



December 30, 2022

Sent via US Mail and SMFTS

Parents

District

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION

RE: **FINAL REPORT** for In the Matter of ****, 2022-08

This is the Final Report pertaining to the above-referenced state special education complaint (Complaint) filed pursuant to the Administrative Rules of Montana (ARM) 10.16.3662. **** (Parent) filed the Complaint on behalf of her daughter **** (Student), a 10th grader at **** High School (School) in the **** Public Schools (District). Parent alleges the District violated the Individuals with Disabilities Education Improvement Act (IDEA), 20 U.S.C. 1400 et seq., Montana special education laws, Title 20, Ch. 7, Montana Code Annotated (MCA), and corresponding regulation at 34 C.F.R. Part 300 and ARM 10.16.3007 et seq. The District allegedly:

Issue 1. Failed to develop appropriate measurable annual goals based on the Student's present levels of academic achievement and functional performance. 34 C.F.R. § 300.320 (a)(1) and (2).

Issue 2. Failed to provide Student's special education services through "appropriately and adequately trained" personnel. 34 C.F.R. § 300.156

Issue 3. Denied Student a free appropriate public education (FAPE) by failing to provide Student with an individualized education program (IEP) reasonably calculated to enable

Student to make progress appropriate in light of the Student's circumstances. 34 C.F.R. §§ 300.17 and 300.101.

Procedural History

1. The Office of Public Instruction (OPI) Dispute Resolution Office received the signed Complaint filed by the Parent on October 25, 2022.
2. The Parent did not provide the District with a copy of the Complaint as required by ARM 10.16.3662(3).
3. The OPI Dispute Resolution Office issued a Notice of Filing Complaint on October 28, 2022, which included a copy of the Complaint for the District. Because the District had not been provided with a copy of the Complaint, to determine the filing date, the OPI Dispute Resolution Office added three days from the date the Complaint was mailed to the District, or October 31, 2022.
4. The Early Assistance Program (EAP) attempted to assist the parties in resolving the dispute without success.
5. On November 16, 2022, OPI requested the District's written response to the Complaint and notified the parties that a complaint investigator was assigned to conduct the complaint investigation.
6. The District submitted a written response to the issues in the Complaint on November 28, 2022.
7. The District submitted a correction of statement on November 29, 2022.
8. The Parent submitted a rebuttal to the District's Response on December 4, 2022.

Investigatory Process

The investigator reviewed the following records:

- The Complaint and all supporting documentation;
- The District's Response and subsequent correction;
- The Parent's rebuttal to the District's Response;
- The Student's special education records relevant to this investigation;
- The District's responses to written questions presented by the investigator; and
- Audio Clip of an excerpt of IEP meeting provided by the District.

The investigator collected 12 staff questionnaires from classroom teachers and a paraeducator of the Student.

The investigator interviewed the Parent and Advocate via Zoom.

The investigator interviewed the Special Education Coordinator at the high school, two special education teachers and a school psychologist on Zoom. District’s legal counsel was present for the interviews.

OPI provided the Parent and the District the opportunity to submit additional information for consideration during the complaint investigation.

Applicable Federal Regulations, State Statutes or Rules:

34 C.F.R. § 300.17	Free Appropriate Public Education
34 C.F.R. § 300.101	Free Appropriate Public Education
34 C.F.R. § 300.156	Personnel Qualifications
34 C.F.R. § 300.320	Definition of individualized education program

Relevant Time Period for Investigation

Pursuant to 34 C.F.R. § 300.153(c) and ARM 10.16.3662, OPI has the authority to investigate alleged violations of IDEA and Montana special education laws that occurred within one year prior to the date the complaint was filed. In accordance with this limitation, the investigation and any findings of noncompliance will be limited to the period of time commencing October 31, 2021, through October 31, 2022. Additional information beyond this timeframe was considered for the purpose of fully investigating the complaint.

Findings of Fact

1. The Student attends tenth grade at one of the District’s high schools. The Student is a learner eligible for services under the IDEA category of Specific Learning Disability. *October 25, 2022 IDEA State Complaint.*
2. The Student’s IEP at the start of the 2021-22 school year was dated November 9, 2020, and reported the Student struggled with math and written expression. The Student’s last STAR360 math report placed her in the 3rd percentile and identified this as “urgent need”. It was recorded the Student read at a 4.4 grade equivalent and was in the 12% or “intervention” level in written expression on STAR 360. The IEP contained one math goal, one reading goal and one goal addressing written expression. Special education services included 325 minutes a week in the regular education setting in the areas of written expression and math. *Exhibit A November 28, 2022 District Response.*
3. According to District staff, at the high school, the Student received the special education services outlined in her November 9, 2020 IEP in a General Personal Strategies/study skills class for 240 minutes per week taught by a special education teacher with additional

paraeducator support rather than the general education environment for 325 minutes per week.

4. The Parent was concerned that the services the Student was receiving at the high school differed from the services provided at the middle school. Parent explained at the middle school, the Student received all services (325 minutes a week) in a co-taught, regular education classroom. *Parent Rebuttal December 4, 2022 & Staff Interviews December 19, 2022.*
5. A meeting was held in September 2021 to address the Parent's request for the Student to be placed in regular education study hall versus general strategies/study skills and receive services in general education classes. The District asked whether the Parent was seeking to revoke special education services. The Parent explained that she was not revoking consent, but she expressed a strong preference for the Student to receive special education services in the regular education classroom. *November 28, 2022 District Response.*
6. The District provided a copy of the Student's schedule for the 2021-22 school year, including course descriptions. According to the Student's assigned courses, during 5th hour, the Student was enrolled in a General Personal Strategies course taught by a special education teacher. According to the OPI's educator licensure lookup, the Student's General Personal Strategies Special Education Teacher was credentialed as a PK-12 endorsed special education teacher. The General Personal Strategies course description provided by the District described this course as a class that teaches and promotes self-advocacy and personal accountability for academic success. Students receive instruction in organization, reading, note-taking and test-taking methods as well as individual instruction and supports in academics. *December 16, 2022 District Documents Class Schedule.*
7. School staff described General Personal Strategies as a study skills course. The special education teacher responsible for this course indicated that teachers and paraeducators, under the supervision of the special education teacher, work with students on study habits, study skills, address anxiety and self-care strategies. It was explained the course provided Students opportunities to get extra help, complete assignments/homework, and work on IEP goals. *December 19, 2022, Staff Interviews.*
8. Multiple staff indicated that the Student was resistant to assistance and was often disengaged during attempts to provide support. The Student expressed frustration with the General Personal Strategies class and sharing space with other students with disabilities. Parent indicated that Student reported being distracted by other students and described her needs

as different than others in the General Personal Strategies class. *December 19, 2022, Staff Interviews.*

9. The IEP team convened on November 9, 2021, to develop the Student's annual IEP, relevant portions include:
 - a. Educational concerns stated by the Parent focused on social and emotional difficulties with the transition to high school. School staff indicated the Student needed organizational skills, more time on assignments than peers and struggled with computer literacy.
 - b. Transition services were discussed, and the team developed measurable post-secondary goals, outlined the Student's course of study and identified transition services that were needed.
 - c. Present Levels and measurable annual goals addressed three areas: reading, self-help/independence, and written expression. The goals are reproduced below:
 - i. Reading:
 - Present Levels: [Student] is enrolled in general education English and reads at a 4.4 grade equivalent; Lexile of 605. [Student] reports that reading can be difficult for her.
 - Measurable Annual Goal: Given reading instruction [Student] will raise her Lexile to 800 or higher by end of the IEP period as evaluated by standardized tests and monitored by case manager each semester until met.
 - ii. Self Help/Independence:
 - Present Levels: [Student] has 1 A, 4 B's 1 C and 1 F with the assistance in a General Personal Strategies. [Student] utilizes her time in Strategies well by working on missing assignments, asking teachers for help and studying to tests and quizzes. [Student] classes are mainstream besides Strategies. The team recommended that [Student] stay in a Strategies instead of mainstream study hall.
 - Measurable Annual Goal: Given high school classes, [Student] will complete work and use accommodations as needed in order to earn at least 80% according to teacher gradebook and monitored by case manager each semester for 2 semesters.
 - iii. Written Expression:

- Present Levels: [Student] is in general education English 1. She receives support from her general education teacher, as well as her IEP team including case manager and resource paraeducator. She currently has a B in English 1. Her STAR scores place her in “urgent intervention” category with a scaled score of 1021.
 - Measurable Annual Goal: By the end of the current IEP [Student] will raise her scaled score on her STAR testing to at least 1100 as indicated by STAR scores.
 - Measurable Annual Goal: By the end of the IEP, for each essay assignment, [Student] will independently develop her ideas fully. [Student] will write passages that contain well developed main ideas. [Student] will give at least three details in each paragraph. [Student] will demonstrate this ability in all content areas and all settings for all essay assignments in the general curriculum. As measured by teacher gradebook.
- d. Progress reports were to be provided to the Parent each semester.
 - e. Special Education Services included Self-Help Independence for 240 minutes per week in the special education setting.
 - f. The Student participated in districtwide assessments with accommodations.
 - g. Supplementary Aids and Services listed on the IEP included:
 - i. Preferential seating (more towards the middle and off to the side)
 - ii. Visual paired with audio directions whenever possible
 - iii. Fill-in-the blank notes or copies of notes when needed
 - iv. Modified assignments, tests, quizzes to include word banks whenever possible
 - v. Option to have test, quiz, assignment read aloud
 - vi. Calculator use
 - vii. Access to word processor for assignments longer than 1 paragraph
 - viii. Access to text-to-speech to review own typed work before submission
 - ix. Extended time limit on tests, quizzes, and assignments (up to 2 days)
 - x. Use of audio books for educational content whenever possible, while she follows along visually
 - xi. Speak to [Student] privately, not in front of a group
 - xii. Chunk assessments (especially in math)
 - xiii. Option to have a movement break (especially when feeling overwhelmed)

- xiv. Option to work in resource room or other quiet location
 - h. The IEP documented that the Parent and the District agreed that a reevaluation is unnecessary.
10. A Prior Written Notice embedded at the end of the IEP dated November 9, 2021, memorialized the District's IEP proposal, including updated strengths and concerns, goals, minutes of services, supplementary aids and services, the addition of (secondary) transition information, and a proposed schedule for the next school year. It was noted that the IEP team discussed the Student's reevaluation status and Parent refused a district reevaluation.
 11. During an interview with the Parent, she indicated that she did not refuse the reevaluation offered by the District. She explained she did not trust the District to conduct the reevaluation due to previous evaluation experiences with the District. The Parent expressed concern that the results of a District reevaluation would not be reflective of the Student's specific disability needs. As a substitute, she offered to get a private, outside evaluation and provide the report and recommendations to the School. *Parent Interview, December 15, 2022.*
 12. The Parent signed annual consent for the November 9, 2021 IEP on January 5, 2022. *Exhibit B November 28, 2022 District Response.*
 13. The progress report dated February 1, 2022, did not include any data or explanation of progress. The progress report form was effectively blank, with the exception of an "x" entered in each data and description field. *Exhibit G November 28, 2022 District Response*
 14. During an interview with the special education teacher, he indicated that it was difficult to measure progress for the February 1, 2022 progress report, because annual consent for the IEP was obtained a week prior to when progress reports were due. Additionally, he reported that there was no additional progress report provided for the Student's November 2020 IEP goals which were implemented through January 2022. *District Staff Interview December 19, 2022.*
 15. Parent indicated that the Student was evaluated by an outside organization in February 2022. *Parent Interview, December 15, 2022.*
 16. The Student's 2021-22 reported grades

Term 1		Term 2	
Algebra 1A	C	Algebra 1A	A
Earth and Space Science	D	Earth and Space Science	D
English 1	C	English 1	C
Food and Nutrition	B	Gen Pers Strategies	C
Gen Pers Strategies	B	Intro to Games	D
Graphic Design 1	F	Introduction to Art	A
Introduction to Art	C	Personal Finance	F

Original Complaint and Exhibit C November 28, 2022 District Response.

17. A progress report dated June 9, 2022, was included in the Student's file. The following progress was documented, verbatim:
- a. Reading: [Student] continues to work hard and earn passing grades in English. She uses her strengths and advocates for herself. She is able to identify her area of need and overcome them.
 - b. Self-Help/Independence: [Student] has been able to do missing and make up work with the aid of a resource para. She has turned in at least 80% of her work in all classes.
 - c. Written Expression: [Student] continues to work hard and earn passing grades in English. She uses her strengths and advocates for herself. She is able to identify her area of need and overcome them.
 - d. Written expression: [Student] continues to work hard and earn passing grades in English. She uses her strengths and advocates for herself. She is able to identify her area of need and overcome them.

Exhibit G November 28, 2022 District Response.

18. The IEP team convened three times (September 19, September 30 and October 7, 2022) in response to the Parent's email dated August 26, 2022, in order to amend the IEP. Parent requested specific academic services, accommodations and modifications for the Student. The District reported that Parent also provided a copy of an outside evaluation report she obtained in February 2022. *Staff interviews December 19, 2022.* The prior written notice indicated the outside evaluation report was considered at the meetings. *Exhibit E November 28, 2022 District Response.*

19. Highlights from the outside evaluation acquired by the Parent include:
- a. Student has a unique learning profile. She has co-existing strengths and difficulties that impact numerous learning areas.
 - b. Various reading, writing, and math skills are impacted, as are auditory/listening skills and academic fluency abilities.
 - c. Student has characteristics of dyslexia, auditory processing and listening comprehension difficulties, several characteristics of dyscalculia, and suspected difficulties in both receptive and expressive language processing.

October 25, 2022 State Complaint.

20. A Prior Written Notice embedded in the IEP memorialized decisions that occurred during the IEP amendment meetings held on September 19, September 30, and October 7, 2022, and included the following:
- a. The District offered to conduct a comprehensive evaluation.
 - b. The team agreed the student would benefit from explicit instruction in reading, math, written expression and executive functioning.
 - c. The team agreed the Student would remain in Algebra 1 with the addition of a math lab class for additional support.
 - d. The District proposed adding access to assistive technology in the supplementary aids and services.
 - e. The team agreed on language that was added to the supplementary aids and services.
 - f. The team updated transition services to reflect Student's desire to be in the medical field, such as a doctor.
 - g. It was noted that the Parent stated multiple times the Student shuts down, refuses to engage, and becomes noncompliant if she is placed in a special education setting because she doesn't want to be associated with other special education students.

Exhibit E November 28, 2022 District Response.

21. The Parent signed the amendments to the November 9, 2021 IEP with exceptions on November 1, 2022. *Exhibit E November 28, 2022 District Response.*
22. Next to "Exceptions" on the IEP, the Parent wrote "See attached on the following page." The following page explained that the Parent offered partial consent, reserving the right to challenge the appropriateness of the entire IEP. Parent concern was with the School's proposal to provide small group instruction as opposed to the Parent's requested one-to-one-reading instruction with a reading specialist based on the recommendations of the outside evaluation the Parent obtained in February 2022. *Exhibit E November 28, 2022 District Response.*
23. IEP notes included as part of the amendment meetings reported the following details from the September 30, 2022 and October 7, 2022 meetings.
- a. September 30, 2022
 - i. Vocational Rehabilitation referral was offered.
 - ii. The District indicated that the Student's 2017 reevaluation determined eligibility in LD-Math and OHI-ADHD but didn't have a doctor's note on file. Parent indicated she would get the School this information.

- iii. Discussed dropping health class and waiving it, if necessary, so student can access math lab for math special education services.
- b. October 7, 2022
- i. Case Manager has offered 10 minutes of 1 to 1 reading practice in private daily. Student declines.
 - ii. Case Manager has offered colored overlays for any reading on black and white paper. Student declines.
 - iii. Paraeducator support checks with the Student to verify she is completing her planner during study skills.
 - iv. Parent signed permission to reevaluate at school.

Exhibit E November 28, 2022 District Response.

24. Although outside of the time period relevant to this Complaint, the District has completed a reevaluation and summarized the results in an Evaluation Report dated November 16, 2022.

Exhibit F November 28, 2022 District Response.

Conclusions

1. The overarching purpose of the IDEA is to ensure that students with a disability have available to them a Free Appropriate Public Education (FAPE), including special education and related services that meet the unique needs of individual students and prepare them for further education, employment and independent living. See 34 C.F.R. § 300.1.
2. The FAPE standard was set by the landmark United States Supreme Court decision in the Rowley case. The Court held that an IEP must provide a “basic floor of opportunity.” Determining the “contours of an appropriate education must be decided on a case by case basis.” *Bd. of Educ. of the Hendrick Hudson Cent. Sch. Dist., Westchester Cnty. v. Rowley*, 458 U.S. 176, 553 IDELR 656 (1982).
3. The Rowley Court established a two-part test to decide whether FAPE was provided:
 1. Has the state (i.e., public agency) complied with the procedures set forth in the IDEA?
 2. Is the IEP developed through IDEA’s procedures reasonably calculated to enable the child to receive educational benefit?
4. The IEP must aim to enable the child to make progress. “After all, the essential function of an IEP is to set out a plan for pursuing academic and functional advancement.” *Andrew F. v. Douglas County Sch. Dist. RE-1*, 137 S.Ct. 988, 999, 69 IDELR 174 (2017). “The instruction

offered must be “*specially designed*” to meet a child’s “*unique needs*” through an “[i]ndividualized education program.” *Id.* (emphasis added by U.S.).

5. A reevaluation must be conducted once every three years subject to limited exceptions and meet the requirements for comprehensive evaluations contained in 34 C.F.R. §§ 300.304 through 300.311 34 C.F.R. § 300.303(a). Pursuant to 34 C.F.R. § 300.305(a)(2)(i)(B), in a reevaluation, the district must examine whether a child continues to have such a disability and the educational needs of the child. A reevaluation at least once every three years provides an IEP team the opportunity to understand a student’s current educational needs for IEP planning purposes.
6. It is possible for a school and parent to agree that a reevaluation is unnecessary. 34 C.F.R. § 300.303(b)(2). “In determining whether a reevaluation is needed, the parent and the public agency must consider the child’s educational needs. . .” 71 Fed. Reg. 46640 (Aug. 14, 2006).
7. The District has a continuing responsibility to propose and request parental consent for a reevaluation if it determined that the child’s special education needs warrant a reevaluation. 71 Fed. Reg. 46641 (Aug. 14, 2006).
8. A student’s special education needs may change throughout the course of her educational career and requires reevaluation to assess evolving needs. With respect to this Student, there were many reasons to conduct a comprehensive reevaluation. The Student had just transitioned to high school where the staff were unfamiliar with the Student’s educational needs, the Student was reading at a fourth grade level and was entering ninth grade, and it was known that the school hadn’t conducted a comprehensive reevaluation since 2017.
11. Although it was noted in the Student’s November 2021 IEP, that the District and Parent agreed that no reevaluation was necessary, the PWN from that same meeting stated the Parent refused consent to conduct the evaluation. The Parent admits she was unwilling to provide consent for a reevaluation in 2021 due to a previous bad experience with the District. Instead, she offered to get a private evaluation and provide it to the District.
12. Districts have a strong case that a parent’s conditional consent constitutes a refusal to consent when the conditions would impede the district’s ability to meet the IDEA’s requirements for conducting evaluations at 34 C.F.R. § 300.304 through 34 C.F.R. 300. 311.
13. In this case, the Parent expressed her unwillingness during the November 2021 IEP meeting to provide consent for evaluation and rather chose to have the Student privately evaluated. Regardless of the reason for the Parent’s reevaluation concerns, placing conditions on the District’s attempt to obtain consent and conduct the reevaluation constituted refusal.

14. IEPs must include a statement of the child's present levels of academic achievement and functional performance (PLAAFP), including how the child's disability affects the child's involvement and progress in the general curriculum (i.e., the same curriculum as for nondisabled children). 34 C.F.R. § 300.320(a)(1).
15. The IDEA requires that every IEP include a statement of measurable annual goals, including academic and functional goals, designed to: meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum; and meet each of the child's other educational needs that result from the child's disability. 34 C.F.R. § 300.320(a)(2).
16. Because the evaluation of a student's progress is so closely tied to the student's IEP goals, the district must ensure that the goals included in each student's IEP are clear and objectively measurable. *Kuszewski v. Chippewa Valley Schs.*, 131 F.Supp.2d 926, 34 IDELR 59 (E.D. Mich. 2001).
17. The description of annual goals should be specific enough to allow the district to determine whether the student made progress and also make clear which specific skills will be required in order to achieve those goals. *D.S. and A.S. v. Bayonne Bd. of Educ.*, 602 F.3d 553, 54 IDELR 141 (3d Cir. 2010).
18. While the Student's annual goals in the November 2021 IEP are broadly stated as improving assessments scores and passing classes, it is possible that they could be measured. However, on the February 1, 2022 progress report, there isn't any data or progress reported. School staff explained that due to delays in the Parent providing annual consent, data wasn't available to report. Even so, the school should have reported progress based on the Student's previous November 2020 IEP, which staff indicated was implemented through January 2022. Yet, there were no reports of progress on these goals either.
19. On the June 9, 2022 progress report, the District checked the boxes that indicated the Student was expected to meet each of the IEP goals. However, the data and descriptions included for the areas of reading and written expression only consisted of general statements such as working hard and passing English class. Except in the area of self/help independence, the descriptions were unrelated to the measurable annual goals. No data was provided for any of the goals. This clear misalignment and lack of data resulted in a failure of the District to demonstrate the Student made progress towards the IEP goals.

20. If it turns out a child is not making progress at the level the IEP team expected, the team must revisit the IEP with the *Endrew F.* standard in mind and revise it as necessary to ensure the student is receiving appropriate special education and related services and that the goals are individualized and ambitious. *Questions and Answers on Endrew F. v. Douglas County Sch. Dist. Re-1*, 71 IDELR 68 (USDOE Dec. 7, 2017).
21. After the development of the November 2021 IEP, the District let two progress reporting periods, over the course of 8 months, pass without reconvening the IEP team to address the Student's lack of progress. It took the Parent requesting a meeting prior to the start of the 2022-23 school year, for the District to address whether the IEP was reasonably calculated to provide FAPE. The Student's difficulties in reading and written expression were well known and documented. However, the IEP team overlooked the Student's lack of demonstratable progress in these areas, which denied the Student FAPE.
22. Special education means specially designed instruction to meet the unique needs of a student with a disability. Specially designed instruction is further defined as adapting, as appropriate to the needs of the Student that result from the disability, and to ensure access of the general curriculum. See 34 C.F.R. § 300.39.
23. IDEA requires that a special education teacher in the state who teaches elementary school, middle school, or secondary school:
 - a. Has either obtained full state certification as a special education teacher (including certification obtained through an alternate route to certification as a special educator) or passed the state special education teacher licensing examination, and holds a license to teach in the state as a special education teacher, except with respect to any teacher teaching in a public charter school, who shall meet the requirements set forth in the state's public charter school law;
 - b. Has not had special education certification or licensure requirements waived on an emergency, temporary, or provisional basis; and
 - c. Holds at least a bachelor's degree.

See 34 C.F.R. § 300.156(c)(1).

24. Furthermore, ARM 10.16.3136(1) outlines that special education teachers and related service personnel must hold licenses consistent with state licensing or education licensing requirements for the subjects they teach and services they provide.

25. The record supports the special education teachers providing the special education services in the Student's IEP were appropriately credentialed, adequately trained and appropriately supervising paraprofessional personnel. While the Parent may have preferred a reading specialist, the Student's IEP didn't outline or require one. The District provided special education services with appropriately and adequately trained staff.

Decision

Issue 1: Whether the District failed to develop appropriate measurable annual goals based on the Student's present levels of academic achievement and functional performance 34 CFR § 300.320(a)(1) and (2).

OPI finds no violation. The District developed measurable annual goals.

Issue 2: Whether the District failed to provide Student's special education services through "appropriately and adequately trained" personnel.

OPI finds no violation. The District provided special education services outlined in the Student's IEP with appropriately and adequately trained personnel.

Issue 3: Whether the District denied Student a free appropriate public education (FAPE) by failing to provide Student with an individualized education program (IEP) reasonably calculated to enable Student to make progress appropriate in light of the Student's circumstances.

OPI finds the District in violation. The District failed to document any progress on reading and written expression goals.

Corrective Action

1. The District shall provide all special education staff and related service providers with at least four (4) hours of training on IDEA's IEP requirements, including at a minimum, conducting comprehensive reevaluations, developing present levels of performance and writing measurable goals, and reviewing and revising the IEP to address lack of progress.
 - a. The training shall be completed by April 14, 2023.
 - b. The District shall provide OPI's Early Assistance Program Director with the name and credentials of the trainer by January 31, 2023.

- c. The District shall submit a list of all staff members required to take the training and evidence of their completion of the training, including sign-in sheets with the name of all participants, date(s) of training, and copies of all training material to OPI's Early Assistance Program Director by April 28, 2023
2. The District shall provide the Student with compensatory services. The goal of compensatory education is to place the student in the position that the student would be in had the LEA provided the appropriate services in the first place. *Reid v. Dist. of Columbia*, 401 F.3d 516, 43 IDELR 32 (D.C. Cir. 2005). In light of the fact that the Student made no documented progress on IEP goals, the LEA shall provide compensatory education as follows:
 - a. 56 hours of one-to-one reading instruction.
 - b. The District, in consultation with the Parent, shall determine the schedule for provision of compensatory services considering the Student's ability to sustain attention and interest levels.
 - c. Compensatory services shall be completed by July 1, 2023. Student absence shall result in waiver of service for that day. Staff absence must be rescheduled. Any compensatory service declined or not utilized by July 1, 2023, shall be deemed waived (assuming the District has made a good faith effort to timely commence and provide all compensatory service).
 - d. The schedule for compensatory services, including the name and credentials of the provider, shall be provided to OPI's Early Assistance Program Director by January 31, 2023.
 - e. Service provider logs verifying completion of the compensatory education services must be submitted to OPI's Early Assistance Program Director by July 14, 2023.



JP Williams
State Director of Special Education

- c: Mandi Gibbs, Dispute Resolution/EAP Director (via SMFTS only)
John Gorton, School Improvement/Compliance Unit Manger (via SMFTS only)
****, District Special Education Director (via SMFTS only)
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