

## **SPECIAL EDUCATION CITIZEN COMPLAINT (SECC) NO. 15-46**

### **PROCEDURAL HISTORY**

On August 7, 2015, the Office of Superintendent of Public Instruction (OSPI) received a Special Education Citizen Complaint from the parents (Parents) of a student (Student) attending the Issaquah School District (District). The Parents alleged that the District violated the Individuals with Disabilities Education Act (IDEA), or a regulation implementing the IDEA, with regard to the Student's education.

On August 10, 2015, OSPI acknowledged receipt of this complaint and forwarded a copy of it to the District Superintendent on the same day. OSPI asked the District to respond to the allegations made in the complaint.

On September 1, 2015, OSPI received the District's response to the complaint and forwarded it to the Parents on the same day. OSPI invited the Parents to reply with any information they had that was inconsistent with the District's information.

On September 14, 2015, OSPI received the Parents' reply and forwarded that reply to the District on the same day.

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

### **OVERVIEW**

During the 2014-2015 school year, the Student attended a District high school and received special education services under the category of other health impaired. The individualized education program (IEP) in place for the Student was developed at the end of the 2013-2014 school year, shortly after the District and the Parents entered into a mediation agreement. The mediation agreement stated that the District would develop the Student's IEP to reflect the nine IEP goals recommended in the Student's private evaluation report. However, the mediation agreement further stated that in order to consider implementing the recommendations from the Student's private evaluation report, the District needed to reevaluate the Student, which the District would do in the fall of 2014, with data collection to begin immediately. The Student's IEP team developed an IEP for the Student that included two annual IEP goals, one involving note taking, and one involving recording and completing assignments. The Student's IEP provided the Student with 250 minutes per week of specially designed instruction in the special education setting, several accommodations, and secondary transition services. The Student struggled to complete and submit his assignments, and the Parents and the Student's special education teacher emailed frequently, discussing the Student's services, accommodations, and missing assignments. The District did not complete the reevaluation process for the Student. The Parents alleged that the District did not follow procedures for (1) developing and revising the Student's IEP, (2) implementing the Student's IEP, and (3) providing progress reporting toward the Student's annual IEP goals. The District admitted it did not provide quarterly progress reporting, proposed a corrective action, and otherwise denied the allegations.

## SCOPE OF INVESTIGATION

The investigation was limited to a review of whether the allegations made in the complaint demonstrate a violation of Part B of the IDEA, its implementing federal regulations, or corresponding state regulations. It did not extend beyond the one-year limitation for complaints nor did it extend to an investigation of potential allegations of discrimination.

## ISSUES

1. Did the District follow procedures for developing and revising the Student's individualized education program (IEP) during the 2014-2015 school year?
2. Did the District follow procedures for implementing the Student's IEP in effect for the 2014-2015 school year, including providing specially designed instruction, accommodations, and modifications?
3. Did the District follow procedures for progress reporting during the 2014-2015 school year?

## LEGAL STANDARDS

IEP Development: The IEP meeting serves as a communication vehicle between parents and school personnel, and enables the IEP team to make informed decisions regarding the: student's needs and appropriate goals; extent to which the student will be involved in the general education curriculum and participate in the general education environment, and state and district-wide assessments; and services needed to support that involvement and participation, and to achieve the agreed-upon IEP goals. 34 CFR §§300.321, 300.322, 300.324 and 300.328; WACs 392-172A-03095, 392-172A-03100, and 392-172A-03110.

The IEP team must consider the parents' concerns and the information they provide regarding their student in developing, reviewing, and revising IEPs. The district is not required, however, to adopt all recommendations proposed by the parents. The team must work toward consensus on IEP content, but if team members are unable to reach consensus, it remains the district's responsibility to ensure that the IEP includes the special education and related services that are necessary to provide the student with a free appropriate public education. An IEP may therefore be properly developed under IDEA procedural requirements, yet still not provide the student all of the services that the parents believes are necessary components of the student's educational program. 64 Fed. Reg. 48 12473 (March 12, 1999) (Appendix A to 34 CFR Part 300, Question 9).IEP)

IEP Revision: A student's IEP must be reviewed and revised periodically, but not less than annually, to address any lack of expected progress toward annual goals or in the general curriculum; the results of any reevaluations; information about the student provided to, or by, the parents; the student's anticipated needs; or any other matters. In conducting its review of a student's IEP, the IEP team must consider any special factors unique to the student. 34 CFR §300.324; WAC 392-172A-03110. If the parent obtains

an IEE at public or private expense, the district must consider the results of the evaluation. 34 CFR §300.502; WAC 392-172A-05005(5).

IEP Amendments: After an annual IEP meeting, the parents of a student eligible for special education and the district may agree to develop a written document to amend or modify the IEP, instead of convening a full IEP team meeting, for the purpose of revising the IEP. When districts amend a student's IEP, the District must ensure that all providers responsible for implementing the IEP are informed of the changes. 34 CFR §300.324; WAC 392-172A-03110(c).

Implementation: Each district must ensure it provides all services in a student's IEP, consistent with the student's needs as described in that IEP. 34 CFR §300.323; WAC 392-172A-03105.

Progress Reports: 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. IEPs must state how the student's progress toward the annual goals will be measured and when the district will provide progress reports to the parents, such as through the use of quarterly or other periodic reports concurrent with the issuance of report cards. 34 CFR §300.320; WAC 392-172A-03090.

Decisions about Educational Methodology: As a general rule, parents or students do not have the right to make decisions about methodology and educational philosophy. However, the district's discretion in selecting methodology does not relieve it of its obligation to at least consider the parents' recommended methodology. *Board of Education of the Hendrick Hudson Central School District v. Rowley*, 458 U.S. 176, 208, 102 S. Ct. 3034, 3052, 73 L.Ed.2d 690 (1982). So long as a district offers a program that can meet the student's individual needs and allows the student to make educational progress, it will meet its obligations under the IDEA.

Parent Participation in IEP Meetings: Parents of a child with a disability will participate with school personnel, in developing, reviewing, and revising the student's IEP. This is an active role in which the parents: provide critical information regarding the strengths of their child, and express their concerns for enhancing their child's educational program; participate in discussions about their child's need for special education, related services, and supplementary aids and services; and join with other participants in deciding how the child will be involved and progress in the general curriculum, what services the agency will provide to the child, and in what setting. 64 Fed. Reg. 48 12473 (March 12, 1999) (Appendix A to 34 CFR Part 300, Question 5). IDEA specifically provides that parents of children with disabilities have an opportunity to participate in meetings with respect to the identification, evaluation, educational placement, and provision of FAPE to their child. 34 CFR §300.501; WAC 392-172A-05000(2)(a). IEP teams must consider the parents' concerns and the information that parents provide regarding their child in developing and reviewing their child's IEP. 34 CFR §300.324; WAC 392-172A-03110(1)(b).

Provision of FAPE: A free appropriate public education (FAPE) has been provided if, taking into consideration the student's unique characteristics, it may be fairly said that the student has derived more than minimal or trivial progress in the student's educational placement. *Florence County School District v. Carter*, 950 F.2d 156, 160 (4<sup>th</sup> Cir. 1991); *Ojai Unified School District v. Jackson*, 4 F.3d 1467, 20 IDELR 354 (9<sup>th</sup> Cir. 1993), *cert. den.*, 115 S. Ct. 90 (1994). "A material failure to implement an IEP violates IDEA. A material failure occurs when the services a school provides to a disabled child fall significantly short of the services required by the child's IEP. Minor discrepancies between the services provided and the services called for by the IEP do not give rise to an IDEA violation." *Baker v. Van Duyn*, 47 IDELR 182, 481 F.3d 770 (9<sup>th</sup> Cir. 2007).

Enforcement of Mediation Agreements: The purpose of mediation is to offer both the parent and the school district an opportunity to resolve disputes and reach a mutually acceptable agreement concerning the identification, evaluation, educational placement, or provision of free appropriate public education (FAPE) to the student through an impartial mediator. 34 CFR §300.506; WAC 392-172A-05060. If the parties resolve a dispute through the mediation process, they must execute a legally binding agreement that states that all discussions that occurred during the mediation process will remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding; and, is signed by both the parent and the representative of the district who has the authority to bind the district. A written, signed mediation agreement is enforceable in a state court of competent jurisdiction or in a district court of the United States. 34 CFR §300.506; WAC 392-172A-05070. Parents may also raise disputes regarding whether the district has implemented a mediation agreement through the citizen complaint process. 34 CFR §300.151; WAC 392-172A-05025.

## **FINDINGS OF FACT**

1. During the 2014-2015 school year, the Student attended tenth grade at a District high school and was eligible for special education services under the category of other health impaired.
2. The Student's initial evaluation was completed on June 12, 2013, when the Student attended a District middle school. The evaluation report noted that the Student previously had an IEP, and had received specially designed instruction for reading fluency, but the District exited him from services at the Parents' request, on November 14, 2010. The evaluation report stated the Student's executive function was significantly below that of his same age peers, and he required specially designed instruction, supplementary aids, and services. The report stated that the Student had difficulty in several areas, including: starting work on time; stopping unwanted responses; anticipating future events; managing demands; setting goals; developing a plan; checking work; assessing his performance; tracking the effect of his behavior; staying with a task; holding information in mind to complete a task; and keeping his workspace/materials orderly. The findings further stated that the areas wherein the Student had the most difficulty were keeping his workspace/materials orderly and holding information in mind to complete a task. Additionally, the

evaluation report recommended the Student receive specially designed instruction for behavior (executive functioning). The evaluation report stated there was no indication of need for specially designed instruction for reading or any other academic area.

3. The Parents provided the District with an evaluation report from a private service provider, reflecting language and literacy evaluations of the Student, administered on April 8, 18, and 25, 2014. The private evaluation report stated that the Student had unevenly developed phonological awareness, memory, reading comprehension, and language skills. The report stated that the Student showed a clear discrepancy between his cognitive performance, and the areas of oral reading fluency (automatic naming skills), word reading efficiency, and written language. The report stated that the Student required direct instruction targeting his areas of need to support his academic acquisition. The report recommended that the Student receive individual therapy at least once a week to address his executive and language-based deficits. The report further recommended nine annual goals in the areas of phonological awareness, automatic naming, multiple meaning vocabulary, reading fluency, reading comprehension, book-note taking, organizational skills, and executive function skills.
4. On June 2, 2014, the Parents and the District entered into a mediation agreement. The mediation agreement included that the individualized education program (IEP) scheduled to be developed for the Student on June 10, 2014 would “reflect input from the goals recommended in [...] recent report from private service provider.” Additionally, the agreement stated that the District agreed to reteach the Student skills pertaining to organization, note-taking, and prioritization. Further, the agreement stated that the Student’s special education case manager would facilitate meetings between the Student and his general education teachers to clarify the meaning of an accommodation for reduced homework, including clarifying expectations, and the review process. The agreement stated that these meetings would be monthly, as long as needed. The agreement also stated that the District would “look into getting audio textbooks for [the Student] for this summer and next school year.” Further, the agreement stated the parties agreed that in order “to consider implementing recommendation[s] from private provider will require District to open a re-evaluation process.” The agreement stated that the Student’s reevaluation would begin in the fall of 2014, with data collection to begin immediately, and an amendment to the Student’s IEP would be possible in October 2014, after the Student’s team could consider the results of his reevaluation.
5. On June 10, 2014, the Student’s IEP team, including the Parents, developed his annual IEP. The Student’s IEP team considered that on or before the second week of school, the District would provide all of the Student’s teachers with a copy of the Student’s IEP goals and accommodations. Additionally, the team considered that on or before the second week of October, the District would hold another meeting with the Parents, the Student, and the Student’s teachers to clarify the meaning of the Student’s accommodation for reduced homework assignments in each class. The Student’s team also considered that once a month, the Student would meet with

each of his teachers to discuss his needs and any missing assignments. Further, every six weeks, the District would hold a meeting with the Parents, Student, Student's teachers, and the Student's case manager to discuss concerns. The present levels of performance stated that the Student was doing reasonably well, but rarely used his accommodations, even though they were offered, and did not ask for his accommodations or advocate for himself.

The secondary transition portion of the Student's IEP stated that in tenth grade, the Student would complete the "Where Am I Going" portion of secondary transitional experience project. The IEP stated that during this portion of the transition project, students would learn skills related to résumé writing and interviewing, then students would contact a business and request to job shadow someone who works in their identified career of interest. The secondary transition portion also stated that the Student would receive specially designed instruction in the areas of executive functioning, self-advocacy, and organization.

The Student's IEP included two annual "behavior" goals, with progress reported quarterly. The first annual IEP goal was:

When given an assignment sheet provided by his IEP teacher in collaboration with general education teachers [the Student] will record assignments electronically and email parents improving work tracking and completion from 15 missing assignments per quarter, reflected by zeros or indications of "missing" in the skyward grade book to 5 or less missing assignments as measured by bi-weekly progress checks with IEP teacher and follow-up emails with general education teachers and parents weekly.

The second annual IEP goal was:

When given a lecture or book in a general education class [the Student] will compare self-written notes with a note-taker's copy improving quality and breadth of notes from 0% representation of main idea, vocabulary and connections to 70% representation of main idea, vocabulary and connections as measured by bi-weekly note checks with his IEP teacher.

The Student's IEP provided for 250 minutes per week for behavior skills, provided by a special education teacher in the special education setting. The Student's IEP included several daily accommodations, in all classes. Daily accommodations included: using of a computer for written assignments; turning in assignments online; allowing the Student to photograph information from a white board or text books; providing preferential seating; extending time for assignments, when arranged with the teacher; providing copies of the teacher's or other note taker's notes for comparison; and providing written directions for multi-day assignments, including a breakdown of steps with interim deadlines. The Student's IEP also included the weekly accommodation of providing a graphic organizer and a copy of power points slides or other lecture aids, when available. The Student's IEP also included an "as

needed” accommodation of reduction of homework as negotiated with individual teachers.

6. September 3, 2014 was the first day of the 2014-2015 school year and the Student attended tenth grade at the same District high school. The Student’s schedule consisted of six daily class periods, including one class period of “learning strategies,” which is a special education class, taught by a special education teacher. According to the Parents’ reply to this complaint, the Student’s learning strategies class served eight students.
7. On September 8, 2014, the Student’s special education teacher emailed the Student’s general education teachers, informing them that the Student had IEP accommodations, and attaching a list of those accommodations.
8. On September 9, 2014, the Student emailed his general education teachers, informing them of his IEP accommodations. On the same day, the Student’s physics teacher replied to the Student. The Student’s physics teacher asked the Student to communicate with her and arrange for reduced homework or extended time for homework on a case-by-case basis. The physics teacher also told the Student that because she already assigned reduced amounts of homework, she believed that each assignment was valuable and necessary. However, the physics teacher asked the Student to tell her if he was feeling overwhelmed by assignments, so that they could discuss what to do. Also on September 9, 2015, the Student’s algebra teacher replied to the Student, stating the Student was welcome to email his assignments to her. She also told him she was happy to extend his time on assignments, and to let her know if he needed an extension either when class started, or when she checked homework. The algebra teacher also stated that she tried to assign as little homework as possible, while still providing students with the necessary practice. However, she told the Student that if he felt overwhelmed, they could talk about it, and make a plan.
9. On September 17, 2014, the Student emailed his algebra teacher, stating that he was working on the homework, and the algebra problems seemed easy and repetitive. The Student asked if he could do five problems instead of all ten assigned problems. The algebra teacher responded the next day, stating that doing five problems was fine.
10. On September 24, 2014, the Student emailed his physics teacher, stating he was concerned about his grade, and asking what he could do to improve. Also on September 24, 2014, the Student’s mother emailed the Student’s special education teacher, stating that the physics homework was overwhelming the Student. The mother stated she was trying to have the Student email his physics teacher to explain that he needed help, but when he was too far behind, he would “shut down.”
11. On September 25, 2014, the Student’s special education teacher responded to the Student’s mother’s email. The Student’s special education teacher stated that she had talked with the Student about his physics class the day before, but that the

mother's email would help her (the Student's special education teacher) ask the Student better questions. The special education teacher also stated that each of the Student's general education teachers had talked with him about homework, and the Student could talk with any of them without feeling threatened, but she would suggest that the Student email his physics teacher, because email was easier than trying to speak to a teacher during class time. Also on September 25, 2014, the Student's physics teacher responded to the Student's email. She said that missing assignments were "major issues" affecting the Student's grade, and explained how he could use the online homework system to receive 80% credit on two missing "web assignments" and one lab assignment. Later that evening, the Student again emailed his physics teacher, stating that he had finished the two missing web assignments. The Student's physics teacher responded the next day, thanking the Student for completing the work, assuring him she would update his grade, and asking if he were still working on the missing lab assignment. The Student replied, stating he was planning to finish the missing lab assignment that weekend. His physics teacher responded, stating it was "great" that the Student was working on the missing assignments and asking him to keep her updated.

12. On September 26, 2014, the Student's IEP team met to review the Student's IEP and discuss the Student's accommodation for "possible homework reduction" as listed in his June 10, 2014 IEP. The District provided the Parents with prior written notice, stating that the Student's team, including the Parents, had met to discuss possible homework reduction. According to the notice, each of the Student's general education teachers attended, several expressed concern because test questions came from homework questions, and they could not easily eliminate sections to be covered. The notice stated that the Student's IEP team determined that regarding homework reduction, the Student would advocate for himself, and ask for specific reductions when he felt overloaded or when he had mastered a concept and the homework was repetitive. The notice also stated that the Parents determined that monthly meetings were no longer necessary because the Student's special education teacher was monitoring the Student's IEP, and communicating with them.
13. On October 5, 2014, the Student's mother emailed the Student's special education teacher, asking for her help clarifying the Student's accommodation for late assignments with his physics teacher. The Student's mother noted that the Student received only 50% credit for a lab assignment that he turned in late Monday, and she and the Student did not understand why he did not receive full credit. The Student's special education teacher contacted the physics teacher the same day to discuss the Student's mother's concerns.
14. On October 6, 2014, the Student's special education teacher emailed the Student's mother, stating she had talked with the Student's physics teacher, who stated she gave the Student 4 out of 5 points for his lab assignment, and that she had deducted one point because he had not spoken with her before he submitted it late. The Student's special education teacher further stated that the Student was experiencing other problems in his physics class, specifically, he had not submitted an in-class



assignment that his physics teacher had given the classroom two days to complete. Additionally, the Student's special education teacher stated that the physics classroom was experiencing technical issues, which the physics teacher suspected were occurring purposefully by someone, potentially the Student, using a remote control. The Student's special education teacher encouraged the Student's mother to communicate directly with the Student's general education teachers whenever possible, and to copy the special education teacher on the emails so that she would have a record of any decisions. Additionally, the Student's special education teacher asked the Student's mother to encourage the Student to copy his special education teacher on emails with his teachers so she would know when he requested an accommodation. Later that day, the Student's special education teacher emailed the Student's mother again, stating she had spoken with the Student about his physics homework, schedule, and other issues. A little later, the Student's special education teacher again emailed the Student's mother, listing the Student's missing assignments, and her plan for when the Student could work on the missing assignments.

15. On October 9, 2014, the Student's special education teacher emailed the Student's mother, informing her that the Student had left his physics notebook at home, and although she had instructed the Student to email his physics teacher to let her know that he would be late submitting the assignments in his notebook, she was not sure he had done so.
16. On October 15, 2014, the Student's mother emailed the Student's social studies teacher, explaining that the Student was having chronic problems logging on to the online textbook and that attempts to reset the password had failed.
17. On October 16, 2014, the Student's social studies teacher emailed the Student's mother, stating that the online textbook had been problematic, and she would have the Student take photographs of relevant pages from his textbook with his cell phone. The Student's mother replied the same day, asking if the school could provide the Student with a social studies textbook that he could keep at home. Also on that same day, the Student's special education teacher emailed the Student's mother, stating she had arranged for the Student to bring home a social studies textbook, which could stay at home, and it should happen that day or the next day.
18. On October 23, 2014, the Student's special education teacher emailed the Student, copying the Student's mother, reminding him of his schedule to work on missing assignments.
19. On October 29, 2014, the Student's mother emailed the Student's special education teacher, asking to have the Student stay after school to do homework. The Student's special education teacher replied the next day with options for the Student to do homework after school.
20. On November 2, 2014, the Student emailed his physics teacher, asking if he could submit his lab assignment on Tuesday rather than Monday because he had

forgotten to write down all of the data. The Student's physics teacher responded the next day, stating he should get the data from his lab partners, and also suggesting he submit the lab assignment without the data, as having all the data present was worth only one point.

21. November 5, 2014 was the end of the first quarter of the 2014-2015 school year. The District did not provide the Parents with progress reporting for the Student's annual IEP goals.
22. On November 24, 2014, the Student emailed his English teacher, stating he was "swamped with homework" and asking if he could submit his English paper on Wednesday. On the same day, the Student emailed his social studies teacher, stating he had submitted his research, but he had not done other assigned reading because he was trying to focus on his English paper. The Student asked if he could come in after school so they could make a plan together for when he could get the rest of his assignments done. The Student's English teacher responded the next day, stating it was fine to submit the English paper on Wednesday.
23. On December 1, 2014, the Student emailed his physics teacher, stating he was "swamped" with homework, including needing to write two papers. The Student asked if he could submit his lab assignment on Wednesday. The Student's physics teacher responded the next day, stating she could give him a one-day extension on the lab assignment "per our agreement."
24. On December 8, 2014, the Student's mother emailed the Student's special education teacher, stating that not having the reading material was a significant barrier for the Student to complete his work. The Student's mother stated it was not working to have the Student use his camera to photograph pages of his social studies textbook and the Student really needed a social studies textbook for home.
25. On December 9, 2014, the Student's special education teacher arranged with the school librarian for the Student to obtain a social studies textbook that he could keep at home. The special education teacher then responded to the Student's mother, stating the Student should have the textbook that day. When the Student's mother replied, she stated that the Student needed help talking with his physics teacher. The Student's mother stated that the physics teacher was the only teacher who did not really use his accommodations. The Student's mother stated she was unclear why the Student's physics teacher counted the Student's late work at only 50% of its value. The Student's mother then stated that the physics teacher had a system for permitting late work, but the Student received the same grade on late work as the general classroom.
26. On December 15, 2014, the Student's physics teacher emailed the school department chair for special education (department chair), asking whether she needed to accept the Student's late work for full credit if he did not make a pre-arrangement with her. The physics teacher stated she was getting pressure not to penalize the Student for submitting work that was significantly past the due date,

without any communication from the Student. The physics teacher further stated that the Parent would not respond to emails from her, and instead communicated through the Student's special education teacher, which was creating confusion and extra work. The department chair responded, stating that because the Student's disability involved executive function, he had complicated needs. The department chair stated that in a meeting the prior year, the Student's doctor explained that because of his executive function disability, the Student did not have the ability to plan ahead or ask for extensions. The physics teacher replied, stating she was troubled because the verbiage in the Student's IEP necessitated communication from the Student before teachers gave him extra time, so she felt that she was being told that the Student did not need to uphold his part of the IEP.

27. Also on December 15, 2014, the Student's special education teacher emailed the Student's mother, stating she had talked with the Student's physics teacher, who stated that although she documented that the Student's assignments were late, she did not usually deduct points from his assignments for being late. The physics teacher further told the Student's special education teacher that the Student was not completing assignments fully, even when submitted late, which was why she (the physics teacher) was deducting points. The Student's special education teacher reported to the Student's mother that she (the special education teacher) then asked the physics teacher to review her grading, and document that she had not penalized the Student for submitting assignments late. The Student's special education teacher further stated she and the physics teacher had discussed some reduction of homework, but that the physics teacher thought that all the assigned homework was necessary. The physics teacher agreed that she would assume that the Student would need to submit all of his assignments late, so that even if the Student did not pre-arrange a late submission date with her, she would not penalize him for late submission.

28. Also on December 15, 2014, the Student emailed his physics teacher, stating he had just submitted his final lab assignment for a section. The physics teacher responded the next day, thanking him for letting her know, and asking him to print his conclusion for grading. The physics teacher further stated that she would update his score before the end of the week.

29. On December 18, 2014, the Student's mother emailed all of the Student's teachers, stating that the Student remained sick with a fever and would miss school again the next day. The Student's mother also stated the Student would begin working with a tutor over the winter break, and asked if there were any missing assignments she should pick up from school, or any suggestions for the Student's tutor. The Student's general education teachers responded to the Student's mother's email the next day. Each teacher listed missing assignments, and provided information for accessing the Student's assignments online.

30. The District's documentation does not indicate that during the fall of the 2014-2015 school year, the District had proceeded with a reevaluation for the Student, as stipulated in the June 2, 2014 mediation agreement.

31. The District's winter break began December 22, 2014, and school resumed on January 5, 2015.
32. On January 5, 2015, the Student's mother emailed the Student's special education teacher, stating that the Student had begun working with a private tutor one day a week after school, and that the private tutor primarily focused on skills related to executive function. The Student's mother introduced the Student's special education teacher to the Student's private tutor via email, and they determined that the Student's private tutor would start by helping him organize his physics notes.
33. On January 11, 2015, the Student emailed his Spanish teacher, asking to schedule a time to make-up a quiz he had missed. The Spanish teacher emailed the next day, arranging a time that worked with the Student.
34. On January 14, 2015, the Student's mother met with the Student's physics teacher, the Student's special education teacher, and the department chair to discuss the grading policy for the Student's late work. At that meeting, they agreed that the Student should lose points the longer he took to submit his physics assignments so that he would learn to consider deadlines as firm. Specifically, they discussed changing his accommodation for submitting work late, such that if he did not make a pre-arrangement for an assignment, his teachers would reduce his score by 10% when he submitted it within one week of the due date, and his teachers would continue to reduce his score by 10% for each week the assignment was late. The District did not provide the Parents with prior written notice communicating the particulars of this accommodation, or communicating whether these particulars pertained broadly, or only to his physics class.
35. On January 25, 2015, in a written letter, the Parents requested that the Student's IEP team meet to review his IEP. The Parents stated it appeared that the District was not pursuing the Student's annual IEP goal of comparing self-written notes with another note-taker's notes. The Parents also stated that after observing the Student, they no longer thought the proposed revision to his accommodation for submitting work late would be helpful.
36. In January 2015, the Student finished the second quarter of the 2014-2015 school year. His report card indicated that the Student had received a "B-" in English, a "C-" in Spanish, a "C" algebra, a "D+" in physics, a "C-" in social studies, and an "A" in learning strategies. The District did not provide the Parents with a copy of the Student's goal page to report progress toward his annual IEP goals.
37. On February 5, 2015, the Student's special education teacher emailed the Parents a draft copy of the Student's IEP. The draft IEP did include a section in the present levels of performance, reporting the Student's progress toward his annual IEP goals.
38. On February 9, 2015, the Student emailed his English teacher, submitting a paper late. The English teacher responded the next day, stating he had received the paper.

39. On February 10, 2015, the Student's IEP team met to discuss the Student's performance, and revise his IEP. The Parents expressed their concern that the Student's positive attitude toward school was declining. Additionally, the Parents stated that the Student needed to receive lecture notes before class, so he could follow along with the lecture during class. The Student's general education teachers discussed the Student's behavior and performance in their classrooms. Both the Student's algebra and physics teachers stated the Student had difficulty using his time efficiently in class, and the Student's IEP team agreed that if the Student used his in-class time better, homework would be less of a problem. The present levels of performance included information about the Student's progress toward his annual IEP goals. For the goal of improving work tracking and completion from 15 missing assignments per quarter to five or fewer, the present levels stated that the Student had struggled to complete his assignments. The present levels continued, "His teachers have been generous in letting [the Student] have plenty of time to turn in assignments." The present levels tallied that the Student had 10 missing assignments in the first quarter, and 22 missing assignments in the second quarter. The present levels section of the IEP also stated that although the number of missing assignments had increased in the second quarter, the Student's special education teacher believed the Student was making progress toward his annual goal because the increase in missing assignments was likely due to the decreased involvement of the Student's mother, requiring the Student to take more responsibility. The IEP also stated that the Student would have a new baseline of 16 missing assignments for his IEP goal, based on an average of the 10 and 22 missing assignments from the first two quarters. Regarding the Student's goal to compare his self-written notes with another note-taker's version of the notes, the present levels stated that the Student's providers had given him copies of notes made by another note-taker, but he had compared his notes with those notes only once. The present levels then stated that the demands of the Student's physics class had taken priority over other areas of concern, and the Student's providers had not taken data regarding this goal. The District then removed this goal from the Student's IEP. The Student's IEP modified the Student's remaining annual IEP goal, with progress still reported quarterly. As modified, the Student's annual IEP goal was:

When given an opportunity to record assignments in his planner [the Student] will record assignments daily in his IEP class improving work tracking and completion from 16 missing assignments per quarter, reflected by zeros or indications of "missing" in the skyward grade book to 5 or less missing assignments as measured by weekly planner checks and weekly checks of missing assignments.

According to the meeting notes, the Student's IEP team also agreed that the Student must use his planner to track when he would work on assignments. The Student's IEP continued to provide 250 minutes per week for behavior skills, provided by a special education teacher in the special education setting. The Student's IEP did not alter the Student's accommodations as written in June 2014, nor did it alter the provisions for the Student's secondary transition services.

40. On February 11, 2015, the Student's special education teacher emailed the school librarian, asking to obtain a downloadable audio book for the Student's English

class. The school librarian responded the same day, explaining she did not have a downloadable version, but she did have a copy of the audio book. She further told the Student's special education teacher that the county library had the downloadable versions.

41. On February 20, 2015, the Parents requested an in-District transfer for the Student to attend another District high school.
42. On February 23, 2015, the Student's mother emailed the District special education executive director, asking to meet and discuss an in-District transfer for the Student, based on the Student's IEP. The Student's mother stated that at the current District high school, the District had been unable to implement the Student's IEP, specifically an organization system to help him track his assignments. The Student's mother further stated that at the Student's most recent IEP team meeting, the team eliminated one goal because it was never implemented, and the other goal kept changing because the Student did not make progress.
43. On February 23, 2015, the Student emailed his English teacher, explaining that he had forgotten the assignment, could not find information online, and asking if his teacher could send him the needed information. The English teacher responded on March 2, 2015, providing a copy of the assignment and giving him four more days to complete it.
44. On February 26, 2015, the Student requested extensions for two physics assignments that were originally due on February 5, 2015.
45. On March 2, 2015, the Student exchanged emails with his social studies teacher about narrowing his research question for his sophomore paper.
46. On March 3, 2015, the Student emailed his special education teacher, reporting that his physics teacher had told him he could submit a lab assignment, which had been due that day, on the upcoming Monday, but he would receive only 90% of the value. The Student asked his special education teacher whether this was something new on his IEP.
47. On March 6, 2015, the Student's mother and the District special education executive director again exchanged emails regarding scheduling a meeting to discuss the possibility of an inter-District transfer for the Student. The Student's mother stated that although the Student's test scores indicated that the Student learned best from verbal instruction, the special education department had refused to work with him in any capacity other than teaching him to use a planner, which after 18 months, had not happened. The Student's mother also expressed concern that the Student might incur retaliation from high school staff if they learned she was requesting an inter-District transfer for the Student.
48. On March 7, 2015, the Student's mother exchanged emails with the Student's social studies teacher about accessing his classwork online. Also on March 7, 2015, the

Student again requested extensions for the two physics assignments that were originally due on February 5, 2015.

49. On March 8, 2015, the Student emailed his physics teacher, stating that he had been working on the table for his lab report, but it was taking much longer than expected. The Student said that he hoped to have it done by the end of the week. The Student's physics teacher responded the next day, copying the Student's mother on the email, and reminding the Student that 90% credit was available only through the next day, and after that only 80% credit was available through the next week. The Student's mother replied the same day, asking how long it should take to make the table for the lab report, stating that the Student had spent hours on the task, and asking if there were a faster way to complete the tables. The physics teacher responded, stating that a lab table should take less than one hour to complete, and providing some other instructions.
50. On March 10, 2015, the school principal emailed the Student's special education teacher and the department chair, requesting that they refrain from conversation with the Student about a "possible change in his educational plans or trajectory."
51. On March 17, 2015, the Student's mother emailed the Student's algebra teacher, asking for suggestions to help the Student, who normally did not struggle in mathematics, but currently had an "F" in that class. The algebra teacher responded the same day, stating that the Student's biggest issue was not doing the homework, which affected his grasp on the concepts as well as his grades. The Student's mother replied later that day, stating that the Student's inability to complete homework was not isolated to his mathematics class, but was an adverse impact of his disability. The Student's mother further stated that because every teacher had a different way of implementing the Student's accommodations, the Student was confused, and he did not have the skills to organize himself in each class. The Student's mother stated that the Student was working with a review sheet and hoped to retake the chapter test. The algebra teacher responded, stating the Student was welcome to come in before school for help any day, and encouraging him to retake the chapter test as soon as he was ready.
52. On March 19, 2015, the District special services director for secondary education emailed the school principal, the department chair, and the Student's special education teacher, asking to schedule a meeting to discuss the Parents' concerns.
53. On March 26, 2015, the Student's mother again exchanged emails with the District special education executive director. The Student's mother stated that the Student's teachers had frequently told her that the Student must do all of the homework, despite having an accommodation for reduced homework, because every homework assignment was critical for learning.
54. Also on March 26, 2015, the Student emailed his algebra teacher, asking if there was a time when he could come in for help. The algebra teacher responded the same day, stating he could come in before school for help. Also on March 26, 2015,

the Student exchanged several emails with his social studies teacher, obtaining help writing the thesis statement for his sophomore paper.

55. On March 30, 2015, the Student's mother emailed the Student's special education teacher, asking why the requirements for the Student's sophomore paper could not be reduced. The Student's mother suggested that the Student's assignment consist of 30 notecards and 1 outline. Later, the Student's mother asked about the grading policy for social studies, noting that the Student's initial notecards for his sophomore paper had been marked late.

56. On March 31, 2015, the Student's special education teacher forwarded the email from the Student's mother to the Student's social studies teacher, asking her to speak with the Student about it. The Student's special education teacher noted that the Student's accommodation read, "Reduction in homework as negotiated between [the Student] and individual teacher." The Student's social studies teacher responded to the Student's special education teacher the same day, stating that she could reduce the Student's assignment, and provided some details. Later that day, the Student's social studies teacher also emailed the Student's mother, explaining that the Student's initial notecards had received a lower grade because they were more than two weeks late. The Student's mother then emailed the Student's special education teacher, stating that the teachers' differing grading policies for late work was confusing, asking that the Student's IEP team discuss this problem, and asking for a detailed summary of how the Student's teachers implemented the Student's accommodations for late homework and homework reduction.

57. On April 3, 2015, the Student finished the third quarter of the 2014-2015 school year. His report card indicated that the Student had received a "B" in English, an "F" in Spanish, an "F" algebra, an "F" in physics, a "B-" in social studies, and an "A-" in learning strategies. The District did not provide the Parents with a progress report for the Student's annual IEP goal.

58. On May 5, 2015, the Parents, through their attorney, sent the District a letter, stating that the District had not provided the Student with adequate special education services. The letter stated that the Student's special education class had functioned merely as a study hall, without providing specially designed instruction for his executive functioning deficits. The letter further stated that the Student's teachers had refused to implement his IEP accommodations. As background information, the letter stated, "[T]he Parents were disappointed when none of the District's follow-through from the mediation resulted in meaningful changes to [the Student's] IEP." The letter requested that for the remainder of the 2014-2015 school year, the District allow the Student to complete his Spanish, physics, and algebra classes with a certified teacher providing 1:1 instruction. Additionally, the letter requested that the District provide the Student with 1:1 instruction in executive functioning for 300 minutes per week, during non-school hours by a private provider. Further, the letter requested that the District provide the Student with one hour per week of consultation time, between the Student's general education teachers and the private 1:1 instructor for executive functioning skills.



59. On May 7, 2015, the Student's special education teacher emailed the Student's teachers, stating she was gathering information for a review of the Student's IEP, and asking them to answer several questions about the Student's performance. The questions included the Student's current grade, the number of missing assignments, the number of late assignments, whether the Student could focus in class, and the strategies employed to help the Student's attention.
60. On May 7 and 8, 2015, the Student's teachers responded. For social studies, the Student's current grade was 84%, he had three missing assignments, two late assignments, and was not able to focus in class. The social studies teacher stated she had the Student sit near the point of instruction with students who were not easily distracted, gave him constant reminders, asked him to put his cell phone away, or took his cell phone until the end of class. For algebra, the Student's current grade was 55.54%, he had 27 missing assignments, the teacher estimated that at least half of the Student's assignments had been late, and he was not able to focus in class. The algebra teacher stated she had the Student sit near her desk, gave him constant reminders, provided a copy of the notes before class, and took his electronics away until the end of class. For Spanish, the Student's current grade was 58.5%, he had five missing assignments, no late assignments (though she was happy to accept late work), and his focus varied day by day. The Spanish teacher stated she paired the Student with a well-focused student, had him sit at the front, gave him redirection, and addressed him, or used his name in an example. For physics, the Student's current grade was 51%, he had 16 missing assignments, no late assignments, and he was not able to focus in class. The physics teacher stated she paired the Student with the quietest students, had him sit closest to instruction, gave him frequent redirection, asked him to put his cell phone down or put it away, "chunked" his assignments extensively, held "planner parties", modified her policy for late assignments for him, worked one-on-one, and emailed him frequently regarding missing work or concerns. For English, the Student's current grade was a "B", he "tended" to forget short assignments, and needed prompting to submit his assignments. The English teacher did not respond to the question regarding the strategies used to help the Student.
61. Also on May 7, 2015, the Student's physics teacher emailed the school principal. The physics teacher stated that at the meeting with the Student's mother in January 2015, the Student's mother had asked the physics teacher to engage with the Student in conversations about science, so he would continue to enjoy it, and to help the Student realize that deadlines are rigid, not fluid. The physics teacher stated she had tried to do that. Additionally, the physics teacher stated she was concerned about the Student's mother's request to grade the Student entirely on his test scores, because she taught a "lab based" course, and colleges considered courses labeled as such to be significant indicators of a student's performance.
62. On May 8, 2015, the Student's special education teacher emailed the Student's mother, including a draft of the Student's IEP for review ahead of the Student's IEP team meeting.

63. On May 12, 2015, the District provided the Parents with prior written notice, responding to the letter from the Parents' attorney requesting changes to the Student's IEP. The notice stated that the issues raised were IEP team decisions and that the Student's IEP team would discuss and consider the Parents' issues and concerns at an IEP team meeting, which was scheduled for May 12, 2015. After learning that attorneys would be present, the District rescheduled the Student's IEP team meeting from May 14, 2015 to May 26, 2015, so that a District attorney could also be present.
64. The District's documentation includes meeting notes taken by the school principal dated, May 12, 2015. The meeting notes do not indicate who was present at the meeting or the purpose of the meeting. The meeting notes list the Student's Spanish, physics, and algebra classes, and indicate that specific to his algebra class, the Student's algebra teacher had been providing the Student with class notes for six weeks.
65. On May 26, 2015, the Student's IEP team met to discuss the Parents' concerns regarding the June 2014 mediation agreement, and other concerns about the Student's progress. The District provided the Parents with prior written notice the next day, stating that the District was proposing a schedule for the Student to access support from his physics, algebra, and Spanish teachers before and after school for the remainder of the 2014-2015 school year. Additionally, the notice stated that although the District did not agree that 1:1 tutoring was necessary for the Student to receive FAPE, or was appropriate on an ongoing basis, the District agreed to provide the Student with daily tutoring, during third period from a District selected tutor, through the end of the 2014-2015 school year. According to a separate prior written notice, the Student's IEP team agreed that the Student should receive a reevaluation, including a psychological assessment, to enable the Student's team to develop a functional behavioral assessment (FBA) for him.<sup>1</sup>
66. Also on May 27, 2015, the Student's special education teacher emailed the Student and his mother, providing them with a schedule for the Student's before and after school sessions with his physics, algebra, and Spanish teachers. The Student's special education teacher stated that she had also provided the schedule to the Student's teachers, so they would be ready to assist him with completing his assignments, and he should arrive promptly, ready to work. The same day, the Student responded to his special education teacher, stating that he had limited availability to come in before and after school because of a physics project. The Student's mother also informed the Student's special education teacher that the schedule was not currently feasible because the Student had made other commitments for his physics class. The Student's special education teacher replied, stating that the Student would need to reschedule the appointment with his Spanish teacher.

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<sup>1</sup> This prior written notice is dated May 29, 2015.

67. On May 28, 2015, the Student's mother emailed the Student's special education teacher, stating it was her understanding from the IEP team meeting that the District would couple the before and after school sessions with support from a separate tutor, who would help the Student benefit from the before and after school sessions. The Student's mother asked the District to wait until the whole program was in place before moving forward with the before and after school sessions, because pushing the Student to attend the before and after school sessions without the component of the separate tutor was increasing his anxiety about school.
68. Also on May 28, 2015, the Student's physics teacher emailed the school principal and the Student's special education teacher, asking whether she should adjust the amount of credit given for the Student's late work or continue to use the system that she and the Student's mother had agreed to at the January 14, 2015 meeting. The Student's physics teacher noted that under the January agreement, the Student would receive only 50% credit for most of his late work because it would be at least five weeks late. The school principal responded the same day, stating that the physics teacher should continue to use the system agreed to in January 2015 because the physics teacher had been clear at the May 26, 2015 IEP meeting that the Student could still pass his physics class, using that system.
69. On May 29, 2015, the District selected tutor emailed the Student's physics, algebra, and Spanish teachers, introducing herself. The Student's tutor stated she was a certified teacher and would be working with the Student in third period every day until the end of the year. The Student's tutor also stated that her goal was to help the Student pass his physics, algebra, and Spanish classes so he could attend running start for the 2015-2016 school year. The Student's tutor further stated that her background was nutritional medicine so she did not have specialized knowledge in the specific subject areas, and asked for any information that would be helpful. The Student's tutor stated she could collect material from them each day, and would email them daily on the Student's progress. The Student's teachers responded the same day, providing information about the work the Student needed to do, and when upcoming quizzes and tests were scheduled. Also on that day, the Student's tutor emailed the Student's special education teacher, stating she had met with the school principal, who had explained the Student's tutor's duties, and she would meet with the Student later that same day. The Student's tutor stated she would appreciate any feedback or advice the Student's special education teacher could provide.
70. Also on May 29, 2015, the school psychologist emailed the Parents with the consent and release of information paperwork for a reevaluation of the Student, as discussed at the Student's May 26, 2015 IEP team meeting. As of the time of the District's response to this complaint, the Parents have not responded to the District's request for consent to reevaluate to conduct an FBA.
71. In numerous emails from June 1, 2015 until the end of the 2014-2015 school year, the Student's tutor asked the Student's physics, algebra, and Spanish teachers clarifying questions, coordinated the Student's time/work, and provided updates on the Student's progress. During this same time, the Student's tutor sent numerous

emails to the Student, reminding him of materials to bring, tasks to do, and providing encouragement.

72. On June 10, 2015, the Student's mother emailed the Student's tutor, thanking her for her efforts and stating she had never seen him "so engaged in executive function details." The Student's tutor replied, stating she had worked closely with school staff, used a color-coded planner, and used a time blocking system, which worked well for the Student. The Student's tutor further stated she broke the Student's work into chunks, and then followed up with him closely.
73. June 17, 2015 was the last day of the 2014-2015 school year. The Student's report card indicated that the Student had received a "B" in English, a "D" in Spanish, a "D" algebra, a "D" in physics, a "C+" in social studies, and an "A" in learning strategies.
74. On June 18, 2015, the District provided a progress report for the Student's annual IEP goal of recording his assignments daily in his IEP class. The progress report stated that the Student had demonstrated emerging skill toward his annual IEP goal. The progress report also stated that the Student did not record assignments in his planner without prompting by an adult, and had multiple missing assignments in all classes. The progress report further stated that the Student had recently worked hard to complete his missing assignments, and noted that he had recently realized that he has control of his schedule and he was motivated to stay current so he would not need to "catch up" at the end of term again. The progress report indicated that the Student liked the new color-coded system for scheduling his schoolwork.
75. On August 7, 2015, the Parents filed this complaint.
76. On August 28, 2015, the District denied the Parents' request for an in-District transfer for the Student to attend another District high school. The District stated that due to the current enrollment for the 2015-2016 school year, the District high school which the Parents had requested, lacked space for the Student.
77. Based on the Parents' reply to this complaint, the Student is currently participating in running start, and does not attend the District high school for general or special education instruction.

## **CONCLUSIONS**

1. Although the District took many steps to develop an appropriate IEP for the Student, the District's documentation does not substantiate that the District adhered to the provisions related to development of the Student's IEP in the June 2014 mediation agreement. The mediation agreement between the Parents and the District stated that the District would initiate a reevaluation of the Student in the fall of 2014, with data collection to begin immediately. This reevaluation was to be the foundation for a possible amendment to the Student's IEP, including implementation of the recommendations from the Student's private evaluation. This did not occur. The District will seek the Parents' consent to conduct a reevaluation of the Student before the required triennial evaluation in June 2016, including gathering any data

necessary to amend the Student's IEP to incorporate the annual goals described by the Student's private evaluation, previously provided to the District.

2. The District's documentation does not substantiate that the District implemented significant components of the Student's IEP. Specifically, there is no indication that at any time during the 2014-2015 school year, the Student received any of the secondary transition services as outlined in his IEPs. Additionally, regarding the Student's note-taking goal, the documentation does not support that the District provided the Student anything other than minimal instruction toward this goal from September 3, 2014 until February 10, 2015, when the District removed that goal from the Student's IEP. Further, while the District provided the Student with many of his accommodations, the documentation does not substantiate that the District provided the Student with the accommodations listed in his IEP. For example, the Student's IEP included the daily accommodation of providing the Student with copies of his teacher's or other note-taker's notes. However, the documentation indicates that only the Student's algebra teacher consistently provided him with class notes, and further indicates that she did not begin implementing this accommodation until February 2015. While informing the Student that notes are available on the class website might have some benefit, it does not comply with the accommodation agreed to in the IEP to provide the Student with copies of notes on a daily basis. Similarly, the Student's IEP included the daily accommodation of providing the Student with written directions for multi-day assignments, including a breakdown of steps with interim deadlines. The documentation in this complaint indicates that only the Student's physics teacher consistently implemented this accommodation. Further, although the Student's daily accommodation for extending the time for his assignments was qualified as "when arranged with the teacher," the qualification did not stipulate that pre-arrangement was mandatory. Nonetheless, the District insisted that the Student must make pre-arrangements as a component of this accommodation, even when his providers were informed that the Student's disability impaired his ability to plan ahead, or to ask for extensions before he needed them. Taken as a whole, the documentation does not support that the District fully implemented the Student's IEP. Compensatory services are an equitable remedy and are appropriate under these circumstances. The Student's IEP called for 250 minutes per week for specially designed instruction from a special education teacher. As a baseline for services lost, there were 19 weeks between September 2014 and February 10, 2015, when the District removed the Student's note taking goal. This represents about 79 hours of instructional time. However, compensatory services are not necessarily a day-to-day compensation for time missed. Additionally, the documentation substantiates that the Student's special education and general education teachers worked regularly and diligently with the Student on one of his annual IEP goals. Therefore, the District will provide the Student with 20 hours of tutoring for skills related to executive functioning.
3. The District acknowledges that it did not provide the Parents with quarterly progress reporting during the 2014-2015 school year. OSPI accepts the District's proposed corrective action to conduct staff training for the special education teachers at the

high school where the Student attended. This staff training will also include additional components, as outlined below.

### **CORRECTIVE ACTIONS**

By or before **November 6, 2015, November 12, 2015, December 18, 2015, January 25 2016, and June 24, 2016**, the District will provide documentation to OSPI that it has completed the following corrective actions.

#### **STUDENT SPECIFIC:**

1. No later than **October 30, 2015**, the Student's evaluation group, consisting of qualified professionals, will meet with the Parents, review existing data on the Student, including the Student's private evaluation report and classroom based data, to determine whether the District needs additional data to conduct an reevaluation of the Student. This reevaluation will include any data gathering or assessments necessary to develop an IEP for the Student to reflect the IEP goals recommended by the Student's private evaluation report, already provided to the District. If the evaluation group determines it needs additional data, the District will immediately seek informed, written consent from the Parents, specifying the areas for which the District plans to assess the Student. Given the lost time when the District failed to proceed with this process in the fall of the 2014-2015 school year, if the Parents provide consent for the reevaluation by or before **November 6, 2015**, the District will expedite its reevaluation of the Student, conduct the appropriate assessments, and hold a reevaluation report meeting no later than **December 11, 2015**. Further, if the Parents provide consent and the reevaluation determines that the Student is eligible for services, the Student's IEP team will meet to develop a new IEP for the Student within 30 days after the reevaluation report is completed. If the Parents refuse to consent to the reevaluation, the District will inform OSPI immediately. Otherwise, by **January 25, 2016**, the District will provide OSPI with a copy of the Student's reevaluation report, any meeting notes, any IEP developed as a result, and a copy of the prior written notices provided to the Parents.
2. No later than **November 6, 2015**, the District shall meet with the Parents to develop a schedule for 20 hours of compensatory services. The District must schedule compensatory sessions outside of the Student's school day, and complete the delivery of services no later than **June 17, 2016**. A certificated teacher with a special education endorsement must either provide the services, or design and supervise the services for another qualified person to provide. If the District's provider is unable to attend a scheduled session, the District must reschedule the session. If the Student is absent or otherwise does not attend a session without providing the District with at least 24 hours' notice, the District does not need to reschedule that session. The District either must provide transportation necessary for the Student to access these services, or reimburse the Parents for the cost of providing transportation for these services. If the District reimburses the Parents for transportation, the District must reimburse the Parents for round trip mileage at the District's privately owned vehicle rate. The District will provide OSPI with documentation of the schedule no later than **November 12, 2015**, and provide OSPI

with documentation that it has completed the compensatory services no later than **June 24, 2016**.

**DISTRICT SPECIFIC:**

1. The District will review its procedures for mediating with parents of students who are eligible for special education and its procedures for implementing mediation agreements. The District will determine whether it needs to revise these procedures, or how it will otherwise ensure that the District implements its mediation agreements. The District will submit a proposal of these procedures to OSPI for review by or before **November 6, 2015**. OSPI will review the procedures and address any needed revisions within two weeks of receipt.
2. The District will conduct staff training for the special education teachers at the high school the Student attended regarding progress toward annual IEP goals, including when and how the District will provide the periodic reports to parents. The District will provide OSPI with a draft of the materials and/or training that the District proposes to use for training special education staff by or before **November 6, 2015**. OSPI will review the training and address any needed revisions within two weeks of receipt. By or before **December 18, 2015**, the District will provide OSPI with documentation that the training occurred.
3. The District will provide written guidance to principals and general education teachers at District high schools on their responsibilities for implementing accommodations or other services for which they may be responsible in students' IEPs. The guidance will include suggestions for staff to ensure that they are documenting the provision of accommodations, or documenting a student's need or lack of need for a particular accommodation. The documentation will include sources to contact if they have questions about implementing particular accommodations, or if they have not yet received information about a student's need for accommodations. The District will provide OSPI with a draft of the written guidance by or before **November 6, 2015**. OSPI will review the guidance and address any needed revisions within two weeks of receipt. By **December 18, 2015**, the District will provide OSPI with documentation that the required staff received the written guidance. The documentation will include a list of staff who should have received the guidance, and verification that they 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.

*NOTE: The district may request an electronic version of the matrix by e-mailing Thinh Le at [Thinh.Le@k12.wa.us](mailto:Thinh.Le@k12.wa.us).*

**RECOMMENDATION**

OSPI recommends that the District review its accommodations carefully, and then consider the verbiage used in the accommodations, the designated frequency, and

location of the accommodations. Accommodations should be written such that providers and parents clearly understand whether students need to request an accommodation, or whether the accommodation should be implemented regardless of student request. Further, accommodations included in IEPs should be written such that providers clearly understand who provides a specific accommodation for specific classes. Additionally, OSPI encourages the District to communicate to staff that providing students with the accommodations included in an IEP is required.

Dated this \_\_\_\_ day of October, 2015

Douglas H. Gill, Ed. D.  
Assistant Superintendent  
Special Education  
PO BOX 47200  
Olympia, WA 98504-7200

**THIS WRITTEN DECISION CONCLUDES OSPI'S INVESTIGATION OF THIS COMPLAINT**

IDEA provides mechanisms for resolution of disputes affecting the rights of special education students. This decision may not be appealed. However, parents (or adult students) and school districts may raise any matter addressed in this decision that pertains to the identification, evaluation, placement, or provision of FAPE to a student in a due process hearing. Decisions issued in due process hearings may be appealed. Statutes of limitations apply to due process hearings. Parties should consult legal counsel for more information about filing a due process hearing. Parents (or adult students) and districts may also use the mediation process to resolve disputes. The state regulations addressing mediation and due process hearings are found at WAC 392-172A-05060 through 05075 (mediation) and WAC 392-172A-05080 through 05125 (due process hearings.)