

Alaska Department of Education & Early Development
Division of Teaching and Learning Support/Special Education Services

COMPLAINT INVESTIGATION REPORT

Complaint Number: CI # 20-1
Complaint Filed By: Disability Law Center
Complaint Investigator: Eudora Fraczek

Summary of Administrative Complaint

Complaint Issues:

1. Whether the Juneau School District (JSD) implemented the student's then-current IEP from August 20, 2018, until the IEP was no longer in effect, specifically regarding provisions for:
 - a) Special education services;
 - b) Supplementary aids and services;
 - c) Measurement and reporting of progress toward meeting annual goals;
 - d) Supervision of special education services provided by regular education teachers; and
 - e) Placement.
2. Whether the JSD made the student's then-current IEP accessible to teachers and service providers responsible for implementation of the student's IEP at the beginning of the 2018-2019 school year.
3. Whether the JSD informed teachers and service providers who were responsible for implementing the student's IEP at the beginning of the 2018-2019 school year of their specific responsibilities and the specific accommodations, modifications, and supports that must be provided in accordance with the IEP.
4. Whether the JSD has established and implemented procedures to ensure that IEPs in effect for students transitioning from middle school to high school are implemented at the beginning of the school year.

Summary of the Investigation

Interviews/Written Testimony:

<u>Name</u>	<u>Relationship</u>	<u>Dates</u>
Complainant	Attorney J. Kammermeyer/Parent	8/16/2019; 8/19/2019
Brooke Munro	Student Services Coordinator, JSD	8/30/2019
Stacy Diouf	Student Services Coordinator, JSD	8/30/2019
Patte Rorick	Case Manager, Thunder Mountain High School (TMHS)	8/15/2019
David Voth	Special Education Teacher, TMHS	8/15/2019
Alex Klimewicz	Language Arts Teacher, TMHS	8/15/2019
Renee Drummond	Science Teacher, TMHS	8/15/2019
Rhonda Hickok	Assistant Principal, TMHS	8/15/2019
Megan Whitley	School Psychologist, JSD	8/15/2019
Julie Herman	Fitness/P.E. Teacher, TMHS	8/15/2019
Christopher Aguirre	Special Education Director, JSD	Written Testimony, 8/9/2019

Documents Received by Investigator From:

Department of Education & Early Development

1. Initial Complaint dated July 18, 2019
2. Complaint Intake Form dated July 18, 2019

Juneau School District

1. TMHS Master Schedules for 2018-2019
2. Student Schedule and Grades for Term Semester 1, Fall 2018
3. Student 8th Grade PEAKS Assessment Scores
4. Student Attendance Record for Term 2018-2019
5. Student Course Schedule and Transfer Schedule for Fall of 2018
6. Progress Report dated 11/17/2018
7. Special Education Records from 2014 to 2018
8. Work samples from student provided by David Voth, completed after 11/19/2018
9. Timeline of Events from file review by C. Aguirre, 8/9/2019
10. JSD Explanation of Advisory and Extension Classes, 8/29/2019
11. Advisory Calendar for 2018-2019 School Year
12. Advisory/Extension Map 2014-2015 School Year
13. Training Materials on Advisory and Extension Classes, no date provided
14. Written explanation of Power School Icons, 2019
15. Special Education Paperwork Deadlines
16. Special Education Leadership Notes, 10.23.18
17. Tri-Training Sign-In Documentation for 2017-2018 and 2018-2019
18. Tri-Training Documentation for 2017-2018
19. Transition between levels guidance, 2015-2016
20. Email correspondence between Parent and the following JSD staff persons:
 - a. S. Diouf, Student Services Coordinator
 - b. R. Hickok, Assistant Principal
 - c. R. Drummond, Science Teacher
 - d. P. Rorick, Case Manager/Special Education Teacher
 - e. M. Whitley, School Psychologist
 - f. J. Herman, Fitness/P.E. Teacher
 - g. D. Voth, Special Education Teacher
 - h. C. Peterson, Special Education Teacher
 - i. B. Munro, Student Services Coordinator
 - j. A. Klimewicz, Language Arts Teacher
 - k. R. Landes, Student Services Specialist
21. Requested TMHS student files from District for review regarding systemic issue, including IEPs in place during Fall of 2018 school year, progress reports and schedules for each student. Paraeducator assignment files for the Fall Semester of 2018 were also provided.

Complainant

1. Email correspondence between Parent and District personnel, dated 5.7.18 to 1.9.19
2. Student ESER and IEP for 2018-2019 School Year
3. Electronic copy of records provided by JSD in response to Parental Request for Records, 1.23.19
4. Written timeline, clarification of answers and collection of documents to verify timeline, dated 5.7.18 to 1.23.19

Findings of Fact Relevant to Student Specific Allegations

1. Student was a resident of Juneau School District (JSD or District) during his 8th grade and part of his 9th grade years and during that time he was eligible for and received special education and related services under the Individuals with Disabilities Education Act (IDEA).
2. While attending 8th grade at Dzantik'i Heeni Middle School (DHMS), an annual IEP meeting was held for the student on November 15, 2017 (2017 IEP). This IEP was in place for the remainder of Student's 8th grade school year and was not amended prior to his transition to Thunder Mountain High School (TMHS) for his 9th grade school year. Student's 2017 IEP included 5 goals and objectives for which he was to receive special education services and the specificity with which his progress was to be monitored through data collection.
3. On May 7, 2019, Parent formally requested a transition meeting to include his 8th grade special education teacher and representatives from his new high school team. District procedure dictates

that such a meeting would occur and would specifically include the 8th grade special education teacher. District procedure further directs that a formal IEP amendment could occur at that meeting if all required team members were present and the team determined that an amendment was necessary. A meeting was held but Student's 8th grade special education teacher was not included. During the meeting, Parent specifically requested development of an "emergency plan" to support Student's needs, specifically his anxiety disorder, as he transitioned to TMHS. No IEP amendment was completed prior to Student's transition to TMHS.

4. Student's 2017 IEP was in effect until November 14, 2018, when a new annual IEP was developed. Although IEP meetings were held on September 27, October 10, and October 30, 2018, no IEP revisions resulted from these meetings. Therefore, the timeframe for investigating the 2017 IEP implementation in this report is from August 20, 2018, when school began, to November 14, 2018.
5. The table below summarizes the special education services provisions in Student's 2017 IEP:

Goal Domain	Goal and Objective/ <u>Data Required for Progress Reporting is Underlined</u>	Special Education Minutes Per Week/Location	Staff Responsible for Implementation
Goal 1: Math	<p>Objective 1: When given a word problem, Student will identify the most appropriate information, necessary to solve the problem correctly. He will do this with <u>80% accuracy in 8 out of 10 work samples gathered for data.</u></p> <p>Objective 2: With minimal support, Student will accurately solve math problems containing addition, subtraction, multiplication and division in multiple forms (i.e. fractions, decimals, percents, etc.) He will do this with <u>80% accuracy in 8 out of 10 collected data samples.</u></p> <p>Objective 3: <u>At least once a month</u>, Student will participate in a math review with 100% accuracy. This could be playing a math game, using Khan Academy or some other medium that works on skill development and reinforcement. He will do this with <u>100% accuracy as determined by informal observation.</u></p> <p><u>Progress reporting is to occur quarterly.</u></p>	55 minutes/5 days per week in Special Education Classroom	Sped Teacher
Goal 2: Writing	<p>Objective 1: When given a writing assignment, Student will use a graphic organizer to help him structure his writing. He will do this with <u>80% accuracy in 4 out of 5 collected work sample opportunities.</u></p> <p>Objective 2: With minimal support, once finished with a writing assignment, Student will review the writing piece and correct any errors that may be present. He will apply English grammar standards, syntax and semantics with <u>80% accuracy as determined by 4 out of 5 collected work samples.</u></p> <p><u>Progress reporting is to occur quarterly.</u></p>	20 minutes/3 days per week in Regular Education Classroom	Sped Teacher
Goal 3: Self-help Skills	<p>Objective 1: When confused Student will advocate for his needs in order to mitigate his confusion. Student will do this with <u>80% accuracy.</u> His progress will be <u>determined from informal observational data.</u></p> <p>Objective 2: Daily, with minimal staff support, Student will keep himself organized (planner filled out, binder organized, etc.). He will do this with <u>80% accuracy in 4 out of 5 observable trials.</u></p> <p>Objective 3: During instruction, Student will redirect his attention with <u>no more than two prompts. Student will do this with 80% accuracy in 8 out of 10 informal observations.</u></p> <p><u>Progress reporting is to occur quarterly.</u></p>	15 minutes/2 days per week in Regular Education Classroom	Reg Ed Teacher, supervised by Sped Teacher 15 min/weekly
Goal 4: Life Skills	<p>Objective 1: "Student, with minimal support, will determine how academic tasks (i.e. math, reading, writing) apply to life skills outside of school. Example: recognizing that basic algebra skills apply to making budgets, eating at restaurants, etc. He will do this with 80% accuracy as</p>	15 minutes/3 days per week in Regular Education Classroom	Reg Ed Teacher, supervised by Sped Teacher 15 min/weekly

Goal Domain	Goal and Objective/ <u>Data Required for Progress Reporting is Underlined</u>	Special Education Minutes Per Week/Location	Staff Responsible for Implementation
	<p>measured by <u>informal observation in 8 out of 10 observable trials.</u></p> <p>Objective 2: With support, Student will development (sic) techniques to aid him in processing new information, deregulating when feeling overwhelmed and recognizing situations that may be unsafe or could get him in trouble. He will do this with <u>80% accuracy in 4 out of 5 observable trials.</u></p> <p><i>Progress reporting is to occur quarterly.</i></p>		
Goal 5: Reading	<p>Objective 1: "When reading, Student will apply techniques to ensure that he is reading with accuracy and fluency. He will do this with <u>80% accuracy as measured by 8 out of 10 informal observations.</u>"</p> <p>Objective 2: "Once finished reading, Student will retell what he just read with <u>80% accuracy. He will do this in 8 out of 10 observable trials.</u>"</p> <p><i>Progress reporting is to occur quarterly.</i></p>	30 minutes/5 days per week in Special Education Classroom	Sped Teacher

6. According to the 2017 IEP, Student should have received the following amount of special education services from August 20, 2018, until November 14, 2018 (13 weeks):

Special Education Service Area	Minutes of Service Per Week Multiplied by 13 Weeks	Total Hours of Service
Math	275 minutes/week x 13 weeks = 3,575 minutes	59.5 hours
Writing	60 minutes/week x 13 weeks = 780 minutes	13 hours
Self Help	30 minutes/week x 13 weeks = 390 minutes	6.5 hours
Life Skills	45 minutes/week x 13 weeks = 585 minutes	9.75 hours
Reading	150 minutes/week x 13 weeks = 1,950 minutes	32.5 hours

7. Student's 2017 IEP included specific classroom assessment accommodations relative to the setting, timing and presentation of assessments, in addition to the following specific program modifications and accommodations:

"Student benefits from visual checklists, reminders, and initial support to help him keep track of steps to do or parts of a task to complete. Student needs frequent check-ins while starting academic assignments to make sure he understands the task. Support is provided in the regular and resource room or quiet working environment to self talk and process. Provided with extra time to complete assignments and breaks as needed for processing needs. When appropriate, modified assignments/workloads so he is not overwhelmed, i.e. reduced number of math problems to prove that he understands the concept being taught. He benefits from preteaching or reteaching of academic vocabulary and content when possible to help him tie new information into his background knowledge. Support with binder organization and planner use to help with organization strategies. Support with redirecting when off task or distracted. Limited classroom distractions through preferential seating when appropriate. Student has a documented history of anxiety, these experiences make his attendance at school quite difficult. Student has currently missed 16 days of school during the 2016-2017 academic year. It is noted that some of these absences are directly due to his anxiety. This amendment is to help ensure when student is absent because of his anxiety that his absence is excused. Student will still be expected to make up missing work but his teachers will need to be made aware of circumstances surrounding his absence(s) and

provide student with the appropriate time needed to make up the work that has been missed.”

8. Student’s 2017 IEP provided that he would spend 78% of his school day inside the regular education environment.
9. In the fall of 2018, Student was assigned to 6 courses, in addition to 1 Advisory and 1 Extension class. Student was taught the following 4 courses by regular education teachers: Fitness Concepts, Physical Science, Work Readiness, and English 9. The following 2 courses were taught by special education teacher Mr. Peterson: Academic Success and Pre-Algebra. Student was assigned to Extension and Advisory courses taught by special education teacher Ms. Rorick, who was also Student’s TMHS Case Manager until November 7 when special education teacher Mr. Voth was assigned case management responsibilities.
10. The District acknowledges that the Pre-Algebra course taught by special education teacher Mr. Peterson was a combination course for special education and regular education students and not taught as a special education class.
11. The District acknowledges that Student was not assigned to a special education teacher for reading services to be provided in a special education classroom during the timeframe covered in this investigation.
12. According to District administration, the courses titled “Academic Success” (a study hall class) and “Advisory” were not considered to be special education classes. “Extension” is a twice weekly class for thirty minutes where students can select which teacher to whom they go for more assistance in a particular topic. It is also not considered to be a special education class.
13. Comparing Student’s class schedule with the TMHS bell schedule, Student would have had the following courses each day from the beginning of the 2018-2019 school year until mid-November:

Student’s Schedule August to mid-November 2018				
Monday	Tuesday	Wednesday	Thursday	Friday
1 Fitness Concepts 55 min	3 Work Readiness 1hr 15 min	1 Fitness Concepts 1hr 15 min	1 Fitness Concepts 1hr 15 min	1 Fitness Concepts 55 min
2 Physical Science 55 min	Advisory 30 min 4 English 9	Extension 30 min 2 Physical Science	Extension 30 min 2 Physical Science	2 Physical Science 55 min
3 Work Readiness 55 min	1hr 15 min 5 Academic Success	1hr 15 min 5 Academic Success	1hr 15 min 3 Work Readiness	3 Work Readiness 55 min
4 English 9 55 min	1hr 15 min 6 Pre-Algebra	1hr 15 min 6 Pre-Algebra	1hr 15 min 4 English 9	4 English 9 55 min
5 Academic Success 55 min	1hr 15 min	1hr 15 min	1hr 15 min	5 Academic Success 55 min
6 Pre-Algebra 55 min				6 Pre-Algebra 55 min

14. District procedure directs secondary case managers to design and circulate data collection systems and techniques to all staff implementing student IEPs. None of the regular education teachers interviewed indicated receipt of data collection options to document implementation of Student’s 2017 IEP goals.
15. In response to the investigator’s request for evidence of data collection as described in Student’s 2017 IEP, the District provided a few work samples and grade reports (lists of grades on each assignment) for some courses. However, these did not align to the data collection provisions included in Student’s 2017 IEP goals and objectives. For example, none of the writing samples demonstrated that the student’s progress had been measured against the criteria requiring 80% accuracy in 4 out of 5 samples. No observational data existed to measure reading objectives against the criteria set forth in Student’s IEP. Similarly, no work samples or data were provided to document the implementation of mathematics, self-help skills, or life skills goals.
16. During the 2018-2019 school year, JSD relied on the use of a “snapshot” to inform regular education about content in Student’s 2017 IEP. Regular education teachers did not have electronic access to Student’s complete 2017 IEP. The snapshot included information about Student’s present levels and accommodations and modifications but did not include a copy of the Student’s IEP goals or objectives. The snapshot also did not describe specific implementation responsibilities for staff members. Regular education teachers confirmed receipt of Student’s

snapshot, but none indicated they were aware that they were to be implementing Student's goals in self-help skills or life skills.

17. Three of the regular education teachers (Physical Fitness, English 9, and Science) provided examples of how they implemented Student's 2017 IEP accommodations to support his access to the general curriculum. Student's Case Manager (until November 7, 2018) stated that she provided accommodations such as binder organization specifically during Advisory and Extension.
18. On October 31, 2018, Parent wrote to special education teacher Mr. Peterson to ask whether he was providing special education services to Student in writing and math. In response, Mr. Peterson wrote the following among other remarks: *"As far as [Student's] academics are concerned, if he has assignments he needs help and or guidance on, I provide it regardless of the content area or if its (sic) in his IEP. That is given I'm informed of the assignments. If [Student] does not bring to my attention his need for help, I will likely be focused and working with others who do inform me they need help. [Student] must be proactive in this class."*
19. Mr. Peterson has retired and was unavailable for interview, but his email does not provide evidence that he was implementing any or all of Student's writing, math, self-help skills, or life skills goals or implementing the specific accommodations included in Student's 2017 IEP.
20. No data documenting implementation of Student's goals and objectives in math, writing, self-help skills, life skills, or reading by any teacher were provided to the investigator.
21. On November 5, 2018, Parent met with District administration to discuss compensatory education services for Student. District administration made a written offer to provide 40 hours of compensatory education services in the areas of reading and math, and the offer was declined by Parent.
22. On November 7, 2018, one week prior to the annual IEP meeting held on November 14, Student was transferred from the regular education Pre-Algebra class taught by Mr. Peterson to a special education Pre-Algebra class taught by Mr. Voth.
23. The District and Parent agree that no timely quarterly progress report was provided in October of 2018. Rather, a delayed progress report was provided in mid-November.
24. Student withdrew from JSD on or about January 30, 2019, to attend school in another state.

Findings of Fact Relevant to Systemic Allegations

25. The District provided a complete list of all students with disabilities who entered TMHS as transferring freshman in August of 2018. From the list, the investigator randomly selected files for review. The District provided requested student files which included the student's individual course schedule and the IEPs, progress reports and data collection from their first semester at TMHS in the 2018-2019 school year. Collectively the files indicate the following:
 - a. None of the files reviewed evidenced an amended IEP which changed student services days and times to anticipate a block schedule in place of the 5 days a week schedule.
 - b. Several of the student files evidenced student schedules assigning them to regular education teachers for courses such as English 9 that were not taught by special education teachers, despite IEPs that required special education teachers to provide such services.
 - c. Data collection provided to support the progress reports issued were grade reports of assignment grades and did not measure progress according to the data collection methods required by the individual IEPs or by the District administration's interpretation of appropriate data collection techniques and systems.

Conclusions and Reasons

Issue 1: Whether the Juneau School District (JSD) implemented the student's then-current IEP from August 20, 2018, until the IEP was no longer in effect, specifically regarding provisions for:

- a) Special education services;*
- b) Supplementary aids and services;*
- c) Measurement and reporting of progress toward meeting annual goals;*
- d) Supervision of special education services provided by regular education teachers; and*
- e) Placement.*

Allegation: This issue involves an allegation that the District failed to implement Student's 2017 IEP and placement at the beginning of the 2018-2019 school year.

Applicable Federal Legal Standards:

Federal regulations at 34 CFR 300.320(a)(3) require that IEPs describe how the student's progress toward meeting the annual goals will be measured and when periodic reports will be provided to parents.

Federal regulations at 34 CFR 300.320(a)(4) require that IEPs include a statement of the special education and related services and supplementary aids and services to be provided to or on behalf of a student with a disability.

Federal regulations at 34 CFR 300.320(a)(7) require that IEPs include the anticipated frequency and location of the services to be provided to or on behalf of a student with a disability.

Federal regulations at 34 CFR 300.323(a) require that an IEP must be in effect at the beginning of each school year.

Federal regulations at 34 CFR 300.323(c)(2) require that the district provide a student with a disability the services identified in his or her IEP.

Applicable State Legal Standards:

Alaska state regulations at 4 AAC 52.140 adopt by reference 34 CFR 300.320-300.328.

Discussion:

The IDEA and state law require that the school district must implement the IEP as written.

Issue 1(a) – Special Education Services

During the time relevant to this investigation, the student referenced in this report was eligible for and received services under the IDEA in the Juneau School District (JSD) (Finding of Fact 1). At the beginning of the 2018-2019 school year, Student transferred to Thunder Mountain High School (TMHS) from a district middle school with a current IEP dated November 15, 2017 (Finding of Fact 2). In May 2018, Parent requested a transition meeting to address Student's transition from middle school to high school, and although a meeting was held, Student's IEP was not amended (Finding of Fact 3). TMHS was therefore required to implement the 2017 IEP until such time as it was revised on November 14, 2018 (Finding of Fact 4).

Following is an analysis of the implementation of Student's 2017 IEP from August 20, 2018, until November 14, 2018.

Student's 2017 IEP required that his math goal be implemented by a special education teacher in a special education classroom for a total of 275 minutes/week (Finding of Fact 5), but these special education services were not provided as set forth in the IEP until November 7, 2018 (Finding of Fact 22). Although Student participated in a Pre-Algebra class (Finding of Fact 13), a special education teacher (Mr. Peterson) taught the Pre-Algebra class from the beginning of the school year until November 7,

2018, the services were not provided in a special education classroom, but rather were provided in a regular education setting with general education peers (Findings of Fact 9, 10 and 22). Further, no data documenting implementation of Student's math goal and objectives by any teacher were provided to the investigator (Finding of Fact 20).

Student's 2017 IEP required that his writing goal be implemented by a special education teacher in a regular education classroom for a total of 60 minutes/week (Finding of Fact 5), but these special education services were not provided. Although Student participated in a regular education English 9 class (Findings of Fact 9 and 13), there is no evidence that a special education teacher implemented the student's writing goals in that regular education classroom (Findings of Fact 18 and 19). No data documenting implementation of Student's writing goal and objectives by any teacher were provided to the investigator (Finding of Fact 20).

Student's 2017 IEP required that his self-help skills goal be implemented by a regular education teacher in a regular education classroom for a total of 30 minutes/week (Finding of Fact 5), but these special education services were not provided. No regular education teacher had knowledge of any responsibility to implement these services (Finding of Fact 16). No data documenting implementation of Student's self-help skills goal and objectives by any teacher were provided to the investigator (Finding of Fact 20).

Student's 2017 IEP required that his life skills goal be implemented by a regular education teacher in a regular education classroom for a total of 45 minutes/week (Finding of Fact 5), but these special education services were not provided. No regular education teacher had knowledge of any responsibility to implement these services (Finding of Fact 16). No data documenting implementation of Student's life skills goal and objectives by any teacher were provided to the investigator (Finding of Fact 20).

Student's 2017 IEP required that his reading goal be implemented by a special education teacher in a special education classroom for a total of 150 minutes/week (Finding of Fact 5), but the District acknowledged that these special education services were not provided as set forth in the IEP (Finding of Fact 11). No data documenting implementation of Student's reading goal and objectives by any teacher were provided to the investigator (Finding of Fact 20).

On November 5, 2018, District administration met with Parent and offered to provide 40 hours of compensatory education services in the areas of reading and math, and the offer was declined by Parent (Finding of Fact 21).

Issue 1(b) – Supplementary Aids and Services

Student required numerous specific program modifications and accommodations, including frequent check-ins to make sure he understands tasks, extra time to complete assignments and breaks as needed, modified assignments/workloads, binder organization and planner use (Finding of Fact 7).

Three of the regular education teachers (Physical Fitness, English 9, and Science) provided examples of how they implemented Student's 2017 IEP accommodations to support his access to the general curriculum (Finding of Fact 17). Student's Case Manager (until November 7, 2018) stated that she provided accommodations such as binder organization specifically during Advisory and Extension (Finding of Fact 17). Student's Pre-Algebra and Academic Success teacher (Mr. Peterson) has retired and was unavailable for interview, but his email to the Parent dated October 31, 2018, provided no information regarding how he implemented the student's specific accommodations, other than to help Student if Student asked for help (Findings of Fact 18 and 19).

Issue 1(c) – Measurement and Progress Towards Goals

Although the District expects a student's case manager to establish data collection systems and techniques for the all professionals to use in the implementation of an IEP, no evidence of a data collection system was evident in the interviews or documentation provided by the District (Findings of Fact

14, 15 and 20). Although the District directs staff to provide progress reports in conjunction with the end of each quarter, Parent received the 1st quarter progress report more than 5 weeks late (Finding of Fact 23).

Issue 1(d) – Supervision of Special Education Services provided by Regular Education Teachers

Two of Student's goals (self-help skills and life skills) were to be implemented by regular education teachers in the regular education setting with 15 minutes/week of supervision by a special education teacher (Finding of Fact 5). During their interviews, three of Student's regular education teachers acknowledged receiving a snapshot of Student's accommodations, but they did not receive copies of the goals, and they did not implement the self-help skills goal or life skills goal in Student's 2017 IEP (Finding of Fact 16). Accordingly, since these goals were not implemented, there was no supervision of implementation provided by a special education teacher.

Issue 1(e) – Placement

Student's 2017 IEP indicated that he would spend 78% of his school day in regular education environments (Finding of Fact 8). However, because all of the classes he participated in from August 20, 2018, until November 7, 2018, were considered to be regular education classes, he actually spent 100% of his school day in regular education environments (Findings of Fact 9, 10, and 12). As of November 7, 2018, Student began participating in a special education Pre-Algebra class (Finding of Fact 22), but not in a special education class for reading (Finding of Fact 11). Therefore, from August 20, 2018, until November 14, 2018, Student was not provided a placement at TMHS in accordance with his 2017 IEP.

Therefore, violations of 34 CFR 300.323(c)(2) and 4 AAC 52.140 have occurred regarding implementation of Student's 2017 IEP.

Issue 2: Whether the JSD made the student's then-current IEP accessible to teachers and service providers responsible for implementation of the student's IEP at the beginning of the 2018-2019 school year.

Allegation: This issue involves an allegation that the District did not provide copies of the Student's 2017 IEP to his teachers at the beginning of the 2018-2019 school year.

Applicable Federal Legal Standards:

Federal regulations at 34 CFR 300.323(d)(1) require that the district ensure that the student's IEP is accessible to each regular education teacher, special education teacher, related services provider, and any other service provider who is responsible for its implementation.

Applicable State Legal Standards:

Alaska state regulations at 4 AAC 52.140 adopt by reference 34 CFR 300.320-300.328.

Discussion:

During the 2018-2019 school year, JSD relied on the use of a "snapshot" to provide access to IEPs to regular education teachers (Finding of Fact 16). The snapshot includes accommodations and modifications to be provided but does not include goals or objectives (Finding of Fact 16). Regular education teachers do not have electronic access to complete IEPs (Finding of Fact 16).

Student's writing goal was to be implemented in the regular education classroom setting (Finding of Fact 5). Two other of Student's goals (self-help skills and life skills) were to be implemented by regular education teachers in the regular education setting with weekly supervision by a special education teacher (Finding of Fact 5).

During their interviews, three of Student's regular education teachers acknowledged receipt of a snapshot of Student's accommodations but they did not receive copies of Student's goals (Finding of Fact 16). Because JSD relied on the snapshot as the mechanism for access to IEPs, and the snapshot did not

contain Student's complete IEP, the snapshot provided incomplete access to Student's IEP by regular education teachers.

Therefore, violations of 34 CFR 300.323(d)(1) and 4 AAC 52.140 have occurred.

Issue 3: Whether the JSD informed teachers and service providers who were responsible for implementing the student's IEP at the beginning of the 2018-2019 school year of their specific responsibilities and the specific accommodations, modifications, and supports that must be provided in accordance with the IEP.

Allegation: This issue involves an allegation that Student's teachers were unaware of their implementation responsibilities at the beginning of the 2018-2019 school year.

Applicable Federal Legal Standards:

Federal regulations at 34 CFR 300.323(d)(2) require that the district ensure that each teacher and service provider who is responsible for IEP implementation be informed of (i) his or her specific responsibilities related to implementing the student's IEP; and (ii) the specific accommodations, modifications, and supports that must be provided for the student in accordance with the IEP.

Applicable State Legal Standards:

Alaska state regulations at 4 AAC 52.140 adopt by reference 34 CFR 300.320-300.328.

Discussion:

During the 2018-2019 school year, JSD relied on the use of a "snapshot" to inform regular education teachers about some components of Student's IEP (Finding of Fact 16). The snapshot includes accommodations and modifications to be provided but does not include goals or objectives (Finding of Fact 16). The snapshot also does not describe specific implementation responsibilities for staff members (Finding of Fact 16).

Two of Student's 2017 IEP goals (self-help skills and life skills) were to be implemented by regular education teachers in the regular education setting with weekly supervision by a special education teacher (Finding of Fact 5).

During their interviews, three of Student's regular education teachers acknowledged receipt of a snapshot of Student's accommodations but they were not informed of their specific implementation responsibilities for implementing self-help skills and life skills goals (Finding of Fact 16).

Therefore, violations of 34 CFR 300.323(d)(2) and 4 AAC 52.140 have occurred.

Issue 4: Whether the JSD has established and implemented procedures to ensure that IEPs in effect for students transitioning from middle school to high school are implemented at the beginning of the school year.

Allegation: This issue involves an allegation that the District lacks procedures to ensure that IEPs in effect for middle school students are implemented at the beginning of the school year when those students transition to high school.

Applicable Federal Legal Standards:

Federal regulations at 34 CFR 300.323(c)(2) require that the district provide a student with a disability the services identified in his or her IEP.

Applicable State Legal Standards:

Alaska state regulations at 4 AAC 52.140 adopt by reference 34 CFR 300.320-300.328.

Discussion:

Despite the significant difference between the middle school schedule (5 days a week with the same number of classes per day) and the high school schedule (an alternating block schedule), none of the files from TMHS reviewed evidenced an amended IEP which changed student services days and times to anticipate a block schedule in place of the 5 days a week schedule (Finding of Fact 25). More significantly, comparing student schedules and their IEPs, several of the student files evidenced student schedules assigning them to courses such as English 9 that were not taught by special education teachers, despite IEPs that required special education teachers to provide such services (Finding of Fact 25). Further, data collection provided to support the progress reports issued were grade reports of assignment grades and did not measure progress according to the data collection methods required by the individual IEPs or by the District administration's interpretation of appropriate data collection techniques and systems (Finding of Fact 25).

This evidence suggests that JSD lacks procedures to ensure that IEPs in effect at the beginning of the school year are implemented for students transitioning from middle school to high school.

Therefore, violations of 34 CFR 300.323(c)(2) and 4 AAC 52.140 have occurred.

Corrective Action Required

The JSD is ordered to cease the violations of federal and state law that have been identified in this investigation.

The Ninth Circuit has held that "compensatory education is not a contractual remedy, but an equitable remedy, part of the court's resources in crafting appropriate relief." *Parents of Student W. v. Puyallup School Dist., No. 3*, 31 F.3d 1489, 1497 (9th Cir. 1994) (internal quotations omitted). According to the Ninth Circuit: "There is no obligation to provide a day-for-day compensation for time missed." *Id.*

The following student-specific corrective actions are ordered to remediate the violations found in this investigation.

1. JSD must provide or pay for compensatory services such as academic tutoring to remedy the failure to implement Student's 2017 IEP between August 20, 2018, and November 14, 2018. See Finding of Fact 6 for the calculation of special education services that were to be provided in this 13-week timeframe.

Taking into account the fact that compensatory services such as tutoring are more intensive than services provided in a class, compensatory services are ordered at approximately 50% of the hours owed, for a total of 58 hours, calculated as follows:

- a. As of November 7, 2018, Student was provided special education services to implement Student's math goal in accordance with Student's IEP. Accordingly, JSD failed to provide special education services to implement Student's math goal for 12, not 13 weeks (275 minutes/week x 12 weeks = 3,300 minutes [55 hours]). To remedy the failure to provide special education services to implement Student's math goal, JSD must provide or pay for 28 hours of compensatory services.
- b. To remedy the failure to provide special education services to implement Student's writing goal, JSD must provide or pay for 6 hours of compensatory services.
- c. To remedy the failure to provide special education services to implement Student's self-help skills goal, JSD must provide or pay for 3 hours of compensatory services.
- d. To remedy the failure to provide special education services to implement Student's life skills goal, JSD must provide or pay for 5 hours of compensatory services.
- e. To remedy the failure to provide special education services to implement Student's reading goal, JSD must provide or pay for 16 hours of compensatory services.

2. Inasmuch as Student has now relocated out of state (Finding of Fact 24), JSD must work cooperatively to develop a plan for providing or paying for the compensatory services described in Item 1. The plan may include a method for paying for services directly, or for reimbursing parents for private services they secure. The compensatory services may address any combination of current needs Student has in academics, self-help skills, and/or life skills. In addition, to the extent requested by Parent and upon documentation of mileage expended to transport Student to and from his home or school to the private provider, the JSD will reimburse Parent mileage at then-current established federal rate.
3. The plan for providing or paying for compensatory services must be submitted to the DEED for approval no later than October 31, 2019. The plan must set forth a schedule for completing the compensatory services by December 31, 2020.
4. By January 31, 2021, JSD must provide a report to the DEED documenting the type, amount, and cost of compensatory services, and how the services were paid for.

The following systemic corrective actions are ordered to remediate the violations found in this investigation.

5. The JSD must review and revise its procedures to ensure that IEPs in effect for students transitioning from middle school to high school are implemented at the beginning of the school year, specifically regarding special education services (frequency, location, implementation responsibilities), supplementary aids and services, measurement and reporting of progress toward meeting annual goals, supervision of special education services provided by regular education teachers, and placement provisions.
6. The JSD must review and revise its procedures to ensure that students' IEPs are accessible to regular education teachers, special education teachers, related services providers, and any other service providers who are responsible for IEP implementation.
7. The JSD must review and revise its procedures to ensure that each teacher and service provider who is responsible for IEP implementation is informed of his or her specific responsibilities related to implementing the IEP, and the specific accommodations, modifications, and supports that must be provided for the student in accordance with the IEP.
8. The District must submit its new and/or revised procedures to the DEED for approval no later than October 31, 2019, along with a plan for dissemination of the new and/or revised procedures to all relevant staff members.
9. Within 30 days of receiving approval of the new and/or revised procedures and dissemination plan by the DEED, the JSD must provide DEED with documentation that the new and/or revised procedures have been disseminated to all relevant staff members.
10. By October 31, 2019, the JSD must internally audit all freshman TMHS students who transferred from JSD middle schools to TMHS high school this school year to determine whether the students' IEPs in effect are being implemented as written.
 - a. For any student files that reveal a failure to implement the IEP as written, the JSD will convene the student's IEP team without undue delay to revise the IEP as necessary to address the student's current needs for special education and related services and supplementary aids and services **and** determine whether compensatory education services need be provided to the student as a result of any failure to implement the student's IEP. Compensatory services may be calculated at 50% of the amount of services not implemented as written in the IEPs.
 - b. On October 30, 2019, the JSD will provide a written report to DEED describing the results of the audit as of that date, and to the extent further audit and IEP team meetings are required, a second report of these efforts will be provided to DEED by December 15, 2019.

Date Report Completed: September 12, 2019