' be changed.

...CBT services and schedules were discussed again. The team agreed that at this time, [program] is not an appropriate option for [Student] due to the level of support he needs to be able to access the educational environment. The team discussed that post secondary options are highly individualized and based on students' unique goals related to their transition and life after high school. Information about and dates for: CBT Information Night, DVR Information Night, After School Virtual Pre-employment transition services, and upcoming senior events were communicated; and have been emailed to the family.

The guardian requested 10 school days to look over the updated IEP draft. The team reached out to the family on: 4/11/23, 4/17/23, 4/26/23 to see if they had reviewed the updated draft. A request was sent for edits to the revised draft on 5/3/2023 at which point the school team offered to meet again. The grandparent accepted the offer on 5/4/2023 and requested the team meet 5/10/2023 at 3:00PM. Requested edits were made to this prior written notice which is from the meeting on 3/13/2023.

36. In April and May 2023, the District and Grandparent emailed regarding the OrCam and other AT options.

The Grandparent indicated she did not want to rely on an AT option that used a computer or cell phone as the Student would not always have access to those devices. The District, in emails, indicated it could trial different AT applications and devices prior to buying a dedicated device.

37. On May 3, 2023, the Grandparent emailed, requesting changes to the revised draft IEP, and expressing concerns. In part, concerns/questions included requests for clarification on details, such as the WA-AIM and contact information and:

- That the IEP needed to state it had not been decided whether the Student required an AT device, and the Grandparent reiterated her request for the OrCam device, and asked whether the District had looked into this. The Grandparent also stated she did not want the IEP to include that the Student would use a cell phone and that she did not want him "relying on cell phone for daily life and on job sites."
- Requested clarification on several of the accommodations.
- Requested clarification about what "adaptive/self-help" means.
- Requested amendments to the prior written notice related to power of attorney, statement that she requested the OrCam AT device.

Regarding the progress reports, the Grandparent stated that "a few things [the Student] has not even seen or done with staff is showing on the report" and that "IXL has not been working even when he was working at it from home."

The District replied to the Grandparent's email, offering to schedule an IEP meeting to discuss. A meeting was scheduled for May 10, 2023, and additional emails were sent regarding agenda items for the meeting.

38. On May 8, 2023, the District emailed a draft IEP with specific requests updated and a proposed agenda. The Grandparent responded, excusing general education teachers, and adding questions to address on the agenda.

39. On May 10, 2023, the Student's IEP team, including the Grandparent and Student, met. The IEP noted that the Student "has met graduation testing requirements through the WA-AIM, which is the state-wide alternate assessment...in 10th and 11th grade."

The general education teacher report included information from the Student's teachers regarding his "Career Choices/CAB Café" class, woodshop, and office assistant role. The IEP included present levels with baselines and annual goals in reading, writing, math, adaptive, with progress reporting monthly. Goals included:

- Reading (supports post-secondary goals): "...when given a new text or section of text [Student] will accurately and independently answer comprehension questions improving reading comprehension of new texts from answering 36% of questions accurately and independently across 3 trials to answering 80% of questions accurately and independently across 3 trials as measured by classroom data collection."
- Writing (supports post-secondary goals): "...when given an opportunity to share information in writing (expository, procedural, etc.) [Student] will complete the writing task using 3 or more complete sentences with correct grammar and punctuation improving written expression from

- writing 3 or more complete sentences with correct grammar and punctuation in 0/5 opportunities to writing 3 or more complete sentences with correct grammar and punctuation in 4/5 opportunities as measured by classroom data collection.”
- Math (supports post-secondary goals): “...when given a real life or a practiced scenario in which [Student] has to engage in a financial interaction (payment and giving or receiving change) [Student] will identify the necessary amount of change to be returned accurately and independently improving functional math skills from 0/10 opportunities to 10/10 opportunities as measured by CTE data, classroom data, anecdotal evidence.”
 - Adaptive (supports post-secondary goals): “...when given an individualized schedule to follow with known locations [Student] will arrive to his designated space or task independently and on time improving punctuality and work readiness from 4 instances of unexcused tardies across 6 weeks to 0 instances of unexcused tardies across 6 weeks as measured by attendance data and teacher reports.”

The Student’s IEP provided the Student with several accommodations and modifications, transportation, and the following specially designed instruction in a *special education setting*:

- Adaptive/Self Help: 80 minutes, 5 times a week (to be provided by a special education teacher)
- Reading: 70 minutes, 5 times a week (to be provided by a special education teacher)
- Written Expression: 70 minutes, 5 times a week (to be provided by a special education teacher)
- Math: 180 minutes, 10 times a month (to be provided by a general education teacher)

The IEP included speech language services as a supplementary aid and service for 15 minutes, twice a month, in a special education setting.

Regarding AT, the IEP noted the Student had not historically required AT and is able to use speech to text on a computer. The IEP indicated the Grandparent requested a “specific AI assistive reader” and the team agreed to “trial other options to identify what works best for [Student’s] specific needs, the environment or context he may need a device for, and the tasks he is expected to complete prior to identifying a specific tool.”

The IEP also included a transition plan, detailing the Student’s needs, strengths, preferences, and interests. The transition plan included a course of study, and post-secondary goals and outcomes with transition services as follows:

- Education/Training: “Upon leaving public school [Student] will attend a technical school or apprentice to study construction/building.”
 - Transition Services: Instruction in “self-determination and self-advocacy during seminar class to help him develop a plan to disclose disability, request accommodations and self-advocate”; Instruction in “career and technical education woodworking class to learn more about the industry he has chosen as a career path”
- Employment: “Upon leaving public school [Student] will be employed at a construction company.”
 - Transition Services: Fill out relevant applications and identify desirable skills; Participate in mock interviews; Research construction and skilled trade internships
- Independent Living: “Upon leaving public school [Student] will...live with a roommate in an apartment.”
 - Transition Services: Participate in adaptive daily living skills instruction “preparing simple meals, adhering to community space norms, etc.”; Research and compare

housing options "cost, cleanliness, proximity to other locations, etc."; Instruction in "targeted areas of Family Life and Sexual Health"

The transition plan also noted:

[Student] has had extensive transition planning during his high school career. Attachments of prior transition age appropriate assessment reports from prior IEPs and available and uploaded in [District's] online IEP system. [Student] has participated in Pre ETS and is being offered virtual Pre-ETS services on Tuesday and Thursday afternoons, as his schedule at school does not at this time permit him to participate. He has been determined eligible for DDA services. The family is waiting to be assigned a case manager through DDA.

40. The prior written notice, documenting the May 10, 2023 meeting, indicated the team discussed and addressed the Grandparent's questions and proposed to trial and collect data on a text to speech AT device. The notice indicated the IEP team had met throughout the year to "develop a shared understanding of how to support [Student] at school, and in his steps after high school." The notice further stated regarding options consider and options rejected:

...Buying the specific text to speech tool being requested by the grandparent, right now, was rejected...A text to speech device with similar portability and function, the C-Pen are available for the team to trial with [Student] prior to getting him his own. The team will set up a data collection protocol to measure the impact of [AT].

...

Each question or request from [Grandparent] was on the team agenda. Items not able to be addressed were considered, and an alternative form of addressing them was agreed upon.

-Team considerations - the team added a statement about what WAAIM is and that she was requesting a specific type of technology. The team revisited AT in greater depth in another section.

-Clarification about the following accommodations...Each accommodation was explained and agreed on...What 'adaptive/self-help' services means: this was discussed, the team referenced his work at CAB Cafe, skills throughout his day, routines, and the narratives on page 14 of the draft (Adaptive present levels)

-Grandparent request for an [AT] device: the team discussed [Student's] areas of needs per his most recent evaluation and standardized assessment. Results from those tests indicate he needs supports not just in fluency and accuracy of reading, but in comprehension of materials and he requires materials to be presented to him at a reduced breadth and depth and does best with hands on learning. The team will trial and collect data on a device with a similar function to the one being requested to determine its effect on his ability to comprehend text. The team discussed accommodations that will already support him in being able to access written materials, and the need for him to be able to self identify and self advocate for those accommodations, but will move forward with a trial. The device will be brought to school immediately. [Student] will be taught to use it, data will be collected on its efficacy in his comprehension, he will be able to trial and practice it at home as well to decide if this is a necessary technology for him to have access to. The school participants suggested ways [Student] can begin to learn how to self advocate for the accommodations he needs for when he has a sub or needs help from a supervisor or job coach in the future.

-Grandparent requested to discuss progress update and progress monitoring questions: due to time, she elected to have the team email her data reflecting his current performance by Wednesday 5/17. She wants only data, no narratives. This was agreed upon.

...

-Grandparent requested a list of more options outside of CBT services. The team discussed how there is not a menu, but rather the services and programming will be individualized to [Student] based on his needs.

-Grandparent indicated IXL was not working. The teacher explained that the time period she was referring to, [Student] had completed all of the work assigned to him. There is now more work assigned to him...

41. The Grandparent alleged that the Student's May 2023 IEP was improperly developed. The Grandparent's specific concerns included the following, summarized:

- The IEP does not "pass the Stranger Test." For example, the Grandparent took issue with the IEP, including statements like "[Student] is a bright, sociable young man," "a good teammate to his peers," and "incredibly independent", without including "concrete data."
- The IEP does not include details like contact information for the Grandparent, signatures of who attended the IEP meeting, certain dates.
- The IEP includes statements from the general education teacher related to the Student's post school employment goal to work in "food preparation industry," when the Student's post school employment goal is related to working in the "wood/building/carpentry industry."
- The annual goals are difficult to understand as they contain "educational jargon", do not have short term "Transition goals" or "short term benchmarks." The Grandparent also disagreed with the substance of the goals and the lack of "transition-skill goals" for each academic goal. The Grandparent stated that goals do not have a baseline, target, or common unit of measurement.
- The IEP does not include information about the Student's progress.
- The IEP did not include the AT she proposed.

Related to implementation of services, the Grandparent alleged the District did not provide the Student with work placements related to his post school employment goal. The Grandparent alleged that the District failed to implement the Student's transition services, including, "Instruction, Related Services, Community Experiences, Employment, Other Post School Adult Living Objectives, Acquisition of Daily Living Skills and Functional Vocational Evaluation." And she alleged that the District was using the "T-folio" curriculum for the Student, which was inappropriate as it was "designed for use with Mild to Moderate functioning students" and the Student "is on a level who needs a much more highly designed instruction for lower functioning students."

42. In an interview with the Grandparent and family representative, they reiterated concerns raised in the complaint and emails to the District. Generally regarding IEP meetings and IEP development, both the Grandparent and family representative stated that an IEP meeting was held without them, although did not specify when, and that meetings were challenging. The Grandparent stated that the IEP team would state they were out of time when she started asking questions.

The Grandparent shared that the District, despite her requests, did not provide data on the Student's progress. She stated she believed some of the progress reports contained information that was inaccurate—for example—she stated the Student never met with the case manager to count money. The Grandparent stated that when she asked how they were assessing the Student, when were assessments conducted, and by whom, she did not get answers. As an example, the Grandparent stated that when something in the IEP would say the Student was at "0/10," she wanted to know how they were testing and what the "data" was that supports that; and also stated that "0/10" would not pass the "stranger test."

Regarding development of the transition plan, the Grandparent's main concerns were that the District seemed to offer only one or limited options for transition services and that the District would not look into other options or ideas they raised. Further, the family representative stated he believed that there were "seven areas of transition services" that are required to be on the IEP and the Student's IEP only addressed three areas: "education, training, and daily living."

Regarding implementation of the IEP, in the interview, the Grandparent and family representative shared the following as why they believed the IEP was not being implemented:

- Speech was provided in a group setting and not as 1:1 instruction;
- Math the Student was given the "IXL program" and no one assisted him with this program; and,
- Transition services such as CAB café and the office assistant position were not appropriate because the Student wants to work in carpentry/wood working and not a restaurant or as an office assistant. And if the Student needs to learn about money, it could be in an area of interest like at a carpentry store.

43. In its response, the District addressed the Grandparent's specific concerns with the development of the IEP, stating in part:

- Signatures, Contact Information: The IEP is complete.
- Short-Term Goals: "Per the July 2023 Guidelines for Statewide Accountability Assessments published by OSPI, short-term goals are to be documented when a student requires an alternative assessment. Because Student did not require an alternative assessment, short-term goals were not required in his IEP."
- AT: "While the District did not immediately agree to adopt [Grandparent's] preferred device, the District evaluated available technology, considered which devices would best serve Student's needs, provided Student with a device, conducted a trial to test its efficacy, and allowed student to utilize the device over the summer to further gain mastery."
- Stranger Test: "The 'stranger test' is meant to avoid confusion and means that anyone looking at a student's goals could implement them, assess progress, and determine whether progress is satisfactory. [The Grandparent] does not allege that Student's goals or their implementation fail the 'stranger test.' Rather, [she] is critical of the District's reported anecdotal strengths of the student under the Team Considerations section of the IEP. Non-goal assertions such as '[Student] is a bright, social young man' are not required to pass the 'stranger test' or be supported with data."

44. On May 11 and 22, 2023, the District emailed the Grandparent a revised draft of the IEP. The District also sent a copy of the IEP on June 2, 2023.

45. Emails from between May 11 and 23, 2023 indicated staff discussed, trialed, and collected data on the AT device ("c-pen"). The team also discussed getting "some technical manuals relating to construction/woodworking" to work on with the Student to trial the AT device.
46. On May 24, 2023, the Grandparent emailed members of the IEP team. The Grandparent stated she expressed concern that there was not a "shared understanding" of how to best meet the Student's needs and that data had not been shared related to the Student's instruction despite her requests. The Grandparent also stated that she had requested information regarding "continued Post High School Training for Employment" other than the community-based transition program, and that she had not been provided this information. The Grandparent continued to raise concerns about AT and questions the "T-Folio Transition Curriculum" being used with the Student. The Grandparent specifically asked for data from the ELA teacher and an update on AT.
47. On May 30, 2023, the District responded to the May 24, 2023 email from the Grandparent and stated:

Thanks for reaching back out. The notes from our meeting were based off of the agenda I had created off of your questions and concerns, and posted on the board to reference throughout each part of our meeting. These were the notes I read through twice at the end of the meeting and included how transition services would be individualized for any young adult based on their unique strengths, preferences, interests, and needs. He has been doing well with the text to speech device we discussed trialing in our meeting, further instruction is necessary and I think that the data collected so far (averages of trial conditions below) give us some good information about next steps. That device was dropped off on 5/11 at which point he began learning how to use it (holding it, scanning text with it, giving it time to read to him.) More information on that first week of him learning to use the device was included in the 5/17 and 5/18 emails with updated data towards his IEP goals.

The District also provided data and information on the Student's reading and writing goals from his ELA class, which the District noted was also provided in the May 18, 2023 progress report. And provided information and data on AT.

48. On June 2, 2023, the District emailed the Grandparent, following up to another email from the Grandparent, requesting the data from ELA, and in part asked her what she was looking for with respect to data "outside of: 1) the specific IEP goals 2) data related to his reading comprehension and c-pen use."
49. On or around June 19, 2023, the District emailed the Grandparent progress notes, a prior written notice, and data form the AT trial. The prior written notice indicated the Student would take the AT device home over the summer. The notice stated:
- [Student] has been trialing the device to measure its effect on his comprehension of text. In order to ensure he can continue practicing the use of this device without interruption the team is moving to send home the C-Pen, case, charging cord, and instruction manual. The team requests that [Student] brings the device...in the fall so that further data can be collected on the efficacy of the device on his comprehension of text and next steps can be determined by his IEP team based on that data.

The notice further stated:

Data to date do not indicate at this time that having a personal device that reads aloud to him has improved [Student's] independence or comprehension of written material. [Student] is scanning whole sections of text independently, and allowing the device to read aloud to him. He is not at this time reliably using it to refer back to text to answer questions...[Student] has independently used the C-Pen across 16% of trials. His speed using the device is an average of 29 words per minute. When responding to questions about the text (information directly from the text requiring no interpretation or synthesis), he answers an average of 13% of questions correctly. He has used the device to refer back to the text across 33% of opportunities. This information was shared with his grandparent on 6/13/23 along with this prior written notice. [Student] will have the opportunity to continue the trial with the assistive technology when he returns in the fall...

50. June 23, 2023 was the last day of the school year.

51. The District provided the Student with monthly progress reporting, sending reports dated December 16, 2022, January 19, 2023, February 1 and 16, 2023, March 16, 2023, April 13, 2023, May 17, 2023, and June 13, 2023 to the Grandparent.

In general, these reports included detailed narrative information about each goal, along with additional information in ELA and math, such as scores from "IXL", updates from recent IEP meetings, and information about instruction provided. The reports also included information about areas the Student was struggling with and areas that would be focused on. Information from the Cab Café teacher indicated she was providing the Grandparent with bi-weekly updates on the Student's progress toward his goals in math and adaptive.

The reports also included data, for example: the Student was able to answer "5/5 correct on his second attempt" on work related schedules; the Student showing "4 unexcused tardies in December...higher rate of tardies than seen previously..."; "He can successfully read a daily schedule and answer associated comprehension questions with 90% accuracy once the layout of the schedule has been explained to him"; his writing work samples "have had 23% accuracy in punctuation, and 80% accuracy in spelling so far"; Student has "completed 0/10 attempted attempts to make change for me for amounts up to \$20"; etc.

52. In its response to the complaint, the District stated:

Throughout the year, the District worked with Student and [Grandparent] to engage Student in opportunities that support his post high school transition and goals to work in carpentry. In addition to Student's participation in Wood Tech, the District sent information about work opportunities, provided career assessments, offered DVR support, offered mock interviews, and offered a District paid summer internship in his field of choice...

Student was enrolled in Wood Tech, where he was introduced to the safe use of tools and provided with opportunities to work on projects directly related to his goal of finding meaningful employment in carpentry. In recognition of his goal, the District offered an internship...This opportunity would have afforded student hands-on experience in his chosen field. The District also provided experiential learning opportunities related to support Student's future goals through his participation in the CAB Café. The District

provided DDA support, career assessments, and information about employment opportunities.

The District also noted, generally, that it utilizes a "Transition Guide for Students with Disabilities" and used this guide in supporting the Student throughout the 2022–23 school year. And regarding the Grandparent's allegations related to curriculum, the District stated it "utilizes several curriculums [for students] based on their identified unique needs and transition plans."

53. The District's response also included a document with information about the Student's schedule, classes, and instruction. The District noted the Student's school day was from 7:35 to 2:05, and that for business class (CAB Café), the Student was picked up at 10:15 am daily and dropped back off at the high school at 1:45 pm.

The District noted that the Student received additional support in English language arts (ELA) or in wood tech lab. In ELA, the Student received specially designed instruction "in reading accuracy and comprehension of modified grade level texts and standards based materials aligned to Student IEP goals...[and] in writing expository assignments in whole sentences with accurate punctuation." Further in ELA, the District stated, "teaching happens in a variety of contexts including 1:1, independent work, small group stations, and whole group" and that the Student is taught using a "high school curriculum that is modified to be at a reduced breadth and depth; and access points are highly individualized based on student needs." Additionally, the District stated the Student was "given passages about specific pieces of equipment relevant to the construction trade, as well as high interest topics...to work on comprehension skills" and given "high interest topics...to write expository sentences and put together a presentation to teach the class about that topic."

In other areas, the Student used the "IXL assessment" to "identify areas of need, and to work on other skills identified through those assessments" and the District noted the Grandparent had requested the use of this tool at home as well. Additional modifications and accommodations were described, such as modification of text, verbal responses, modeling, key vocabulary visuals, reduce multiple choice answers, chunking of text, checks for comprehension, and collaboration with the SLP for comprehension skills.

In "Business Marketing and Career Choices (CAB Café)," the Student received specially designed instruction in math and adaptive skills. The District stated:

This course is designed to promote independence by providing students in our Community Based Transition (CBT) and CAB Café program with foundational knowledge of career research, employability skills, employee rights & responsibilities, personal finances and personal goal setting...[it] provides them with embedded individualized work-based learning opportunities, as directed by their [IEPs] and High School and Beyond Plan. Advanced students who continue their transition work will take additional workplace readiness coursework in the business and marketing program area provided here as well as receiving services towards transition goal in the area of independent living. Collaboration with him, the CTE teacher, and his SLP was used to design a system for him to independently track his punctuality and work readiness in coming to work. [Student] was

given direct instruction in making change, and counting the money drawer and comparing it to receipts at the end of shifts. CAB Café is a CTE pathway choice for students who receive services through an IEP where students work in a fully functioning café to learn job skills and gain first-hand experience in a workplace. [Student] received verbal instruction, and pictorial instruction in completing tasks; as well as on the job modeling and coaching. [Student] received instruction in organizational systems and soft skills for the work force such as: [in part, clocking in/out, managing shared space, work attire and expectations, customer service and social skills, following a schedule and pictorial/written instructions, food handling and preparation, obtaining industry credentials and food handlers permit, learning specific equipment and food preparation, measurements and number sense, making independent deliveries, managing finances, working a case register, making change, counting money, managing conflict, and self-advocacy.]

In "Wood Tech," the Student used "industry standard machinery to complete projects that are in line with his transition goals to study or apprentice in the construction/building field and to be employed work in the construction field." The District further provided:

[Student] learned how to plan and construct products made of wood. Topics covered included (but were not limited to) the use of hand & power tools, shop safety, and methods of construction. By finishing Wood Tech 1, [Student] demonstrated advanced proficiency in woodworking and finish carpentry.

[Student's] class required him to apply technical knowledge and skills to lay out and shape stock, assemble wooden articles or subassemblies, mark, bind, saw, carve and sand wooden products to develop his skills related to wood products construction while learning about working in building construction.

[Student] received direct instruction in the use of machinery necessary in the construction field, measurement, and skills related to safety in the construction industry.

[Student] created a model of a tiny home and then constructed a tiny home in this class.

[Student] was often behind his peers who did not receive services through an IEP and was accommodated with extra time with his certificated teacher to work 1:1 or in a small group setting and get additional time and direct instruction. Other accommodation in this course was receiving verbal instructions or having directions read aloud to him.

As an office assistant, overseen by the principal, the "[Student] worked part of this period in the front office developing 21st century employability skills (22-23 SY IEP)." The Student received accommodations, including "directions given verbally or read aloud, reminders to use intelligibility strategies (ex. Slowing down so people can hear you clearly on the phone), and the ability to respond verbally." The District stated that the "[Student] received instruction in and was responsible for answering phones and providing information to callers (workplace communication skills)" and instruction in "following multi step instructions to complete job site tasks (ex. delivering passes, sorting mail)."

Finally, at the end of the day, the Student's instruction was overseen by the case manager, although the District noted this was "reduced in length significantly due to his commute back from his off site CTE course" and that, "This period of time in his day was generally a check

and connect or time to reflect and see how his day went.” The case manager also conducted “probes of mathematical skills to monitor how they compared outside of the context of his work at CAB Café.”

CONCLUSIONS

Issue One: IEP Implementation – The Grandparent alleged the District failed to implement the Student’s IEP, including transition services, using inappropriate curriculum and programs, and not providing 1:1 speech instruction.

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

The Student’s IEPs in place during the 2022–23 school year included annual goals and specially designed instruction in adaptive/self-help, reading, written expression, math, and communication (first as specially designed instruction and after October 2022, as a supplementary aid and service). The IEPs also included a detailed transition plan with transition services.

The District provided documentation that the Student’s IEP was implemented. The Student’s schedule included courses in which his IEP goals were addressed and both emails from staff during the 2022–23 school year and the District’s response included detailed descriptions of the Student’s classes and the instruction he was provided. This included information that describes specially designed instruction and the provision of accommodations and modifications provided in his ELA class, wood tech lab, “Business Marketing and Career Choices (CAB Café)”, as an office assistant, and through end of day check ins with the case manager.

Specifically, the Grandparent stated the Student’s speech services were not provided as 1:1 instruction and that math was inappropriately provided using the “IXL program”. However, there was no requirement in the IEP that the Student’s speech services be provided as 1:1 instruction and the District’s information explained ways the SLP provided support and collaboration around communication instruction. Further, the documentation indicated the Student received specially designed instruction in math and adaptive in CAB Café and from the case manager. A prior written notice following a May 2023 IEP meeting address IXL, stating, “Grandparent indicated IXL was not working. The teacher explained that the time period she was referring to, [Student] had completed all of the work assigned to him. There is now more work assigned to him...” There is no indication that a concern that IXL was not appropriate for the Student was raised during IEP meetings. The monthly progress reports also described the instruction provided to the Student. Overall, OSPI finds that the Student’s specially designed instruction was materially implemented.

The Grandparent also alleged the District failed to provide the Student with work placements related to his post school employment goal, and that the CAB café and office assistant position were not appropriate. And she alleged that the District was using the “T-folio” curriculum for the

Student, which was inappropriate as it was “designed for use with Mild to Moderate functioning students” and the Student “is on a level who needs a much more highly designed instruction for lower functioning students.” OSPI notes that upon investigation, it appears the Grandparent’s concerns regarding transition services were related more to a disagreement about whether the opportunities were appropriate and not necessarily that transition services were not provided.

The documentation details how transition services and instruction were provided through wood tech (directly connected to the Student’s interests), CAB Café, and as an office assistant. While the Grandparent may not have agreed that the CAB Café and office assistant position were relevant to the Student’s interests, these courses were teaching him important workplace skills and skills that could be transferrable to other fields or areas of interest, such as customer service, managing money, following workplace schedules and norms, etc. In addition, the District supported the Grandparent and Student in connecting with DVR, DDA, and answered questions related to power of attorney and decision making. The District offered the Student career assessments and a paid summer internship in his area of interest. Regarding curriculum, in general, it is within the District’s discretion to determine curriculum, unless the IEP team determines a specific curriculum is needed based on a student’s disability. Here, the Student’s IEP did not specify a curriculum and the District stated it “utilizes several curriculums [for students] based on their identified unique needs and transition plans.” Overall, the District provided the Student transition services and implemented the Student’s IEP transition plan. OSPI finds no violation.

Additionally, while not specifically alleged in the original complaint, the Grandparent alleged that she was not provided data on the Student’s progress and raised this in communications during the 2022–23 school year. After November 2022, however, the District provided the Grandparent monthly progress reports. While it is possible the progress reports did not provide the specific data the Grandparent wanted, the reports did provide data. For example, the Student was able to answer “5/5 correct on his second attempt” on work related schedules; “He can successfully read a daily schedule and answer associated comprehension questions with 90% accuracy once the layout of the schedule has been explained to him”. This is data on the Student’s progress. While the Grandparent may have wanted more or different data—which email communications at the end of the year indicate the District was attempting to clarify exactly what the Grandparent was looking for “outside of: 1) the specific IEP goals 2) data related to his reading comprehension and c-pen use”—the District was providing data and met its obligation under the IDEA and state special education regulations to provide progress reporting. OSPI finds no violation with respect to progress reports. If the Grandparent still has questions about the Student’s progress, OSPI recommends the District and Grandparent continue to work together to answer questions.

Overall, OSPI finds that the District did not materially fail to implement the Student’s IEP.

Issue Two: IEP Development – The Grandparent alleged the Student’s IEPs were not properly developed, including a lack of appropriate AT, measurable annual goals, and transition plan.

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.

Specifically related to the October 2022 IEP, the Grandparent alleged in the complaint that the District failed to provide the Student services that were determined needed in the Student's October 2022 triennial reevaluation. These services included functional math, reading, writing, and written communication.

The Student was reevaluated in October 2022 and the evaluation group met on October 20, 2022 to review the triennial reevaluation. The reevaluation report documented recommendations that the Student received specially designed instruction in math, reading, written expression, and adaptive/self-help. Each area also had recommended examples of topics, for example, in math the recommendation stated this "may include but not limited to: use of currency, time telling and calendar skills and interpreting graphs and tables". On October 20, 2022, the IEP team developed a new IEP that included present levels and goals in reading (comprehension questions about work-related documents), writing (writing daily reports with 3 or more complete sentences, correct grammar and punctuation), math (making change), and, adaptive (arriving in class on time). The goals in the IEP aligned with the areas assessed and recommended in the reevaluation. While there were not goals for every recommended topic in the reevaluation, this is not required. Further, the reevaluation report noted the goals "*may include but not limited to*" those areas listed. OSPI finds that the IEP was developed with Student specific information, based on the recent reevaluation, and as the result of the IEP team meeting that the Grandparent and Student attended. OSPI finds no violation with respect to the development of the October 2022 IEP.

While the Grandparent did raise concerns and requests for amendment following the October 2022 IEP meeting, these concerns and requests were ultimately addressed by the May 2023 IEP. Regarding the May IEP, the Grandparent had several concerns. In reviewing the Student's IEPs, OSPI finds that the IEPs contained all requirements outlined in the state special education regulation defining an IEP, including but not limited to present levels, annual goals, how progress would be reported, the special education services, related services, and supplementary aids to be provided to the student, modifications and accommodations, and more. Some of the concerns the Grandparent raised were related to things that are not required to be in an IEP, such as signatures and contact information/telephone numbers.³ Other concerns the Grandparent raised are discussed below.

Assistive Technology (AT): Regarding AT, the Grandparent raised concerns throughout the 2022–23 school year. First, the Grandparent did not want the AT to consist of the Student's cell phone or computer. In response, although the District recommended exploring accessibility functions on the Student's phone and computer/online platforms, these statements were ultimately removed from the IEP. Second, the Grandparent requested a specific AT device. In response, the District

³ OSPI notes there is no requirement in Washington that the IEP be signed, nor is there a requirement that a parent "consent" to each and every IEP. In general, signatures on the IEP are used to denote attendance at the IEP meeting.

agreed to look into AT devices and collect data. There is no requirement that the District immediately adopt the specific device requested by the Grandparent. The documentation indicates that there was some question of what the Student's AT needs were and what device would be appropriate; thus, it was reasonable and appropriate that the District first trialed a device. The District discussed how to collect data, set up protocols, and trained the Student and staff related to the AT device. The District also sent the AT device being trialed home with the Student for the summer so that he could continue using it and they could collect data on this use, and then the Student would continue trialing the device in the fall. OSPI finds that while the Grandparent may not have agreed with the AT device selected to trial, the District took appropriate steps to respond to the Grandparent's request, including trialing an AT device and collecting data. If this device ultimately is not appropriate, OSPI expects the IEP team will continue to discuss the Student's needs and what would be appropriate. OSPI finds no violation.

Present Levels and Goals: The Grandparent alleged that the IEP did not include baselines, data about the Student's progress, and that the goals did not have short-term objectives.

IEPs must include a statement of the student's measurable annual goals, including academic and functional goals designed to: meet the student's needs that result from the student's disability so that he can be involved in and make progress in the general education curriculum; and meet each of the student's other educational needs that result from the student's disability. Additionally, for students who take alternate assessments aligned to alternate achievement standards, the statement of measurable annual goals should include a description of the benchmarks or short-term objectives the student should meet.

Here, the IEPs included present levels and data on the Student's progress. The goals were measurable and had baselines and common units of measure. As discussed above, the Grandparent may have disagreed with the format of some of the data provided; however, the IEP did contain data. While the Grandparent also stated that the goals were "difficult to understand" and contained "educational jargon," in reviewing the documentation in this complaint, the District was responsive to the Grandparent's concerns, changing the wording of goals (e.g., removing the "word 'novel' meaning 'new'" and changing phrases in the math goal) and clarifying services. Further, there was no requirement that the October 2022 or May 2023 IEPs include short-term objectives/benchmarks, as these are only required the year the Student participates in the alternate assessment (WA-AIM). Here, the Student took the WA-AIM in June 2021 and the IEP in place at that time had benchmarks/short-term objectives.

The Grandparent also objected to the IEP including narrative or anecdotal statements like "[Student] is a bright, sociable young man," because these, according to the Grandparent, did not pass the "Stranger Test." However, it is important to note that not every statement in an IEP has to contain numerical data and in fact, it is often important to have anecdotal statements and observations from parents, teachers, and others in an IEP to capture all the elements of a student's needs. Further, the "stranger test" is not something defined in special education regulation, rather as the District correctly stated, it is a concept used to help ensure IEP goals are clear and the:

The 'stranger test' is meant to avoid confusion and means that anyone looking at a student's goals could implement them, assess progress, and determine whether progress is satisfactory. [The Grandparent] does not allege that Student's goals or their implementation fail the 'stranger test.' Rather, [she] is critical of the District's reported anecdotal strengths of the student under the Team Considerations section of the IEP. Non-goal assertions such as '[Student] is a bright, social young man' are not required to pass the 'stranger test' or be supported with data.

Overall, OSPI finds that the IEP included sufficient present levels, baselines, and goals, and that the District was responsive to requests for amendment and clarification from the Grandparent. OSPI finds no violation.

Transition Plan: The Grandparent primarily seemed to allege that the District seemed to offer only one or limited options for transition services and that the District would not look into other options or ideas they raised. Further, the family representative stated he believed that there were "seven areas of transition services" that are required to be on the IEP and the Student's IEP only addressed three areas: "education, training, and daily living."⁴

First, OSPI notes that there are not "seven [required] areas of transition services", rather there are three areas called out for postsecondary goals: training/education, employment, and *where appropriate*, independent living. Then there are other elements of the transition plan, such as the services and course of study. 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.

Second, OSPI finds that the Student's transition plan was sufficient, included appropriate post-secondary goals, and was based on a wealth of Student specific information about his needs, strengths, interests, and challenges. The IEPs contained information from previous age-appropriate transition assessments, and at the request of the Grandparent, the District completed a further transition assessment during the 2022–23 school year, which the Student completed but the Grandparent did not return the "parent" version.

⁴ It appears that the Grandparent was referring to the following as the "seven areas of transition services": "Instruction, Related Services, Community Experiences, Employment, Other Post School Adult Living Objectives, Acquisition of Daily Living Skills and Functional Vocational Evaluation." While many, if not all of these areas may be on an IEP (depending on an individual student's needs), the state special education regulations specify two to three areas that a transition must include post-secondary goals for, training/education, employment, and independent living. Other elements the Grandparent lists like related services, would be included in a different area of the IEP. In this case, the Student received related services in transportation and supplementary aids and services in speech.

Additionally, documentation indicated the IEP team reviewed and amended the post-secondary transition plan to make services less ambiguous at the request of the Grandparent. The transition plan included post-secondary goals, transition services, a course of study, and the IEP included annual goals that related to the Student's transition plan (e.g., goals related to reading comprehension for work-related documents and making change). As discussed above, the Grandparent disagreed with some of the courses the Student was participating in like CAB Café and the office assistant role, although interestingly during the year, the career technical education teacher stated they had been communicating with the Grandparent and "she has nothing but positive feedback regarding our program." The Student did have an opportunity to participate in transition services related to his areas of interest in wood tech (and during an internship summer of 2023). And while working as an office assistant or in a restaurant may not have been areas of interest for the Student, the Student's IEP, goals, transition plan, and information about these opportunities, explained the general and transferable skills the Student was learning in these areas. The transition plan is not necessarily inappropriate just because it includes some opportunities that are not in the Student's area of interest in addition to areas addressing his interests.

The IEP team also discussed community-based transition services, including discussing a variety of job sites for internships. Reviewing the documentation as a whole, it appeared that the general plan was to provide community-based transition services during the 2023–24 school year and thus that there was time to further discuss the nature of those services and specific job sites. The fact that this was not finalized during the 2022–23 school year does not represent a violation as transition planning is ongoing as a student ages, and needs, and interests change. The District emphasized in prior written notices and email communications that there was no one transition program and that "post secondary options are highly individualized and based on students' unique goals related to their transition and life after high school." Finally, The District additionally discussed and supported the Student in connecting with DVR and DDA.

Overall, OSPI finds that the Student's IEP transition plan was appropriate and developed based on sufficient Student-specific data. If the Student's needs and interests change, and the Student and Grandparent want to explore other transition services opportunities the Student will likely continue to receive transition services until age 21 and the IEP team can consider discussions and planning in this area. However, OSPI finds no violation with respect to the development of the transition plan during the 2022–23 school year.

IEP Meetings Generally: 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.

The Grandparent alleged generally that IEP meetings were challenging and that the District limited her input by saying they were out of the time when she started asking questions during meetings. The Grandparent stated there was not a "shared understanding" of how to best serve the Student. Yet, the documentation shows that the District was responsive to the Grandparent's emails with questions and requests for IEP meetings. The District substantively responded to questions in emails, proposed and worked to schedule follow up IEP meetings after the annual IEP meeting, sent draft IEPs, and gave the Grandparent time after IEP meetings to further review the IEP and provide input. Prior written notices detail discussion of and responses to many of the Grandparent's concerns. Further, the District explained how it worked to ensure the Grandparent understood everything in the IEP meeting through using an agenda created with the Grandparent's questions and concerns, posting questions on the board, and taking and reading through notes and the end of the meeting.

The Grandparent did object to the District rescheduling an IEP meeting because the Student was not able to be there. The Grandparent stated this was inappropriate because the Student had signed a "consent form" making her the contact person for IEP meetings and "anything to do with school" and because she had power of attorney.

All of the IDEA procedural safeguards, duties, and responsibilities transfer to a student at age eighteen. An adult student possesses the rights and responsibilities formerly given to the parent, unless: he or she (1) has been judged incapable of exercising these rights by a court of law; or (2) has been certified as unable to provide informed consent, or to make educational decisions, and has an educational representative appointed for them. An adult student may elect to authorize another adult to make educational decisions on his or her behalf using a power of attorney.

However, OSPI notes that the IEP meeting in question was scheduled for January 19, 2023, and the documentation included a power of attorney signed and notarized after this, on February 17, 2023. The prior written notice and a contemporaneous email from District staff stated that the team proposed to reschedule the IEP meeting to a time the Student could attend because the Student is 18 and the Grandparent did not yet have guardianship or power of attorney. The notice stated, "The district will reschedule for a time where Student can participate in order to ensure no decisions are made without him." Regarding this meeting, OSPI can understand the Grandparent's frustration that they arrived for the meeting and then it was canceled. At the same time, she did not yet have power of attorney and the Student is an adult; OSPI does not find it was inappropriate that the District proposed rescheduling the IEP meeting to a time the Student could attend and participate. Ultimately, the IEP team met again in March and May 2023.

On the whole, OSPI finds that while there were areas the Grandparent disagreed with, disagreement does not necessarily mean the IEP was improperly developed. Here, the District was responsive and the Grandparent was provided opportunities to participate in the development and amendment of the IEP. OSPI finds no violation. Although OSPI recommends the District and Grandparent consider whether a facilitated IEP meeting would be beneficial in future.

CORRECTIVE ACTION

STUDENT SPECIFIC:

None.

DISTRICT SPECIFIC:

None.

Dated this ____ day of September, 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.)