

2009 SPECIAL EDUCATION DUE PROCESS SUMMARIES

2009-SE-0010X **Olympia SD** **ALJ: Burdue**

Issues: Discipline; Placement

BACKGROUND: The parents alleged that the district was removing the student regularly from his general education setting in response to behavioral incidents and had effectively placed the student in an interim alternative educational setting. In addition they alleged that the district failed to follow disciplinary procedures.

CONCLUSIONS AND ORDERS: (For the District) The ALJ concluded that there was no evidence that the student was removed for disciplinary reasons more than 2.5 days, and that the student's setting was not an interim alternative educational setting. Therefore, the district was not required to hold a manifestation determination meeting. The ALJ also found that the parents requested relief was beyond the scope of the hearing.

2009-SE-0013X **Auburn SD** **ALJ: Mentzer**

Issues: Discipline, IEP implementation; Placement

BACKGROUND: The student was in the 8th grade at the time of the due process hearing. The parent alleged that the district failed to provide paraeducator support and implement tracking and point systems. She also alleged that the district improperly removed the student from his current placement due to discipline and that the amendments to the IEP were disciplinary changes.

CONCLUSIONS AND ORDERS: (For the District) The ALJ found that the District acted promptly in hiring and providing a paraeducator. While the actual start date did not coincide with date of the IEP, this was not a material failure to implement the IEP. The ALJ also found that the district properly amended the IEP and that there were not disciplinary changes of placement. After the date of the request, the district had placed the student in an alternative educational placement. However, the ALJ found that this occurred outside of the scope of the due process hearing request and was not an issue to be addressed through the due process hearing.

2009-SE-0027 **Seattle SD** **ALJ: Wacker**

Issues: IEP implementation; Parent Participation; Placement; Related Services

BACKGROUND: The student had a health impairment resulting in frequent absences. During one of the school years, the parents became dissatisfied with the SLP and requested that the district assign a new one, which the district declined to do. The parents filed a due process hearing request in which they alleged that the district failed to provide a tutor pursuant to the IEP developed the prior year, removed

the provision of the tutor the following year, changed the students math instruction from a special education to general education setting, failed to provide an appropriate SLP services, and denied parent participation in IEP meetings when developing a revised IEP.

CONCLUSIONS AND ORDERS: (Split) The ALJ found that the District failed to provide tutoring in accordance with the IEP, which was required when the student was absent more than two days in a week. The issue of removal from the special education setting was separately resolved by the parent and District and not addressed in the decision. The ALJ concluded that the District made every effort to include the parents in the IEP meetings to address the revised IEPs, and found that the parent's refusal to attend did not result in a procedural violation when the District proceeded to meet without their participation. The District was ordered to provide compensatory education to the student for the missed tutoring sessions.

2009-SE-0030 Olympia SD ALJ: Mentzer

Issues: IEP Implementation and Procedures; Behavior; Compensatory Education

BACKGROUND: The Parents alleged that the student had not progressed in her program for the past 2 years because the IEPs developed for the student were not appropriate. The District had been using a TEACCH methodology and the parents believed that the use of ABA was more appropriate, with increased intensity. The Parents requested that the District reimburse the parents for private provider services, development of an new IEP; reimbursement for the IEE provider's attendance at meetings and compensatory services.

CONCLUSIONS AND ORDERS: (For the parents) The ALJ found that the student made minimal progress towards goals in the student's IEPs, that goals were not measurable, and that the district's continued use of the TEACCH methodology was not appropriate, given the student's progress. The ALJ also found that the IEE provider should have been reimbursed as an IEP team member. The ALJ ordered the district to revise the IEP, conduct a functional behavioral assessment, provide compensatory education, and reimburse the parents for private ABA services.

2009-SE- 0046 Seattle SD ALJ: Wacker

Issues: LRE; Parent Participation; Placement; Private School; Related Services

BACKGROUND: The Parents alleged that the district denied the student a FAPE by offering a placement in a classroom that did not include other students who were the same age; not providing Signing Exact English (SEE); not providing audiology services and not providing the parents sufficient notice of IEP meetings. They requested that the ALJ pay for private school placement, compensatory education and payment for private provider services.

CONCLUSIONS AND ORDERS: (split) The ALJ concluded that the proposed placement in the district's program offered the student a FAPE and denied the parent's request for reimbursement for the parent's private placement. Based on the testimony, the teachers and aides in the program could communicate with the student using SEE. He also found that while the district erred in not rescheduling an IEP meeting for the parents, this did not result in a FAPE denial, given the subsequent IEP meetings scheduled. He did find that the SLP services offered to the student were not appropriate, given the SLP's

lack of knowledge of SEE and her inability to communicate with the student. He ordered the district to provide compensatory SLP services by a provider familiar with SEE.

2009-SE- 0059 Ellensburg SD ALJ: Shave

Issues: Assistive Technology; Eligibility; Reevaluation; IEE; FAPE

BACKGROUND: The district held an evaluation meeting and exited a student from special education after the parents were providing home school services for reading and writing (areas for special education services.) The parents filed a due process objecting to the exit from special education and alleged that the district had not made services available to the student in his least restrictive environment. In addition, the parents alleged that while the district agreed to provide an IEE, it unilaterally limited the parents' choice to evaluators of the district's choosing.

CONCLUSIONS AND ORDERS: (For the Parent) The district erred in exiting the student from special education. In addition while the student was enrolled, the district failed to provide services to the student, including a scribe and assistive technology. The ALJ found that the parents were did not have an adequate basis for refusing to let the student participate in the district's reading program and reduced the amount of compensatory education award. The district was ordered to pay for the parent's requested IEE's; provide outside assistive technology training and consultation services; and revise the IEP after reviewing the results of the IEE, in addition to the order of compensatory services.

2009-SE- 0081 Federal Way SD ALJ: Wacker

Issues: Initial evaluation; IEE

BACKGROUND: The district requested a due process hearing to show that its evaluation of the student was appropriate in response to parents' request for an IEE.

CONCLUSIONS AND ORDERS: (For the district) The ALJ found that the district's evaluation of the student was appropriate.

2009-SE-0082 Mukilteo SD ALJ: Conklin

Issues: Initial Evaluation; IEE

BACKGROUND: The district requested a due process hearing in response to the parent's request for an IEE.

CONCLUSIONS AND ORDERS: (For the Parents) The ALJ determined that a combination of procedural errors, including delay in the evaluation process, failure to identify the areas for evaluation when it requested parent consent, and failure to include the parents in obtaining information to complete an evaluation rendered the district's evaluation insufficient. The district was ordered to provide an IEE at public expense.

2009-SE-0095 Shoreline SD ALJ: Shave

Issues: Consent; Reevaluation

BACKGROUND: The district requested that the parent's refusal to consent to a reevaluation be overridden. While the parent did not disagree that the student required a reevaluation, she objected to the district's use of its evaluators and requested that the student's private evaluation be used for the reevaluation. Prior to the hearing the parent had removed the student from the school district, and the reevaluation was overdue.

CONCLUSIONS AND ORDERS: (For the District.) The ALJ noted procedural errors occurred when the district failed to initially provide the parent with notice of the areas of evaluation and failed to notify the parent of a meeting to discuss the reevaluation. However she noted that these errors did not affect the district's requirement to reevaluate the student. In addition, she noted that while the parent could obtain private evaluations, this did not affect the district's responsibility to conduct a reevaluation. The ALJ found that the student required a comprehensive evaluation to be performed by the district. She ordered that the parent's refusal to consent was overridden and allowed the district to proceed with the reevaluation prior to providing educational services to him.

2009 SPECIAL EDUCATION CITIZEN COMPLAINT ISSUES AND SUMMARIES

Case #	Issues and Summaries 2009 Citizen Complaints
09-02	<p>ISSUES: IEP Implementation; Accommodations; Assistive Technology; LRE; Progress Reporting</p> <p>BACKGROUND: The student was eligible for special education services under the category of SLD and was enrolled in a district middle school. In the fourth quarter of the 2007-08 school year the student was moved to a general education classroom for reading. The first quarter of the 2008-09 school year, the student was moved back to a special education resource room for reading. In November 2008, the parents removed the student from special education classes began home schooling. The parents alleged that the district failed to consider or implement recommendations from an assistive technology (AT) evaluation; that assistive technology was only available in special education classrooms; that the general education teachers were not informed of the accommodations; that the district failed to provide progress reports; and that, the student was prohibited from participating in extracurricular athletic activities due to failing grades. The district responded that the IEP was implemented to the fullest extent possible as the parents have permitted the student to participate in district classes.</p> <p>CONCLUSIONS AND ORDERS: The district failed to notify teachers of the AT services added to the IEP; to provide all the AT service required by the IEP; and properly train the student on the AT. The district substantially complied, following a minor delay, with an agreement regarding electronic sharing of texts and assignments with the parents. The district did not comply with progress reporting for 2007-08, but did comply in 2008-09. The district was ordered to provide the student with additional assistive technology training. The district was also ordered to provide written guidance on progress reporting and provision of assistive technology.</p>
09-03	<p>ISSUES: Initial Evaluation</p> <p>BACKGROUND: The parents filed the complaint on behalf of two preschool age students (A and B). Student A was initially evaluated by the district through its preschool screening process and determined not to be in need of services. The parents then requested that both children have SLP evaluations. The district conducted these evaluations and determined that neither student was in need of services. The parents then provided the district with outside evaluations and requested that the district reevaluate both students. The parents allege that the district violated initial evaluation procedures throughout this</p>

	<p>process.</p> <p>CONCLUSIONS AND ORDERS: The district delayed in providing a full and individual evaluation of the students, when the students were referred for screening. At the time of the order, both students were determined eligible for services. The district was required to reimburse the parents for the cost of the outside evaluations used for the eligibility determination. The district was also order to provide guidance on evaluation procedures and to revise its evaluation notification form to clarify areas of evaluation.</p>
09-04	<p>ISSUES: IEP Implementation; Accommodations</p> <p>BACKGROUND: The parents allege that the district did not implement the student’s IEP with regard to the health and safety provision and that the nurse assigned to the student was not adequate informed of her responsibilities and emergency protocols for the Student. The district denied the allegations</p> <p>CONCLUSIONS AND ORDERS: The district provided the nurse with both the health plan and the safety plan before the nurse began working with the Student. During a subsequent health incident, the district, including the nurse, followed the provisions of the health and safety plans. No violations were found.</p>
09-05	<p>ISSUES: Mediation Implementation</p> <p>BACKGROUND: The student was eligible for special education services. During one of the school years, the parent requested that the student no longer receive special education services, but did not consent to a reevaluation. The parties participated in mediation and agreed that for the remainder of the school year, the student would receive accommodations, but not special education services, and that the student would be made available for reevaluation at the end of the school year. The parent subsequently withdrew the student, claiming the district was not following the mediation agreement. The district denied that it failed to follow the mediation agreement.</p> <p>CONCLUSIONS AND ORDERS: The district implemented its portion of the mediated agreement requiring accommodations.</p>
09-08	<p>ISSUES: Accommodations; IEP Procedures; IEP implementation</p> <p>BACKGROUND: The parents of an adult Student filed the complaint alleging multiple procedural violations regarding the scheduling of IEP meetings, modifications of the Student’s IEP, and responding to a meeting request from the adult student. The parents also allege that the district both failed to implement accommodations and to inform teachers of the IEP provisions.</p> <p>CONCLUSIONS AND ORDERS: OSPI found that the irregularities in the IEP invitation and lack of a draft IEP did not constitute a procedural violation. However, the fact that the district did not provide the parents a copy of the final IEP following the meeting did constitute a violation. The district failure to schedule an IEP team meeting at the student’s</p>

	<p>request also constituted a procedural violation. There was also evidence that the district delayed in providing accommodations in one of the student's classes. The district was required to provide written guidance regarding the requirements for IEP team procedures and the responsibility of providers to implement accommodations.</p>
<p>09-09</p>	<p>ISSUES: Reevaluation; IEE; IEP Implementation</p> <p>BACKGROUND: Through a settlement agreement, the parents and district agreed to private therapy in addition to school services through the end of the school year. The parents requested that private therapy continue after the expiration of the agreement. In response to this request, the parents and district agreed to a reevaluation. The district obtained outside evaluators to conduct the evaluation, and the parent provided input from private providers. The parents allege that the district did not consider the information provided by the parents providers and alleged that continuation of private services were necessary to ensure FAPE.</p> <p>CONCLUSIONS AND ORDERS: The districts reevaluation was comprehensive. In addition, the information submitted substantiated that the district considered the information provided by the parents. The district followed procedures in developing the IEP, which did not include continued private therapy. However, the district failed to either adopt or reject a recommendations regarding additional paraeducator training or for a visual modeling. The district was ordered to reconvene the IEP team to address the need for training and visual modeling. The district was required to provide written guidance to staff documentation of IEP team considerations and decisions.</p>
<p>09-11</p>	<p>ISSUES: Child Find; Discipline</p> <p>BACKGROUND: The student enrolled in the district during the 2008-09 school year, and was expelled from school in January. Following the expulsion, the parents requested an evaluation. The district obtained written consent and began the evaluation. The parents alleged that the district should have been deemed with knowledge that the student was eligible for special education.</p> <p>CONCLUSIONS AND ORDERS: The district conducted the evaluation in an expedited manner as required by special education discipline procedures. The district was not on notice that the student should have been deemed eligible for special education.</p>
<p>09-12</p>	<p>ISSUES: Comparable Services; Reevaluation; IEP Content; IEP Implementation; IEP Procedures; Progress Reporting; Behavior</p> <p>BACKGROUND: The student transferred to the district from out of state prior to the 2008-09 school year. The student had a current IEP developed by his previous school. With the parent's permission, the district reevaluated the student. Pending the reevaluation results, the district provided special education services pursuant to the existing out of state IEP. The parents allege that the services provided were not comparable; that the reevaluation was not timely; that procedures regarding the development of the IEP were</p>

	<p>not followed, that the district failed to consider parental input and that progress reports were not provided as required.</p> <p>CONCLUSIONS AND ORDERS: The district did not provide comparable services following the student’s transfer, which resulting in a decrease in services. The district failed to reevaluate the student within the required 35-day time period, although the delay was due in part to the student moving from one elementary school to another. The district also failed to follow procedures in developing a new IEP, and did not comply with the progress reporting requirement for each time period. OSPI also found that the district did not hinder the parents’ participation and considered the parents’ input in developing the IEP. The district was ordered to provide compensatory services to the student. Also, the district was required to review and revise, if necessary, its policies regarding transfer, IEP development, implementation and progress reporting.</p>
09-13	<p>ISSUES: Accommodations</p> <p>BACKGROUND: The parents alleged that one of the student’s general education teachers was not providing accommodations as required by the IEP.</p> <p>CONCLUSIONS AND ORDERS: The district provided evidence to show that all teachers were provided with information about implementing accommodations. In addition, the district promptly responded the parents’ individual concerns about the teacher’s implementation of the student’s accommodations.</p>
09-14	<p>ISSUES: Progress Reporting; IEP Implementation</p> <p>BACKGROUND: The parent alleged that the district failed to implement a portion of the student’s BIP; failed to implement the IEP communication plan; failed to provide additional staff training and progress reports and failed to provide the student with a WASL specific accommodation. The district acknowledged violations and proposed corrective actions.</p> <p>CONCLUSIONS AND ORDERS: OSPI accepted the district’s proposed corrective actions. In addition, the district was ordered to provide written guidance and training regarding the general issues of implementation, progress reporting and accommodation.</p>
09-15	<p>ISSUES: IEP Implementation and Procedures; Parent Involvement</p> <p>BACKGROUND: The parent alleged that the district failed to have the services in place that were required by the student’s IEP. The parent alleged that the district did not ensure participation of all required staff at the IEP meetings, and failed to address concerns regarding adequate training and supervision. The parent withdrew the student from school due to these concerns. The district offered programming at a different district school. The parent enrolled the student part time in the alternative program but again withdrew the student after a short period. The district denied the allegations. It did admit difficulty in providing services due to the student’s inconsistent attendance.</p> <p>CONCLUSIONS AND ORDERS: The district implemented the IEP as fully as possible give the</p>

	<p>student's part-time enrollment and absenteeism. The district failed to ensure the participation of one of the student's general education teachers during IEP meetings. The district did not adequately respond to the parent's request for copies of IEP notes created by the individual team members. The district was ordered to provide written guidance to all staff regarding IEP team member attendance and participation at meetings.</p>
<p>09-17</p>	<p>ISSUES: IEP Procedure; Parent Involvement; IEP Implementation</p> <p>BACKGROUND: The parent alleged that the district failed to follow transfer procedures, which resulted in the student not receiving services for approximately one year, and when services were provided they were not SDI. The parent also alleged a variety of procedural violations including hindered parental involvement; lack of team member attendance in meetings; and failure to provide procedural safeguards. The district agreed that it failed to provide the student with services required by the IEP and proposed compensatory education.</p> <p>CONCLUSIONS AND ORDERS: While the parent received a copy of the notice of procedural safeguards, the district failed to implement transfer procedures and improperly reduced the student's services. To address this deficit the district was already providing increased services to address the lack of services. The district was ordered to provide additional compensatory education and to provide written guidance on implementing IEPs for transfer students, and provider's responsibilities for services identified on IEPs.</p>
<p>09-18</p>	<p>ISSUES: IEP Implementation and Procedures; Progress Reporting</p> <p>BACKGROUND: The parent alleged that following the student's transition to middle school, the general education teachers were not informed of the accommodations required by the student's IEP, the student was not provided with the required assistive technology and did not receive special education services. The parent also alleged that, although the district agreed to a change of services, the IEP was never amended. The district did not reschedule an IEP meeting as requested by the parent and failed to ensure attendance of all required team members at the meeting. Finally, the parent alleged that the district failed to comply with progress reporting requirements.</p> <p>CONCLUSIONS AND ORDERS: The district failed comply with IEP procedures when it did not reschedule the IEP meeting as requested by the parents; failed to ensure the attendance of the general education teacher; and failed to comply with progress reporting requirements. The district did not fully implement the IEP when it failed to provide the required AT; failed to provide SDI; and failed to communicate IEP accommodations to the general education teachers. The district was ordered to provide compensatory services to the student and district wide written guidance regarding the procedural defects.</p>
<p>09-19</p>	<p>ISSUES: IEP Implementation</p> <p>BACKGROUND: The parents alleged that the district failed to provide using the</p>

	<p>methodology required by the IEP and paraeducators were not adequately trained.</p> <p>CONCLUSIONS AND ORDERS: The Student’s IEP did not reflect an agreement regarding particular methodology. The training to the paraeducators was not specific in the IEP, however the district verified that the paraeducators received training. The record also showed that the district assigned all necessary staff to work with the student. Based on the record the student was making progress towards annual goals. The district was required to provide written guidance regarding specificity of services.</p>
09-20	<p>ISSUES: Eligibility; Reevaluation</p> <p>BACKGROUND: The parent alleged the district did not provide notice of the district’s intent to reevaluate the student and that the district did not ensure her participation in the reevaluation meeting which resulted in the student’s exit from special education services.</p> <p>CONCLUSIONS AND ORDERS: The district did not document that it followed procedures for ensuring parent participation in the placement meeting. In addition the district failed to inform the parent of her right to request additional testing, when the basis for the reevaluation was the use of existing data. The district was ordered to meet with the parent to perform additional testing if so requested by the parent.</p>
09-22	<p>ISSUES: IEP Content; IEP Implementation; Parent Participation</p> <p>BACKGROUND: The student was a senior in high school at the time of the complaint. The student received most of the special education services within the general education setting, although he had the choice of going to the resource room for assistance. Services were provided in the areas of learning strategies, organization, math and written language. The parents alleged that the student did not receive special education services, and that the district failed to respond to their request for an IEP meeting. The district denied the allegations, claiming that it followed all procedures to develop measurable annual goals designed to address the student’s specific needs. The district also stated that it responded to the parents’ request for an IEP meeting.</p> <p>CONCLUSIONS AND ORDERS: OSPI found that the student’s goals were measurable but based on an old evaluation which did not recommend services in two of the student’s goal areas. Additionally, no progress updates were sent to the parents. The student made progress in all goal areas. Finally, district did respond to the parents’ request for a meeting. The district was required to provide district wide written guidance regarding drafting measurable goals based on current evaluations, provision of services and progress reporting.</p>
09-23	<p>ISSUES: Parent Involvement</p> <p>BACKGROUND: The complainant alleged that alleged that the district failed to facilitate parental involvement in the IEP development and that it should not have included the</p>

	<p>student in meetings, due to the parent’s guardianship of the adult student.</p> <p>CONCLUSIONS AND ORDERS: The information in the record showed that the parent was invited to and participated in IEP meetings. The district did not violate procedures when it included the student in meetings.</p>
09-24	<p>ISSUES: IEP Implementation; Prior Written Notice; IEP Content; Confidentiality</p> <p>BACKGROUND: The student received services in the home, due to her medical issues. The parent, as the legal guardian, alleged that the special education teacher failed to prepare adequate lesson plans for the paraeducator; failed to regularly come to the student’s home; and failed to provide the parent with progress updates. The parent also alleged procedural defects with the IEP meetings, including scheduling issues and failure to communicate with or provide the IEP to educators. Finally, the parent alleged that the district did not respond to her requests for additional services and that the student did not make progress towards IEP goals.</p> <p>CONCLUSIONS AND ORDERS: The IEP was not specific as to the division of the special education teacher’s time between direct service and oversight of paraeducators, and the parent acknowledged that the student received all specific services, either from the paraeducator or from the teacher and that this specific division of time was corrected in a subsequent IEP. District records indicated that all providers were in attendance at the IEP meeting however, the district did not follow procedures for issuing prior written notice. A corrective action was issued requiring the district to issue prior written notice to the parent addressing decisions made at the meeting. In addition, there were two versions of an IEP, and it was not clear that the final IEP was provided to the parent. The district was required to provide written guidance to staff regarding the use of prior written notice, progress reporting and the necessity of providing parents with a copy of students’ IEPs.</p>
09-25	<p>ISSUES: IEP Procedure; IEP Implementation; Consent; Progress Reporting;</p> <p>BACKGROUND: The student was enrolled in the third grade at the time of the complaint and qualified for special education under the category of autism. The student’s IEP provided SDI in reading, written expression, math and social/emotional development. The parent alleged that she was denied meaningful participation in the IEP development, particularly with regard to ESY; that the student did not receive services as required by the IEP; that she did not consent to billing Medicaid for services; that the district failed to collect and maintain data necessary to determine progress; that the district failed to provide progress reports; and that the district failed to adequately inform the teachers and other providers of their duties under the IEP. The district responded that the parent had participated in the development of the IEP, including the ESY determination. The district provided documentation of progress reporting and of Medicaid consent and stated that it had adequately informed all of the teachers of the student’s accommodations. The district admitted that the student did not receive all services and proposed compensatory education as a remedy. The parent acknowledged that she provided consent for Medicaid</p>

	<p>reimbursement.</p> <p>CONCLUSIONS AND ORDERS: The district included the parent in IEP meetings and considered the parent’s input in developing the IEP. However, the district admitted that it failed to provide all required services. The district was inconsistent in its data collection method and did not provide required progress updates to the parent. The district provided documentation that the student’s general education teacher was informed of his duties under the IEP but was unable to provide similar documentation for the other teachers. OSPI ordered additional compensatory services in response to the district’s offer. Additionally, the district was required to provide written guidance to staff regarding implementation, communication with staff and progress reporting.</p>
<p>09-27</p>	<p>ISSUES: LRE; IEP Implementation; IEP Procedures</p> <p>BACKGROUND: The parent alleged that the district failed to provide the student with services in his LRE, in that the student was not allowed to participate in core general education classes. Additionally, the parent alleged that the student was not provided with a 1:1 paraeducator and special transportation, as outlined in the IEP. The parent also alleged that the district did not follow procedures for excusing IEP team members.</p> <p>CONCLUSIONS AND ORDERS: The student’s most recent evaluation did not support placement full time in a general education classroom. The student was provided a 1:1 paraeducator. During the two general education classes in which the student participated, the student was assisted by the special education teacher. While the IEP did require the district to utilize a special harness during transportation, the parent was transporting the student, although there was no evidence that this was agreed to by the parent. For each IEP meeting, required members were either in attendance or properly excused. The district was ordered to reimburse the parent for the cost of transportation and provide written guidance on transportation procedures.</p>
<p>09-29</p>	<p>ISSUES: Progress Reporting; LRE</p> <p>BACKGROUND: The student attended middle school and was qualified under the other health impaired category. The IEP required that SDI in the areas of math, writing and organization be provided in the resource room setting. The parent alleged that the resource room setting was not the LRE for the student with regard to academic subjects. Also, the parent alleged that the district failed to provide required progress reports. The district admitted that it did not provide progress reports and that the student’s LRE for core academic subjects was not the resource room. It proposed compensatory education as a remedy.</p> <p>CONCLUSIONS AND ORDERS: OSPI agreed with the proposed corrective action. Additionally the district was required to give written instruction regarding IEP implementation, progress reporting and LRE.</p>

09-31	<p>ISSUES: IEE</p> <p>BACKGROUND: The parents alleged that the district delayed in providing an IEE at public expense after the district agreed to provide one.</p> <p>CONCLUSIONS AND ORDERS: While there was delay in the provision of the IEE, the delay was due in part to the IEE providers schedule.</p>
09-33	<p>ISSUES: Initial Evaluation</p> <p>BACKGROUND: The parent alleged that the district failed to evaluate the student within 35 school days, and that the areas for evaluation were not comprehensive. The district acknowledged that it failed to complete the evaluation within proposed timelines, and proposed corrective actions to address this.</p> <p>CONCLUSIONS AND ORDERS: The district was ordered to complete its evaluation and reimburse the parent for evaluations she obtained. In addition the district was ordered to provide compensatory education, if the student was determined eligible, for the time period that services should have been provided.</p>
09-35	<p>ISSUES: IEE; IEP Content; Related Services.</p> <p>BACKGROUND: The student attended middle school and qualified for services under the category of other health impairment. The IEP provided the student with special education in the area of self care, with PT as a related service. Prior to enrolling the student, the parent had obtained two private PT evaluations. The parent alleged that the district did not consider the private evaluations when it decided that PT would be a related service and requested that PT related goals be added to the IEP. The parent also alleged that the district failed to respond to her request for a PT focused IEE. The district denied the allegations, claiming that it reached the same conclusions regarding the student’s abilities as did the private evaluations. Also, the district stated that while the student would benefit from intense PT, the student had good mobility and was able to access all areas of the school, and therefore, for educational purposes, PT was appropriate as a related service only.</p> <p>CONCLUSIONS AND ORDERS: OSPI found that there was no clear evidence that the parent had requested an IEE. The district agreed to an IEE once it was made aware of the request. The district’s evaluation was consistent with the two private evaluations, and supporting evidence that the private evaluations were considered when developing the IEP. The district failed to notify the parent of the basis for its refusal of the parent’s request. The district was required to provide written guidance to staff regarding the use of prior written notice in addressing parental requests.</p>
09-36	<p>ISSUES: Child Find; Referral; IEE</p> <p>BACKGROUND: The student attended sixth grade in a district grade school. The student had received classroom interventions for math during the two previous school years. An</p>

	<p>initial referral was made by the parent and the student was evaluated in February 2008. The student was not found eligible for special education services as a result of the evaluation. The student continued to receive classroom interventions throughout the 2007-08 school year. In January 2009, the parent informed the school district she believed the student had ADHD, she disagreed with the district's initial evaluation and requested an IEE. The district stated that, because the student was found ineligible for special education, she was not entitled to and IEE, and advised the parent that, if the student was diagnosed with ADHD, it would consider this information. The student was diagnosed with ADHD in May 2009. The parent filed this complaint alleging that the district considered the parent's January 2009 describing a possible new disability as a referral for initial evaluation under its child find obligation. The district denied that allegation, stating that, even if though the student was eventually diagnosed with ADHD, it did not change the outcome of its previous initial evaluation.</p> <p>CONCLUSIONS AND ORDERS: OSPI found that the district's child find obligation was triggered by the parent's correspondence. The district should then have conducted a team review of the student's circumstances to determine if the student needed to be evaluated. The district was required to reimburse the parent for the cost of the private medical evaluation and provide written guidance to staff regarding child find, referral and initial evaluation procedures.</p>
<p>09-37</p>	<p>ISSUES: Reevaluation</p> <p>BACKGROUND: The parent and caseworker attended an IEP meeting where a reevaluation of the student was discussed. The parent provided consent to a reevaluation. The complainant alleged that the district did not provide an assistive technology evaluation which she stated was agreed to at the meeting. The district responded that it was not aware that this was intended as part of the reevaluation but arranged to provide the evaluation.</p> <p>CONCLUSIONS AND ORDERS: The district's prior notice addressing areas of reevaluation did not discuss what assessments it was proposing to conduct. It only stated that the student was to receive a reevaluation. OSPI ordered the district to inform staff of the requirements to notify parents of areas for reevaluation. Student specific corrective actions were not ordered, as the district was proceeding with the evaluation of the student's assistive technology needs.</p>
<p>09-38</p>	<p>ISSUES: Reevaluation</p> <p>BACKGROUND: The student was enrolled unilaterally out of state prior to the 2009-2010 school year. At the beginning of the school year, the parents filed a request for due process (on issues not related to the complaint). The parents and district participated in a resolution meeting and after the meeting, as part of a settlement offer, the district requested consent for a reevaluation and indicated that the IEP team met to review data</p>

	<p>on the student as part of its notice. The parents allege that they were not involved in the review of data prior to the determination that a reevaluation was needed.</p> <p>CONCLUSIONS AND ORDERS: While the parents participated in a resolution meeting, the district did not indicate any other purpose of the meeting. Even though the district characterized that meeting as an opportunity to review data, it was not. The district did not include the parents in the review of data as part of a reevaluation, which was a violation of procedures. The district was ordered to provide all certificated special education staff with written guidance addressing the reevaluation process, including the review of existing data with the IEP team.</p>
<p>09-39</p>	<p>ISSUES: Parent Participation; Implementation; IEP Content</p> <p>BACKGROUND: The parent filed this complaint on behalf of two students, A and B. Both students transferred into the district from out-of-state, where they had both been evaluated as eligible for special education services. Prior to filing the complaint, the parent withdrew the students from their neighborhood schools and enrolled both in a district alternative school. The parent alleged as to student A that the district failed to provide required services both in January-February 2009 and September-October 2009, that the IEP goals did not address the student’s needs, and that the district had failed to schedule an IEP meetings at a mutually agreeable time. The parent alleged as to student B that the district had failed to provide required services during September-October 2009. The district alleged as to student A that the goals were appropriate and measurable, and that it attempted to schedule the meeting at a time agreeable to the parent but that the parent had not consistently agreed to attend until the day prior to the meeting, and at that time, requested the time be changed to a time the district could not accommodate. The district admitted that it did not provide all services during the January-February time period, but stated that the failure was due to an attempt to accommodate the parent’s schedule and that it had provided compensatory education to remedy the loss. The district also admitted that neither student received required services during September-October 2009, due to a change in the location of the alternative educational program. The district offered compensatory education as a remedy.</p> <p>CONCLUSIONS AND ORDERS: OSPI found that the district followed procedures for parent participation when it scheduled the meetings. The district was found to have compensated student A for the missed services during the January-February time period. OSPI ordered compensatory services for both students for services missed the first month of school.</p>
<p>09-40</p>	<p>ISSUES: IEE; Parent Participation; Placement</p> <p>BACKGROUND: The student was receiving services through a community based transition placement. The parents asked for a separate private placement to address the student’s reading deficits, and asked for an IEE, to which the district agreed. After the district’s decision to not fund the private placement, the parents alleged that the district did not consider the results of the IEE, and that the meetings were not scheduled to include</p>

	<p>parent participation.</p> <p>CONCLUSIONS AND ORDERS: The evidence showed that the district considered the results of the IEE when making its determination. The district also consulted with the parents when scheduling meetings. The district appeared to make decisions about placement prior to the IEP meeting and was instructed to provide written guidance regarding the process for placement determination.</p>
<p>09-41</p>	<p>ISSUES: Discipline, IEP implementation, Harassment/Bullying</p> <p>BACKGROUND: At the beginning of the school year, the student was involved in two fights and brought a weapon to school after the second incident. The first incident resulting in a short term suspension, the second resulting in a removal for 45 days. Near the end of the school year the student was emergency expelled for bringing a knife to school. The parent alleged that the district did not follow discipline procedures, provide services during expulsions, or provide services to implement the IEP prior to removals. The district stated that it followed discipline procedures for a manifestation determination, but acknowledged that it was not timely in providing services and acknowledged not providing services outlined in an amended IEP. In addition it acknowledged that it did not conduct an FBA or implement a BIP.</p> <p>CONCLUSIONS AND ORDERS: The district did not violate procedures when it disciplined the student for the first fight he was involved in, and the district did not violate procedures when it suspended the student for bringing a knife to school. The district acknowledged that the delay in providing the student with services during his second suspension was a violation of procedures. The district violated procedures during the student’s third suspension by not holding timely manifestation determination and IEP meetings, and by not conducting an FBA or developing a BIP. The district also violated procedures by not providing the student with the services outlined in his IEP. However, per the student’s IEPs, there was no requirement for him to have a paraeducator or behavior specialist, so the district did not violate procedures by not providing these supports to the student. Finally, it could not be substantiated that the student was subject to bullying or harassment that effectively denied him a FAPE.</p> <p>The district was ordered to provide the student with compensatory education in the form of tutoring and counseling services. The district was also ordered to conduct training for certificated special education staff regarding the issues of the complaint.</p>
<p>09-42</p>	<p>ISSUES: IEP Procedures; IEP Implementation</p> <p>BACKGROUND: The student qualified for services under the category of autism and attended kindergarten in a district school. The parent, with the district’s agreement, had arranged for a private consultant to observe the student’s classroom and make recommendations regarding implementation of the student’s IEP. Prior to this observation, the parent’s met with district staff to discuss inclusion issues and this planned observation. Only some of the student’s IEP team participated in this meeting and</p>

	<p>observation. The general education teacher did not participate in either the meeting or the observation. The parents filed a complaint alleging that the meeting was an IEP team meeting that members were not properly excused from and that the observation was a supplemental aid or service required by the IEP and that by not requiring all essential staff to participate, the district had failed to implement the IEP. The district denied both that the meeting was an IEP meeting and that the observation was a supplemental aid or service.</p> <p>CONCLUSIONS AND ORDERS: OSPI found that, while the student’s IEP and inclusion issues were discussed, the meeting was not an IEP meeting requiring excusal of the general education teacher. Also, although the observation was facilitated by the district, it was not required by the student’s IEP. When the district developed a new IEP, to which the parents objected, the notice did not make clear that it was intending to adopt the IEP, lead to the parent’s belief that the IEP was final. The district was required to provide written guidance to staff regarding prior written notice and its uses.</p>
09-43	<p>ISSUES: IEP implementation and Procedures, LRE, Progress, Reevaluation, Placement.</p> <p>BACKGROUND: A resource room teacher filed the complaint on behalf of 22 special education students in the district. The students attended the same school in grades 1 through 5. Most of the students received services in the resource room, which provided instruction in math and combined reading and writing. The resource room teacher alleged that the district was not providing these students the services outlined in their IEPs, some students were not progressing towards their goals, some were not receiving services in their least restrictive environment, and that the district did not follow procedures for holding meetings, conducting evaluations, and making changes in placement.</p> <p>CONCLUSIONS AND ORDERS: The district acknowledged that it did not provide the students with the services outlined in their IEPs. The district violated procedures by not maintaining sufficient progress reports and data on students. The district violated procedures by not providing services to students in their LRE. It could not be substantiated that the district did not ensure that appropriate staff participated in IEP meetings. The district violated procedures when it exited a student from special education services prior to a reevaluation. The district violated procedures by not ensuring that appropriate staff were aware of the student’s IEPs and accommodations. Finally, the district violated procedures when it changed the placement for 3 students prior to conducting a reevaluation or consulting with the student’s parents.</p> <p>The district was ordered to provide compensatory education to 21 of the students according to the amount of instruction each missed. The district was also ordered to review each student’s IEP, hold an IEP meeting for each student, and amend any IEPs as needed. The district was also ordered to hire an experienced individual (not employed by the district) to provide training on the issues in the complaint to special education administrators, district representatives at IEP meetings, and special education case managers. Also, the district was ordered to hire a consultant (not employed by the district)</p>

	to assist the district with its implementation of their special education program.
09-44	<p>ISSUES: Behavior; Discipline; IEP Implementation</p> <p>BACKGROUND: The student was enrolled in the fourth grade and qualified for special education under the emotional/behavioral disability category. The student received all instruction in a self-contained setting but attended lunch and PE with his peers. The student’s IEP contained a detailed behavioral implementation plan (BIP) which outlined the steps that district staff followed when the student escalated. At the beginning of the 2008-09 school year, the student was placed in a 45-day alternative setting for bringing a weapon to school. The parents alleged that the district failed to implement the BIP, and that the failure to implement resulted in the 45-day alternative placement. The parents also alleged that the parties had entered into a due process resolution agreement, which required the district to obtain an IEE for the purpose of revising the BIP, which the district had failed to comply with. The district responded that it had implemented the BIP and that the 45-day alternative placement was appropriate giving the weapons incident. Also, the district denied that there was a resolution agreement, but stated that the IEE was in process and that the student’s BIP would be revised when it was completed.</p> <p>CONCLUSIONS AND ORDERS: OSPI found that although the parties agreed to an IEE and that the parent’s withdrew their due process complaint as a result, this agreement did not take place in a manner or within the timeline that would qualify it as a resolution agreement. Also, the agreed upon IEE evaluator had begun the evaluation, however the process had been delayed due to the alternative placement. Finally, OSPI found that the district showed substantial implementation of the student’s BIP. The district was encouraged to complete the IEE as soon as possible, but no violations were found and no corrective actions were ordered.</p>
09-45	<p>ISSUES:, Parent Participation, Prior Written Notice, Reevaluation; Transfer</p> <p>BACKGROUND: The student moved to Washington applied for enrollment in the district through a non-resident transfer, which the district accepted. The student enrolled with a current IEP from her previous state and was eligible to receive special education. Upon the student’s enrollment, the district began providing the student with special education services although it did not consult with the parent regarding services. After reviewing the student’s most recent reevaluation, the district determined that it needed to perform an evaluation to determine whether the student was eligible for special education in Washington. The district requested, and the parent provided, consent for a reevaluation. The district conducted a reevaluation of the student and held a meeting resulting in the determination that the student was not eligible for services. The parent alleged he was not invited to the eligibility meeting and was not aware that the student was no longer eligible for services.</p> <p>CONCLUSIONS AND ORDERS: Although the district did not consult with the parent regarding the provision of special education services upon the student’s enrollment, they otherwise followed procedures with regard to the student’s interstate transfer. They also</p>

provided a timely prior written indicating the need for a reevaluation. When the district moved the student from the resource room to the general education setting absent a reevaluation, they violated procedures by changing her placement without conducting a reevaluation. The district did not document the change and did not notify the parent of the change. Additionally, there was no documentation that the parent had been invited to the meeting to discuss the results of the reevaluation. Finally, the district was significantly delayed in notifying the parent of the student's ineligibility for special education services.

The district stated it would provide training to staff regarding reevaluations and implementing IEPs. In addition, the district was ordered to provide staff with training regarding interstate transfer procedures, notification and parent participation.

09-46 ISSUES: Behavior; IEP Implementation; Parent Participation

BACKGROUND: The student was enrolled in the first grade and qualified for services under the category of autism. The student received all educational services in a general education classroom specifically structured to integrate students with autism and typically developing peers. The district and parents developed the student's IEP just prior to the beginning of the 2009-10 school year. The student's BIP, which had been developed during the previous year in kindergarten, was incorporated into the IEP. In the complaint, the parents alleged that the district failed to make factual corrections to the IEP at their request, thus restricting the parent's ability to participate meaningfully in the IEP development, and the district failed to implement the student's IEP, particularly the BIP. The district agreed that the IEP implementation had been inconsistent and difficult at the beginning of the school year and provided information about how it had modified its implementation techniques throughout the first half of the year, including staff changes that it had made. The district also responded that the parents had been in contact with district and classroom staff on a daily basis, and thus had ample opportunity to participate. The district also admitted that the student had been suspended for two days and that the suspension was not warranted. The district offered compensatory education as a remedy for this violation.

CONCLUSIONS AND ORDERS: OSPI found that the district did not consistently use specific daily checklists required under the related services section of the student's IEP. Also, the district did not consistently implement the student's BIP and failed to consistently provide the student with the specially designed instruction required by the IEP during the first two months of the school year. Following the modification of the district's implementation techniques and staff changes, however the district substantially implemented the student's IEP and BIP. OSPI accepted the district's admission that it had improperly suspended the student for two days, however noted that this did not rise to a violation of discipline procedures. Lastly, OSPI found that while the parents had not been prevented from participating, they had requested modifications to the student's IEP and the district had failed to address the request through prior written notice. The district was required to provide eight hours of direct autism specific training to all staff members assigned to work with the student, in lieu of compensatory education. Additionally, the district was

	<p>required to review and, if necessary revise, its prior written notice document, and provide written guidance to staff regarding its use in addressing parental requests.</p>
<p>09-47</p>	<p>ISSUES: Consent; FAPE; IEP implementation.</p> <p>BACKGROUND: Prior to the school year, the parent revoked consent for the student to receive special education services. This revocation was prior to the effective date of federal changes. The district acknowledged that the parent was not willing to have his child receive services but stated that it was ready to offer FAPE at any time. The student enrolled in a different high school at the beginning of the year and after a two months of attendance, the parent requested services. The parent alleged the district should not have accepted his revocation and failed to provide services when he asked them to resume.</p> <p>CONCLUSIONS AND ORDERS: The district failed in providing services to the student once it was aware of the parents request to resume services, based upon its notice that it was prepared to resume services. The district was ordered to provide compensatory education.</p>
<p>09-48</p>	<p>ISSUES: IEP meetings, IEP implementation, LRE</p> <p>BACKGROUND: The student was found eligible for special education services at the beginning school year. The student stopped attending school in early October and shortly after his last day, his IEP team met, 36 days after being determined eligible, to develop an IEP which would provide services in behavior, math, and study skills. The team also conducted an FBA and developed a BIP. In November, the parents notified the school that the student was unable to return due to his mood disorder and requested an IEP meeting. The meeting was initially scheduled for November 19th but due to several scheduling conflicts, was ultimately rescheduled for (and held on) January 21st. The student did not receive special education services during this time. The complainant alleged that the district did not follow procedures to develop an IEP or provide services to the student.</p> <p>CONCLUSIONS AND ORDERS: The district acknowledged that the delay in meeting to develop an initial IEP was a violation of procedures. The district also violated procedures by not holding a timely IEP meeting upon the parents' request. The district followed procedures when it developed an initial IEP for the student based on his needs at the beginning of the school year. However, the student's needs changed significantly as the year progressed and the district did not conduct a reevaluation to assess how to best meet the student's needs. This, and the lack of services from the time the district knew the student would not be returning, was a violation of procedures. The district was ordered to provide the student with compensatory education in the form of tutoring. Additionally, the district was ordered to conduct an IEP meeting to provide for an appropriate placement for the student. Finally, the district was ordered to provide written guidance for all certificated staff special education staff regarding the issues of the complaint.</p>
<p>09-49</p>	<p>ISSUES: IEP Implementation</p>

BACKGROUND: The student was enrolled in kindergarten at a district elementary school and qualified for services under the category of autism. The IEP, in place at the beginning of the 2009-10 school year had been developed by an IEP team consisting of member from a district pre-school the student had attended during the 2008-09 school year. The related services section of the IEP provided that the student participate in a “recess club/social skills group”. Prior to the student being assigned to the new school, the parent sent the IEP to the district’s Special Education Director and asked if it could be implemented at any school. The Director responded that it could. When the student changed schools, a new IEP team was assembled. Prior to the beginning of the school year, the parent met with the new IEP team, including the general education teacher and instructional assistant for the classroom, who all agreed that the IEP could be implemented. In the complaint, the parent alleged that the district had failed to provide the student with a “recess club/social skills group” as required by the IEP. The district responded that, though there was no formal club, the student was receiving social skills instruction from the instructional aid and with peers during all lunch and recess times.

CONCLUSIONS AND ORDERS: When the IEP was drafted, the parent believed that “recess club/social skills group” was a term of art which described a defined program. The parent had seen a “recess club/social skills group” implemented in other autism inclusion classrooms within the district. Despite the parent’s belief, OPSI found the district had provided the student with the number of minutes of SDI required by the IEP, which included curriculum-based, social skills instruction. Additionally, the district had provided the student with almost as many minutes of interaction with peers, supervised by the instructional assistant, during the social times of the day. These times included some structured social activities. OSPI found that, although the services were not provided in the manner envisioned by the parent, they were provided.