



July 9, 2021

Talisa Dixon, Superintendent
Columbus City School District
270 E State St
Columbus, OH 43215

RE: Complaint #CP 0024-2021, Findings Letter

Dear Superintendent Dixon:

After reviewing the information regarding the complaint concerning students similarly to [REDACTED], [REDACTED] and [REDACTED], the Office for Exceptional Children (OEC) has determined the following:

- The Education Program Specialists (EPSs) assigned to the complaint reviewed and considered all documentation and information submitted by both parties.
- For the purposes of this investigation, similarly situated students (Students) are defined as students with a disability (SWD) under the Individuals with Disabilities Education Act (IDEA) at 34 C.F.R. 300.8 [Child with a disability] who had an individualized education program (IEP) in effect between March 16, 2020¹ and March 9, 2021, the date the complaint was filed.
- Due to the large class of Students investigated in this complaint, the OEC randomly selected a sample of Students from each of the named students' schools to review:
 - On May 11, 2021, the District provided the EPSs the names of SWD that attended Fairwood Elementary School, Ridgeview Middle School and Beechcroft High School during the 2019-2020 and 2020-2021 school years.
 - On May 12, 2021, the EPSs provided the District a list of randomly selected Students that would be examined for this investigation.
- The EPSs interviewed the Director of Compliance and Related Services (Director), the Executive Director of Special Education/Student Support Services (Executive Director), Associate Legal Counsel, the Director of Academic Innovation and Programming, and the Director of Academics on March 11, March 30, and July 2, 2021.
- The EPSs interviewed the Complainant via telephone on March 23 and April 2, 2021.
- On May 24 and June 4, 2021, the OEC mailed letters to the Parents of Students who were sampled for the investigation.
- The District provided documentation in response to this complaint between May 27 and June 4, 2021.
- EPSs contacted Parents for interviews via telephone and e-mail between June 7 and June 29, 2021. Parents who responded to the EPSs attempts to contact them for an interview are listed below.
- For the purposes of this letter, facts will be listed per school building. A separate key will be provided to the District that contains the unique identifiers for each staff member and Student used in this letter.
- The sample of Students is as follows:

¹ The date the Governor of Ohio ordered statewide school building closures in response to the COVID-19 pandemic.

- 24 Students from Fairwood Elementary School who will be identified as Students A1-A24:
 - Students' disability categories are as follows:
 - Autism- 5 students
 - Multiple Disabilities (MD)- 5 students
 - Cognitive Disability (CD)- 4 students
 - Specific Learning Disability (SLD)- 3 students
 - Other Health Impaired (OHI)- 2 students
 - Speech Language- 3 students
 - Hearing Impaired- 1 student
 - Traumatic Brain Injury (TBI)- 1 student
 - None of the Students' Parents responded to the OEC for telephone interviews.
 - Six intervention specialists (ISs) worked with the Students. They will be identified as ISs 1-6 and were interviewed as follows:
 - ISs 1 through 4 were interviewed on June 2, 2021.
 - IS 5 no longer works in the District and IS 6 was not interviewed.
 - The Instructional Aide (IA 1) who was assigned to work with four of the Students was interviewed on May 26, 2021
 - 17 of the Students received speech language services. One Speech Language Pathologist (SLP) worked with these Students and will be referred to as SLP 1.. SLP 1 was not interviewed but provided documentation which was reviewed in the facts below.
 - 12 of the students received occupational therapy. One occupational therapist (OT) worked with these students and will be referred to as OT 1. OT 1 was interviewed on June 2, 2021.
 - Five students received physical therapy. One physical therapist (PT) worked with these Students and will be referred to as PT 1. PT 1 was interviewed on June 2, 2021.
 - The Special Education Coordinator and Principal of the school were interviewed on May 19, 2021.
- 30 Students from Ridgeview Middle School who will be identified as Students B1- B30:
 - Students' disability categories were as follows:
 - Autism- 9 students
 - Emotional Disturbance (ED)- 5 students
 - MD- 5 students
 - OHI- 5 students
 - CD- 3 students
 - SLD- 2 students
 - TBI- 1 student
 - The following Students' Parents responded to the OEC for telephone interviews:
 - B2, B21 and B30's Parents were interviewed on June 10, 2021;
 - B5, B14 and B16's Parents were interviewed on June 9, 2021;
 - B7 and B10's Parents were interviewed on June 11, 2021; and
 - B22's Parent was interviewed on June 29, 2021.
 - 8 ISs worked with the Students. They will be identified as IS 7- 14. ISs 7-12 were interviewed on June 2, 2021. IS 13 was on maternity leave during the investigation of this complaint and IS 14 was not interviewed.

- Two IAs worked with the Students and were interviewed on May 26, 2021. They will be identified as IA 2 and IA 3.
- 15 of the 30 Students in the sample had speech language services. One SLP was assigned to work with the Students and will be referred to as SLP 2. SLP 2 was interviewed on June 2, 2021.
- Eight of the Students received occupational therapy. One OT was assigned to work with the Students and will be referred to as OT 2. OT 2 was interviewed on June 2, 2021.
- One of the Students received physical therapy. The PT assigned to this Student will be referred to as PT 2. PT 2 was interviewed on May 26, 2021.
- The Special Education Coordinator and Principal of the school were interviewed on May 19, 2021.
- 42 Students from Beechcroft High School who will be identified as Students C1-C42.
 - Students' disability categories were as follows:
 - MD- 14 students
 - Orthopedic Impairment- 7 students
 - Autism- 5 students
 - CD- 4 students
 - OHI- 3 students
 - TBI- 3 students
 - SLD- 3 students
 - Deaf-Blind- 1 student
 - ED- 1 student
 - Hearing Impaired- 1 Student
 - Upon review of the records, eight of the Students graduated from the District and one of the Students moved out of state in May 2021. These Students will not be included in the below record report.
 - The following Students' Parents responded to the OEC for telephone interviews:
 - C9's Parent was interviewed on June 9, 2021;
 - C37's Parent was interviewed on June 17; and
 - C16's Parent was interviewed with the assistance of an interpreter on June 29, 2021.
- Thirteen ISs worked with the Students. They will be identified as IS 15-27. ISs 15-22 were interviewed on June 2, 2021. ISs 23-27 were not interviewed but any documentation submitted was reviewed in the facts below.
- Six IAs worked with the Students. They will be identified as IAs 4-9 and were all interviewed on May 26, 2021.
- 14 of the Students received speech language services. One SLP was assigned to work with the Students and will be referred to as SLP 3. SLP 3 was interviewed on May 19, 2021.
- 14 of the Students received occupational therapy. One OT was assigned to work with the Students and will be referred to as OT 3. OT 3 was interviewed on June 2, 2021.
- 15 of the Students received physical therapy. One PT was assigned to work with the Students and will be referred to as PT 3. PT 3 was interviewed on June 2, 2021.
- The Special Education Coordinator and Principal of the school were interviewed on May 19, 2021

- In addition to the abovementioned staff for the three buildings subject to the complaint, four additional OTs, four additional PTs, one additional IA and one additional IS were interviewed who served additional buildings within the District on May 26, 2021 and June 2, 2021.
- The District notified families that all schools for all students in the District would be closed beginning Monday, March 16, 2020 through Friday, April 3, 2020. Schools would re-open Monday, April 6, 2020 for the week and Spring Break would occur as scheduled- April 13-17, 2020. Classes resumed April 20, 2021 until May 28, 2020, the last day of the school year.
- The District's first day of the 2020-2021 school year was September 8, 2021.

Issue 1:

The Complainant alleges that although the District provided educational services to students during the Governor's School Closure Period (School Closure Period), "special education students were not provided with contact with their special education or related service providers and did not receive specially designed instruction." Additionally, when "virtual services" began in September of the 2020-2021 school year, "most of the schools in the District did not make a good faith effort to make virtual learning accessible to students with disabilities, and instead provided a 'one size fits all' telehealth² and Zoom³ model for all students." These are alleged violations of 34 C.F.R. 300.323(a) [When IEPs must be in effect] and O.A.C. 3301-51-02(B) [FAPE]⁴.

Acknowledgement of Violation and Corresponding Facts:

1. The District provided the following information to the OEC during telephone interviews on March 11 and March 30, 2021:
 - a. In late Fall of 2020, the Urban Support Team within the OEC provided guidance to urban districts to ensure the provision of special education services to SWD during the School Closure Period and the subsequent 2020-2021 school year who were learning virtually due to the COVID 19 Pandemic.
 - b. The District determined it would independently conduct an internal review of all of the approximately 9,000 SWD in the District to ensure students were provided with special education services.
 - c. Part of the District's review included the use of a rubric the OEC used for a systemic complaint investigation of another urban district⁵.
 - d. As of March 30, 2021, the District determined that based on the records it reviewed, approximately 30% of their special education population required recovery services. The District's plan to address the needs of these students is discussed in Fact 2(J) below.
2. The District provided a copy of a training titled "[District] COVID Recovery Review Process." (Review Process). The training was held on February 26, 2021 and in summary, included the following information:
 - a. The purpose of the Review Process was to "determine service delivery to students with (individualized education plans) IEPs from March 2020 through present day."

² For the purposes of education during the COVID 19 Pandemic, telehealth is used by related service providers and is a distribution of health-related services and information via electronic information and telecommunication technologies. It allows related service providers to engage in contact, care, advice, reminders, education, intervention, and monitoring.

³ Zoom is a video meeting program.

⁴ As documented in the April 26, 2021 letter of allegations, the District acknowledged this violation and conducted its own internal review process for the approximately 9,000 special education students in the District.

⁵ See CP 0055-2020.

- b. The Review Process would occur as an internal review for all SWD and would determine “recovery services⁶ as a preventative measure to any possible [Ohio Department of Education or Office for Exceptional Children] complaint filings and/or requirements from the US Dept. of Ed[ucation].”
- c. The District wanted to ensure that SWD “have the opportunity to be provided recovery services if there is an area that fell below the expectation of “good faith effort” as described by [the Department] during the mandatory school closure [during the 2019-2020 school year] and the continuation of remote learning through the 20-21 school year.”
- d. The Review Process required review teams (Review Teams) comprised of the following individuals:
 - i. One person from the District’s “Leadership” team- examples provided were roles of an executive director, director or supervisor.
 - ii. Additional team members were to include special education coordinators, transition service coordinators, behavior specialists, school psychologists and representatives from each related service provider group.
- e. Review Teams were given the option to review records during their workday if time permitted, or to review “after-work hours” and would receive additional compensation. Review Team members were informed they may “randomly be assigned a building or caseload to review,” or could choose to select a specific building or classroom to review.
- f. A rubric was provided, which contained six areas for Review Teams to focus on as follows:
 - i. Documentation of specially designed instruction (SDI);
 - ii. Documentation of student contact;
 - iii. Documentation of parent contact;
 - iv. Submission of IEP progress reports;
 - v. Specific comments on IEP progress reports, which demonstrate evidence of progress within the goal or objective; and
 - vi. Data provided on the progress report.
- g. Each of the abovementioned items on the rubric was worth one “point.” Based on the amount of points per record, the following determinations would be made:
 - i. Students with 5-6 points were considered “Green.” The green area meant that individual documentation, which demonstrated students received SDI and related services or a record contained documentation of multiple attempts to provide SDI. Additionally, students in this category had IEP progress reports, which provided data and other documentation to support that a free appropriate public education (FAPE) occurred during the reviewed period of time.
 - ii. Students with 3-4 points were considered “Yellow.” The yellow area meant there was some documentation that students received their SDI or related services, or documentation of attempts to provide SDI. Students in this category had no IEP

⁶ In the training, the District defines “recovery services” as the need of all learners to recover from any educational gaps in learning caused by the unexpected school-building closures.” Additionally, the District clarified that the “determination to provide recovery services to students with disabilities must be done on a case-by case basis.”

- progress reports, IEP progress reports with no data, or had a “statement of justification.”⁷
- iii. Students with 0-2 points were considered “Red.” The red area meant that no documentation was provided to demonstrated students received SDI or related services, or that parents and students were not contacted consistently during the reviewed time period. Additionally, students in this area did not have IEP progress reports, or blank progress reports.
 - h. The District provided a “Covid Recovery Data Form” and “Covid Recovery Review Instructions” for members of the Review Team. The training acknowledged that it “may be difficult to determine ‘minute to minute’ service delivery” during the specified time period, but Review Teams were required to determine if “‘adequate’ services were provided by estimating the amount of SDI the student was to receive and the amount of teacher interaction and/or teacher provided activities in a given timeframe.” The District provided examples of synchronous and asynchronous learning, which would be considered “adequate” during the reviewed period of time.
 - i. Review Teams were told the use the following as “sources of evidence.”
 - i. IEP progress reports;
 - ii. Documented attempts to contact the parent or student;
 - iii. Personal learning plans (PLPs);
 - iv. Prior written notices (PR-01s) or Continued Learning Plan (CLPs)⁸;
 - v. SDI or teacher created tracking logs; and
 - vi. Related service provider logs.
 - j. The District provided a list of “possible recovery service options.” A note underneath the listed options indicated that once all data had been obtained, the District may “add or eliminate options,” which included further options into the 2021-2022 school year. The options were listed as follows:
 - i. Summer Experience- to occur in the summer of 2021 and 416 spots⁹ for SWD were available for this option.
 - ii. Summer tutoring- to occur in the summer of 2021.
 - iii. Related Services- to occur in the summer of 2021.
 - iv. “Saturday Experience/ Tutoring-” this option would occur during the 2021-2022 school year.
 - k. The District included a timeline for the Review Process which included a more intensive training for Review Team members, when review of documents should be completed, a cross referencing session for Review Team members and contacting families for those students who met criteria for recovery services. The District also provided three optional “Calibration Sessions” for Review Team members for any additional questions or concerns they may have about the process.
3. During the July 2, 2021 telephone interview with the District, the following information was provided:
- a. Outcome of the Review Process:

⁷ A “statement of justification” means that an IEP progress report contained documentation which stated special education or related services were not able to be provided due to the COVID 19 pandemic.

⁸ A CLP was created for students with disabilities to detail how services would be provided while remote due to the pandemic.

⁹ See Fact 3c of this Issue.

- i. As of July 2, 2021, approximately 65% of SWD have gone through the Review Team. Of the students reviewed:
 1. 58.6% were determined to be “Green;”
 2. 29.3% were determined to be “Yellow;” and
 3. 12.1% were determined to be “Red.”
 - ii. SWD who were identified as having complex needs¹⁰ were prioritized in the review process.
 - iii. Administrative staff plan on completing the Review Process for the remaining students in July 2021.
- b. Recovery Service Plan- summer programming, known as the “Summer Experience.” The program:
- i. Is a six-week program for all students in the District. Approximately 8,000 students are currently enrolled in this program.
 - ii. Meets from 8:30am to 12:30pm four days per week.
 - iii. Has an academic portion for the first part of the day. The District partnered with four different community programs to work with the students the second half of the day. These programs created their own educational curriculum and students go on field trips to these programs or the programs bring content to the students.
 - iv. Is able to meet the needs of students with IEPs. If a student enrolls in the Summer Experience and has an IEP, they work with an IS and their IEPs are implemented during the academic portion of the day.
 - v. Follows the placement of a student’s least restrictive environment (LRE).
- c. Recovery Plan for Students in the “Yellow” or “Red” categories:
- i. 400 spots were reserved specifically for the complex needs students in the “Yellow” and “Red” categories based on the Review Process. As of the date of the interview, approximately 375 students are in the reserved spots.
 - ii. The abovementioned group of students were contacted directly by their IS and the corresponding schools’ Special Education Coordinator to be personally invited.
 - iii. Students in one of the reserved spots are in a “single classroom setting” with an IS and two IAs. The students spend the morning working on their IEP goals. Data is collected daily, and each week parents are provided with a weekly progress report that contains data.
 - iv. The classrooms are imbedded with general education classrooms to ensure “authentic inclusion.”
 - v. SLPs, OTs and school counselors are part of the staff at the Summer Experience. If a student has these services on their IEPs, they receive them individually or in small groups.
 - vi. This group of students receive door-to-door transportation to the program even if it is not explicitly written in their IEPs.
- d. Plans for the 2021-2022 school year for ongoing Recovery Services:
- i. The District is reviewing several options for Recovery Services for the SWD who fell into the “Yellow” or “Red” categories. Some of these options include:

¹⁰ The District defines a “complex needs” student as a student who requires a single classroom setting and includes students with a disability category of MD, ID or OI.

1. Increasing the amount of SDI within the school day for a particular goal to re-capture minutes. This may be “double or triple” the amount of time within a students’ IEP;
 2. “After school support” with an IS; or
 3. Saturday School.
 - ii. Recovery Services are something the District is considering at a Districtwide level, so the District wants to make sure their plan for SWD aligns with the entire District.
4. In order for the OEC to make a determination regarding the provision of FAPE, including special education and related services, based on each individual Student’s unique needs within the selected sample, the following items were considered:
 - a. Disability category;
 - b. Goals on the IEPs in effect from March 17, 2020 through March 9, 2021;
 - c. SDI provided based on the IEP and by whom the minutes were provided;
 - d. Any documentation that demonstrated SDI was provided;
 - e. IEP progress reports;
 - f. Interviews with the Parents of Students who, in summary were asked the following questions:
 - i. During the School Closure Period:
 1. How did your child receive education?
 2. Did the IS use paper copies of work, virtual platforms or did they provide services another way?
 3. How often were you and your child contacted by your child’s IS or related service provider and did the IS or related service provider give work outside of work mailed home?
 4. How were you and your child contacted by your child’s IS or related service provider? Was it by telephone, text, or email?
 5. Did the IS or related service provider work on any goals from your child’s IEP?
 6. Did you receive any IEP progress reports for the period of March 17, 2020 - June 1, 2020?
 - ii. During the 2020-2021 year (September 8, 2020- March 9, 2021):
 1. Did your child receive virtual learning opportunities and were they able to log in and interact with the class?
 2. How often did your child interact with their IS and what modality was used?
 3. Did your student require any accommodations or modifications to the work and was this something the IS helped with?
 4. If your child has related services, how often did they contact you or your child and how were the services provided?
 5. How was your child’s IEP progress reported to you?
 6. Did you express any concerns to the District about your child’s ability to access his or her special education services?
 7. Did the school have an IEP meeting to address virtual services as a result of the pandemic?
 8. If you had concerns about IEP services and asked to meet with the IEP team to amend the IEP, was it amended?

- g. Interviews with assigned ISs, IAs, Related Service Providers, and building administrators of the Students, in summary were asked the following questions:
 - i. How quickly did your principal or supervisor reach out to you and inform you of your responsibilities after the Governor's order to close buildings in March of 2020?
 - ii. Were you provided with the needed tools to provide instruction and were you provided with training or instruction to instruct remotely?
 - iii. Describe how you served students remotely from the initial closure to the current school year.
 - iv. How did you communicate with parents during remote learning?
 - v. How did you record data or the lack of student attendance?
 - vi. When classes resumed in the Fall of 2020, did you provide services in-person or remotely and how were services made accessible and individualized to students with IEPs?
 - vii. Were there students whose disabilities did not permit them to access services remotely?
 - viii. Did any parents contact you about their students not being able to access remote services because of their disability?
 - ix. Were any IEPs revised to address a student's inability to access remote services due to their disability?
- 5. To ensure the OEC's Review Process was commensurate with that of the District, the District provided copies of its placement within the red, yellow or green categories for the sample of Students in the complaint.
 - a. The OEC reviewed records using the same six areas the District used in its determination and three additional areas as follows:
 - i. Evidence of SDI based on the ISs' or IAs' (if applicable) interview;
 - ii. Evidence of SDI based on the related service providers' (if applicable) interview; and
 - iii. Evidence of SDI based on the Parents' interview.
 - b. Each individual area received a numeric score as follows:
 - i. 1= Evidence of an area was present for the Governor's School Closure Period and the 2020-2021 School Year.
 - ii. .5= Evidence of an area was present for a portion of the Governor's School Closure Period or the 2020-2021 School Year.
 - iii. 0= No evidence of an area was present for the Governor's School Closure Period nor the 2020-2021 School Year.
 - iv. Not Applicable (N/A)= The area could not be assessed because it was not applicable to the Student. For instance, if a Student did not have related services in their IEP, the area would be marked N/A. Additionally, if a parent or instructor of the Student was not interviewed, the area would be marked N/A.

Following review of the above, a determination was made regarding the provision of FAPE to the Students, using a scaled rating system as follows:

Green (7-9 points): Overall, there was individualized documentation which demonstrated Students received SDI, or documentation which demonstrated that despite multiple attempts, the Student and Parent did not respond to efforts to engage the Students. Students in this category had IEP progress reports, which provided data that supported a FAPE was provided during the Governor's School Closure Period and the 2020-2021 School Year. Finally, the Parent, IS and related service provider interviews supported the documentation submitted by the District.

Yellow (4-6 points): There was some documentation which demonstrated the Students received SDI or related services, or documentation which demonstrated individual contact or attempts were made to contact the Student and Parent for a portion of the Governor's School Closure Period or the 2020-2021 School Year. Students in this category had IEP progress reports that contained either the "statement of justification" (see Fact 2(g)(ii) above), "no reported progress" or vague progress statements. Finally, the Parent, IS and related service provider interviews supported that some services were provided, and FAPE was attempted, despite inconclusive documentation.

Red (0-3 points): Overall, there was little to no documentation provided which demonstrated the Students received SDI or related services, or that contact was made consistently with Students and Parents during the Governor's School Closure Period or the 2020-2021 School Year. Students in this category were missing portions of their progress reports, or blank progress reports. Finally, the Parent, IS and related service provider interviews supported the documentation submitted by the District.

6. The following information is specific to the Students at Fairwood Elementary School.

Student	SDI	Parent Contact	Student Contact	IEP Progress Report	Specific Information	Data	IS/IA Interview	RS Interview	Parent Interview	District	OEC
A1	.5	.5	.5	.5	0	0	N/A	.5	N/A	Yellow	Yellow
A2	1	1	1	1	1	1	.5	.5	N/A	Green	Green
A3	.5	1	1	1	1	.5	.5	1	N/A	Yellow	Yellow
A4 ¹¹	.5	0	0	.5	0	0	.5	.5	N/A	Red	Red
A5	.5	1	.5	0	0	0	N/A	N/A	N/A	Yellow	Yellow
A6	.5	.5	0	.5	.5	.5	.5	.5	N/A	Yellow	Yellow
A7	.5	0	0	0	0	0	N/A	N/A	N/A	Yellow	Red
A8	1	.5	.5	.5	.5	.5	.5	.5	N/A	Green	Yellow
A9	0	0	1	0	0	0	N/A	N/A	N/A	Red	Red
A10	1	1	1	1	1	1	N/A	.5	N/A	Green	Green
A11	.5	.5	.5	.5	.5	.5	.5	.5	N/A	Yellow	Yellow
A12 ¹²	1	1	1	1	1	1	.5	.5	N/A	Green	Green
A13	1	1	1	1	1	1	.5	.5	N/A	Green	Green
A14 ¹³	.5	.5	.5	1	.5	.5	.5	N/A	N/A	Yellow	Yellow
A15	.5	.5	1	1	.5	0	.5	.5	N/A	Yellow	Yellow
A16	1	1	1	1	1	1	.5	N/A	N/A	Green	Green
A17	1	1	1	1	.5	1	N/A	.5	N/A	Green	Green
A18	.5	.5	1	1	0	.5	.5	.5	N/A	Yellow	Yellow
A19	.5	.5	.5	.5	.5	.5	.5	.5	N/A	Yellow	Yellow
A20	.5	0	0	.5	.5	.5	.5	.5	N/A	Yellow	Red
A21	0	0	.5	.5	0	0	.5	.5	N/A	Red	Red
A22	0	0	.5	.5	.5	0	N/A	N/A	N/A	Red	Red
A23 ¹⁴	0	.5	.5	.5	.5	.5	.5	N/A	N/A	Red	Yellow
A24	.5	.5	.5	.5	.5	.5	.5	.5	N/A	Green	Yellow

¹¹ A4 transferred to the District at the beginning of the 2020-2021 school year.

¹² A12 transferred to the District in November of the 2020-2021 school year.

¹³ A14 was referred to Department of Job and Family Services due to ongoing attendance issues.

¹⁴ A23 transferred to the District in March 2020.

Overview of Parent, IS, IA and Related Service Provider Interviews for Fairwood:

7. During interviews with the EPS on May 19, 2021, the Principal and Special Education Coordinator (Coordinator) for Fairwood provided the following information:
 - a. The Principal and Coordinator did not start working at Fairwood until the 2020-2021 school year.
 - b. Based on their experience at other school buildings during the School Closure Period, ISs and Coordinators began exchanging information about the School Closure Period and upcoming IEP meetings "right away." IEP meetings were scheduled and held as needed. IEP profile sections for students where state education was occurring remotely and for an undetermined period of time. Other Students received PR-01s.
 - c. For the 2020-2021 school year, the District "had a clear plan about how to imbed this information into every single IEP" and to establish a "continuity of learning plan" (CLP) for SWD.
 - d. Teachers received professional development to support families between March and May of 2020. Additional professional development was provided by the District and at the building level prior to the start of the 2020-2021 school year.
 - e. There are three MD classrooms in the school building. Families were contacted using various methods including Facetime¹⁵ and "less conventional methods" to ensure families received access to Chromebooks¹⁶. There was a student who could not "handle" work on the computer, so the teacher delivered work to the student.
 - f. For the 2019-2020 school year, staff were required to try to follow scheduled class times, to reach out to students and parents if students did not participate and to log SDI in a document provided by the District.
 - g. For the 2020-2021 school year, the District continued to use the online platforms that students and teachers were familiar with from the initial closure.
 - h. ISs worked around student schedules and would work with teachers to schedule times to serve students. Students in MD classrooms worked online with the ISs.
 - i. No IEPs were revised specifically to address any students' inability to access education and related services online.
8. During interviews with the EPS on May 26, 2021 and June 2, 2020 IAs, ISs and Related Service providers for Fairwood provided the following information:
 - a. At the beginning of the School Closure Period, staff was contacted immediately by their supervisors and received more information over the course of two weeks regarding how to serve students and how to issue progress reports. The first day of the closure (March 13, 2020) was a Friday and was considered a calamity day. OTs were "back online" serving students by the following Friday. PTs had computers but received new ones in the fall. ISs also received new computers with cameras in the fall.
 - b. All staff eventually had access to District computers, but not all the technology, such as cameras, that were needed initially. ISs developed online classrooms and met with parents to address technology questions and attendance issues.
 - c. Students received individualized services based on their IEPs and staff worked with parents to address attendance or internet issues. A social worker had to get involved with one student who did not attend class.

¹⁵ FaceTime is a video telephone product.

¹⁶ Chromebooks are a type of laptop computer.

- d. CLPs were completed in September with parent input.
9. The following information is specific to the Students at Ridgeview Middle School:

Student	SDI	Parent Contact	Student Contact	IEP Progress Report	Specific Information	Data	IS/IA Interview	RS Interview	Parent Interview	District	OEC
B1	.5	.5	.5	1	1	1	N/A	1	N/A	Green	Green
B2	0	1	1	1	0	0	N/A	N/A	0	Yellow	Yellow
B3 ¹⁷	.5	.5	.5	.5	1	.5	.5	1	N/A	Yellow	Yellow
B4	.5	.5	.5	.5	1	.5	.5	1	N/A	Green	Yellow
B5	.5	.5	1	1	.5	.5	.5	1	.5	Red	Yellow
B6	.5	.5	.5	.5	.5	.5	.5	1	N/A	Yellow	Yellow
B7	.5	1	1	1	1	.5	.5	1	1	Green	Green
B8	.5	.5	.5	.5	.5	.5	.5	1	N/A	Yellow	Yellow
B9	.5	.5	.5	.5	.5	.5	.5	1	N/A	Green	Yellow
B10	.5	.5	.5	.5	.5	.5	.5	1	0	Green	Yellow
B11	.5	.5	.5	1	1	1	1	1	N/A	Green	Green
B12 ¹⁸	1	1	1	1	1	1	.5	N/A	N/A	Yellow	Green
B13	.5	.5	1	1	.5	.5	N/A	1	N/A	Green	Green
B14 ¹⁹	.5	.5	1	1	1	0	N/A	1	0	Yellow	Yellow
B15	.5	.5	.5	1	.5	.5	N/A	1	N/A	Green	Yellow
B16 ²⁰	.5	.5	.5	1	1	1	.5	N/A	1	Green	Green
B17	1	.5	.5	1	1	1	N/A	N/A	N/A	Green	Green
B18	1	1	1	1	1	1	1	N/A	N/A	Green	Green
B19 ²¹	.5	.5	.5	1	.5	.5	.5	1	N/A	Red	Yellow
B20	.5	.5	.5	1	.5	.5	N/A	N/A	N/A	Green	Yellow
B21	.5	.5	1	1	.5	.5	.5	1	.5	Green	Yellow
B22	.5	1	1	1	.5	.5	1	1	1	Yellow	Green
B23	.5	.5	.5	1	1	.5	1	1	N/A	Green	Green
B24 ²²	.5	1	1	1	1	.5	1	N/A	N/A	Green	Green
B25 ²³	0	0	0	.5	.5	.5	1	1	N/A	Red	Red
B26 ²⁴	1	.5	1	1	1	1	.5	N/A	N/A	Yellow	Green
B27	.5	.5	.5	1	1	.5	N/A	1	N/A	Yellow	Green
B28	.5	.5	.5	1	.5	.5	.5	N/A	N/A	Green	Yellow
B29	.5	.5	.5	1	.5	.5	.5	N/A	N/A	Green	Yellow
B30	.5	.5	.5	1	.5	.5	N/A	N/A	.5	Green	Yellow

¹⁷ B3 transferred to the District the beginning of the 2020-2021 school year.

¹⁸ B12 is no longer enrolled in the District.

¹⁹ B14 did not have an IEP until the 20-21 school year.

²⁰ B16 was referred to the Department of Child and Family Services due to suspected abuse.

²¹ B19 was placed on home instruction due to behavior on March 3, 2020.

²² B24 ran away from home in April 2020 and has been in a group home for the 20-21 school year.

²³ B25 transferred into the District from another state in late March 2020.

²⁴ B26 was referred to the Department of Child and Family Services due to attendance.

Overview of Parent, IS, IA and Related Service Provider Interviews for Ridgeview Middle School:

10. The EPS reached out to all Parents of similarly situated Students. Nine Parents responded, and provided the following information:

- a. In the Spring of the 2019-2020 school year:
 - i. One Student (B2) did not attend the District. Another Student (B14) was not on an IEP until October 2020.
 - ii. The other seven Students were given access to online learning via Google Classroom or Zoom and given paper packets.
 - iii. One Parent noted their Student could not participate with the online or paper packets due to motor planning issues.
 - iv. Generally, the Parents did not think the assignments were modified to meet their Students' needs, and felt the materials were not individualized to their Student.
 - v. Some families reported no access to the internet or a computer at the beginning of the School Closure Period and indicated the District sent paper packets to assist during the transition to online learning.
 - vi. The Parents of six Students specifically mentioned that the IS contacted them or their child "often" or "frequently" and that the IS assigned to their Student was helpful. One Parent stated she thought the teachers "tried their hardest to make good of a bad situation."
 - vii. The Parents of two Students stated related services were provided during the building closures and three Parents stated their student did not receive required related services during the building closures.
- b. During the 2020-2021 school year:
 - i. One Student participated in the digital academy which did not have interactive online learning options. This Parent stated the IS reached out virtually three times in the fall and the Student did not receive accommodations or modifications.
 - ii. The Parents of eight Students indicated their student had access to online learning via Google Classroom or Zoom which occurred four days a week with Wednesday as a day to catch up on work.
 - iii. Four of the Parents indicated their Student had unresolved issues accessing some or all of the online curriculum. The Parents of two of these Students indicated their child was either frustrated by the virtual learning or required the Parent to sit next to the student for constant redirection.
 - iv. Two Parents stated their Student had issues with accessing part of the online curriculum, but the District "did a good job" helping the Parents with these technical difficulties.
 - v. Four Parents stated their Student received the needed accommodations and modifications and had individualized services.
 - vi. Two Parents stated their Student did not receive accommodations, modifications, or individualized services.
 - vii. Two Parents were not sure if their children received accommodations, modifications, or individualized services.
 - viii. Two Parents stated their student received related services, but both indicated there were issues accessing those online services.
 - ix. One Parent stated their Student did not receive any related services until the Student returned to the building.

11. During interviews with the EPS on May 19, 2021, the Principal and Coordinator for Ridgeview provided the following information:
 - a. Staff gathered in the school building cafeteria the day the Governor issued the order to close school buildings. No one knew how long the School Closure Period would last. Staff was updated and informed of their responsibilities via email and bi-weekly staff meetings were held on an ongoing basis. Staff received training on remote instruction over the summer.
 - b. Staff was instructed to reach out to the students on their caseload and follow appropriate procedures. Staff was also instructed to log all communications and services provided using a District provided log or their own log. It was expected that staff would provide services on an ongoing basis online.
 - c. Services were provided to students based on the number of minutes required by the IEPs and the frequency of the individual class, such as a daily math class or tutoring. ISs were to meet with students two to three times per week.
 - d. Information was provided to building staff via the Special Education Coordinators.
 - e. Staff continued to hold IEP meetings to meet student needs.
 - f. Staff met with parents to discuss what remote learning would look like and documented it in PR-01s during the fall 2020 school year. No revisions were made to IEPs but a description of remote learning was noted on the PR-01s.
 - g. Students were provided Chromebooks and access to the internet through various means. Staff took different measure to connect with families including dropping off materials for the initial closure period.
 - h. Changes occurred between the end of the 2019-2020 school year and the beginning of the 2020-2021 school year. When the District realized students would not be returning to the building after the initial closure, the District worked to develop Zoom classrooms, face-to-face access to teachers and the District brought in students with the most complex needs. Schedules were developed that teachers were expected to follow as if they were in the school building. Staff reached out to students on asynchronous learning days as well.
12. During interviews with the EPS on May 26, 2021 and June 2, 2020 IAs, ISs and Related Service providers for Ridgeview Middle School provided the following information:
 - a. The District contacted staff to inform them of their responsibilities immediately after the order to close school buildings was issued. Staff were instructed to try to teach like they were still in the classroom. Staff received consistent communication from the school building Coordinator and also worked together independent of administrative staff to “brainstorm” different options for serving students.
 - b. Staff received continuing updates from the District about communicating with students and connecting students with technology if necessary. Staff continued to hold IEP meetings during the school building closure with one IS participating in two IEP meetings the week after the initial school building closure.
 - c. Education and services were made accessible to students through the use of online classrooms, computer programs and websites where work could be modified and via paper packets and manipulatives that could be dropped off or mailed to students’ homes.
 - d. Services were individualized to meet each student’s needs, including how staff contacted parents. There were students whose disabilities made it difficult for them to access services online. Staff worked with the parents of these students to work out how the students could best access services. Some received paper packets or workbooks and

were contacted by ISs, IAs, and related service providers during the week. Other students had individuals at home who could assist student with logging on and accessing services.

- e. Staff received guidance during the initial closure and training on providing remote instruction during the summer.

13. The following information is specific to the Students enrolled at Beechcroft Highschool:

Student	SDI	Parent Contact	Student Contact	Progress Report	Specific Information	Data	IS/IA Interview	RS Interview	Parent Interview	District	OEC
C1	.5	.5	.5	.5	.5	0	.5	N/A	N/A	Yellow	Yellow
C3	.5	.5	.5	.5	0	.5	.5	1	N/A	Yellow	Yellow
C5	.5	.5	.5	.5	.5	.5	1	N/A	N/A	Green	Yellow
C6	.5	.5	.5	.5	0	0	N/A	.5	N/A	Green	Yellow
C7	0	.5	.5	.5	.5	.5	0	N/A	N/A	Red	Red
C8	.5	.5	.5	.5	.5	.5	N/A	.5	N/A	Green	Yellow
C9	.5	1	1	.5	.5	.5	1	1	.5	Green	Green
C10	0	.5	.5	.5	0	0	.5	N/A	N/A	Red	Red
C11	.5	.5	.5	.5	.5	.5	N/A	.5	N/A	Green	Yellow
C12	.5	.5	.5	1	1	1	.5	.5	N/A	Green	Yellow
C14	0	.5	.5	.5	.5	0	.5	N/A	N/A	Green	Yellow
C15	.5	.5	.5	0	0	0	N/A	.5	N/A	Green	Yellow
C16	.5	.5	0	.5	0	.5	.5	1	.5	Red	Yellow
C17	.5	0	0	1	0	.5	N/A	N/A	N/A	Yellow	Yellow
C18	.5	0	.5	0	0	0	N/A	N/A	N/A	Green	Yellow
C19	.5	.5	1	1	1	1	1	1	N/A	Green	Green
C23	.5	.5	.5	.5	.5	0	1	1	N/A	Green	Yellow
C24	.5	.5	1	1	1	.5	1	.5	N/A	Green	Green
C25	.5	.5	.5	0	0	0	N/A	1	N/A	Green	Yellow
C27	.5	.5	.5	.5	0	.5	.5	N/A	N/A	Red	Yellow
C28 ²⁵	0	1	1	1	1	0	1	N/A	N/A	Green	Green
C29	.5	.5	.5	1	1	.5	N/A	.5	N/A	Green	Yellow
C30	.5	.5	.5	1	1	.5	N/A	.5	N/A	Green	Yellow
C31	.5	.5	.5	.5	.5	.5	.5	1	N/A	Green	Yellow
C32 ²⁶	1	1	0	1	1	1	.5	.5	N/A	Green	Green
C33	.5	0	.5	1	.5	.5	N/A	.5	N/A	Green	Yellow
C35	.5	.5	.5	0	0	0	N/A	.5	N/A	Green	Yellow
C36	1	.5	0	0	0	0	.5	N/A	N/A	Red	Red
C38	0	.5	0	0	0	0	.5	N/A	N/A	Yellow	Red
C39	.5	.5	.5	.5	.5	.5	N/A	.5	N/A	Green	Yellow
C40	0	.5	0	.5	.5	0	N/A	.5	N/A	Green	Yellow
C41	.5	.5	.5	.5	.5	.5	0	N/A	N/A	Red	Yellow
C42	.5	.5	.5	.5	.5	.5	1	N/A	N/A	Green	Yellow

14. The EPS reached out to all Parents of similarly situated Students. Three Parents responded and provided the following information:

- a. During the 2019-2020 school year:
i. All three Parents reported the Students had access to online learning.

²⁵ C28 transferred to the District from another state in November 2020.

²⁶ C32 was identified as a student with a disability in September 2020 and an IEP was created in October 2020.

- ii. Two of the Parents stated the work was not individualized and every student in the class “got the same” online instruction.
 - iii. One Parent stated the SLP sent a packet of materials home and did not conduct any online sessions.
 - iv. One Parent said their Student did not receive any related services while the buildings were closed.
 - v. None of the Parents recalled receiving a progress report.
- b. During the 2020-2021 school year:
- i. Two Parents reported their Student was able to log in and participate in virtual learning opportunities and that the teachers would hold small group sessions and “split” the class into smaller groups as needed.
 - ii. One Parent was unsure how their Student accessed instruction during the 2020-2021 school year and did not recall any paperwork being sent home. This Parent did know the math teacher called several times to help motivate the Student.
 - iii. Two of the Parents stated their Students had access to related services once the Students returned to the buildings.
15. During interviews with the EPS on May 19, 2021, the Principal and Coordinator for Beechcroft High School provided the following information:
- a. The Superintendent had conversations with all staff within 1-2 days of the initial. In-person and Zoom meetings were held with staff to keep them updated and to assist them with providing remote instruction.
 - b. When it became clear that the closure would last longer than two weeks, driving materials to students was not a long-term solution. The District held team meetings to determine how they would meet students’ needs and it “changed by student.”
 - c. Teachers reached out to students daily and services were based on IEPs. Students received services individually and in groups.
 - d. IEP teams worked together to ensure students had access to technology and IEP services. Staff were required to log all services and communication with parents.
16. During interviews with the EPS on May 19, 2021, May 26, 2021, and June 2, 2020 IAs, ISs and Related Service providers for Beechcroft provided the following information:
- a. Staff received information about the building closure and their responsibilities “quickly.” Staff was provided with various materials and technology to provide remote instruction based on their jobs. This included computers, cameras, headphones, green screens, and masks.
 - b. Staff contacted students and parents through various methods. Staff and the Principal worked with parents to make SDI and services accessible to students online or through hard copy packets. SDI and related services were provided in groups and one-on-one.
 - c. ISs documented SDI in logs and related service providers documented services via Medicaid billing.
 - d. During the initial closure, ISs worked with students in groups or individually and used platforms such as iReady, WebEx, Achieve 3000²⁷, and StudySync²⁸. IEP goals could be added to the programs used. In the fall of the 2020-2021 school year, ISs added an additional virtual reading program, which helped to target student performance and

²⁷ Achieve3000 provides online daily differentiated instruction for nonfiction reading and writing.

²⁸ StudySync is an English Language Arts curriculum designed to be used in print and online.

- individualize services. ISs worked with students in virtual breakout rooms and individually on asynchronous learning days.
- e. SLPs received a two-day training on how to provide remote therapy.
 - f. An SLP had two students whose parents stated screen time caused seizures for their students. The parents limited screen time by having the students attend classes but declined to have the students participate in SLP services.

Finding:

The District acknowledged its violation of 34 C.F.R. 300.323(a) [When IEPs must be in effect] and O.A.C. 3301-51-02(B) [FAPE]. These sections state that at the beginning of each school year, each school district must have in effect, for each child with a disability within its jurisdiction, an IEP. Both the District's internal Review Process and the OEC's investigation of a sample of similarly situated students found Students whose IEPs were not implemented in part or at all during the School Closure Period and the during the 2020-2021 school year.

Corrective Action:

The District was proactive to make a determination about its SWD and to provide a plan to provide recovery services during the summer and throughout the 2021-2022 school year, however, additional corrective action will be at the end of this letter.

Issue 2:

The Complainant alleges the District did not hold individualized education program (IEP) meetings during the 2020-2021²⁹ school year to review and revise IEPs to determine which services could be "practically provided" when parents notified the District that their child could not access a free appropriate public education (FAPE) in a remote environment. These are alleged violations of 34 C.F.R. 300.324(b)(1)(ii) [Development, review and revision of IEP] and 34.C.F.R. 300.503 [Prior notice by the public agency; content of notice].

Facts:

The District and Complainant both submitted documentation and information for this complaint. All information and documentation was reviewed and considered:

1. The District provided a copy of a training titled "Virtual learning Continuity of learning & IEP Services" from August 2020. In summary, the training contained the following information:
 - a. Per the Ohio Department of Education,
 - i. "Communication and collaboration with parents are of paramount importance in identifying the appropriate services, supports and least restrictive learning environments for students who receive special education services."
 - ii. "The IEP team will need to consider the exact nature of the services provided on a case-by-case basis and based on the student's unique needs rather than a change in placement due to a district-wide plan."
 - iii. The team should consider each Student's needs and if additional assistance, resources, and supports are necessary for the Student to safely participate in IEP services.

²⁹ For this Issue, the period of time that the District provided services virtually for the 2020-2021 school year will be referred to as the Virtual Learning period.

- b. The District will use a “Continuity of Learning Plan’ (CLP) to document and communicate the ‘good faith effort’ [the District is] making to provide necessary services and supports that allow for a FAPE during 100% virtual learning.”
- c. The CLP **is**:
 - i. A detailed plan to share with parents or guardians about how services will be “implemented for the student throughout the Virtual Learning Period³⁰,”
 - ii. An “agreed upon plan that ensures students receive special education services” during the Virtual Learning Period.
 - iii. A plan that contains services “based upon the student’s current IEP;” and
 - iv. Intended to “assure parents that [the District is] providing services regardless” of the District’s required virtual educational setting.
- d. The CLP **is not**:
 - i. A “stand alone document” and “will be imbedded in a (prior written notice) PR-01;”
 - ii. A “change in the students’ needs already identified in the IEP;”
 - iii. “Intended to reduce or eliminate services and/or minutes listed in [a student’s IEP]; and
 - iv. An amendment to the IEP.
- e. The training contained a section titled “CLP Logistics” with the following steps to occur “in the first couple of weeks of school:”
 - i. Step 1: ISs are required to review each students’ IEP to determine how SDI would be implemented during the Virtual Learning Period. Families who opted to enroll their student in the District’s Digital Academy were noted to be a priority to be contacted so that students are “set up for instructional success and parents can fully understand how services will be provided in the [Digital Academy].”
 - ii. Step 2: ISs will contact families and “inform/discuss how IEP services will be delivered via the CLP, during the Virtual Learning Period.”
 - iii. Step 3: After contact has been made with the family member, the IS or Special Education Coordinator will complete a PR-01 with the CLP embedded in the form that documents “the conversation with parents and any changes/adaptations to occur with the IEP services during the Virtual Learning Period.”
- f. The training contained a section about how to complete a PR-01 with a CLP imbedded into the document.
- g. The training contained an “example of Section 7 changes,” which included the following examples:
 - i. The student has SDI requiring a meeting with an IS weekly in a small group setting to review assignments weekly as part of their “work completion goal.” However, after talking with the parent, “the IS and the parent agree” the activity will take place via weekly Zoom sessions.

³⁰ As of the date of the training, the Superintendent determined the Virtual Learning Period would be from the first day of the 2020-2021 school year until October 27, 2020. If a student chose to attend the Digital Academy (an all-virtual educational option for the 2020-2021 school year), this period of time was the first semester.

- ii. The student receives 100 minutes of direct math instruction in a small group setting. However, the parent is “unable to access Zoom and does not want a district issued device.” The parent requests “flash cards, work sheets and manipulatives” to be sent home for the student and the parent and IS “agree to touch base, via phone call every two weeks to discuss the student’s progress.”
 - iii. The student receives 60 minutes per week of reading instruction. However, the parent states the student will be in day care for five days per week and is unable to access virtual platforms during the school day. The parent and IS agree to send “paper-pencil activities home each week” and the student can utilize digital programs for skill practice. The parent and IS agree to “touch base” weekly to review progress and the District provides the student with a laptop.
- h. The training contained a section titled “Documenting IEP Services,” which, in summary, contained the following:
- i. An “Instructional Tracking Log” was provided that was an electronic document and contained a place for the student’s name, date, which goal was addressed, who addressed the goal and what service was provided, which accommodations or modifications were provided, the student’s response and additional notes to be added, if needed.
 - ii. If a teacher opted to not use the abovementioned log, they were required to “document interactions and delivery of SDI in an easily accessible and discernable way.”
 - iii. Related service providers were permitted to use their existing documentation system.
2. A review of records of the sample group of Students for all schools demonstrated that all Students’ IEPs and evaluation team reports (ETRs) were reviewed in a timely manner and included parent invitations (PR-02s) and prior written notices (PR-01s) following each meeting. IEPs that had annual reviews during the 2020-2021 school year contained specific documentation about which virtual platforms were being used and how each Student progressed within this platform. A review of each school provided additional details:
- a. Fairwood Elementary School- District documentation for Students contained the following information:
 - i. Two of the Students³¹ did not have a CLP.
 - ii. The District documented that four of the Students’ Parents³² communicated difficulty logging into classes for the Students, had internet connectivity issues or reported their child was frustrated with remote learning. During the District’s Review Process (See Issue 1, Fact 2), three of these Students scored in the yellow category and one scored in the red category. The OEC’s record review agreed with the District’s review.
 - iii. Seven of the Students³³ had significant attendance issues for the investigated time period. The District provided documentation of multiple attempts to contact the families, including contacting the Ohio Department of Job and

³¹ These were Students A12 and A22. A12 moved to the District in November of 2020.

³² These were the Parents of Students A3, A19, A20, and A23.

³³ These were Students A1, A3, A11, A14, A18, A21, A22, and A24.

- Family Services (Children's Services) for one of the Students and grade retention for one of the Students. During the District's Review Process, four of these Students scored in the yellow category, two scored in the red category and one scored in the green category. The OEC's record review determined five of the Students were in the yellow category and two were in the red category. None of these Students were found to be in the green category.
- b. Ridgeview Middle School- District documentation for the Students contained the following information:
- i. Eight Students³⁴ did not have a CLP.
 - ii. Seven Students³⁵ had incomplete or missing information within the CLP. These CLPs did not support that a Parent was contacted and participated in a discussion about virtual services or a CLP.
 - iii. The District documented that 17 of the Students' Parents³⁶ communicated difficulty logging into classes for the Students, had internet connectivity issues or reported their child was frustrated with remote learning. During the District's Review Process, 11 of these Students scored in the green category, five scored in the yellow category and one scored in the red category. The OEC's review process found seven of these Students in the green category, nine in the yellow category and one in the red category.
 - iv. All but five of the Students³⁷ in the sample had notable attendance issues for the investigated time period. The District provided documentation of multiple attempts to contact the families, including contacting Children's Services for two of the Students and potential grade retention for four of the Students due to lack of attendance. Multiple Students in this group ran away from home, lived off and on with relatives in other states or had medical issues which prevented them from attending class. During the District's Review Process 14 of these students scored in the green category, nine scored in the yellow category and two scored in the red. The OEC found 13 of these Students in the green category, 11 in the yellow category and one in the red category.³⁸
- c. Beechcroft Highschool- District documentation for the Students contained the following information:
- i. 13 Students³⁹ did not have a CLP.
 - ii. 5 Students⁴⁰ had incomplete or missing information within the CLP. The CLP did not support that a Parent was contacted and participated in a discussion about virtual services or a CLP.
 - iii. None of the Students reviewed had notation of difficulty with logging into classes, internet connectivity issues, or frustrations with remote learning.

³⁴ These were Students B5, B6, B11, B16, B23, B25, B26, and B30.

³⁵ These were Students B4, B8, B9, B10, B12, B19, and B28.

³⁶ These were the Parents of Students B3, B4, B6 through B18, B25, and B29

³⁷ 13 of these Students were also a part of Fact 2(b)(iii). The Parents and District had difficulty getting Students B10, B14 and B15 to attend class. B12's family had issues with homelessness during the investigated period of time.

³⁸ The Review Team scored the District lower than the OEC for some Students that had chronic absences despite numerous attempts to contact the Parent and Student.

³⁹ These were Students C1, C2, C7, C8, C14, C15, C18, C25, C30, C32, C33, C36, C8, and C41.

⁴⁰ These were Students C10, C16, C29, C39, and C40.

- iv. The Parents of three of the Students⁴¹ did not want their children to participate in remote classes and requested hard copies of materials to complete. Documentation stated that the Parents informed the IS they would send completed work back to the IS so progress could be documented within IEP progress reports. The Students' progress reports noted the Parents had been in contact with the IS and reported the Students were completing work, but never returned work for the IS to get data to track progress made for the Students' goals.
 - v. 10 Students⁴² in the sample had notable attendance issues during the investigated time period. The District provided documentation of attempts to engage the Student and their Parent. During the District's Review Process six of these Students scored in the green category, two scored in the yellow category and two scored in the red category. The OEC found two of these Students in the green category, six in the yellow category and two in the red category.
 - vi. Four Students⁴³ had issues with attendance due to medical conditions. Each Student had documentation about their medical issues and plans to provide services when the Students were able to participate in school.
 - vii. Two Students⁴⁴ had documentation of multiple IEP team meetings to amend the Students' IEP, which included the offer of compensatory education during the summer of 2021.
3. During the July 2, 2021 telephone interview with the District, the following information was provided specific to this Issue:
- a. Only SWDs had CLPs.
 - b. At the beginning of the 2020-2021 school year, the District thought students would be returning to school in late October. However, Students did not return to the building until late February through early April.⁴⁵ The CLP was intended to be more of a "short term" plan for students with disabilities.
 - c. The District provided training for special education staff in August and September of 2020 and told the ISs they were required to get input from a student's related service provider (if applicable) and then contact families to discuss the CLP and get any feedback or input from families.
 - d. Following the conversation with families, the IS would "imbed the CLP into a PR-01" and provide a copy to the family. These conversations were expected to be done within the first month (September 2020) of the school year.
 - e. Parents could request to change the CLP if it did not meet the students' needs. These changes were made upon request and the CLP was updated if a Student's IEP was reviewed or amended during the Virtual Learning Period.
 - f. If a parent requested an IEP team meeting, the District held IEP team meetings. "Many" IEPs were amended during this time as well as:

⁴¹ There were Students C5, C6 and C33.

⁴² These were Students C1, C7, C12, C14, C24, C28, C30, C33, C38, and C41.

⁴³ These were Students C25, C31, C35, and C39.

⁴⁴ These are Students C9 and C30.

⁴⁵ There is a range of time students returned to the building and this time was based on multiple factors.

- i. Changes were made to students' behavior intervention plans (BIPs) if requested or needed;
- ii. Functional behavior assessments (FBAs) were completed if requested or needed; and
- iii. Initial ETRs and IEPs were completed.

Finding:

The District is in violation of 34 C.F.R. 300.324(b)(1)(ii) [Development, review and revision of IEP]. This section states that a district will revise an IEP, as appropriate to address any lack of expected progress toward the annual goals, in the general education curriculum, if appropriate, the child's anticipated needs, or other matters. In this case, the District provided training to special education staff and had ISs create CLPs. The intention of the CLPs was to share with parents or guardians of SWDs how special education services would be implemented throughout the Virtual Learning Period. The intention of the CLPs was to address the anticipated needs of SWDs during the Virtual Learning Period and to "assure parents that [the District was] providing services regardless" of the District's required virtual educational setting. The sample of Students' documentation reviewed demonstrated that 36% of the Students did not have a CLP, or had incomplete information within the CLP and did not support that the plan was communicated with Parents. Additionally, while the District provided a significant amount of training and resources for the 2020-2021 school year, 48%⁴⁶ of the Students reviewed had multiple issues which indicated a need for the IEP team to reconvene and revise the IEP. While the schools did a good job documenting the issues the Students had specific to the Virtual Learning Period, IEPs generally were not amended, which places the District in violation with this section.

The District is not in violation of 34.C.F.R. 300.503 [Prior notice by the public agency; content of notice]. This section of the regulation requires the District to provide prior written notice to parents when proposing or refusing to initiate, or change the identification, evaluation, or educational placement of the child, or the provision of FAPE to the child. The CLP meetings were not IEP team meetings and the meetings did not propose or refuse identification, evaluation, placement or a FAPE. A PR-01 was not required, which places the District in compliance with this section.

Corrective Action for all Issues:

1. As discussed during their July 2, 2021 interview, the District will continue its Review Process for SWDs. The review of the remaining students will be completed by **August 2, 2021**. Per District interview (see Issue 1, Fact 3(a)(ii)&(iii)), students with "complex needs" have been through the Review Process. The OEC requires Review Teams have a recalibration session so that the following populations have additional considerations when reviewing documentation:
 - a. Students with behavioral issues prior to March 16, 2020;
 - b. Students who exhibited behavioral issues between March 16, 2020 and through remote learning during the 2020-2021 school year, who despite effort from the District, the parent and other community agencies were unable to engage the Student in education;
 - c. Students with disabilities who enrolled into the District between March 16, 2020 and through the remote learning during the 2020-2021 school year;
 - d. Students or their parents whose primary language is not English.

⁴⁶ This number is slightly higher if graduating Students and Students who moved out of State were included.

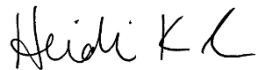
2. The District will move forward with its recovery plan to provide SWD services they did not receive beginning March 16, 2020. As the District moves forward with their plan, it will place a priority on SWD who are slated to graduate by the end of the 2021-2022 school year to ensure that any lost services are provided prior to graduation from the District.
3. Any SWD who is in the yellow or red category will have a baseline assessment to determine if progress has been made or skills have been lost during the abovementioned timeframe. Based on the results of the evidence-based assessments, the IS and District Representative will provide parents of these students with a statement of compensatory education, detailing the amount of compensatory service that will be provided to the student, including the areas of service and the service delivery options available. The District will work with the Urban Support Team within the OEC to determine the communication and tracking method for these students.
4. By **September 1, 2021**, the District will provide a copy of the template tracking form and the statement of compensatory education that will be used with the applicable group of students in number 3 above.
5. By **September 30, 2021** the District will have completed the baseline assessments to determine what services the Students still require for compensatory education services.
6. By **October 29, 2021** the District will have notified parents with a statement of compensatory education.
7. Upon periodic request of the OEC, the District will provide records of Students who were identified in number 3 above. OEC will review the records for evidenced-based assessments, statements of compensatory education provided to parents and progress with the compensatory services, if applicable.
8. The District is required to continue its bi-monthly meetings with the Urban Support Team within the OEC. The District will update the EPS assigned to work with the District about the status of recovery services provided to SWD. The EPS will disperse the update to the EPS assigned to the corrective action of this complaint.
9. The District will meet quarterly throughout the 2021-2022 school year with the below listed individuals to review the status of the District's recovery plan. Additionally, part of this meeting will include a team review of three records of SWD from an elementary school, middle school and high school. The record review will include the initial determination made by the Review Team and where the student is within the District's recovery plan. Records will be randomly selected and notice will be given to the District within 48 hours of the meeting. The following individuals are required to be a part of the quarterly meeting:
 - a. From the OEC:
 - i. The EPS overseeing the corrective action associated with this complaint;
 - ii. The Assistant Director of the Dispute Resolution section;
 - iii. The EPS from the Urban Support Team within the OEC; and
 - iv. The Assistant Director of the Urban Support Team.
 - b. From the District:
 - i. The Director of Compliance and Related Services;
 - ii. The Executive Director of Special Education/ Student Support Services;
 - iii. The Director of Academic Innovation and Programming; and
 - iv. Any other administrative staff the District wishes to include.
 - c. Other Team Members:
 - i. The Director or their designee of State Support Team 11 (SST 11); and
 - ii. The Education Service Center (ESC) of Central Ohio.

The District's final corrective action is due by: **June 3, 2022**.

Please submit all corrective action by the above due dates to the Office for Exceptional Children, attention Kelly Barger. Please reference the complaint number on all correspondence.

We appreciate your cooperation in the resolution of the complaint investigation.

Sincerely,



Heidi Kleinman,
Assistant Director, Dispute Resolution
Office for Exceptional Children

cc: [REDACTED], Complainant
Michalene Nelson, Special Education Director
Heather Clingerman, Education Program Specialist
Kelly Walker, Education Program Specialist
Kelly Barger, Education Program Specialist
Lyndsay Havey, Education Program Specialist, Urban Supports
Andrea Faulkner, Assistant Director, Urban Supports