

SPECIAL EDUCATION COMMUNITY COMPLAINT (SECC) NO. 22-119

PROCEDURAL HISTORY

On September 29, 2022, the Office of Superintendent of Public Instruction (OSPI) received a Special Education Community Complaint from the parent (Parent) of a student (Student) attending the **[REDACTED]** School District (District). The Parent alleged that the District violated the Individuals with Disabilities Education Act (IDEA), or a regulation implementing the IDEA, with regard to the Student's education.

On October 3, 2022, OSPI acknowledged receipt of this complaint and forwarded a copy of it to the District superintendent on the same day. OSPI asked the District to respond to the allegations made in the complaint.

On October 19, 2022, OSPI received the District's response to the complaint and forwarded it to the Parent on October 21, 2022. OSPI invited the Parent to reply.

On November 3, 2022, OSPI received the Parent's reply. OSPI forwarded that reply to the District on November 14, 2022.

On November 21, 2022, OSPI interviewed the Parent by phone.

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

SCOPE OF INVESTIGATION

This decision references events that occurred prior to the investigation period, which began on September 30, 2021. These references are included to add context to the issues under investigation and are not intended to identify additional issues or potential violations, which occurred prior to the investigation period.

ISSUES

1. Did the District implement the Student's individualized education program (IEP), providing special education services in the areas of math and science during the 2021–2022 school year?
2. Did the District implement the Student's accommodation for extra time to complete assignments according to the IEP during the 2021–2022 school year?

LEGAL STANDARDS

IEP Implementation: At the beginning of each school year, each district must have in effect an individualized education program (IEP) for every student within its jurisdiction served through enrollment who is eligible to receive special education services. 34 CFR §300.323(a); WAC 392-172A-03105(1). It must also ensure it provides all services in a student's IEP, consistent with the student's needs as described in that IEP. 34 CFR §300.323; WAC 392-172A-03105.

FINDINGS OF FACT

2021–2022 School Year

1. At the beginning of the 2021–2022 school year, the Student was a thirteen-year-old seventh grader who attended school in a different school district in Washington. The Student was eligible to receive special education services under the category of other health impairment.
2. On September 29, 2021, the Student's previous school district developed an IEP for the Student. The IEP provided annual goals in the areas of social/emotional, reading, and written expression and provided the following specially designed instruction in the general education setting:
 - Reading: 20 minutes, 5 times weekly
 - Social/Emotional: 10 minutes, 5 times weekly
 - Written expression: 20 minutes, 5 times weekly

The IEP provided the following accommodations:

- Additional time on assignments if progress is shown
 - Modified assignments
 - Multiplication table
 - Preferential seating
 - Quiet location
 - Read aloud – English
 - Teacher/teacher guest will check for understanding
 - Text-to-speech
3. On October 27, 2021, the Parent enrolled the Student in the District. The Student began attending classes on November 1, 2021.
 4. The Student's schedule included classes in English/language arts, Washington state history, math, science, computer science, physical education, and advisory. According to the District, the advisory class provided the Student an opportunity to complete his academic assignments for other classes for 28 minutes each day.
 5. The District documentation included a communication note, dated November 29, 2021, from the special education teacher to the Parent that stated:

Went over the Transfer with [Parent] on phone. Explained that [Student] would receive services in the classroom setting and he had the option to be in Learning Strategies class for additional support. At this time [Student] would like to stay in his 1st period class. He likes to be creative.
 6. In the complaint, the Parent referred to her disability discrimination complaint against the District that was filed in February 2022 and appealed in August 2022 regarding the Student. In the complaint and appeal, the Parent alleged that the Student did not receive any special education services, among other issues. The Parent's complaint and appeal did not provide information regarding the basis for the Parent's allegation.

7. On April 25, 2022, the Student enrolled in the District learning strategies class for 56 minutes each day, while withdrawing from his computer class. According to the District, the class helped the Student complete assigned work.
8. On August 23, 2022, the Parent withdrew the Student from the District.

Subsequently, the Parent reenrolled the Student in the District and the Student is currently attending school in the District.

9. The District's response to the complaint described how the Student's IEP was implemented. The response stated the Student's special education teacher provided the Student with specially designed instruction in reading and written expression during the English/language arts and history class. Regarding accommodations, the Student's general education teachers routinely provided additional time for the Student to complete assignments as needed. However, in some classes, the District reported that the Student completed the work with no need for additional time. The District noted the Student was absent approximately 54 school days during the school year, which impacted the Student's ability to complete assignments. The Parent stated the absences were due to "doctors, illness, and sports" and to "mental health."
10. Regarding the Parent's allegation that the District failed to provide the Student with math and science services, the District stated the Student's IEP did not provide math and science services. But the Student had the opportunity to receive assistance in his math and science assignments during the advisory and learning strategies classes.

11. In the Parent's reply to the District's response, the Parent stated:

There is no documentation of any efforts to my knowledge to address his IEP...There was no plan of action. It gives the contact of [special education teacher], but as of February 9th, I still did not even know who that was. [Student] never mentioned her and reports that he was rarely pulled aside for 1x1 assistance for his IEP...

But after reviewing the school's response to my complaint; it specifically says in THEIR OWN IEP PLAN COPY that he's allowed that specific support IN the resource room daily and it also says how many times per day, per week, ect. [sic]. He was denied all IEP support services while he was enrolled in [District].

(Emphasis in original.)

12. In an interview with the Parent, the Parent reasoned that the District did not provide special education services and accommodations because the Student had difficulty completing assignments in math and science. The Parent wanted the Student to attend the special education resource room for general assistance. The Parent stated she did not realize that the Student's IEP provided special education services in the general education setting, not in the special education setting. When asked if the Parent requested an IEP meeting to discuss the Student's struggle with completing assignments, the Parent stated she did not know she could ask for an IEP meeting.

CONCLUSIONS

Issue One: IEP Implementation – The complaint alleged the District failed to provide special education services in the areas of math and science. A district is required to provide special education in conformity with the IEP.

The Parent's initial complaint was that the District did not provide services to the Student in the areas of math and science because the Parent stated she had no knowledge of the IEP being implemented and the Student's statement as such. Later, the Parent stated that the District failed to provide the services to the Student in the resource room, which the Parent stated the IEP called for. The Parent stated she did not request an IEP meeting because she did not know she could.

Here, the Student's September 2021 IEP provided special education services in the areas of social/emotional, reading, and writing in the general education setting. The Student's IEP did not provide services in areas of math or science. In addition, despite the Parent's impression that the Student's IEP provided for services to be provided in the resource room, the IEP stated services would be provided in the general education setting. The District described how the Student's special education services were provided in the general education setting, and given that the IEP did not include special education services in science and math, no violation is found.

Issue Two: Accommodation – The complaint alleged the District failed to implement the accommodation to provide the Student with additional time for completing assignments. A district is required to implement the special education services and accommodations in conformity with the IEP.

Here, the Student's September 2021 IEP included an accommodation that the Student would receive additional time on assignments. The District described how the Student's general education teachers provided additional time for the Student to complete assignments and the advisory and learning strategies classes provided the Student with a daily opportunity to complete his assignments. But, the District noted, the Student's absences had a significant impact on the Student's ability to complete his assignments. According to the Student's attendance record, the Student was absent for approximately 54 days, which is more likely the reason why the Student was not completing assignments rather than the accommodation not being implemented. No violation is found.

CORRECTIVE ACTION

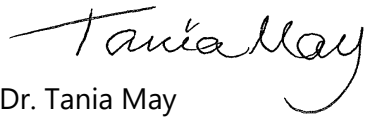
STUDENT SPECIFIC:

None.

DISTRICT SPECIFIC:

None.

Dated this 28th day of November, 2022



Dr. Tania May
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THIS WRITTEN DECISION CONCLUDES OSPI'S INVESTIGATION OF THIS COMPLAINT

IDEA provides mechanisms for resolution of disputes affecting the rights of special education students. This decision may not be appealed. However, parents (or adult students) and school districts may raise any matter addressed in this decision that pertains to the identification, evaluation, placement, or provision of FAPE to a student in a due process hearing. Decisions issued in due process hearings may be appealed. Statutes of limitations apply to due process hearings. Parties should consult legal counsel for more information about filing a due process hearing. Parents (or adult students) and districts may also use the mediation process to resolve disputes. The state regulations addressing mediation and due process hearings are found at WAC 392-172A-05060 through 05075 (mediation) and WAC 392-172A-05080 through 05125 (due process hearings.)