

SPECIAL EDUCATION CITIZEN COMPLAINT (SECC) NO. 20-43

PROCEDURAL HISTORY

On March 13, 2020, the Office of Superintendent of Public Instruction (OSPI) received a Special Education Citizen Complaint from a complainant (Complainant) regarding the **[REDACTED]** School District (District). The Complainant alleged that the District violated the Individuals with Disabilities Education Act (IDEA), or a regulation implementing the IDEA, with regard to those Students with individualized education programs (IEPs) assigned to special education teacher 1.

On March 13, 2020, 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 March 19, 2020, the District provided OSPI with a list of Students assigned to special education teacher 1's caseload. That same day, OSPI selected eight of these Students to be investigated as part of this complaint.

On April 1, 2020, OSPI received the District's response to the complaint and forwarded it to the Complainant on April 2, 2020. OSPI invited the Complainant to reply.

On April 8, 2020, OSPI determined that additional information would be helpful to the investigation and contacted the District. OSPI received the requested information from the District that same day. OSPI forwarded that information to the Complainant on April 9, 2020.

On April 8, 2020, OSPI determined that additional information would be helpful to the investigation and contacted the Complainant. OSPI received the requested information from the Complainant on April 9, 2020. OSPI forwarded that information to the District on April 10, 2020.

On April 15, 2020, OSPI determined that additional information would be helpful to the investigation and contacted the District. OSPI received the requested information from the District on April 16 and 20, 2020. OSPI forwarded that information to the Complainant on April 22, 2020.

On April 15, 2020, OSPI determined that additional information would be helpful to the investigation and contacted the Complainant. OSPI received the requested information from the Complainant that same day. OSPI forwarded that information to the District on April 22, 2020.

On April 15, 2020, OSPI received the Complainant's reply. OSPI forwarded that reply to the District on April 22, 2020.

On April 29, 2020, OSPI's investigator interviewed the counselor and the special education director (director).

On May 4, 2020, OSPI's investigator interviewed special education teacher 1, and paraeducators 1-5.

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

ISSUE

1. Did the District follow procedures for implementing the individualized education programs (IEPs) of Students enrolled in the District during the 2019-2020 school year who were assigned, in whole or in part, to special education teacher 1's caseload, including providing these Students with the specially designed instruction and accommodations listed in their respective IEPs?

LEGAL STANDARDS

IEP Implementation: At the beginning of each school year, each district must have in effect an individualized education program (IEP) for every student within its jurisdiction who is eligible to receive special education services. A school district must ensure it provides all services in a student's IEP, consistent with the student's needs as described in that IEP. The initial IEP must be implemented as soon as possible after it is developed. Each school district must ensure the student's IEP is accessible to each general education teacher, special education teacher, related service provider, and any other service provider who is responsible for its implementation. 34 CFR §300.323; WAC 392-172A-03105. "When a school district does not perform exactly as called for by the IEP, the district does not violate the IDEA unless it is shown to have materially failed to implement the child's IEP. A material failure occurs when there is more than a minor discrepancy between the services provided to a child with a disability and those required by the IEP." *Baker v. Van Duyn*, 502 F. 3d 811 (9th Cir. 2007).

Compensatory Education: A state educational agency is authorized to order compensatory education, as appropriate, through the special education citizen complaint process. 34 CFR §300.151(b)(1); WAC 392-172A-05030. The state educational agency, pursuant to its general supervisory authority, has broad flexibility to determine appropriate remedies to address the denial of appropriate services to an individual child or group of children. *Letter to Lipsitt*, 181 LRP 17281 (2018). Compensatory education is an equitable remedy that seeks to make up for education services a student should have received in the first place, and aims to place the student in the same position he or she would have been, but for the district's violations of the IDEA. *R.P. ex rel. C.P. v. Prescott Unified Sch. Dist.*, 631 F.3d 1117, 56 IDELR 31, (9th Cir. 2011); *See also, Letter to Lipsitt*, 181 LRP 17281 (2018) ("The purpose of a compensatory services award is to remedy the public agency's failure to provide a child with a disability with 'appropriate services' during the time that the child is (or was) entitled to a free appropriate public education and was denied appropriate services.")

There is no requirement to provide day-for-day compensation for time missed. *Parents of Student W. v. Puyallup Sch. Dist. No. 3*, 31 F.3d 1489, 21 IDELR 723 (9th Cir. 1994). "There is no statutory or regulatory formula for calculating compensatory remedies. However, generally services delivered on a one-to-one basis are usually delivered effectively in less time than if the services were provided in a classroom setting." *In re: Mabton School District*, 2018-SE-0036.

Progress Reports: IEPs must include a statement indicating how the student’s progress toward the annual goals will be measured and when the district will provide periodic reports to the parents on the student’s progress toward meeting those annual goals, such as through the use of quarterly or other periodic reports concurrent with the issuance of report cards. 34 CFR §300.320(a)(3); WAC 392-172A-03090(1)(c).

Definition of Specially Designed Instruction: Specially designed instruction means adapting, as appropriate to the needs of an eligible student, the content, methodology, or delivery of instruction: to address the unique needs of the student that result from the student’s disability; and to ensure access of the student to the general curriculum, so that the student can meet the educational standards within the jurisdiction of the public agency that apply to all students. 34 CFR §300.39(b)(3); WAC 392-172A-01175(3)(c).

Certificated/Classified Staff Training: A school district must ensure that certificated staff who deliver special education and related services to a student eligible for special education are appropriately and adequately trained to do so. Classified staff must have the skills and knowledge necessary to meet the needs of students with disabilities and must be supervised by appropriate certificated staff. A school district must also ensure that classified staff members receive training to meet state recommended core competencies. 34 CFR §300.156; WAC 392-172A-02090.

FINDINGS OF FACT

General Information: 2019-2020 School Year

1. The District’s first day of school was September 4, 2019.
2. According to the District, special education teacher 1 was “the certificated special education teacher/case manager” at the District high school that each of the eight Students in this complaint attended. According to the District, the 2019-2020 school year was special education teacher 1’s first year working at the high school Students 1 through 8 attended.
3. In its response to this complaint, the District explained its use of email in terms of communications concerning students with individualized education programs (IEPs):
The school is an extension of a ‘small town’. As a result, people value ‘face to face’ engagement rather than email or formal letters. As such, special education teacher 1, her paraeducators, and the general education teachers most frequently discuss specially designed instruction, IEPs, and related services, through conversation via hallways, classrooms, and in informal meetings. The paper trail is minimal. However, moving forward, since March 2020, we are requiring both paraeducators and case managers to implement a documentation system similar to what OSPI shared earlier [concerning documenting the services provided to students with IEPs during the COVID closure]. We have modified it a bit; but it is what we are using and will be doing so moving forward.
4. According to the District, its investigation into the Complainant’s allegations revealed the following:

[The District follows a] community model [in the provision of specially designed instruction. For example], we put forth an extensive amount of resources within the general education classes.

...

6 of the 8 students presented experience between 95%-100% of their [specially designed instruction] within the general education setting; while 2 of the 8 students experience 72% and 75% of their instructional day within general education settings. This presents a challenge for our special education staff: Within a tight 50-55 minute instructional window, there continues to be a 'push-pull' dynamic for special education teacher 1 and her instructional team to support students within regular education and at the same time offer [specially designed instruction] based upon annual goals.

...

In 6 of the 8 IEPs, the actual services exceed the matrix in [the respective IEP]. The discrepancy will be addressed as IEPs will be amended through a legal and appropriate process...This will be resolved by April 30, 2020.

...

Progress reports were [inconsistently implemented]...As written, the progress reports highlight anecdotal, opinion, and limited data-driven assessments. In some cases, there are no findings at all. This will be immediately addressed by all case managers throughout the District.

...

The 8 Students were provided accommodations listed in their respective IEPs. Special education teacher 1 provided copies of each student's IEP at the beginning of the school year to each general education teacher who had a student requiring accommodations and/or modifications¹ and continued communication between herself, para professional staff, and the secondary teachers in support of implementation. Due to the inclusionary nature of our specially designed instruction model, via para professional and certificated support within the general education setting versus a 'pull-out' model, our program highlights accommodations as a primary component of the model implemented...We believe our District's ability to provide accommodations is 'partially in place' in regards to fidelity, consistency, and efficacy.

5. The District's special education director described the nature and history of the District's 'community model' as follows:

Prior to the arrival of our school principal in 2017 and our Superintendent in 2018, our District implemented a program of services referred to as "inclusion"...Today, 2020, our community still continues to advocate and support an inclusionary model of service. We believe 'all kids are general education students' and that 'we don't want to take students away from the general education setting and learning for 'pullouts' and specially designed instruction.' One of the unique features of our school community is the feeling expressed by students, staff, and parents that our school climate is 'welcoming, inclusive, and family oriented'. All due to the 'community' feeling expressed through the program.

¹ In its response, the District included an email from special education teacher 1 to a general education teacher, dated August 27, 2019, wherein special education teacher 1 provided this general education teacher with certain students' IEPs-at-a-glance.

However, the school principal and the superintendent identified our model was more in alignment with a spectator version of inclusion, where the general education setting may be the primary classroom for learning (eliminating 'pullouts') but the notion of 'specially designed instruction' became unclear when IEP-identified students were supported within the general education setting. Specific specially designed instruction was offered through Paras and Certs in the classroom but the specially designed instruction was a bit 'mushy'. In 2019, I came aboard as the...new special education director.

As a result, I discovered in the fall of 2019, the following:

- a. All IEPs highlighted "Special Education Teacher" as the delivery person; this needed to change so our paper work would align with the services.
 - b. Almost all of the specially designed instruction supports were provided through Paras working in the general education classroom; as a result, the minutes a para was in the classroom (math and ELA) most often exceeded the minutes in the IEP Matrix.
 - c. Our Inclusion Tool Kit needed to expand school wide. So our District is now a member of the Cadre of Schools working with WASA and OSPI within the Inclusionary Practices Project.
6. The District was on break November 28, 2019 through November 29, 2019, and December 23, 2019 through January 3, 2020.
 7. On January 6, 2020, there was a facilitated IEP meeting for a student who is not one of the Students selected for review in this complaint (other student). The Complainant, special education teacher 1, and special education teacher 2 collaborated on a document that consists of notes from that meeting. The meeting notes read, in part:

Paraeducators not sure who they are supposed to be working with and not sure of the goals for individual students...Teachers state paraeducators do not know which students have IEPs and what their support needs are, as well as what data [needs] to be collected for progress monitoring. [What is needed:] training for how to collect progress monitoring for each student.
 8. On January 7, 2020, the Complainant emailed the superintendent, stating, in part:

In my many years attending IEP meetings I have never experienced a situation like this where the special education teacher has not spoken to any of the general education staff about any of the many IEPs students in their classrooms [have]...Staff expressed concern regarding the complete lack of communication regarding special education, [as well as] special education teacher 1's schedule [and] availability...Special education teacher 1 is the 8th—12th grade special education teacher, yet her schedule seems to include a 1-on-1 kindergartner and 2 other 1-on-1 students.
 9. A second IEP meeting for the other student took place on February 13, 2020. The Complainant's notes from that meeting read, in part:

[The other education advocate for this student] asked when specially designed instruction was started for [this student] for this school year. Special education teacher 1 and the [director] stated it [began on] the second week of January. Before that, special education teacher 1 [and the] paraeducators [were] not working with IEP students, in their classes per special education teacher 1. Special education teacher 1 stated to the team that she was doing 1-on-1. She stated this when other team members were talking.

According to the District, the Complainant's notes are not accurate: "All of the 8 students [in the instant complaint investigation] were getting attention and received specially designed instruction...from fall 2019 [through] March 16: All within [a] general education setting except when [a] resource room [setting] is noted."

10. The District closed for COVID-19 related public health reasons on March 17, 2020.
11. From March 24, 2020 through April 7, 2020, the District provided "engagement activities" for its students remotely.
12. Beginning April 8, 2020, the District began providing students with a more "formal" regime of remote services, including: "IEP case managers communicating and connecting with each student on their case load" each week; and paraprofessionals communicating with their students regarding "general education classwork [and] specially designed-supported work."
13. On April 6, 2020, the governor of Washington State closed the state's schools to in-person instruction for the remainder of the 2019-2020 school year due to the COVID-19 pandemic.
14. OSPI's investigator's notes from his interview with special education teacher 1 read, in part:
Before start of school year—in August, special education teacher 1 says she emailed a request to all service providers to meet with them...All service providers received an IEP-at-a-glance for their respective students...With the Apollo scheduling implemented this school year, special education teacher 1 says it was 'challenging to keep track of everything.'²...Special education teacher 1: 'Like I said, [the scheduling] was so confusing.'

Student 1

2018-2019 School Year

15. On January 14, 2019, Student 1's IEP team developed a new annual IEP for the Student. The Student's January 2019 IEP provided the Student with the following specially designed instruction in a *general education setting*:
 - **Math:** 30 minutes twice a week (to be provided by a special education teacher)
 - **Reading:** 30 minutes twice a week (to be provided by a special education teacher)
 - **Written Expression:** 20 minutes twice a week (to be provided by a special education teacher)

Student 1's January 2019 IEP included the following accommodations:

- **Break material into manageable parts:** Daily (across all school environments)
- **Check for understanding:** As needed during class period (across all school environments)
- **Not graded down for spelling errors in content areas:** Daily (across all school environments)
- **Read-aloud – English:** When tested (on all state, district, or general education testing)

² As regards OSPI's investigator's notes from his interviews with the various service providers: the use of single quotations denotes paraphrased statements. In other words, when single quotation marks are used, the interview subject said approximately what appears, but they are not the verbatim words spoken by the interview subject.

- **Use of graphic organizers for writing assignments:** Daily or as needed (across all school environments)

Student 1's January 2019 IEP included the following measurable annual goals:

- **Reading 1:** Improving reading fluency.
- **Reading 2:** Improving reading comprehension.
- **Written Expression:** Improving written fluency.
- **Math 1:** Improving ability to multiply and convert scientific notation.
- **Math 2:** Improving ability to solve and understand math problems written "in the power of 10."

2019-2020 School Year

16. At the start of the 2019-2020 school year, Student 1 qualified for special education under the category of specific learning disability, was in the ninth grade, and attended a District high school. At that time, Student 1's January 2019 IEP was in effect.

17. According to the District, Student 1's schedule³ from September 4, 2019 through November 5, 2019 was as follows:

- **APOLLO⁴:** Wilderness and Fishing (class length: 40 minutes) Taught by a general education teacher.
- **Period 1:** English (class length: 50 minutes) Taught by a general education teacher with support from paraeducator 1.
- **Period 2:** World History (class length: 50 minutes) Taught by a general education teacher.
- **Period 3:** Health (class length: 50 minutes) Taught by a general education teacher.
- **Period 4:** Integrated Math (class length: 50 minutes) Taught by a general education teacher with support from paraeducator 2.
- **Period 5:** Biology (class length: 50 minutes) Taught by a general education teacher with support from paraeducator 2.
- **Period 6:** Agriculture Mechanics (class length: 50 minutes) Taught by a general education teacher.

18. According to the District, beginning November 6, 2019, Student 1 began attending an Apollo class on Mondays, Tuesdays, Thursdays, and Fridays.

³ The Students' respective schedules, as represented in this decision, were formed in the following manner: OSPI's investigator received the '2019/2020 Secondary Bell Schedule', the Students' schedules, and information on the 'Apollo programming'. OSPI's investigator then created a word document that organized and included as much information on the Students' various schedules as the investigator could piece together. OSPI's investigator then provided the District with this (limited) document, and asked the District to fill in certain blanks, as well as edit the document as needed. On April 27, 2020, the District provided OSPI's investigator with a revised copy of the document detailing the Students' various schedules.

⁴ According to the District, the Apollo program was a period of wherein some students "accessed an extension or enrichment [opportunity], for many with IEP support, [they were] provided additional [specially designed instruction] [during this period]."

From November 6, 2019 through January 22, 2020, Student 1's Monday, Tuesday, Thursday, and Friday schedule was as follows:

- **APOLLO:** Wilderness and Fishing (class length: 40 minutes) Taught by a general education teacher.
- **Period 1:** English (class length: 50 minutes) Taught by a general education teacher with support from paraeducator 1.
- **Period 2:** World History (class length: 50 minutes) Taught by a general education teacher.
- **Period 3:** Health (class length: 50 minutes) Taught by a general education teacher.
- **Period 4:** Integrated Math (class length: 50 minutes) Taught by a general education teacher with support from paraeducator 2.
- **Period 5:** Biology (class length: 50 minutes) Taught by a general education teacher with support from paraeducator 2.
- **Period 6:** Agriculture Mechanics (class length: 50 minutes) Taught by a general education teacher.

From November 6, 2019 through January 22, 2020, Student 1's Wednesday schedule was as follows:

- **Period 1:** English (class length: 46 minutes) Taught by a general education teacher with support from paraeducator 1.
- **Period 2:** World History (class length: 46 minutes) Taught by a general education teacher.
- **Period 3:** Health (class length: 46 minutes) Taught by a general education teacher.
- **Period 4:** Integrated Math (class length: 46 minutes) Taught by a general education teacher with support from paraeducator 2.
- **Period 5:** Biology (class length: 46 minutes) Taught by a general education teacher with support from paraeducator 2.
- **Period 6:** Agriculture Mechanics (class length: 46 minutes) Taught by a general education teacher.

19. On January 13, 2020, Student 1's IEP team developed a new annual IEP for the Student. The Student's January 2020 IEP provided the Student with the following specially designed instruction in a *general education setting*:

- **Math:** 30 minutes twice a week (to be provided by a special education teacher)
- **Reading:** 30 minutes twice a week (to be provided by a special education teacher)

The January 2020 IEP included the following accommodations:

- **Break material into manageable parts:** Daily (across all school environments)
- **Check for understanding:** As needed during class period (across all school environments)
- **Not graded down for spelling errors in content areas:** Daily (across all school settings)
- **Read-aloud – English:** When tested (on all state, district, or general education testing)
- **Use of graphic organizers for writing assignments:** Daily or as needed (across all school environments)

The Student's January 2020 IEP included the following measurable annual goals:

- **Math:** Improving ability to solve "real world, single step" math problems.
- **Reading:** Improving basic reading skills and analysis.

20. Student 1's January 2020 IEP included the following information on Student 1's progress on the measurable annual goals included in his January 2019 IEP:

- **Math:** "Student did not make his goal in these areas. The teacher this year and last year struggled to get him to work with them. There was some work done but not enough to master goal."
- **Reading:** "Student did not make this goal because he did not want to work with last year or current teacher on skills."

Student 1's January 2020 IEP did not include any information related specifically to the progress he had made on the written expression goal included in his January 2019 IEP. The January 2020 IEP did, though, state, "Student no longer qualifies in this area."

21. During the course of this investigation, OSPI's investigator asked the District: what, if any steps did the District take to address the Student's challenges in engaging with his specially designed instruction in math and reading?" In response, the District provided the following statement:

It was brought to our attention, through [the] IEP team as well as [a] guidance team meeting [that] this Student struggles with engagement. We enhanced his IEP program through the Apollo Intervention model, adding time to his support as well as shifted the schedule so special education teacher 1 participated in a 'co-teaching' support model with the general education teacher.

22. According to the District, from January 23, 2020 through March 17, 2020 (the date the District closed due to COVID), Student 1's Monday, Tuesday, Thursday, and Friday schedule was as follows:

- **APOLLO:** Gen Ag Class (class length: 40 minutes) Taught by a general education teacher.
- **Period 1:** English (class length: 50 minutes) Taught by a general education teacher with support from paraeducator 1.
- **Period 2:** World History (class length: 50 minutes) Taught by a general education teacher.
- **Period 3:** PE (class length: 50 minutes) Taught by a general education teacher.
- **Period 4:** Integrated Math (class length: 50 minutes) Taught by a general education teacher with support from paraeducator 2 and special education teacher 1.
- **Period 5:** Biology (class length: 50 minutes) Taught by a general education teacher with support from paraeducator 2.
- **Period 6:** Agriculture Mechanics (class length: 50 minutes) Taught by a general education teacher.

From January 23, 2020 through March 17, 2020 (the date the District closed due to COVID), Student 1's Wednesday schedule was as follows:

- **Period 1:** English (class length: 46 minutes) Taught by a general education teacher with support from paraeducator 1.
- **Period 2:** World History (class length: 46 minutes) Taught by a general education teacher.
- **Period 3:** PE (class length: 46 minutes) Taught by a general education teacher.
- **Period 4:** Integrated Math (class length: 46 minutes) Taught by a general education teacher with support from paraeducator 2 and special education teacher 1.
- **Period 5:** Biology (class length: 46 minutes) Taught by a general education teacher with support from paraeducator 2.

- **Period 6:** Agriculture Mechanics (class length: 46 minutes) Taught by a general education teacher.

23. As of January 28, 2020, the Student's progress reporting stated "Not been provided instruction on this goal. There has not been enough time to show progress on this goal" for both the math and reading goals.

24. In regard to Student 1, OSPI's investigator's notes from his interview with special education teacher 1 are as follows:

Regarding Student 1's Integrated Math Class

Beginning January 23, 2020, special education teacher 1 and paraeducator 2 were present in the Integrated Math class every day. Student 1 'did not qualify in calculation but he did qualify' in problem solving. Student 1 did well in integrated math starting January 23, 2020. In working with Student 1, special education teacher 1 would work on real world math skills such as saving money. Special education teacher 1 and paraeducator 2 would help Student 1 in a small group setting comprised of students that needed extra help.

General

At the start of the school year, special education teacher 1 spoke with some of Student 1's general education teachers regarding providing Student 1 with some type of organizer and strategies on how to best help Student 1 improve his writing skills.

25. In regard to Student 1, OSPI's investigator's notes from his interview with paraeducator 1 are as follows:

General

Paraeducator 1 was Student 2's 1-on-1 paraeducator; paraeducator 1 was with Student 2, exclusively, for basically the entire school day. Statement by paraeducator 1: 'I did not work with Student 1. From September 2019 to February 2020 I had no involvement with Student 1.'

Paraeducator 1 says she was never provided with a copy of Student 1's IEPs.

Student 1's General Education English Class

It was only sometime in February of 2020 that paraeducator 1 was directed to 'check-in' with Student 1 in his general education English class. But Student 1 did not need help and would 'graciously refuse' assistance when paraeducator 1 offered it to him.

26. In regard to Student 1, OSPI's investigator's notes from his interview with paraeducator 2 are as follows:

General Notes

'For the students I worked with, I was provided with a copy of their IEPs-at-a-glance. [However, though] I was in Integrated Math, I only ever worked with two students—I did not work with Student 1'

Paraeducator 2 notes that paraeducator 5 was present in Student 1's Integrated Math class.

Student 2

2018-2019 School Year

27. On February 26, 2019, Student 2's IEP team developed a new annual IEP for the Student. Student 2's February 2019 IEP provided the Student with the following specially designed instruction in a *special education setting*:

- **Math:** 50 minutes 5 times a week (to be provided by a special education teacher)
- **Reading:** 50 minutes 5 times a week (to be provided by a special education teacher)
- **Written Expression:** 30 minutes 5 times a week (to be provided by a special education teacher)
- **Social/Emotional/Adaptive:** 60 minutes 5 times a week (to be provided by a special education teacher)
- **Communication:** 30 minutes twice a week (to be provided by a speech language pathologist (SLP))

Student 2's February 2019 IEP included the following accommodations:

- **Content Area: break material into manageable parts:** When doing assignments (across all school settings)
- **Content Area: read material to student:** When reading level is above Student's current level (all testing environments)
- **Read-aloud – English:** When the reading level is above Student's current level (all testing environments)

Student 2's February 2019 IEP included the following measurable annual goals:

- **Reading 1:** Improving word knowledge.
- **Reading 2:** Improving reading comprehension.
- **Math 1:** Improving money understanding.
- **Math 2:** Improving math calculation.
- **Written Expression:** Improving written expression.
- **Social/Emotional/Adaptive:** Improving social awareness.
- **Communication 1:** Improving receptive language skills (following directions).
- **Communication 2:** Improving expressive language skills.

2019-2020 School Year

28. At the start of the 2019-2020 school year, the Student qualified for special education under the category of intellectual disability, was in the ninth grade, and attended a District high school. At that time, the Student's February 2019 IEP was in effect.

29. According to the District: "Though this student's cognitive ability is below 50, engagement highlights inclusion in general education classes such as PE, Social Studies, ELA, and participates each week as a Volunteer Fireman at the local station [aligned with his Transition Plan]."

30. According to the District, Student 2's schedule from September 4, 2019 through January 22, 2020 was as follows:

- **APOLLO:** Wilderness and Fishing (class length: 40 minutes) Taught by a general education teacher.
- **Period 1:** English (class length: 50 minutes) Taught by a general education teacher with support from paraeducator 1.
- **Period 2:** Vocational Cooking (class length: 50 minutes) Taught by a general education teacher with support from paraeducator 1.
- **Period 3:** Health (class length: 50 minutes) Taught by a general education teacher with support from paraeducator 1.
- **Period 4:** RES RM Social Emotional (class length: 50 minutes) Taught by special education teacher 1 in the resource room.
- **Period 5:** RES RM Social Studies/English language arts⁵ (class length: 50 minutes) Taught by special education teacher 1 with support from paraeducator 1 in the resource room.
- **Period 6:** RES RM Math (class length: 50 minutes) Taught by special education teacher 1 with support from paraeducator 1.

31. According to the District, Student 2's schedule from January 23, 2020 through March 17, 2020 was as follows:

- **APOLLO:** Performing Arts (class length: 40 minutes) Taught by a general education teacher.
- **Period 1:** English (class length: 50 minutes) Taught by a general education teacher with support from paraeducator 1.
- **Period 2:** Weights Training (class length: 50 minutes) Taught by a general education teacher.
- **Period 3:** PE (class length: 50 minutes) Taught by a general education teacher with support from paraeducator 1.
- **Period 4:** RES RM Social Emotional (class length: 50 minutes) Taught by special education teacher 1.
- **Period 5:** RES RM Social Studies/English language arts (class length: 50 minutes) Taught by special education teacher 1 with support from paraeducator 1.
- **Period 6:** RES RM Math (class length: 50 minutes) Taught by special education teacher 1 with support from paraeducator 1.

32. On February 27, 2020, Student 2's IEP team developed a new annual IEP for the Student. Student 2's February 2020 IEP provided the Student with the following specially designed instruction in a *special education setting*:

- **Math:** 50 minutes 5 times a week (to be provided by a paraeducator)
- **Written Expression:** 30 minutes 5 times a week (to be provided by a paraeducator)
- **Communication:** 30 minutes twice a week (to be provided by a paraeducator)

Student 2's February 2020 IEP provided the Student with the following specially designed instruction in a *general education setting*:

- **Reading:** 50 minutes 5 times a week (to be provided by a special education teacher)
- **Social emotional/adaptive:** 60 minutes 5 times a week (to be provided by a paraeducator)

Student 2's February 2020 IEP included the following accommodations:

- **Content Area: break material into manageable parts:** When doing assignments (across all school settings)

⁵ According to the District, this Student received specially designed instruction in both the social studies/English language arts class, as well as the general education English class.

- **Content Area: read material to student:** When reading level is above Student's current level (all testing environments)
- **Read-aloud – English:** When the reading level is above Student's current level (all testing environments)

Student 2's February 2020 IEP included the following measurable annual goals:

- **Reading 1:** Improving word knowledge.
- **Reading 2:** Improving reading comprehension.
- **Social emotional/adaptive:** Improving social emotional skills (asking for help; reducing need for a support person).
- **Math 1:** Improving money understanding.
- **Math 2:** Improving the ability to use a calculator to complete real world (grocery store shopping) examples.
- **Written Expression:** Improving the ability to write on electronic devices (e.g., email, text message).
- **Communication 1:** Improving expressive language skills.
- **Communication 2:** Improving expressive language skills with "unfamiliar listeners."

33. Student 2's February 2020 IEP included the following information on Student 2's progress on the measurable annual goals included in his February 2019 IEP:

- **Social:** "In select classes Student is rocking this goal. His support person can take her break during health/PE and he is able to navigate the class."
- **Math 1:** "Student is 100% on penny to a dollar, he is 50% on nickels to a dollar, he is 0% at dimes and quarters. There [was] progress shown but not enough to [have mastered] this goal."
- **Math 2:** "Student is able to do this skill with help but not independently. He did not meet his goal in this area."
- **Written Expression:** "On the last assessment special education teacher 1 gave Student [he was] to write 'She is fun' and 'He ran to the cat' and Student was able to spell 7 out of the 8 words correctly independently. He missed the 'sh' sound in she."
- **Communication 1 & 2:** "Student has mastered part of his communication goals. When it comes to yes/no questions, Student can answer these with 90% accuracy on a consistent basis. For 'wh' questions, he is still needing some prompting to answer the question with the correct answered based on which 'wh' question is being asked. Typically, if he needs a prompt, the question is asked again with emphasis on the 'wh.' He is correcting his answer nearly 80% of the time with the moderate prompt. When given 2 step instructions, he is performing at about 80%. He has more difficulty when the time/sequence direction are given without first obtaining his full attention, or if he begins the task without allowing the full direction to be given. However, he is able to complete the directions easily once he has a full understanding of what he is being instructed to do."

Student 2's February 2020 IEP does not include any information related specifically to the progress he had made on the two readings goal included in his February 2019 IEP.

34. In regard to Student 2, OSPI's investigator's notes from his interview with special education teacher 1 are as follows:

Regarding Social Emotional Goals

Worked on increasing Student 2's ability to be independent, with the aim of eventually being able to increase Student 2's time in the general education setting. Worked on 'social stories' with Student 2.

Regarding Specially Designed Instruction in Reading

Information conveyed here was really not clear, but it looks like all specially designed instruction in reading was provided to Student 2 in Student 2's English class—Period 5 was really limited to just social studies.

Regarding Specially Designed Instruction in Written Expression

This was provided in Student 2's vocational cooking class and his English class. Special education teacher 1 did mention using 'sight words' in working with Student 2 in this area.

Regarding Math Goal 1

Worked on: worksheets regarding money; putting the appropriate number of coins together to make purchases. Student 2 made progress in this area but not enough. Special education teacher 1 tried to get Student 2 to 'a more basic level.' Student 2 understood nickels fairly well but struggled when working with quarters.

Regarding Math Goal 2

Used a calculator when working with Student 2 in this area. Decimals were tough for Student 2. Student 2 needed lots of assistance when working on this goal. Student 2 was not able to make a lot of progress.

35. In regard to Student 2, OSPI's investigator's notes from his interview with paraeducator 1 are as follows:

General Information

Paraeducator 1 was Student 2's 1-on-1 paraeducator; paraeducator 1 was with Student 2 basically the entire day.

Paraeducator 1 states: 'I had a copy of Student 2's IEP and I knew its contents.'

Statement by paraeducator 1: 'Student 2 and I diligently...consistently worked on Student 2's reading and written expression goals.'

Vocational Cooking Class

Paraeducator 1 'stepped back' in this class and tried to let Student 2 work independently.

Accommodations

Paraeducator 1: 'Yes, they were provided. In particular, we used a read-aloud computer program.'

Reading Goal 1

Some skills sets paraeducator 1 worked on with Student 2: sight words; and high frequency words.

Reading Goal 2

Some skills sets paraeducator 1 worked on with Student 2: reading comprehension; lots of worksheets.

Written Expression Goal

Paraeducator 1: 'We worked diligently on this goal but Student 2 did not succeed independently in this area.'

Concerning: Specially Designed Instruction in Social Emotional

Paraeducator 1: 'Student 2 was never in a social emotional class taught by special education teacher 1.'

Paraeducator 1 has 'no idea' when specially designed instruction in social emotional was provided to Student 2. Paraeducator 1: 'I did not provide [Student 2 with specially designed instruction in social emotional and [I] received no guidance on how to direct/implement specially designed instruction in social emotional.'

Regarding Student 2's Social Studies Class

Paraeducator 1: This was not really a social studies class. It was a period of the day during which paraeducator 1 and Student 2 would work on a social studies packet in the resource room.

Regarding Specially Designed Instruction in Math

Paraeducator 1: 'I would go to lunch and special education teacher 1 would have small group in the resource room. But a lot of time Student 2 would just use a learning tool app because the other students in the small math group were more advanced than Student 2—they were working on algebraic skills that were beyond Student 2's abilities...The small math group worked on lots of worksheets and they used coins in their math exercises. But, again, Student 2 can't recognize a quarter [and] can't do decimal calculations on a calculator...Special education teacher 1 did not have a lot of 1:1 time with Student 2 [during the small math group time] because of the demands of the class...special education teacher 1's schedule never stayed the same.'

Student 3

2018-2019 School Year

36. On March 19, 2019, Student 3's IEP team developed a new annual IEP for the Student. Student 3's March 2019 IEP provided the Student with the following specially designed instruction in a *general education setting*:

- **Math:** 30 minutes 5 times a week (to be provided by a special education teacher)
- **Reading:** 20 minutes 5 times a week (to be provided by a special education teacher)
- **Written Expression:** 20 minutes 5 times a week (to be provided by a special education teacher)

Student 3's March 2019 IEP included the following accommodations:

- **Books on tape/read to Student:** As needed (across school settings)
- **Content area: check work frequently to ensure understanding:** As determined by case manager (across all school settings)
- **Content area: extra time (up to 3 days) to complete assignments:** As determined by case manager and general education teacher (across all school settings)
- **Content area: reduce length of assignments, assure student knows expectation beforehand:** As determined by case manager and general education teacher (across all school settings)
- **Reader for assignments and tests:** As needed (across school settings)

Student 3's March 2019 IEP included the following measurable annual goals:

- **Reading:** Improving reading comprehension.
- **Math 1:** Improving basic calculation skills.
- **Math 2:** Improving ability to solve and/or better understand algebraic equations.
- **Written Expression 1:** Improving ability to clearly organize paragraphs and write complete sentences.
- **Written Expression 2:** Improving ability to write a well-organized, multi-paragraph essay with no run-on sentences.

2019-2020 School Year

37. At the start of the 2019-2020 school year, the Student qualified for special education services under the category of specific learning disability, was in the tenth grade, and attended a District high school. At that time, the Student's March 2019 IEP was in effect.

38. According to the District, Student 3's schedule from September 4, 2019 through January 22, 2020 was as follows:

- **APOLLO:** Leadership (class length: 40 minutes) Taught by a general education teacher.
- **Period 1:** World History (class length: 50 minutes) Taught by a general education teacher with support from paraeducator 2.
- **Period 2:** Plant Science (class length: 50 minutes) Taught by a general education teacher.
- **Period 3:** English (class length: 50 minutes) Taught by a general education teacher with support from both paraeducator 2 and special education teacher 1.
- **Period 4:** Integrated Math (class length: 50 minutes) Taught by a general education teacher with support from both paraeducator 2 and special education teacher 1.
- **Period 5:** General Agriculture (class length: 50 minutes) Taught by a general education teacher.
- **Period 6:** French (class length: 50 minutes) Taught by a general education teacher.

39. According to the District, Student 3's schedule from January 23, 2020 through March 17, 2020 was as follows:

- **APOLLO:** Leadership (class length: 40 minutes) Taught by a general education teacher.
- **Period 1:** World History (class length: 50 minutes) Taught by a general education teacher with support from paraeducator 2.
- **Period 2:** Plant Science (class length: 50 minutes) Taught by a general education teacher.
- **Period 3:** English (class length: 50 minutes) Taught by a general education teacher with support from both paraeducator 2 and special education teacher 1.
- **Period 4:** Integrated Math (class length: 50 minutes) Taught by a general education teacher with support from both paraeducator 2 and special education teacher 1.
- **Period 5:** General Agriculture (class length: 50 minutes) Taught by a general education teacher.
- **Period 6:** RES RM Study Skills (class length: 50 minutes) Taught by a general education teacher.

40. On March 19, 2020, Student 3's IEP team developed a new annual IEP for the Student. Student 3's March 2020 IEP provided the Student with the following specially designed instruction in a *general education setting*:

- **Math:** 30 minutes 5 times a week (to be provided by a special education teacher)
- **Reading:** 20 minutes 5 times a week (to be provided by a special education teacher)
- **Written Expression:** 20 minutes 5 times a week (to be provided by a special education teacher)

Student 3's March 2020 IEP included the following accommodations:

- **Books on tape/read to Student:** As needed (across school settings)
- **Content area: check work frequently to ensure understanding:** As determined by case manager (across all school settings)
- **Content area: extra time (up to 3 days) to complete assignments:** As determined by case manager and general education teacher (across all school settings)
- **Content area: reduce length of assignments, assure student knows expectation beforehand:** As determined by case manager and general education teacher (across all school settings)
- **Reader for assignments and tests:** As needed (across school settings)

Student 3's March 2020 IEP included the following measurable annual goals:

- **Reading:** Improving reading comprehension of non-fiction texts.
- **Math 1:** Improving long division math calculation skills.
- **Math 2:** Improving ability to solve real world story problems.
- **Written expression:** Improving writing fluency (better spelling and grammar usage).

41. Student 3's March 2020 IEP included the following information on Student 3's progress on the measurable annual goals included in her March 2019 IEP:

- **Math 1:** "This first goal focuses on her general education classroom and she is doing great in that class. With minimal support she is able to work through the work book."
- **Math 2:** "On her second [math] goal Student was able to meet all but one section. She had a hard time with long division, so [she] did not make this goal."
- **Reading:** "She met this goal."
- **Written Expression 1 & 2:** "Student has met both of these goals in her general education classroom."

42. In regard to Student 3, OSPI's investigator's notes from his interview with special education teacher 1 are as follows:

English

Paraeducator 2 was in Student 3's English class all year but paraeducator 2 was basically 'a scribe' for another student—meaning paraeducator 2 did not work a lot with Student 3. Special education teacher 1 thought there was more group work in Student 3's English class than there actually was, so, sometime in January 2020, special education teacher 1 began co-teaching this class—being more involved since paraeducator 2 was basically relegated to a different, specific student.

Special education teacher 1 would try to 'pull' Student 3 starting in November 2019 but she was 'not able to pull out as much as [she] wanted.'

Math

Problem solving was built into the math class. Student 3 had a hard time with long division. With multiplication, Student 3 required structure and effort, but Student 3 did ok with multiplication. Student 3 did have a calculator available to her.

Beginning January 2020, with Student 3's study hall class, it became easier for special education teacher 1 to 'pull' Student 3 to work on her math goals. Pull out for specially designed instruction in math appears to have only happened, prior to January 2020, every

once in a while; starting January 2020, special education teacher 1 was able to more consistently provide Student 3 with this.

43. In regard to Student 3, OSPI's investigator's notes from his interview with paraeducator 2 indicated paraeducator 2 did not work with Student 3 in math, English, or history.

Student 4

2018-2019 School Year

44. On December 12, 2018, Student 4's IEP team developed a new annual IEP for the Student. Student 4's December 2018 IEP provided the Student with the following specially designed instruction in a *general education setting*:

- **Math:** 30 minutes twice a week (to be provided by a special education teacher)

Student 4's December 2018 IEP included the following accommodations:

- **Break material into manageable parts:** Daily (across all school environments)
- **Break tests into smaller chunks:** During district and state assessments (across school environments)
- **Calculator:** State and district testing (across school environments)
- **Check work frequently for understanding:** Daily (across all school settings)

Student 4's December IEP included the following measurable annual goals:

- **Math 1:** Improving double and triple digit multiplication and division of whole numbers.
- **Math 2:** Improving ability to solve one-step linear equations with positive and negative numbers (algebraic concepts).
- **Math 3:** Improving ability to solve "expressions involving multiple operations with whole numbers and parentheses."

2019-2020 School Year

45. At the start of the 2019-2020 school year, the Student qualified for special education services under the category of specific learning disability, was in the tenth grade, and attended a District high school. At that time, the Student's December 2018 IEP was in effect.
46. According to the District, Student 4's schedule from September 4, 2019 through November 5, 2019 included a 50-minute integrated math class fourth period, which was taught by a general education teacher with support from special education teacher 1 and paraeducator 2.
47. According to the District, beginning November 6, 2019, Student 4 began attending an Apollo class on Mondays, Tuesdays, Thursdays, and Fridays.

From November 6, 2019 through January 22, 2020, Student 4's Monday, Tuesday, Thursday, and Friday schedule was as follows:

- **APOLLO** Yearbook and Newsletter (class length: 40 minutes) Taught by a general education teacher.
- **Period 1:** World History (class length: 50 minutes) Taught by a general education teacher.

- **Period 2:** Plant Science (class length: 50 minutes) Taught by a general education teacher.
- **Period 3:** English (class length: 50 minutes) Taught by a general education teacher.
- **Period 4:** Integrated Math (class length: 50 minutes) Taught by a general education teacher with support from special education teacher 1 and paraeducator 2.
- **Period 5:** French (class length: 50 minutes) Taught by a general education teacher.
- **Period 6:** Chemistry (class length: 50 minutes) Taught by a general education teacher.

From November 6, 2019 through January 22, 2020, Student 4's Wednesday schedule was as follows:

- **Period 1:** World History (class length: 46 minutes) Taught by a general education teacher.
- **Period 2:** Plant Science (class length: 46 minutes) Taught by a general education teacher.
- **Period 3:** English (class length: 46 minutes) Taught by a general education teacher.
- **Period 4:** Integrated Math (class length: 46 minutes) Taught by a general education teacher with support from special education teacher 1 and paraeducator 2.
- **Period 5:** French (class length: 46 minutes) Taught by a general education teacher.
- **Period 6:** Chemistry (class length: 46 minutes) Taught by a general education teacher.

48. On December 12, 2019, Student 4's IEP team developed a new annual IEP for the Student. Student 4's December 2019 IEP provided the Student with the following specially designed instruction in a *special education setting*:

- **Math:** 40 minutes twice a week (to be provided by a special education teacher)

Student 4's December 2019 IEP included the following accommodations:

- **Break material into manageable parts:** Daily (across all school environments)
- **Break tests into smaller chunks:** During district and state assessments (across school settings)
- **Calculator:** State and district testing (across school settings)
- **Check work frequently for understanding:** Daily (across all school settings)

Student 4's December 2019 IEP included the following measurable annual goals:

- **Math 1:** Improving multiplication and division skills.
- **Math 2:** Improving ability to solve fraction equations.

49. Student 4's December 2019 IEP included the following information concerning Student 4's progress on the measurable annual goals included in her December 2018 IEP:

- **Math 1-3:** "Even though Student showed progress over the year, she was not able to make any of her goals in math."

50. According to the District. from January 23, 2020, through March 17, Student 4's Monday, Tuesday, Thursday, and Friday schedule was as follows:

- **APOLLO** Yearbook and Newsletter (class length: 40 minutes) Taught by a general education teacher.
- **Period 1:** World History (class length: 50 minutes) Taught by a general education teacher.
- **Period 2:** Plant Science (class length: 50 minutes) Taught by a general education teacher.
- **Period 3:** English (class length: 50 minutes) Taught by a general education teacher.
- **Period 4:** Integrated Math (class length: 50 minutes) Taught by a general education teacher with support from special education teacher 1 and paraeducator 2.
- **Period 5:** French (class length: 50 minutes) Taught by a general education teacher.
- **Period 6:** Dance (class length: 50 minutes) Taught by a general education teacher.

From January 23, 2020 through March 17, 2020, Student 4's Wednesday schedule was as follows:

- **Period 1:** World History (class length: 46 minutes) Taught by a general education teacher.
- **Period 2:** Plant Science (class length: 46 minutes) Taught by a general education teacher.
- **Period 3:** English (class length: 46 minutes) Taught by a general education teacher.
- **Period 4:** Integrated Math (class length: 46 minutes) Taught by a general education teacher with support from special education teacher 1 and paraeducator 2.
- **Period 5:** French (class length: 46 minutes) Taught by a general education teacher.
- **Period 6:** Dance (class length: 46 minutes) Taught by a general education teacher.

51. In regard to Student 4, OSPI's investigator's notes from his interview with special education teacher 1 are as follows:

Math Class

Prior to January 2020, special education teacher 1 was not extensively involved in Student 4's math class. Prior to January 2020, Integrated Math had 'lots of support,' just not special education teacher 1.

Paraeducator 5 was in Student 4's Integrated Math class along with paraeducator 2 prior to January 2020.

Starting January 2020, special education teacher 1 did a lot of work with Student 4 on the following topics: multiplication, division, and fractions. These areas were often worked on in 'pull out sessions.' Student 4 not good with fractions but got better with denominators.

52. In regard to Student 4, OSPI's investigator's notes from his interview with paraeducator 2 are as follows: 'I did not work with Student 4. Student 4 sat up front and worked with the general education teacher.'

53. In regard to Student 4, OSPI's investigator's notes from his interview with paraeducator 5 are as follows: paraeducator 5 says she did not work with Student 4 at all.

Student 5

2018-2019 School Year

54. On December 19, 2018, Student 5's IEP team developed a new annual IEP for the Student. Student 5's December 2018 IEP provided the Student with the following specially designed instruction in a *special education setting*:

- **Communication:** 30 minutes once a week (to be provided by an SLP)
- **Math:** 45 minutes 4 times a week (to be provided by a special education teacher)
- **Reading:** 20 minutes 3 times a week (to be provided by a special education teacher)
- **Written Expression:** 20 minutes 3 times a week (to be provided by a special education teacher)

Student 5's December 2018 IEP provided the Student with the following specially designed instruction in a *general education setting*:

- **Social/Emotional/Adaptive:** 20 minutes twice a week (to be provided by a special education teacher)
- **Reading:** 20 minutes twice a week (to be provided by a special education teacher)

- **Written Expression:** 20 minutes twice a week (to be provided by a special education teacher)

Student 5's December 2018 IEP included the following accommodations:

- **Assistance with organization:** Daily (across all school settings)
- **Break material into manageable parts:** Daily (across all school settings)
- **Calculator:** Daily (across all school settings)
- **Daily teacher check-ins for understanding:** Daily (across school environments)
- **More time to complete assignments:** Daily or as needed (across all school settings)
- **Option to move self from a negative social situation, can go to resource room:** As needed and approved (across school environments)
- **Read-aloud – English:** Daily (across school settings)
- **Use of alternate setting:** As recommended by special education case manager (across all school settings)

Student 5's December 2018 IEP included the following measurable annual goals:

- **Communication 1:** Improving ability to use complete sentences, recall details, make predictions, and arrive at inferences.
- **Communication 2:** Improving ability to empathize and converse with others.
- **Communication 3:** Improving articulation skills.
- **Social/Emotional/Adaptive:** Improving ability to utilize relaxation and mindfulness strategies.
- **Written Expression 1:** Improving writing ability.
- **Written Expression 2:** Increasing vocabulary and "word fluency."
- **Reading:** Improving reading comprehension.
- **Math 1:** Improving basic math calculation skills (addition, subtraction, multiplication, division of whole numbers).
- **Math 2:** Improving ability to solve math word problems.

2019-2020 School Year

55. At the start of the 2019-2020 school year, the Student qualified for special education services under the category of intellectual disability, was in the eleventh grade, and attended a District high school. At that time, the Student's December 2018 IEP was in effect.

56. According to the District: "As this student struggles with a complex profile, the academic schedule includes Self-Contained supports in core academics, general education supports within the classroom thru Para Professionals, and Vocational Education Classes without Para Support; an example of flexible programming."

57. According to the District, Student 5's schedule remained the same throughout the 2019-2020 school year:

- **APOLLO:** Music (class length: 40 minutes) Taught by a general education teacher.
- **Period 1:** RES RM English Language Arts (class length: 50 minutes) Taught by special education teacher 1.
- **Period 2:** Vocational Cooking (class length: 50 minutes) Taught by a general education teacher.
- **Period 3:** Secondary Level Music (class length: 50 minutes) Taught by a general education teacher.
- **Period 4:** Animal Science (class length: 50 minutes) Taught by a general education teacher.

- **Period 5:** RES RM Social Studies (class length: 50 minutes) Taught by special education teacher 1.⁶
- **Period 6:** RES RM Math (class length: 50 minutes) Taught by special education teacher 1.

According to the District, Student 5: a) received communication services “during [the] RES RM [classes] as a ‘push in’ model”; and b) “social emotional support was also offered during the RES RM...hybrid English language arts/social studies [class].”

58. On December 19, 2019, Student 5’s IEP team developed a new annual IEP for the Student. Student 5’s December 2019 IEP provided the Student with the following specially designed instruction in a *special education setting*:

- **Communication:** 30 minutes once a week (to be provided by an SLP)
- **Math:** 40 minutes 5 times a week (to be provided by a special education teacher)
- **Written Expression:** 20 minutes 5 times a week (to be provided by a special education teacher)
- **Reading:** 20 minutes 5 times a week (to be provided by a special education teacher)

Student 5’s December 2019 IEP provided the Student with the following specially designed instruction in a *general education setting*:

- **Social/Emotional/Adaptive:** 10 minutes once a week (to be provided by a special education teacher)
- **Social/Emotional/Adaptive:** 20 minutes twice a week (to be provided by a special education teacher)

Student 5’s December 2019 IEP included the following accommodations:

- **Assistance with organization:** Daily (across all school settings)
- **Break material into manageable parts:** Daily (across all school settings)
- **Calculator:** Daily (across all school settings)
- **Daily teacher check-ins for understanding:** Daily (across school environments)
- **More time to complete assignments:** Daily or as needed (across all school settings)
- **Multiplication Table** When given a test (classroom, district, and state tests)
- **Option to move self from a negative social situation, can go to resource room:** As needed and approved (across school environments)
- **Read-aloud – English:** Daily (across school settings)
- **Use of alternate setting:** As recommended by special education case manager (across all school settings)

Student 5’s December 2019 IEP included the following measurable annual goals:

- **Social/Emotional/Adaptive:** Improving ability to utilize relaxation and mindfulness strategies.
- **Reading:** Improving reading comprehension.
- **Written Expression 1:** Improving ability to write a five paragraph essay with limited grammatical errors.
- **Written Expression 2:** Improving editing skills (spelling and grammar conventions).
- **Math 1:** Improve ability to add and subtract fractions.
- **Math 2:** Improving ability to solve multi-step math story problems.

⁶ According to the District, Student 5’s “IEP team determined an English language arts supported social studies class within [the] special education [environment] would be the least restrictive setting” for Student 6.

- **Communication 1:** Improving articulation skills.
- **Communication 2:** Improving conversational and cooperation skills.
- **Communication 3:** Improving ability to answer questions with pertinent responses.

59. Student 5's December 2019 IEP included the following information on Student 5's progress on the measurable annual goals included in her December 2018 IEP:

- **Social Emotional:** "Student has made some great improvement in this area over the past year. Student still needs help in this area but she is able to work through her issues about 30% of the time, so she has made her goal in this area."
- **Math 1 & 2:** "Student has met the goals in all [math] areas."
- **Reading:** "Student did not meet this goal at the 4th grade level. We will work on this goal from the 4th grade starting point."
- **Writing Expression 1:** "Student was not able to make [this] goal because she used transition words to create a paragraph long sentence. If she was to make them just single sentences, she would have five. Her grammar is not always correct in these sentences though, so that is another area to work on."
- **Writing Expression 2:** "In her journal, Student was able to write up to 62 words written with 39 in correct word sequence, so she met that goal."
- **Communication 1 – 3:** "Two of her goals are mastered due to showing growth and reaching at least 90% accuracy in identifying main ideas and providing personal input to further conversations. We will continue to work on /r/ articulation."

60. As of January 27, 2020, Student 5 had made the following progress on the measurable annual goals in her December 2019 IEP:

- **Reading:** "Emerging skill. There was not enough time to show progress on this goal."
- **Written Expression 1:** Emerging skill.
- **Written Expression 2:** Emerging skill.
- **Math 1:** Sufficient progress.
- **Math 2:** Sufficient progress.
- **Communication 2:** Sufficient progress.⁷

61. In regard to Student 5, OSPI's investigator's notes from his interview with special education teacher 1 are as follows:

Reading Goal and Written Expression Goals 1 & 2

Student 5's English language arts class was 'very modeled.' Students would read a book, go over vocabulary terms, work on exercises that dealt with responding to the text, taught students how to find information in the text of a passage. Special education teacher 1 also worked with grammatical concepts with Student 5. Students in this class, including Student 5, also compared books to their movie adaptations.

Resource Math Class

From special education teacher 1: 'It was easy to work on Student 5's December 2019 IEP math goals [in this class]. We'd focus on one math goal type (e.g., division) until it was

⁷ It does not appear that progress was reported on Student 5's other communication goals in late January of 2020.

mastered. Then we'd move on to another math goal area...really drilled down into these key skills. After group work, Student 5 had independent skills time.'

Accommodations

I went through the accommodations listed in Student 5's respective IEPs and special education teacher 1 gave sufficient explanation for each. It appears accommodations were appropriately implemented.

Student 6

2018-2019 School Year

62. On November 5, 2018, Student 6's IEP team developed a new annual IEP for the Student. Student 6's November 2018 IEP provided the Student with the following specially designed instruction in a *special education setting*:

- **Vocational:** 15 minutes once a week (to be provided by a special education teacher)

Student 6's November 2018 IEP provided Student 6 with the following specially designed instruction in a *general education setting*:

- **Math:** 40 minutes 5 times a week (to be provided by a special education teacher)
- **Reading:** 20 minutes 4 times a week (to be provided by a special education teacher)
- **Written Expression:** 20 minutes 4 times a week (to be provided by a special education teacher)

Student 6's November 2018 IEP included the following accommodations:

- **Calculator:** District and state assessments (across school environments)
- **Read-aloud – English:** District and state assessments (across school environments)

Student 6's November 2018 IEP included the following measurable annual goals:

- **Reading:** Improving reading comprehension of fiction and nonfiction passages.
- **Written Expression:** Improving ability to write on-topic, organized writing assignments.
- **Math 1:** Improving basic calculation skills.
- **Math 2:** Improving ability to solve calculations of "fractions with like and unlike denominators."
- **Vocational:** Improving knowledge of career options.

2019-2020 School Year

63. At the start of the 2019-2020 school year, the Student qualified for special education services under the category of specific learning disability, was in the eleventh grade, and attended a District high school. At that time, the Student's November 2018 IEP was in effect.

64. According to the District, Student 6's schedule from September 4, 2019 through January 22, 2020 was as follows:

- **APOLLO:** Weight Training (class length: 40 minutes) Taught by a general education teacher.
- **Period 1:** Geometry (class length: 50 minutes) Taught by a general education teacher with support from paraeducator 3.
- **Period 2:** Art (class length: 50 minutes) Taught by a general education teacher.
- **Period 3:** Plant Science (class length: 50 minutes) Taught by a general education teacher.

- **Period 4:** Agricultural Mechanics (class length: 50 minutes) Taught by a general education teacher.
- **Period 5:** Literature (class length: 50 minutes) Taught by a general education teacher with support from paraeducator 4.
- **Period 6:** US History (class length: 50 minutes) Taught by a general education teacher.
- **Period 7:** RES RM Study Skills / Math (class length: 50 minutes) Taught by special education teacher 1.

65. On November 5, 2019, Student 6's IEP team developed a new annual IEP for the Student. Student 6's November 2019 IEP provided Student 6 with the following specially designed instruction in a *special education setting*:

- **Vocational:** 15 minutes once a week (to be provided by a special education teacher).

Student 6's November 2019 IEP provided Student 6 with the following specially designed instruction in a *general education setting*:

- **Math:** 40 minutes 5 times a week (to be provided by a special education teacher)
- **Reading:** 20 minutes once a month (to be provided by a special education teacher)
- **Written Expression:** 20 minutes 4 times a week (to be provided by a special education teacher)

Student 6's November 2019 IEP included the following accommodations:

- **Calculator:** District and state assessments (across school environments)
- **Read-aloud – English:** District and state assessments (across school environments)

Student 6's November 2019 IEP included the following measurable annual goals:

- **Reading 1:** Improving ability to answer multiple choice reading comprehension questions.
- **Reading 2:** Improving ability to analyze text.
- **Math 1:** Improving understanding of "basic geometric vocabulary."
- **Math 2:** Improving ability to solve calculations involving "fractions with unlike denominators."
- **Math 3:** Improving ability to solve calculations involving "multiplication or division of decimals."
- **Written Expression:** Improving writing fluency.

66. Student 6's November 2019 IEP included the following information on Student 6's progress on the measurable annual goals in his November 2018 IEP:

- **Math 1:** "On his last assessment he was able to add and subtract the decimals (90%) but was unable to multiply or divide them (0%), so he did not make this goal."
- **Math 2:** "Student was not able to add and subtract fractions (0%) (with unlike denominators) and divide fractions, so he was not able to fully meeting this goal either."
- **Reading:** "Student did not meet this goal on his IEP."
- **Writing:** "Student has shown he is able to write five complete sentences. He was able to reach this goal."

67. According to the District, Student 6's schedule from January 23, 2020 through the end of the school year was as follows:

- **APOLLO:** Weight Training (class length: 40 minutes) Taught by a general education teacher.
- **Period 1:** Art (class length: 50 minutes) Taught by a general education teacher.
- **Period 2:** Plant Science (class length: 50 minutes) Taught by a general education teacher.
- **Period 3:** Agricultural Mechanics (class length: 50 minutes) Taught by a general education teacher.

- **Period 4:** Literature (class length: 50 minutes) Taught by a general education teacher with support from paraeducator 4.
- **Period 5:** US History (class length: 50 minutes) Taught by a general education teacher.
- **Period 6:** RES RM Study Skills / Math (class length: 50 minutes) Taught by special education teacher 1.

68. As of the end of January 2020, Student 6 had made the following progress on the measurable annual goals included in his November 2019 IEP:

- **Vocational:** Not been provided instruction on this goal.
- **Reading 1:** Sufficient progress.
- **Reading 2:** Emerging skill.
- **Math 1:** Emerging skill.
- **Math 2:** Not been provided instruction on this goal.
- **Math 3:** Sufficient progress.
- **Written Expression:** Emerging skill.

69. In regard to Student 6, OSPI's investigator's notes from his interview with paraeducator 3 were as follows:

General

Paraeducator 3 does not specifically recall being provided a copy of Student's 2018-2019 IEP at the start of the 2019-2020 school year. She also did not have a conversation with special education teacher 1 or the director that was specific to the special education services to be provided to Student 6.

Geometry Class

She did shorten assignments for Student 6. She also avoided giving Student 6 word problems.

Paraeducator 3 was the only paraeducator present in the geometry class. She was a Learning Assistance Program (LAP) para—meaning she worked with 'free and reduced lunch' students generally, but in the secondary setting she worked with everyone in the classroom.

A typical day was: mostly lecture; paraeducator 3 tried to keep class focused; and would offer specific help when needed. Student 6 was 'never really interested in help,' and so paraeducator 3 did not end up working with Student 6 a lot.

70. In regard to Student 6, OSPI's investigator's notes from his interview with special education teacher 1 are as follows:

Math Goals

These were working on during Student 6's study skills period, but it appears other students with IEPs with 'lots of needs' would also come into the classroom at the same time as Student 6. Paraeducator 4 was occasionally present in Student 6's study skills period to assist all students, including Student 6, but not always.

Accommodations

I read Student 6's accommodations one at a time and special education teacher 1 gave statements establishing they were materially provided to Student 6.

71. In regard to Student 6, OSPI's investigator's notes from his interview with paraeducator 4 are as follows:

General

OSPI's investigator asked paraeducator 4 if she had ever been provided with a copy of Student 6's IEPs. Paraeducator 4 stated: 'No, I only got [students' IEPs] if I asked for them and I don't recall asking for Student 6's IEP. I generally asked Student 6's general education teacher for information on what I was supposed to do.'

Study Hall

Paraeducator 4: 'In Student 6's study class, I only ever helped Student 6 with his math work.'

Literature Class

According to paraeducator 4, the only service providers in Student 6's literature class were the general education teacher and herself (paraeducator 4). Paraeducator 4: 'All students in Student 6's literature class were fairly independent.'

Reading Comprehension

According to paraeducator 4, assignments were based on reading comprehension but Student 6 always refused assistance.

Regarding Completing Writing Assignments

Paraeducator 4 says she would always check to see if Student 6 needed help but it was usually the general education teacher that helped Student 6.

Student 7

2018-2019 School Year

72. On April 18, 2019, Student 7's IEP team developed a new annual IEP for the Student. Student 7's April 2019 IEP provided the Student with the following specially designed instruction in a *general education setting*:

- **Math:** 20 minutes 2 times a week (to be provided by a special education teacher)
- **Written Expression:** 30 minutes 3 times a week (to be provided by a special education teacher)

Student 7's April 2019 IEP included the following accommodations:

- **Allow extra time to complete assignments and tests:** Daily (across school settings).
- **Allow Student 7 to take tests and complete complex assignments in the resource room or alternative environment:** Daily (across school settings).
- **Break material into manageable parts:** Daily (across school settings).
- **Check work frequently to ensure understanding:** Daily (across school settings).

Student 7's April 2019 IEP included the following measurable annual goals:

- **Written Expression:** Improving ability to write on-topic, organized paragraphs.
- **Math 1:** Improving ability to solve calculations involving fractions "with like and unlike denominators."
- **Math 2:** Improving ability to solve calculations involving "division of whole numbers."

73. As of June 19, 2019, Student 7 had made the following progress on the measurable annual goals included in his April 2019 IEP:

- **Written Expression:** Sufficient progress.
- **Math 1:** Not been provided instruction on this goal.
- **Math 2:** Not been provided instruction on this goal.

2019-2020 School Year

74. At the start of the 2019-2020 school year, Student 7 qualified for special education services under the category of specific learning disability, was in the twelfth grade, and attended a District high school. At that time, the Student's April 2019 IEP was in effect.

75. According to the District, Student 7's schedule from September 4, 2019 through November 5, 2019 was as follows:

- **APOLLO:** Vocational Cooking (class length: 40 minutes) Taught by a general education teacher.
- **Period 1:** Art (class length: 50 minutes) Taught by a general education teacher.
- **Period 2:** Weight Training (class length: 50 minutes) Taught by a general education teacher.
- **Period 3:** Music (class length: 50 minutes) Taught by a general education teacher
- **Period 4:** US History (class length: 50 minutes) Taught by a general education teacher.
- **Period 5:** British Literature (class length: 50 minutes) Taught by a general education teacher with support from paraeducator 5.
- **Period 6:** Teacher's Assistant Study Hall⁸ (class length: 50 minutes) Taught by special education teacher 1 with support from paraeducator 4.

76. According to the District, beginning November 6, 2019, Student 7 began attending a different Apollo class and had a slightly different schedule. From November 6, 2019 through January 22, 2020, Student 7's Monday, Tuesday, Thursday, and Friday schedule was as follows:

- **APOLLO:** Math (class length: 40 minutes) Taught by special education teacher 1.
- **Period 1:** Art (class length: 50 minutes) Taught by a general education teacher.
- **Period 2:** Weight Training (class length: 50 minutes) Taught by a general education teacher.
- **Period 3:** Music (class length: 50 minutes) Taught by a general education teacher.
- **Period 4:** US History (class length: 50 minutes) Taught by a general education teacher.
- **Period 5:** British Literature (class length: 50 minutes) Taught by a general education teacher with support from paraeducator 5.
- **Period 6:** Teacher's Assistant Study Hall (class length: 50 minutes) Taught by special education teacher 1 with support from paraeducator 4.

From November 6, 2019 through January 22, 2020, Student 7's Wednesday schedule was as follows:

- **Period 1:** Art (class length: 46 minutes) Taught by a general education teacher.
- **Period 2:** Weight Training (class length: 46 minutes) Taught by a general education teacher.
- **Period 3:** Music (class length: 46 minutes) Taught by a general education teacher.
- **Period 4:** US History (class length: 46 minutes) Taught by a general education teacher.
- **Period 5:** British Literature (class length: 46 minutes) Taught by a general education teacher with support from paraeducator 5.

⁸ In its response, the District explained the presence of a 'study hall' period on some of the Students' schedules: "A small percentage of students, primarily juniors and seniors requiring specially designed instruction, have access to the Study Hall program. This is coordinated and supervised by special education teacher 1."

- **Period 6:** Teacher's Assistant Study Hall (class length: 46 minutes) Taught by special education teacher 1 with support from paraeducator 4.

77. According to the District, from January 23, 2020 through March 17, 2020, Student 7's Monday, Tuesday, Thursday, and Friday schedule was as follows:

- **APOLLO:** Math (class length: 40 minutes) Taught by special education teacher 1.
- **Period 1:** Art (class length: 50 minutes) Taught by a general education teacher.
- **Period 2:** Weight Training (class length: 50 minutes) Taught by a general education teacher.
- **Period 3:** Music (class length: 50 minutes) Taught by a general education teacher.
- **Period 4:** US History (class length: 50 minutes) Taught by a general education teacher.
- **Period 5:** British Literature (class length: 50 minutes) Taught by a general education teacher with support from paraeducator 5.
- **Period 6:** Teacher's Assistant Study Hall (class length: 50 minutes) Taught by special education teacher 1 with support from paraeducator 4.

From January 23, 2020 through March 17, 2020, Student 7's Wednesday schedule was as follows:

- **Period 1:** Art (class length: 46 minutes) Taught by a general education teacher.
- **Period 2:** Weight Training (class length: 46 minutes) Taught by a general education teacher.
- **Period 3:** Music (class length: 46 minutes) Taught by a general education teacher.
- **Period 4:** US History (class length: 46 minutes) Taught by a general education teacher.
- **Period 5:** British Literature (class length: 46 minutes) Taught by a general education teacher with support from paraeducator 5.
- **Period 6:** Teacher's Assistant Study Hall (class length: 46 minutes) Taught by special education teacher 1 with support from paraeducator 4.

78. As of January 30, 2020, Student 7 had made the following progress on the written expression measurable annual goal included in his April 2019 IEP: "Sufficient progress." (There are no progress reporting entries dated January 30, 2020 relating to the two measurable annual goals in math that were included in the Student's April 2019 IEP.)

79. In regard to Student 7, OSPI's investigator's notes from his interview with special education teacher 1 are as follows:

Concerning Student 7's Study Hall Period and Instruction Provided Therein

With Student 7 and his Study Hall period, special education teacher 1 worked with Student 7 on what he needed that particular day or week—for example, checking in and seeing how he was doing. Student 7's Apollo class was a study hall. Math was worked on but not as a matter of course—it depended on what Student 7 needed.

80. In regard to Student 7, OSPI's investigator's notes from his interview with paraeducator 4 are as follows:

General Notes — Study Hall

According to paraeducator 4, the only time she ever saw Student 7 was when special education teacher 1 pulled Student 7 into Study Hall and, once there, Student 7 only ever worked with special education teacher 1.

81. In regard to Student 7, OSPI's investigator's notes from his interview with paraeducator 5 are as follows: paraeducator 5 says she did not work with Student 7.

Student 8

2018-2019 School Year

82. On April 23, 2019, Student 8's IEP team developed a new annual IEP for the Student. Student 8's April 2019 IEP provided the Student with the following specially designed instruction in a *special education setting*:

- **Social/Emotional/Behavior:** 30 minutes once a week (to be provided by a special education teacher)

Student 8's April 2019 IEP provided the Student with the following specially designed instruction in a *general education setting*:

- **Math:** 25 minutes twice a week (to be provided by a special education teacher)
- **Reading:** 25 minutes twice a week (to be provided by a special education teacher)
- **Vocational:** 25 minutes once a week (to be provided by a special education teacher)

Student 8's April 2019 IEP included the following accommodations:

- **Allow Student 8 to leave the classroom and do work in:** Daily (across school settings).
- **Allow Student 8 to listen to music after instruction and during independent work time, with teacher approval:** Daily (across school settings).
- **Break down and review instructions for assignments:** Daily (across school settings).
- **Calculator:** State assessments (school building).
- **Provide Student 8 a cool down location when she is upset:** Daily (across school settings).
- **Small group instruction for math:** Daily (across school settings).
- **Use notes during tests:** During classroom tests (across school settings).

Student 8's April 2019 IEP included the following annual goals:

- **Math 1:** Improving ability to use "various math tools (such as but not limited to calculators, protractors, compasses, computers)" to solve two-step math problems.
- **Math 2:** Improving ability to solve calculations involving "multiplication and division of whole numbers."
- **Behavior 1:** Improving ability to identify positive and negative consequences of social decisions.
- **Behavior 2:** Improving use of coping strategies.
- **Reading:** Improving reading comprehension.
- **Vocational:** Improving ability to identify job requirements for various positions.

2019-2020 School Year

83. At the start of the 2019-2020 school year, the Student qualified for special education services under the category of emotional-behavior, was in the twelfth grade, and attended a District high school. At that time, the Student's April 2019 IEP was in effect.

84. According to the District: "This student continues to present an extraordinary profile requiring a site-based 'wrap around' support system including services outside of her IEP: Mental Health Specialist, School Counselor, and community resources."

85. According to the District, Student 8's schedule from September 4, 2019 through November 5, 2019 was as follows:

- **APOLLO:** Teacher's Assistant⁹ (class length: 40 minutes) Taught by special education teacher 1 with support from paraeducator 4.
- **Period 1:** Plant Science (class length: 50 minutes) Taught by the general education teacher.
- **Period 2:** Teacher's Assistant (class length: 50 minutes) Taught special education teacher 1.
- **Period 3:** Teacher's Assistant (class length: 50 minutes) Taught special education teacher 1.
- **Period 4:** US History (class length: 50 minutes) Taught by the general education teacher.
- **Period 5:** Bridge to College¹⁰ English Language Arts (class length: 50 minutes) Taught by a general education teacher with support from paraeducator 5.
- **Period 6:** Bridge to College Math (class length: 50 minutes) Taught by a general education teacher with support from paraeducator 4.

86. According to the District, beginning November 6, 2019, Student 8 began attending an Apollo class on Mondays, Tuesdays, Thursdays, and Fridays.

From November 6, 2019 through January 22, 2020, Student 8's Monday, Tuesday, Thursday, and Friday schedule was as follows:

- **APOLLO:** Teacher's Assistant (class length: 40 minutes) Taught by special education teacher 1 with support from paraeducator 4.
- **Period 1:** Plant Science (class length: 50 minutes) Taught by a general education teacher.
- **Period 2:** Teacher's Assistant (class length: 50 minutes) Taught special education teacher 1.
- **Period 3:** Teacher's Assistant (class length: 50 minutes) Taught special education teacher 1.
- **Period 4:** US History (class length: 50 minutes) Taught by a general education teacher.
- **Period 5:** Bridge to College English Language Arts (class length: 50 minutes) Taught by a general education teacher with support from paraeducator 5.
- **Period 6:** Bridge to College Math (class length: 50 minutes) Taught by a general education teacher with support from paraeducator 4.

From November 6, 2019 through January 22, 2020, Student 8's Wednesday schedule was as follows:

- **Period 1:** Plant Science (class length: 46 minutes) Taught by a general education teacher.
- **Period 2:** Teacher's Assistant (class length: 46 minutes) Taught special education teacher 1.
- **Period 3:** Teacher's Assistant (class length: 46 minutes) Taught special education teacher 1.
- **Period 4:** US History (class length: 46 minutes) Taught by a general education teacher.
- **Period 5:** Bridge to College English Language Arts (class length: 46 minutes) Taught by a general education teacher with support from paraeducator 5.

⁹ According to the District, "social emotional as well as vocational supports [were] targeted during this period."

¹⁰ According to the District, the 'Bridge to College' courses were designed for juniors and seniors and offered those students "a dynamic way [to engage] with college work."

- **Period 6:** Bridge to College Math (class length: 46 minutes) Taught by a general education teacher with support from paraeducator 4.

87. According to the District, from January 23, 2020 through March 17, Student 8's Monday, Tuesday, Thursday, and Friday schedule was as follows:

- **APOLLO:** Teacher's Assistant (class length: 40 minutes) Taught by special education teacher 1 with support from paraeducator 4.
- **Period 1:** Plant Science (class length: 50 minutes) Taught by a general education teacher.
- **Period 2:** Teacher's Assistant (class length: 50 minutes) Taught special education teacher 1.
- **Period 3:** Teacher's Assistant (class length: 50 minutes) Taught special education teacher 1.
- **Period 4:** US History (class length: 50 minutes) Taught by a general education teacher.
- **Period 5:** Bridge to College English Language Arts (class length: 50 minutes) Taught by a general education teacher with support from paraeducator 5.
- **Period 6:** Bridge to College Math (class length: 50 minutes) Taught by a general education teacher with support from paraeducator 4.

From January 23, 2020 through March 17, 2020, Student 8's Wednesday schedule was as follows:

- **Period 1:** Plant Science (class length: 46 minutes) Taught by a general education teacher.
- **Period 2:** Teacher's Assistant (class length: 46 minutes) Taught special education teacher 1.
- **Period 3:** US History (class length: 46 minutes) Taught by a general education teacher.
- **Period 4:** Bridge to College English Language Arts (class length: 46 minutes) Taught by a general education teacher with support from paraeducator 5.
- **Period 5:** Bridge to College Math (class length: 46 minutes) Taught by a general education teacher with support from paraeducator 4.

88. As of the end of January 2020, Student 8 had made the following progress on the measurable annual goals included in her April 2019 IEP:

- **Math 1:** "Not been provided instruction on this goal. I have not been able to get her to work with me on this topic...She is working on this skill in her general education bridge to college math class."
- **Math 2:** "Not been provided instruction on this goal. I have not been able to get her to work with me on this topic."
- **Behavior 1:** Emerging skill demonstrated but may not achieve annual goal within duration of IEP.
- **Behavior 2:** Emerging skill demonstrated but may not achieve annual goal within duration of IEP.
- **Reading:** "Not been provided instruction on this goal. I was able to get her to log into the reading program but have not been able to get her to read the passage for me at this time. She is getting support in her bridge to college language arts class."
- **Vocational:** "Mastered. Student discussed the possibility of being a nanny in Oregon when she was [finished with] school. We looked up some places for her to look into for job opportunities."

89. In regard to Student 8, OSPI's investigator's notes from his interview with special education teacher 1 are as follows:

Concerning Specially Designed Instruction in Social Emotional and Vocational

Special education teacher 1's daily interaction with Student 8: 'On average day, it would depend—a 5 to 10 minute thing.' It was 'sometimes hard to get Student 8 to focus.'

Investigator's impression: special education teacher 1 did not spend an average of 3 hours with Student 8 each day.

Student 8's Teacher's Assistant class largely consisted of Student 8 working in the office with the counselor and/or working on administrative tasks for office workers. Student 8 would also 'sit in the office' during the Teacher's Assistant period.

Behavior Goals 1 and 2

Note from OSPI's investigator: special education teacher 1 was not able to provide a clear explanation of what this looked like—e.g., types of exercises, when it was provided, etc.

Vocational

Special education teacher 1: 'This was completed by the end of the last school year. Still, we talked about what she wanted to do. Student 8 wanted to be a nanny and we looked up resources [on steps Student 8 would need to take] to be a nanny.'

Accommodations

OSPI's investigator's note: special education teacher 1 provided a sufficient statement showing she provided Student 8 with the accommodations in her IEPs.

90. In regard to Student 8, OSPI's investigator's notes from his interview with paraeducator 4 are as follows:

General Notes — Bridge to College Math Class

According to paraeducator 4, the 'only time I ever saw Student 8 [was when I'd] occasionally go over to the Bridge to College Math class but Student 8 always refused my assistance.'

91. In regard to Student 8, OSPI's investigator's notes from his interview with paraeducator 5 are as follows:

English Language Arts Class

Paraeducator 5 says she was not provided with a copy of Student 8's IEP at the beginning of the 2019-2020 school year. Paraeducator 5 says she may have had a conversation with special education teacher 1 regarding the specially designed instruction Student 8 was supposed to receive, but paraeducator 5 does not specifically recall this.

According to paraeducator 5, the only service providers in Student 8's English language arts class were the general education teacher and herself (paraeducator 5). Paraeducator's main focus was Student 8. Despite the fact that paraeducator 5 does not recall being provided a copy of Student 8's IEP, when I read Student 8's reading comprehension goal to her, paraeducator 5 said that her and Student 8 did work on that goal and gave examples.

Accommodations

When Student 8's accommodations were read, individually, to paraeducator 5, paraeducator 5 affirmed that each had been provided to Student 8.

CONCLUSIONS

IEP Implementation – The Complainant alleged Students 1 through 8 were not provided with the specially designed instruction and accommodations listed in their respective individualized

education programs (IEPs) during the 2019-2020 school year. A district must ensure it provides all services in a student's IEP, consistent with the student's needs as described in that IEP. When a school district does not perform exactly as called for by the IEP, the district does not violate the IDEA unless it is shown to have materially failed to implement the student's IEP. A material failure occurs when there is more than a minor discrepancy between the services provided to a child with a disability and those required by the IEP.

If a school district does materially fail to implement a student's IEP, compensatory education may be warranted. Compensatory education is an equitable remedy that seeks to make up for education services a student should have received in the first place, and aims to place the student in the same position he or she would have been, but for the district's violations of the IDEA. There is no requirement to provide day-for-day compensation for time missed. There is no statutory or regulatory formula for calculating compensatory remedies. However, generally services delivered on a one-to-one basis are usually delivered effectively in less time than if the services were provided in a classroom setting.

Here, in approaching an analysis of Students 1-8, the following preliminary information is important to keep in mind: according to the District, "Almost all of the specially designed instruction supports [for Students 1 through 8] were provided through paraeducators working in the general education classroom."

Student 1

Math

According to both of Student 1's relevant IEPs (January 2019 and January 2020), Student 1 was supposed to receive 60 minutes of specially designed instruction in math each week.

In terms of whether Student 1 was provided with specially designed instruction in math, OSPI notes the following facts:

- Student 1 was enrolled in an Integrated Math class for the entirety of the 2019-2020 school year. From the start of the school year through January 22, 2020, the Integrated Math class was taught by a general education teacher with support from paraeducator 2. Beginning January 23, 2020, Integrated Math was co-taught by a general education teacher and special education teacher 1, with support from paraeducator 2.
- Student 1's January 2020 IEP included the following information on Student 1's January 2019 math goal: "Student did not make his goal in [this] area. The teacher this year and last year struggled to get him to work with them. There was some work done but not enough to master goal."
- The District had special education teacher 1 co-teach Student 1's Integrated Math class starting in January 2020 because it had been "brought to [its] attention" that Student 1 "struggle[d] with engagement" in Integrated Math.
- As of January 28, 2020, Student 1 had made the following progress on the math goal in his January 2020 IEP: "Not been provided instruction on this goal. There has not been enough time to show progress on this goal."
- Paraeducator 2 stated she never worked with Student 1 in his Integrated Math class.

- Special education teacher 1 was able to provide OSPI’s investigator with a sufficient explanation of the type of specially designed instruction in math—for example, goal worked on, skill sets addressed, classroom setting, and types of exercises, she provided to Student 1 beginning January 23, 2020.

On the basis of the foregoing, OSPI finds: Student 1’s specially designed instruction in math was materially implemented from January 23, 2020—beginning when special education teacher 1 began co-teaching ‘Integrated Math,’ through the end of the regular school year. Prior to that date, though, it is not clear Student 1 received specially designed instruction in math. This represents a violation of the IDEA and compensatory education is warranted.

The District will be required to provide Student 1 with 1/3 of the missed specially designed instruction in math. This compensatory education will occur in a one-to-one setting—meaning it will be just Student 1 and the service provider. It must occur outside the District’s regular hours of instruction. And it may be provided remotely.

The start of the school year through January 23, 2020 represents approximately 17 weeks. So, during this time, Student 1 should have received approximately 17 hours of specially designed instruction in math.¹¹ Therefore, as compensatory education, the District will be required to provide Student 1 with 5.5 hours of specially designed instruction in math.

Written Expression

According to Student 1’s January 2019 IEP, Student 1 was supposed to receive 40 minutes of specially designed instruction in written expression each week. Student 1’s January 2020 IEP did not provide Student 1 with specially designed instruction in written expression—thus, limiting the relevant time period to the start of the school year through mid-January 2020.

In terms of whether Student 1 was provided with specially designed instruction in written expression, OSPI notes the following facts:

- From September 2019 through mid-January 2020, Student 1 was enrolled in an English class that the District stated was taught by a general education teacher with support from paraeducator 1.
- But, in her interview with OSPI’s investigator, paraeducator 1 stated she did not work with Student 1—at all, from September 2019 through mid-January 2020.
- Student 1’s January 2020 IEP did not include any information related specifically to the progress Student 1 had made on the written expression goal included in his January 2019 IEP. The January 2020 IEP did, though, state, “Student no longer qualifies in this area.”

On the basis of the foregoing, OSPI finds: there is not sufficient evidence showing Student 1 was provided specially designed instruction in written expression from the start of the school year through mid-January 2020. This represents a violation of the IDEA and compensatory education is warranted.

¹¹ 1 hour a week multiplied by 17 weeks equals 17 hours.

The District will be required to provide Student 1 with 1/3 of the missed specially designed instruction in written expression. This compensatory education will occur in a one-to-one setting. It must occur outside the District's regular hours of instruction. And it may be provided remotely.

The start of the school year through mid-January 2020 represents approximately 17 weeks. So, during this time, Student 1 should have received approximately 9 hours of specially designed instruction in written expression.¹² Therefore, as compensatory education, the District will be required to provide Student 1 with 3 hours of specially designed instruction in written expression.

Reading

According to both of Student 1's relevant IEPs (January 2019 and January 2020), Student 1 was supposed to receive 60 minutes of specially designed instruction in reading each week.

In terms of whether Student 1 was provided with specially designed instruction in reading, OSPI notes the following facts:

- For the entirety of the 2019-2020 school year, Student 1 was enrolled in an English class the District stated was taught by a general education teacher with support from paraeducator 1.
- But, in her interview with OSPI's investigator, paraeducator 1 stated she did not work with Student 1—at all, from September 2019 through sometime in February 2020. According to paraeducator 1, at some point in February 2020, she was directed to 'check in' with Student 1 in his general education English class, but Student 1 did 'not need help' and would 'graciously refuse' paraeducator 1's offer to help.
- Student 1's January 2020 IEP included the following information on Student 1's progress on the reading goal in his January 2019 IEP: "Student did not make this goal because he did not want to work with last year or current teacher on skills."

On the basis of the foregoing, OSPI finds: it does not appear Student 1 was provided with specially designed instruction in reading throughout the 2019-2020 school year.

This represents a violation of the IDEA and compensatory education is warranted. The District will be required to provide Student 1 with 1/3 of the missed specially designed instruction in reading. This compensatory education will occur in a one-to-one setting. It must occur outside the District's regular hours of instruction. And it may be provided remotely.

The start of the school year through March 17, 2020 represents approximately 24 weeks. So, during this time, Student 1 should have received approximately 24 hours of specially designed instruction in reading.¹³ Therefore, as compensatory education, the District will be required to provide Student 1 with 8 hours of specially designed instruction in reading.

¹² 40 minutes each week multiplied by 17 equals 560 minutes. And 560 minutes divided by 60 equals 9.3 hours.

¹³ 1 hour a week multiplied by 24 weeks equals 24 hours total.

Accommodations: Based on OSPI's investigator's conversation with special education teacher 1, it appears Student 1's IEP accommodations were materially implemented throughout the 2019-2020 school year.

Student 2

Math

According to both of Student 2's IEPs (February 2019 and February 2020), Student 2 was supposed to receive the following specially designed instruction in math: 50 minutes 5 times a week.

In terms of whether Student 2 received specially designed instruction in math, OSPI notes the following:

- For the entirety of the 2019-2020 school year, Student 2 was in an 'RES RM Math' class taught by special education teacher 1 with support from paraeducator 1.
- Student 2's February 2020 IEP included the following information on Student 2's progress on the math goals included in his February 2019 IEP:
 - **Math 1:** "Student is 100% on penny to a dollar, he is 50% on nickels to a dollar, he is 0% at dimes and quarters. There [was] progress shown but not enough to [have mastered] this goal."
 - **Math 2:** "Student is able to do this skill with help but not independently. He did not meet his goal in this area."
- In regard to math, OSPI's investigator's notes from his interview of special education teacher 1 are as follows:
 - **Regarding Math Goal 1:** Worked on: worksheets regarding money; putting the appropriate number of coins together to make purchases. Student 2 made progress in this area but not enough. Special education teacher 1 tried to get Student 2 to 'a more basic level.' Student 2 understood nickels fairly well but struggled when working with quarters.
 - **Regarding Math Goal 2:** Used a calculator when working with Student 2 in this area. Decimals were tough for Student 2. Student 2 needed lots of assistance when working on this goal. Student 2 was not able to make a lot of progress.
- In regard to math, OSPI's investigator's notes from his interview of paraeducator 1 are as follows: 'I would go to lunch and special education teacher 1 would have small group in the resource room. But a lot of time Student 2 would just use a learning tool app because the other students in the small math group were more advanced than Student 2—they were working on algebraic skills that were beyond Student 2's abilities...The small math group worked on lots of worksheets and they used coins in their math exercises. But, again, Student 2 can't recognize a quarter [and] can't do decimal calculations on a calculator...Special education teacher 1 did not have a lot of 1:1 time with Student 2 [during the small math group time] because of the demands of the class...special education teacher 1's schedule never stayed the same.'

On the basis of the foregoing, OSPI concludes the District materially provided Student 2 with the specially designed instruction in math in his IEPs. For example, the February 2020 IEP included detailed information on Student 2's progress on his February 2019 math IEP goals. Furthermore, special education teacher 1 was able to provide OSPI's investigator with a detailed explanation of what specially designed instruction looked like for Student 2.

Reading

According to both of Student 2's IEPs (February 2019 and February 2020), Student 2 was supposed to receive the following specially designed instruction in reading: 50 minutes 5 times a week.¹⁴

In terms of whether Student 2 received specially designed instruction in reading, OSPI notes the following:

- For the entirety of the 2019-2020 school year, Student 2 attended an English class taught by a general education teacher with support from paraeducator 1.
- Student 1's February 2020 IEP does not include any information related specifically to the progress he had made on the two readings goal included in his February 2019 IEPs.
- Based on the interview with special education teacher 1 regarding the provision of specially designed instruction in reading to Student 2 while the details were not entirely clear, it looks like all specially designed instruction in reading was provided to Student 2 in Student 2's English class.
- Paraeducator 1 stated: 'I had a copy of [Student 2's] IEP and I knew its contents.'
- Paraeducator 1 was able to provide OSPI's investigator with a detailed statement concerning the skill sets and exercises she worked on with Student 2 during Student 2's English class.

Despite the lack of progress reporting on Student 2's February 2019 reading goals, because paraeducator 1 said she had a copy of Student 2's IEP, knew its content, and was able to provide a detailed statement regarding the provision of specially designed instruction in reading to Student 2, OSPI finds: the District materially implemented Student 2's specially designed instruction in reading.

Written Expression

According to both of Student 2's IEPs (February 2019 and February 2020), Student 2 was supposed to receive the following specially designed instruction in written expression: 30 minutes 5 times a week.

In terms of whether Student 2 received specially designed instruction in reading, OSPI notes the following:

- For the entirety of the 2019-2020 school year, Student 2 attended an English class taught by a general education teacher with support from paraeducator 1.
- OSPI's investigator's impression, from speaking with special education teacher 1, was that specially designed instruction in written expression was worked on in Student 2's vocational cooking class and his English class. But paraeducator 1 said, in relation to Student 2's vocational cooking class, that she 'stepped back' in Student 2's vocational cooking class and tried to let Student 2 work independently.
- Student 2's February 2020 IEP included the following information on Student 2's progress on the written expression goal included in his February 2019 IEP: "On the last assessment special education teacher 1 gave Student [he was] to write 'She is fun' and 'He ran to the cat' and Student was able to spell 7 out of the 8 words correctly independently. He missed the 'sh' sound in she."

¹⁴ The February 2019 IEP required specially designed instruction in reading be provided in a *special education setting*. The February 2020 IEP required specially designed instruction in reading be provided in a *general education setting*.

- In regards to Student 2's written expression goals, paraeducator 1 stated: 'We worked diligently on this goal but Student 2 did not succeed independently in this area.'

On the basis of the foregoing, OSPI finds the District materially implemented Student 2's specially designed instruction in written expression.

Social/Emotional/Adaptive

According to both of Student 2's IEPs (February 2019 and February 2020), Student 2 was supposed to receive the following specially designed instruction in written expression: 60 minutes 5 times a week.¹⁵ (Each IEP included one social/emotional/adaptive goal focused on increasing social awareness and interpersonal skills.)

In terms of whether Student 2 received specially designed instruction in social/emotional/adaptive, OSPI notes the following information:

- Throughout the 2019-2020 school year, Student 2 attended a Social Emotional class taught by special education teacher 1. This class was 50 minutes in length and met 5 days a week.
- Student 2's February 2020 IEP included the following information on Student 2's progress on the social emotional goal included in his February 2019 IEP: "**Social:** In select classes Student is rocking this goal. His support person can take her break during health/PE and he is able to navigate the class."
- During her interview with OSPI's investigator, special education teacher 1 provided the following information regarding the provision of specially designed instruction in social emotional to Student 2: Worked on increasing Student 2's ability to be independent, with the aim of eventually being able to increase Student 2's time in the general education setting. Worked on 'social stories' with Student 2.
- Paraeducator 1 was Student 2's one-on-one paraeducator and was with Student 2 basically the entire day.
- During her interview with OSPI's investigator, paraeducator 1 stated: 'Student 2 was never in a social emotional class taught by special education teacher 1.' OSPI's investigator's notes from his interview with paraeducator 1—as they pertain to the provision of specially designed instruction in social emotional, further read: "Paraeducator 1 has 'no idea' when specially designed instruction in social emotional was provided to Student 2. Paraeducator 1: 'I did not provide [Student 2 with specially designed instruction in social emotional and [I] received no guidance on how to direct/implement specially designed instruction in social emotional.'"

On the basis of the foregoing, OSPI finds: the District provided Student 2 with some of the specially designed instruction in his IEPs, but the exact extent to which Student 2 was provided with specially designed instruction in this area is unknown. It was likely significantly less than was required by Student 2's IEPs. This represents a violation of the IDEA and compensatory education is warranted.

¹⁵ The February 2019 IEP required specially designed instruction in social emotional be provided in a *special education setting*. The February 2020 IEP required specially designed instruction in social emotional be provided in a *general education setting*.

The District will be required to provide Student 2 with 1/6 of the missed specially designed instruction in social/emotional/adaptive. This compensatory education will occur in a one-to-one setting. It must occur outside the District's regular hours of instruction. And it may be provided remotely.

The start of the school year through March 17, 2020 represents approximately 24 weeks. So, during this time, Student 2 should have received approximately 120 hours of specially designed instruction in social/emotional/adaptive.¹⁶ Therefore, as compensatory education, the District will be required to provide Student 2 with 20 hours of specially designed instruction in social/emotional/adaptive.

Communication

According to both of Student 2's IEPs (February 2019 and February 2020), Student 2 was supposed to receive the following specially designed instruction in written expression: 30 minutes 2 times a week—to be provided by a speech language pathologist (SLP). Each IEP included two communication goals.

During the course of the investigation, the District did not provide OSPI with information on who provided Student 2 with specially designed instruction in communication. Similarly, the District did not provide OSPI with specific information on when specially designed instruction in communication was provided. Still, the record contained detailed information on Student 2's progress on his February 2019 communication goals. Student 2's February 2020 IEP included the following information on Student 2's progress on the communication goals included in his February 2019 IEP:

Student has mastered part of his communication goals. When it comes to yes/no questions, Student can answer these with 90% accuracy on a consistent basis. For 'wh' questions, he is still needing some prompting to answer the question with the correct answer based on which 'wh' question is being asked. Typically, if he needs a prompt, the question is asked again with emphasis on the 'wh.' He is correcting his answer nearly 80% of the time with the moderate prompt. When given 2 step instructions, he is performing at about 80%. He has more difficulty when the time/sequence direction are given without first obtaining his full attention, or if he begins the task without allowing the full direction to be given. However, he is able to complete the directions easily once he has a full understanding of what he is being instructed to do.

On the basis of the foregoing facts, OSPI finds the District materially implemented Student 2's specially designed instruction in communication.

Accommodations: In their interviews with OSPI's investigator, special education teacher 1 and paraeducator 1 provided statements showing Student 2's IEP accommodations were materially implemented throughout the 2019-2020 school year.

¹⁶ 5 hours each week multiplied by 24 equals 120 hours.

Student 3

Math

According to both of Student 3's relevant IEPs (March 2019 and March 2020), throughout the 2019-2020 school year, Student 3 was supposed to receive the following specially designed instruction in math: 30 minutes 5 times a week.

In terms of whether Student 3 received the appropriate amount of specially designed instruction in math, OSPI notes the following facts:

- Throughout the course of the 2019-2020 school year, Student 3 was in an Integrated Math class taught by a general education teacher with support from paraeducator 2 and special education teacher 1.
- In her interview with OSPI's investigator, paraeducator 2 said she did not work with Student 3.
- In her interview with OSPI's investigator, special education teacher 1 said it became easier for her to 'pull' Student 3 for specially designed instruction in math beginning in January 2020; prior to January 2020, it was logistically more challenging for special education teacher 1 to 'pull' Student 3 for specially designed instruction in math.
- Student 3's March 2020 IEP included the following information on Student 3's progress on the measurable annual goals included in her March 2019 IEP:
 - **Math 1:** "This first goal focuses on her general education classroom and she is doing great in that class. With minimal support she is able to work through the work book."
 - **Math 2:** "On her second [math] goal Student was able to meet all but one section. She had a hard time with long division, so [she] did not make this goal."

On the basis of the foregoing information, OSPI concludes: Student 3 was provided with specially designed instruction in math, but prior to January 2020, it does not appear Student 3 was provided with the correct amount of specially designed instruction in math. Therefore, compensatory education is warranted.

The District will be required to provide Student 3 with 1/3 of the specially designed instruction in math that was supposed to have been provided from the start of the school year through December 2019. This compensatory education will occur in a one-to-one setting. It must occur outside the District's regular hours of instruction. And it may be provided remotely.

The start of the school year through December 2019 represents approximately 14 weeks. So, during this time, Student 3 should have received approximately 35 hours of specially designed instruction in written expression.¹⁷ Therefore, as compensatory education, the District will be required to provide Student 3 with 12 hours of specially designed instruction in math.

¹⁷ 150 minutes each week multiplied by 14 equals 2,100 minutes. And 2,100 minutes divided by 60 equals 35 hours.

Reading

According to both of Student 3's relevant IEPs (March 2019 and March 2020), throughout the 2019-2020 school year, Student 3 was supposed to receive the following specially designed instruction in reading: 20 minutes 5 times a week.

In terms of whether Student 3 received the appropriate amount of specially designed instruction in reading, OSPI notes the following facts:

- Throughout the course of the 2019-2020 school year, Student 3 attended an English class taught by a general education teacher with support from paraeducator 2 and special education teacher 1.
- But paraeducator 2 stated she did not work with Student 3 in her general education English class—for that class, paraeducator 2 was a 'scribe' for another student. And special education teacher 1 stated she began co-teaching Student 3's English class in January 2020 because: a) prior to that date, she was not able to 'pull Student 3 out as much as she would have wanted' to provide Student 3 with specially designed instruction in reading; and b) because she realized that, prior to her assuming a co-teaching role in January 2020, there was not as much 'small group' work, wherein Student 3 presumably received some specially designed instruction in reading, as special education teacher 1 thought was necessary.
- Student 3's March 2020 IEP included the following information on Student 3's progress on the reading goals included in her March 2019 IEP: "She met this goal."

Thus, despite the Student having met her goal, the paraeducator and teacher's statements indicate the Student was likely not provided the full amount of specially designed instruction required by her IEP. OSPI concludes: Student 3 was provided with specially designed instruction in reading, but, prior to January 2020, it was irregularly provided to her. This is a violation of the IDEA and compensatory education is warranted.

The District will be required to provide Student 3 with 1/4 of the specially designed instruction in reading she should have been provided from the start of the school year through December 2019. This compensatory education will occur in a one-to-one setting. It must occur outside the District's regular hours of instruction. And it may be provided remotely.

The start of the school year through December 2019 represents approximately 14 weeks. So, during this time, Student 3 should have received approximately 23 hours of specially designed instruction in reading.¹⁸ Therefore, as compensatory education, the District will be required to provide Student 3 with 6 hours of specially designed instruction in reading.

Written Expression

According to both of Student 3's relevant IEPs (March 2019 and March 2020), throughout the 2019-2020 school year, Student 3 was supposed to receive the following specially designed instruction in written expression: 20 minutes 5 times a week.

¹⁸ 100 minutes each week multiplied by 14 weeks equals 1,400 minutes. And 1,400 minutes divided by 60 equals approximately 23 hours.

In terms of whether Student 3 received the appropriate amount of specially designed instruction in written expression, OSPI notes the following facts:

- Throughout the course of the 2019-2020 school year, Student 3 attended an English class taught by a general education teacher with support from paraeducator 2 and special education teacher 1.
- But paraeducator 2 stated she did not work with Student 3 in her general education English class—for that class, paraeducator 2 was a 'scribe' for another student. And special education teacher 1 stated she began co-teaching Student 3's English class in January 2020 because: a) prior to that date, she was not able to 'pull Student 3 out as much as she would have wanted' to provide Student 3 with specially designed instruction in reading; and b) because she realized that, prior to her assuming a co-teaching role in January 2020, there was not as much 'small group' work, wherein Student 3 presumably received some specially designed instruction in reading, as special education teacher 1 thought was necessary.
- Student 3's March 2020 IEP included the following information on Student 3's progress on the two written expression goals included in her March 2019 IEP: "Student has met both of these goals in her general education classroom."

Similar to the above discussion of the Student's specially designed instruction in reading, OSPI concludes: Student 3 was provided with specially designed instruction in written expression, but, prior to January 2020, it was irregularly provided to her. This is a violation of the IDEA and compensatory education is warranted.

The District will be required to provide Student 3 with 1/4 of the specially designed instruction in written expression she should have been provided from the start of the school year through December 2019. This compensatory education will occur in a one-to-one setting. It must occur outside the District's regular hours of instruction. And it may be provided remotely.

The start of the school year through December 2019 represents approximately 14 weeks. So, during this time, Student 3 should have received approximately 23 hours of specially designed instruction in written expression.¹⁹ Therefore, as compensatory education, the District will be required to provide Student 3 with 6 hours of specially designed instruction in written expression.

Accommodations: Based on the information available to OSPI, and the staff interviews conducted as part of this investigation, OSPI makes the following determinations: Student 3's IEP accommodations were imperfectly implemented prior to January 2020, but, beginning January 2020, they were materially implemented.

Student 4

Math

According to Student 4's December 2018 IEP, from the start of the 2019-2020 school year through approximately December 12, 2019, Student 4 was supposed to receive specially designed instruction in math 30 minutes twice a week—to be provided by a special education teacher.

¹⁹ 100 minutes each week multiplied by 14 weeks equals 1,400 minutes. And 1,400 minutes divided by 60 equals approximately 23 hours.

During the first part of December 2019, a new IEP was created for Student 4. Under the December 2019 IEP, starting on or about December 12, 2019, Student 4 was supposed to receive specially designed instruction in math 40 minutes twice a week—to be provided by a special education teacher.

The record, though, does not show Student 4 was provided with all of the specially designed instruction in math she was entitled to under her IEPs. For example, the only information on Student 4's progress on her December 2018 math goals is as follows: the December 2019 IEP read, in part, "Even though Student 4 showed progress over the year, she was not able to make any of her goals in math."

Additionally, according to the District, Student 4 received her specially designed instruction in math during her Integrated Math class, which was taught by a general education teacher with support from special education teacher 1 and paraeducator 2. But, in her interview with OSPI's investigator, special education teacher 1 stated she was not involved in Student 4's Integrated Math class prior to January 2020. And, in her interview with OSPI's investigator, paraeducator 2 stated she did not work with Student 4.²⁰

On the basis of the foregoing, then, it appears that prior to January 2020, Student 4 was not provided with specially designed instruction in math. But Student 4 was consistently provided with specially designed instruction in math beginning January 2020. Therefore, this is a violation of the IDEA and compensatory education is warranted.

As compensatory education, the District will be required to provide Student 4 with approximately 1/3 of the missed specially designed instruction in math. This compensatory education will occur in a one-to-one setting—meaning it will be just Student 4 and the service provider. It must occur outside the District's regular hours of instruction. And it may be provided remotely.

The start of the school year through mid-December 2019 represents approximately 14 weeks. So, during this time, Student 4 should have received approximately 14 hours of specially designed instruction in math.²¹ Therefore, as compensatory education, the District will be required to provide Student 4 with 5 hours of specially designed instruction in math.²²

Accommodations: Based on the information available to it, and the staff interviews conducted as part of this investigation, OSPI makes the following determinations: Student 4's IEP

²⁰ In her interview with OSPI's investigator, special education teacher 1 said that paraeducator 5 was also in Student 4's Integrated Math course, but OSPI's investigator spoke with paraeducator 5 and paraeducator 5 said she did not work with Student 4 at all either.

²¹ 1 hour of specially designed instruction in math each week multiplied by 14 weeks.

²² Soon after Student 4's December 2019 IEP took effect (on or about December 12, 2019), the District went on winter break. The District next resumed instruction in January 2020, when special education teacher 1 began providing Student 4 with specially designed instruction in the Integrated Math class. Therefore, no compensatory education is warranted for the time period after mid-December 2019.

accommodations were imperfectly implemented prior to January 2020, but beginning January 2020, they were materially implemented.

Student 5

Reading and Written Expression

According to Student 5's December 2018 IEP, from the start of the 2019-2020 school year through December 2019, Student 5 was supposed to receive the following specially designed instruction in reading and written instruction:

- *Special education setting:*
 - **Reading:** 20 minutes 3 times a week (to be provided by a special education teacher)
 - **Written Expression:** 20 minutes 3 times a week (to be provided by a special education teacher)
- *General education setting:*
 - **Reading:** 20 minutes twice a week (to be provided by a special education teacher)
 - **Written Expression:** 20 minutes twice a week (to be provided by a special education teacher)

According to Student 5's December 2019 IEP, from January 2020 through March 17, 2020, Student 5 was supposed to receive the following specially designed instruction in reading and written instruction in the *special education setting*:

- **Written Expression:** 20 minutes 5 times a week (to be provided by a special education teacher)
- **Reading:** 20 minutes 5 times a week (to be provided by a special education teacher)

According to the District, for the entirety of the 2019-2020 school year, Student 5 attended a 50-minute RES RM English language arts class that was taught by special education teacher 1. Student 5's December 2019 IEP included detailed information on Student 5's progress on the reading and written expression goals included in Student 5's December 2018 IEP:

- **Reading:** "Student did not meet this goal at the 4th grade level. We will work on this goal from the 4th grade starting point."
- **Writing Expression 1:** "Student was not able to make [this] goal because she used transition words to create a paragraph long sentence. If she was to make them just single sentences, she would have five. Her grammar is not always correct in these sentences though, so that is another area to work on."
- **Writing Expression 2:** "In her journal, Student was able to write up to 62 words written with 39 in correct word sequence, so she met that goal."

Furthermore, in her interview with OSPI's investigator, special education teacher 1 was able to provide detailed information on the provision of specially designed instruction in reading and written expression to Student 5. For example, OSPI's investigator's notes from his interview with special education teacher 1 read, in part:

Reading Goal and Written Expression Goals 1 & 2

Student 5's English language arts class was 'very modeled.' Students would read a book, go over vocabulary terms, work on exercises that dealt with responding to the text, taught students how to find information in the text of a passage. Special education teacher 1 also

worked with grammatical concepts with Student 5. Students in this class, including Student 5, also compared books to their movie adaptations.

On the basis of the foregoing, OSPI concludes that Student 5 was materially provided with the correct amount of specially designed instruction in both reading and written expression. Therefore, no compensatory education is warranted.

There is, however, one issue: Student 5's December 2018 IEP called for her to receive a portion of her specially designed instruction in reading and written expression in a *general education setting*. But it appears that, throughout the 2019-2020 school year, Student 5 only ever received specially designed instruction in a *special education setting*. This is a violation of the IDEA as IEPs must be implemented as written.

Math

Student 5's December 2018 IEP provided Student 5 with the following specially designed instruction in math (in a *special education setting*): 45 minutes 4 times a week. Student 5's December 2019 IEP provided Student 5 with the following specially designed instruction in math (in a *special education setting*): 40 minutes 5 times a week.

According to the District, during the entirety of the 2019-2020 school year, Student 5 attended a 50 minute RES RM Math class taught by special education teacher 1. According to Student 5's December 2019 IEP, by December 2019, Student 5 had met the math goals included in her December 2018 IEP. Furthermore, in her interview with OSPI's investigator, special education teacher 1 gave detailed statements as concerned the provision of specially designed instruction in math to Student 5. On the basis of the foregoing, OSPI finds the District materially implemented specially designed instruction in math for Student 5.

Communication

According to Student 5's December 2018 IEP and December 2019 IEP, Student 5 was supposed to receive 30 minutes once a week of specially designed instruction in communication.

According to the District, Student 5 received her specially designed instruction in communication "during [the] RES RM [classes] as a 'push in' model." The District did not provide any information more specific than that in terms of who provided Student 5 with her specially designed instruction in communication, or when. However, the December 2019 IEP did include detailed information on Student 5's progress on her December 2018 communication goals: "**Communication 1 – 3:** "Two of her goals are mastered due to showing growth and reaching at least 90% accuracy in identifying main ideas and providing personal input to further conversations. We will continue to work on /r/ articulation."

On the basis of the detailed progress data (included in the December 2019 IEP), OSPI finds the District materially implemented Student 5's specially designed instruction in communication.

Social Emotional

According to Student 5's December 2018 IEP, Student 5 was supposed to receive 20 minutes 2 times a week (in a *general education setting*) of specially designed instruction in social emotional. Student 5's December 2019 IEP provided Student 5 with 50 minutes once a week (in a *general education setting*) of specially designed instruction in social emotional. Both IEPs stated that Student 5's specially designed instruction in social emotional was not supposed to be concurrent with any other area of specially designed instruction.

In terms of whether the District provided Student 5 with specially designed instruction in social emotional throughout the 2019-2020 school year, OSPI notes the following facts:

- The District states the District was provided largely during Student 5's "RES RM...hybrid English language arts/social studies class."
- For the entirety of the 2019-2020 school year, Student 5 was enrolled in the following two classes, each of which was 50 minutes long and taught by special education teacher 1: RES RM Social Studies and RES RM English language arts.
- Student 5's December 2019 IEP included the following information on Student 5's progress on the measurable annual goals included in her December 2018 IEP:
 - **Social Emotional:** "Student has made some great improvement in this area over the past year. Student still needs help in this area but she is able to work through her issues about 30% of the time, so she has made her goal in this area."

On the basis of the foregoing, OSPI makes two conclusions. First, it appears the District materially provided Student 5 with specially designed instruction in social emotional. While the District did not provide OSPI with a detailed description of what specially designed instruction in social emotional looked like for Student 5, the progress data on Student's December 2018 social emotional goal (found in Student 5's December 2019 IEP) does indicate some level of specially designed instruction in social emotional was provided. Furthermore, Student 5 did attend a RES RM Social Studies class taught by special education teacher 1 that was 50 minutes long. And OSPI's interview with special education teacher 1 showed that, at least in relation to English class, special education teacher 1 provided Student 5 with the appropriate specially designed instruction in that class. So it is also likely Student 5 was provided with the appropriate amount of specially designed instruction in social studies by special education teacher 1 during her RES RM Social Studies class. Therefore, there has been no violation of the IDEA and no compensatory education is warranted.

Accommodations: During his interview with special education teacher 1, OSPI's investigator read each of Student 5's IEP accommodations. Special education teacher 1 then provided a sufficient explanation of how each of these accommodations was provided to Student 5. Therefore, OSPI finds: the District materially implemented Student 5's accommodations.

Student 6

Vocational

The Student's November 2018 IEP provided an annual goal in the vocational area. The Student's goal was to improve knowledge of career options. The IEP provided 15 minutes a week of vocational services in a special education setting provided by a special education teacher. The November 2019 IEP did not provide a vocational goal but continued to provide 15 minutes a week of vocational services. The Student's secondary transition plan included an education/training goal and an employment goal.

In reviewing the documentation for evidence of implementation, the Student's 2019-2020 school year schedule provided no indication of when the vocational services were provided by a special education teacher. In response to the complaint, the District provided no contemporaneous documentation of services having been implemented according to the IEP. Further, both potential vocational classes the Student was taking were taught by a general education teacher. And significantly, the January 28, 2020 progress report pertaining the vocational goal stated, "We have not worked on this goal at this time." The District provided insufficient evidence that vocational services were implemented and a violation is found. The District is required to provide the Student compensatory services in the vocational area.

The District will be required to provide Student 6 with 1/3 of the missed specially designed instruction in vocational. This compensatory education will occur in a one-to-one setting. It must occur outside the District's regular hours of instruction. And it may be provided remotely.

The start of the school year through March 17, 2020 represents approximately 24 weeks. So, during this time, Student 6 should have received approximately 6 hours of specially designed instruction in vocational.²³ Therefore, as compensatory education, the District will be required to provide Student 6 with 2 hours of specially designed instruction in vocational.

Math

The Student's 2018 and 2019 IEP provided annual goals in the area of math along with specially designed instruction to be implemented in the general education setting by a special education teacher 40 minutes, five times a week.

The documentation showed that the Student's 2019-2020 class schedule had geometry class for 50 minutes that was taught by a general education teacher and support from a paraeducator. It should be noted that the November 2018 and 2019 IEPs both state that a special education teacher would provide the specially designed instruction, not a paraeducator. In addition, the Student's schedule included a study skills/math class taught by a special education teacher that was 50 minutes long. The special education teacher reported that math goals were worked on

²³ 15 minutes each week multiplied by 24 equals 360 minutes. And 360 minutes divided by 60 equals 6 hours.

during the study skills/math class but she and the paraeducator also worked with other students who had high needs. Paraeducator 3, who worked with the Student, stated she worked in geometry class but she provided Student 6 with little help because of the Student's disinterest. The January 2020 progress report stated progress on first math goal was an "emerging skill" and instruction had not been provided on the second goal. The Student was making "sufficient progress" on the third math goal. Based on the documentation, there was evidence that at least some math services were provided to Student 6 but not as consistently as the Student's IEP required or by the personnel designated on the IEP. This represents a violation of the IDEA and compensatory education is warranted.

The District will be required to provide Student 6 with 1/6 of the total specially designed instruction in math Student 6 should have received throughout the school year. This compensatory education will occur in a one-to-one setting. It must occur outside the District's regular hours of instruction. And it may be provided remotely.

The start of the school year through March 17, 2020 represents approximately 24 weeks. So, during this time, Student 6 should have received approximately 80 hours of specially designed instruction in math.²⁴ Therefore, as compensatory education, the District will be required to provide Student 6 with 13 hours of specially designed instruction in math.

Reading

The Student's November 2018 IEP provided one annual goal in reading; the IEP provided for specially designed instruction in reading provided by a special education teacher in the general education setting 20 minutes, four times a week. The Student's November 2019 IEP provided two annual goals in reading along with specially designed instruction provided by the special education teacher for 20 minutes per month.

In reviewing the Student's 2019-2020 class schedule, there was no indication when the specially designed instruction in reading was provided. According to paraeducator 4, no special education teacher was present in Student 6's literature class. Paraeducator 4 also stated that in addressing reading comprehension, Student 6 'always refused assistance.' Furthermore, paraeducator 4 states she was never provided with a copy of Student 6's IEPs, nor did paraeducator 4 receive an explanation of what specially designed instruction in reading was supposed to look like for Student 6. Again, it must be noted that the Student's November 2018 and 2019 IEPs stated that the service provider was a special education teacher. The January 2020 progress monitoring report stated the Student was making sufficient progress toward the first goal and emerging skill in the second goal. Based on the lack of documentation to substantiate that the District implemented the reading services consistent with the Student's IEP, a violation is found. The District is required to provide compensatory services in reading to the Student.

²⁴ 200 minutes each week multiplied by 24 equals 4800 minutes. And 4800 minutes divided by 60 equals 80 hours.

The District will be required to provide Student 6 with 1/3 of the missed specially designed instruction in reading. This compensatory education will occur in a one-to-one setting. It must occur outside the District's regular hours of instruction. And it may be provided remotely.

From the start of the school year through November 5, 2019 represents approximately 13 weeks. During this time, Student 6 was supposed to receive 20 minutes 4 times a week of specially designed instruction in reading. So, during this time, Student 6 should have received approximately: 17 hours of specially designed instruction in reading. From November 5, 2019 through March 17, 2020 represents approximately 12 weeks. During this time, Student 6 was supposed to receive 20 minutes once a month. So, during this time, Student 6 should have received approximately: 1 hours of specially designed instruction in reading.

The total, then, should have been approximately 18 hours. Therefore, as compensatory education, the District will be required to provide Student 6 with 6 hours of specially designed instruction in reading.

Written Expression

Both the Student's 2018 and 2019 IEP provided annuals in the area of written expression and provided specially designed instruction by a special education in a general education setting 20 minutes, four times a week.

Student 6's 2019-2020 class schedule did not indicate when services in written expression were provided to Student 6. The District's response to the complaint also did not describe when the services were provided. Looking to the January 2020 progress report in written expression, Student 6 was demonstrating an "emerging skill." The District did not submit any documentation to verify progress or implementation of the services. When asked about how the written expression services were implemented, paraeducator 4 stated she always checked to see if Student 6 needed help but 'it was usually the general education teacher that helped.' Furthermore, paraeducator 4 states she was never provided with a copy of Student 6's IEPs, nor did paraeducator 4 receive an explanation of what specially designed instruction in reading was supposed to look like for Student 6. Based on the lack of documentation that written expression services were provided in accordance with the Student's IEP, a violation is found.

The District is required to provide compensatory services in the area of written expression. This compensatory education will occur in a one-to-one setting. It must occur outside the District's regular hours of instruction. And it may be provided remotely.

The start of the school year through March 17, 2020 represents approximately 24 weeks. So, during this time, Student 6 should have received approximately 32 hours of specially designed instruction in written expression.²⁵ Therefore, as compensatory education, the District will be required to provide Student 6 with 10 hours of specially designed instruction in written expression.

²⁵ 80 minutes each week multiplied by 24 equals 1,920 minutes. And 1,920 minutes divided by 60 equals 32 hours.

Accommodations: When special education teacher 1 was asked to about the Student's accommodations, the teacher made statements establishing they were materially provided to Student 6. However, when paraeducator was asked if she was ever provided with a copy Student 6's IEPs, paraeducator said, 'No, I only got [Student 6's] IEP if I asked for them and I don't recall asking for Student 6's IEP. I generally asked [Student 6's] general education teacher for information on what I was supposed to do.' Therefore, OSPI concludes: while Student 6's accommodations were materially implemented, and there has been no violation of the IDEA, Student 6's accommodations were, at times, implemented inconsistently.

Student 7

Math

According to Student 7's April 2019 IEP, from the start of the school year through March 17, 2020, Student 7 was supposed to receive the following specially designed instruction in math: 20 minutes 2 times a week—to be provided by a special education teacher.

In terms of whether Student 7 was provided with this specially designed instruction in math, OSPI notes the following facts:

- According to the scheduling information the District provided OSPI for Student 7, November 6, 2019 was the first time Student 7 received instruction in math. In other words, prior to November 6, 2019, Student 7 did not receive instruction in math (be it general instruction or specially designed instruction).
- On January 30, 2020, Student 7's parent was provided progress reporting on Student's April 2019 written expression goal, but Student 7's parent was not provided with progress reporting regarding Student 7's two math goals in his April 2019 IEP.
- During her interview with OSPI's investigator, special education teacher 1 provided the following information on Student's math Apollo class, which began on November 6, 2019: Math was worked on during this class period but not as a matter of course—it depended on what Student 7's needs where on any particular day.
- In their respective interviews with OSPI's investigator, paraeducators 4 and 5 stated they did not provide Student 7 with any specially designed instruction in math.

On the basis of the foregoing, OSPI finds: Student 7 was not provided specially designed instruction in math prior to November 6, 2019. Beginning November 6, 2019, Student 7 was provided some minimal level of specially designed instruction in math. This represents a violation of the IDEA and compensatory education is warranted. The District will be required to provide Student 7 with 1/3 of the missed specially designed instruction in math. This compensatory education will occur in a one-to-one setting. It must occur outside the District's regular hours of instruction. And it may be provided remotely.

The start of the school year through March 17, 2020 represents approximately 24 weeks. So, during this time, Student 7 should have received approximately 16 hours of specially designed

instruction in math.²⁶ Therefore, as compensatory education, the District will be required to provide Student 7 with 5 hours of specially designed instruction in math.

Written Expression

According to Student 7's April 2019 IEP, from the start of the school year through March 17, 2020, Student 7 was supposed to receive the following specially designed instruction in written expression: 30 minutes 3 times a week.

The following is the information available to OSPI regarding whether Student 7 received specially designed instruction in written expression throughout the 2019-2020 school year:

- Student 7 was enrolled in a British Literature class taught by a general education teacher throughout the school year.
- In their interviews, paraeducators 4 and 5 said they did not work with Student 7—which contradicted some scheduling information for Student 7 that the District provided OSPI.
- In Student 7's Study Hall period, special education teacher 1 would work with Student, but the type of work done depended on what Student 7's needs were on that particular day.
- As of January 30, 2020, Student 7 had made sufficient progress on the written expression goal in his April 2019 IEP.

On the basis of the foregoing, OSPI concludes: Student 7 was provided with specially designed instruction in written expression during the 2019-2020 school year, but the actual extent of the specially designed instruction in written expression is not clear—and it does not appear the written expression portion of the April 2019 IEP was materially implemented. Therefore, compensatory education is warranted.

The District will be required to provide Student 7 with 1/4 of the missed specially designed instruction in written expression. This compensatory education will occur in a one-to-one setting. It must occur outside the District's regular hours of instruction. And it may be provided remotely.

The start of the school year through March 17, 2020 represents approximately 24 weeks. So, during this time, Student 7 should have received approximately 36 hours of specially designed instruction in written expression.²⁷ Therefore, as compensatory education, the District will be required to provide Student 7 with 9 hours of specially designed instruction in written expression.

Accommodations: Based on the information available to it, and the staff interviews conducted as part of this investigation, OSPI makes the following determinations: Student 7's IEP accommodations were imperfectly implemented prior to November 6, 2019, but, beginning on that date, they were materially implemented.

²⁶ 40 minutes each week multiplied by 24 equals 960 minutes. And 960 minutes divided by 60 equals 16 hours.

²⁷ 1.5 hours each week multiplied by 24 equals 36 hours.

Student 8

Vocational

According to Student 8's April 2019 IEP, she was to be provided specially designed instruction in vocational 25 minutes once a week. Student 8's April 2019 IEP included the following vocational goal:

By April 24, 2020, when given possible careers of interest Student will list specific job-related requirements improving vocational skills from being able to list no job-related requirements to listing at least 3 job-related requirements on 3 possible careers as measured by teacher-collected data.

In terms of whether Student 8 was provided with specially designed instruction in vocational, OSPI notes the following facts:

- As of the end of January 2020, Student 8 had made the following progress on her April 2019 vocational goal: "Mastered. Student discussed the possibility of being a nanny in Oregon when she was [finished with] school. We looked up some places for her to look into for job opportunities."
- The following statement from special education teacher 1 (provided during her interview with OSPI's investigator): '[Student 8's April 2019 vocational goal] was completed by the end of the last school year. Still, we talked about what she wanted to do. Student 8 wanted to be a nanny and we looked up resources [on steps Student 8 would need to take] to be a nanny.'
- According to the scheduling information provided to OSPI by the District, Student 8 had three different 'Teacher's Assistant' periods. However, during these periods, special education teacher 1 stated Student 8 would 'sit in the office,' help with administrative tasks in the office, or work with the counselor.

On the basis of the foregoing, OSPI notes: it appears Student 8 was provided with some amount of specially designed instruction in vocational during the 2019-2020 school year, though the exact amount is unclear. It does not appear Student 8 received 25 minutes of specially designed instruction in vocational once a week. For example, it appears that a significant amount of the time Student 8 spent in the office during the three 'Teacher's Assistant' periods was devoted to either sitting or working alone, or helping with administrative tasks. Furthermore, the vocational goal in the April 2019 IEP is very specific: Student 8 will be able to list "3 job-related requirements on 3 possible careers as measured by teacher-collected data." From the progress reporting and special education teacher 1's interview, though, it appears Student 8's vocational goal was treated as having been mastered as soon as Student 8 was able to identify a single possible job (being a nanny), and Student 8 "looked up some places for her to look into for job [opportunities as a nanny]." This is not what the goal required. This represents a violation of the IDEA and compensatory education is warranted.

The District will be required to provide Student 7 with approximately 1/5 of the specially designed instruction in vocational Student 8 was supposed to have received throughout the 2019-2020 school year. This compensatory education will occur in a one-to-one setting. It must occur outside the District's regular hours of instruction. And it may be provided remotely.

The start of the school year through March 17, 2020 represents approximately 24 weeks. So, during this time, Student 8 should have received approximately 10 hours of specially designed instruction in vocational.²⁸ Therefore, as compensatory education, the District will be required to provide Student 7 with 2 hours of specially designed instruction in vocational.

Reading

According to Student 8's April 2019 IEP, she was to be provided specially designed instruction in reading 25 minutes once a week.

Here, throughout the 2019-2020 school year, Student 8 was enrolled in a Bridge to College English Language Arts class taught by a general education teacher with support from paraeducator 5. In relation to Student 8's April 2019 reading goal, her January 2020 progress reporting read, in part: "Not been provided instruction on this goal." Furthermore, in her interview with OSPI's investigator, paraeducator 5 said she was never provided a copy of Student 8's April 2019 IEP, nor does she specially recall having a conversation with special education teacher 1 regarding what specially designed instruction in reading was supposed to look like for Student 8. Regardless, when OSPI's investigator read paraeducator 5 Student 8's April 2019 reading goal, paraeducator 5 said that was a skill set she worked with Student 8 on throughout the 2019-2020 school year. Furthermore, paraeducator 5 said, in Student 8's English language arts class, Student 8 was paraeducator 5's main priority.

On the basis of the foregoing, OSPI finds: Student 8 was provided with some amount of specially designed instruction in reading throughout the 2019-2020 school year. However, due to the January 2020 progress reporting, it does not appear Student 8 was provided with the total amount of specially designed instruction in reading that was required by her April 2019 IEP.

This represents a violation of the IDEA and compensatory education is warranted. The District will be required to provide Student 8 with 1/5 of the missed specially designed instruction in reading. This compensatory education will occur in a one-to-one setting. It must occur outside the District's regular hours of instruction. And it may be provided remotely.

The start of the school year through March 17, 2020 represents approximately 24 weeks. So, during this time, Student 8 should have received approximately 10 hours of specially designed instruction in reading.²⁹ Therefore, as compensatory education, the District will be required to provide Student 8 with 2 hours of specially designed instruction in reading.

²⁸ 25 minutes each week multiplied by 24 equals 600 minutes. And 600 minutes divided by 60 equals 10 hours.

²⁹ 25 minutes each week multiplied by 24 equals 600 minutes. And 600 minutes divided by 60 equals 10 hours.

Social/Emotional/Behavior

According to Student 8's April 2019 IEP, she was to be provided specially designed instruction in social/emotional/behavior 30 minutes once a week.

In terms of whether Student 8 was provided with specially designed instruction in social/emotional/behavior, OSPI notes the following facts:

- According to the scheduling information provided to OSPI by the District, Student 8 had three different 'Teacher's Assistant' periods. However, during these periods, special education teacher 1 stated Student 8 would 'sit in the office,' help with administrative tasks in the office, or work with the counselor. Furthermore, the District stated these 'Teacher's Assistant' periods were taught by special education teacher 1, but, in her interview with OSPI's investigator, special education teacher 1 described her daily interaction with Student 8 as follows: "On [an] average day, it would depend—[it was] a 5 to 10 minute thing." From the interview, it was OSPI's investigator's impression that special education teacher 1 did not spend close to three hours with Student 8 each school day.
- The January 2020 progress reporting for Student 8's two behavioral goals read, in part: "emerging skill."
- When OSPI's investigator asked special education teacher 1 what specially designed instruction in social/emotional/behavior looked like for Student 8, OSPI's investigator was not able to get a clear picture as to what this looked like—exercises worked on, etc.

On the basis of the foregoing, OSPI finds that Student 8 was not provided with the specially designed instruction in social/emotional/behavior that was included in her April 2019 IEP.³⁰ This represents a violation of the IDEA and compensatory education is warranted.

The District will be required to provide Student 7 with 1/3 of the specially designed instruction in social/emotional/behavior Student 8 should have received during the 2019-2020 school year. This compensatory education will occur in a one-to-one setting. It must occur outside the District's regular hours of instruction. And it may be provided remotely.

The start of the school year through March 17, 2020 represents approximately: 24 weeks. So, during this time, Student 8 should have received approximately 12 hours of specially designed instruction in social/emotional/behavior.³¹ Therefore, as compensatory education, the District will be required to provide Student 8 with 4 hours of specially designed instruction in social/emotional/behavior.

³⁰ Further support for this conclusion can be found in the January 2020 progress reporting for Student's reading and math annual goals, each of which states Student 8's behavior presented challenges in being able to provide Student 8 with specially designed instruction in those areas.

³¹ 30 minutes each week multiplied by 24 equals 720 minutes. And 960 minutes divided by 60 equals 12 hours.

Math

According to Student 8's April 2019 IEP, she was to be provided specially designed instruction in math 25 minutes once a week.

There is, however, no indication Student 8 was provided with specially designed instruction in math during the 2019-2020 school year. For example, Student 8 attended a Bridge to College Math class throughout the school year that was taught by a general education teacher and paraeducator 4. However, the progress reporting that was done on Student 8's two April 2019 math goals read, in part: "Not been provided instruction on this goal. I have not been able to get Student 8 to work with me on this topic." And, in her interview with OSPI's investigator, paraeducator 4 stated: the "only time I ever saw Student 8 [was when I'd] occasionally go over to the Bridge to College Math class but [Student 8] always refused my assistance." This represents a violation of the IDEA and compensatory education is warranted.

The District will be required to provide Student 8 with 1/2 of the specially designed instruction in math Student 8 should have received during the 2019-2020 school year. This compensatory education will occur in a one-to-one setting. It must occur outside the District's regular hours of instruction. And it may be provided remotely.

The start of the school year through March 17, 2020 represents approximately 24 weeks. So, during this time, Student 8 should have received approximately 10 hours of specially designed instruction in math.³² Therefore, as compensatory education, the District will be required to provide Student 8 with 5 hours of specially designed instruction in math.

Accommodations: When individually read the accommodations included in Student 8's April 2019 IEP, the two service providers that worked with Student 8 (special education teacher 1 and paraeducator 5) affirmed that each accommodation was provided, and provided OSPI's investigator with a sufficient explanation and/or example of each. Therefore, OSPI finds that the accommodations listed in Student 8's April 2019 IEP were materially implemented.

General Conclusions – The analysis of the above Students revealed three systemic issues with the provision of specially designed instruction at the Students' high school.

First, one of the pieces of information that OSPI looks at in determining whether specially designed instruction has been provided to a particular student, in accordance with that student's IEP, is: progress reporting. (OSPI also looks at, as available and needed, the following: students' schedules, work samples, the results of service provider interviews). In this case, as acknowledged by the District in its response to this complaint, progress reporting for Students 1 through 8 was varied. For example, some of the Students had actual progress reports, but many did not. This made it a challenge for OSPI to confirm the Students had been provided with the specially designed instruction in their respective IEPs.

³² 25 minutes each week multiplied by 24 equals 600 minutes. And 600 minutes divided by 60 equals 10 hours.

More importantly, though, progress reporting is important because it helps ensure a parent's ability to adequately participate in the IEP development process—by keeping the parent informed of the student's progress. Because OSPI ordered that District special education administrative staff and special education staff complete a training module on progress monitoring as result of Special Education Citizen Complaint 20-35³³, no further training on progress reporting is required as a result of the instant complaint (SECC 20-43).

Second, this investigation revealed that, on several occasions, relevant service providers were not aware of their responsibilities under various Students' IEPs. There are several legal requirements related to this particular implementation issue:

- IEPs must be implemented as written;
- A student's IEP must be accessible to each general education teacher, special education teacher, related services provider, and any other service provider who is responsible for its implementation;
- Specially designed instruction means adapting, as appropriate to the needs of an eligible student, the content, methodology, or delivery of instruction: to address the unique needs of the student that result from the student's disability; and,
- When paraeducators are the ones to provide specially designed instruction to students, they must be trained and supervised on how to provide the required specially designed instruction.

Certain District staff will be required to attend a training on the above topics.

Third, this investigation revealed that, for many of the Students, specially designed instruction was either not provided, provided for only a portion of the 2019-2020 school year, or provided irregularly. Therefore, it is likely the other students with IEPs that were assigned, in whole or part, to special education teacher 1's caseload during the 2019-2020 school year also did not get the required amount of specially designed instruction. Therefore, these students will likely also require compensatory education. (Note: this decision is limited solely to specially designed instruction—not anything a student's IEP characterizes as a related service or a supplementary aid and service.)

In terms of how to address the remaining students on special education teacher 1's 2019-2020 caseload (meaning, not Students 1-8), the District has two options:

Option A

First, the District may choose to provide these other students with 1/4 of the specially designed instruction they were supposed to receive throughout the entirety of the regular 2019-2020 school year (meaning, the start of the school year through March 17, 2020)—in each area of specially designed instruction listed on their respective IEPs.

Option B

Or, the District may choose to hold a properly-constituted IEP team meeting for each of these other students (or some portion thereof). At that IEP team meeting, the following questions will need to be specifically addressed, and afterwards, a detailed prior written notice will need to be

³³ In SECC 20-35, the due date for the progress reporting training module is September 11, 2020.

issued to the parents, as well as provided to OSPI. That prior written notice will need to include both the text of the questions below, as well as the IEP team's answers to each question:

- Did this Student receive the specially designed instruction he or she was supposed to receive during the regular portion of the 2019-2020 school year?
- When during the school day did this Student receive each of the areas of specially designed instruction included in his or her relevant IEPs (e.g., class period and/or time of day)?
- Who provided this Student with each area of specially designed instruction?
 - If it was a paraeducator that provided the specially designed instruction, does the Student's IEP team possess a written statement from the paraeducator that he or she received training and supervision on what specially designed instruction was supposed to look like for the Student?
- Was the Student's IEP team able to get a detailed, written statement from each of the Student's various providers of specially designed instruction regarding what the provision of specially designed instruction looked like for this Student? For example:
 - How was the content, methodology, or delivery of instruction modified for this Student's specific needs?
 - Was each service provider able to certify that they worked with this Student on the relevant goals (e.g., the math goal if the paraeducator worked in the Student's math class and allegedly provided the Student with specially designed instruction in math)?
- Was progress reporting done for this Student throughout the 2019-2020 school year, as required by this Student's relevant IEPs?
- Does compensatory education need to be provided to this Student?
- If so, how much and in which areas?
- What will the schedule for compensatory education look like—e.g., dates and length of time of sessions?

For those other students for whom the District chooses to have an IEP meeting for, all of the provider's statements will need to be included in the District's subsequent submission to OSPI.

CORRECTIVE ACTIONS

By or before **June 5, 2020, June 19, 2020, July 10, 2020, July 22, 2020, September 25, 2020,** and **November 30, 2020,** the District will provide documentation to OSPI that it has completed the following corrective actions.

STUDENT SPECIFIC:

Compensatory Education

Students 1–8

By or before **July 3, 2020,** the District and the Students' parents will develop a schedule for providing the following compensatory education to the following Students:

- **Student 1**
 - Math: 5.5 hours
 - Written Expression: 3 hours
 - Reading: 8 hours

- **Student 2**
 - Social/emotional/adaptive: 20 hours
- **Student 3**
 - Math: 12 hours
 - Reading: 6 hours
 - Written Expression: 6 hours
- **Student 4**
 - Math: 5 hours
- **Student 6**
 - Vocational: 2 hours
 - Math: 13 hours
 - Reading: 6 hours
 - Written Expression: 10 hours
- **Student 7**
 - Math: 5 hours
 - Written Expression: 9 hours
- **Student 8**
 - Vocational: 2 hours
 - Reading: 2 hours
 - Social/emotional/behavior: 4 hours
 - Math: 5 hours

The District will provide OSPI with documentation of the schedule for services by or before **July 10, 2020**.

The compensatory education will occur in a one-on-one setting and be provided by a certificated special education teacher. The instruction will occur outside of the District's school day and may occur on weekends or during District breaks. The compensatory education may be provided remotely.

If the District's provider is unable to attend a scheduled session, the session must be rescheduled. If the Student is absent, or otherwise does not attend a session without providing the District with at least 24 hours' notice of the absence, the District does not need to reschedule. *The services must be completed no later than **November 20, 2020**, including those needing to be rescheduled.*

No later than **November 30, 2020**, the District shall provide OSPI with documentation that all of the compensatory education has been completed. This documentation must include the dates, times, and length of each session, and state whether any of the sessions were rescheduled by the District or missed by the Student.

The District either must provide the transportation necessary for the Student to access these services, or reimburse the parent for the cost of providing transportation for these services. If the District reimburses the parent for transportation, the District must provide reimbursement for round trip mileage at the District's privately-owned vehicle rate. The District must provide OSPI with documentation of compliance with this requirement by **November 30, 2020**.

Other Students on Special Education Teacher 1's 2019-2020 Caseload

By or before **June 5, 2020**, the District will submit to OSPI a Word document that concerns the other students with IEPs who were assigned, in whole or in part, to special education teacher 1's caseload during the 2019-2020 school year. This word document will contain the following information:

First, it will contain a list of the aforementioned students. Said list will include the students' respective grades during the 2019-2020 school year.

Second, for each such student, the Word document will identify whether it is opting to pursue *Option A* or *Option B*.

For those remaining students with whom the District opts to pursue *Option B*, the Word document must include the following information for the time period covering the start of the 2019-2020 school year through March 17, 2020 (when the District ceased providing regular, in-person instruction because of the COVID-19 pandemic):

<student name and grade>

For <student name>, at the start of the 2019-2020 school year, <his/her> <month and year> IEP was in effect. According to the <month and year> IEP, from the start of the school year through <date, if applicable, that the next IEP for this student was to take effect>, <student name> was to receive the following specially designed instruction:

- <service area—e.g., math, reading, etc>: ___ minutes ___ times a week
- <service area—e.g., math, reading, etc>: ___ minutes ___ times a week
- <service area—e.g., math, reading, etc>: ___ minutes ___ times a week

On <date>, <student's name>'s IEP team created a new IEP for <student's name>. The <month and year> IEP provided that the student would receive the following specially designed instruction from <date new IEP went into effect> until March 17, 2020:

- <service area—e.g., math, reading, etc>: ___ minutes ___ times a week
- <service area—e.g., math, reading, etc>: ___ minutes ___ times a week
- <service area—e.g., math, reading, etc>: ___ minutes ___ times a week

Option A Deadlines

The respective IEP meetings must all be completed no later than **July 17, 2020**. By or before **July 22, 2020**, for each IEP meeting, the District will provide OSPI with: i) the prior written notice, summarizing the group's discussion and decisions concerning the required questions; ii) a list of people, including their roles, who attended the meeting; iii) a copy of the schedule for the provision of compensatory education, if applicable; and, iv) any other relevant documentation.

Option B Deadlines

By or before June 17, 2020, OSPI will: a) review this word document to confirm how much specially designed instruction in each service area the *Option B* students should have received over the approximate 24 week period represented by the start of the school year through March 17, 2020; b) confirm what figure represents $\frac{1}{4}$ of the aforementioned time; and, c) inform the District of the same—as this is what the District will be required to provide as compensatory education.

By or before **July 10, 2020**, the District and the *Option B* students' parents will develop a schedule for providing the aforementioned compensatory education to students. The District will provide OSPI with documentation of the schedule for services by or before **July 10, 2020**.

Conditions Applicable to the Provision of Compensatory Education under both *Option A & B*

The compensatory education will occur in a one-on-one setting and be provided by a certificated special education teacher. The instruction will occur outside of the District's school day and may occur on weekends or during District breaks. The compensatory education may be provided remotely.

If the District's provider is unable to attend a scheduled session, the session must be rescheduled. If the Student is absent, or otherwise does not attend a session without providing the District with at least 24 hours' notice of the absence, the District does not need to reschedule. *The services must be completed no later than **November 20, 2020**, including those needing to be rescheduled.*

No later than **November 30, 2020**, the District shall provide OSPI with documentation that all of the compensatory education has been completed. This documentation must include the dates, times, and length of each session, and state whether any of the sessions were rescheduled by the District or missed by the Student.

The District either must provide the transportation necessary for Student to access these services, or reimburse parent for the cost of providing transportation for these services. If the District reimburses the parent for transportation, the District must provide reimbursement for round trip mileage at the District's privately-owned vehicle rate. The District must provide OSPI with documentation of compliance with this requirement by **November 30, 2020**.

DISTRICT SPECIFIC:

Training

The following District staff will receive training: special education administrators, the principal, the assistant principal, and special education certified staff, including educational staff associates (ESAs), at the school that the Students were enrolled in during the 2019-2020 school year. The training will cover the following topics:

- IEPs must be implemented as written (WAC 392-172A-03105);

- A student's IEP must be accessible to each general education teacher, special education teacher, related services provider, and any other service provider who is responsible for its implementation (WAC 392-172A-03105);
- Specially designed instruction means adapting, as appropriate to the needs of an eligible student, the content, methodology, or delivery of instruction: to address the unique needs of the student that result from the student's disability (WAC 392-172A-01175(3)(c)); and,
- When paraeducators are the ones to provide specially designed instruction to students, they must be trained and supervised on how to provide the required specially designed instruction (WAC 392-172A-02090).

The training will include examples. The training will not be presented by someone who is (or was) an employee of the District during the timeline of this complaint. The individual that presents the training will be required to consult with ESD 114 staff in the creation of the training materials. The District will provide the trainer with a copy of this decision, SECC 20-43.

By or before **June 5, 2020**, the District will notify OSPI of the name of the trainer and provide documentation that the District has provided the trainer with a copy of this decision for use in preparing the training materials.

By or before **June 19, 2020**, the District will submit a draft of the training materials for OSPI to review. OSPI will approve the materials or provide comments by June 26, 2020.

By **September 25, 2020**, the District will conduct the training regarding the topics raised in this complaint decision.

By **September 25, 2020**, the District will submit documentation that required staff participated in the training. This will include 1) a sign-in sheet from the training, and 2) a separate official human resources roster of all staff required to attend the training, so OSPI can verify that all required staff participated in the training.

If needed, due to COVID-19 related school closures, the District may choose to conduct this training via either zoom or skype.

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.

RECOMMENDATIONS

For students with IEPs who exhibit difficulty engaging with specially designed instruction, OSPI recommends the students' respective IEP teams, and the District generally, consider the use of functional behavioral assessments and behavioral intervention plans.

OSPI further recommends that prior to the resumption of regular, in-person instruction, the District work with ESD 114 staff in ensuring its schedule permits students with IEPs to obtain all of the specially designed instruction they are entitled to under their respective IEPs.

Dated this ___ day of May, 2020

Glenna Gallo, M.S., M.B.A.
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, Complainants (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. Complainants (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.)