

## **SPECIAL EDUCATION COMMUNITY COMPLAINT (SECC) NO. 23-06**

### **PROCEDURAL HISTORY**

On January 19, 2023, the Office of Superintendent of Public Instruction (OSPI) received a Special Education Community Complaint from the parent (Parent) of a student (Student) attending the Kent School District (District). The Parent alleged that the District violated the Individuals with Disabilities Education Act (IDEA), or a regulation implementing the IDEA, regarding the Student's education.

On January 20, 2023, 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 January 26, 2023, the Parent provided additional and clarifying information, and OSPI determined the first complaint issue should be modified and a second issue added.

On February 6, 2023, OSPI received the District's response to the complaint and forwarded it to the Parent the same day. OSPI invited the Parent to reply.

On February 13, 2023, OSPI received additional information from the Parent. OSPI forwarded the additional information to the District the same day.

On February 17, 2023, OSPI received the Parent's reply. OSPI forwarded that reply to the District the same day.

On February 21, 22, 23, and 25, 2023, OSPI received additional information from the Parent. OSPI forwarded the additional information to the District on February 27, 2023.

On February 27, 2023, OSPI received additional information from the Parent. OSPI forwarded the additional information to the District on March 1, 2023.

OSPI considered all 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 January 20, 2022. And the Parent raised concerns about the November/December 2021 referral and documents used by the District during that referral process. These events occurred prior to the investigation period and have already been investigated in special education community complaint (SECC) 22-136. OSPI does not have the authority to re-investigate issues that have already been investigated. 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.

The Parent's complaint and additional information provided throughout the complaint investigation included allegations that OSPI cannot investigate through the SECC process. The

Parent expressed concern that the District did not follow through with general education interventions, including LAP services, after the decision not to evaluate the Student and that the District failed to assess the Student's need for accommodations under at Section 504 plan. As noted in the opening letters, these circumstances do not show a possible violation of the IDEA and OSPI cannot investigate these issues through the SECC process. OSPI also provided information in the opening letters about how to address concerns related to Section 504 of the Rehabilitation Act of 1974.

## **ISSUES**

1. Did the District follow child find procedures, specifically with respect to the Parent's information/questions following January 20, 2022 emails, a February 2022 conference, and with respect to considering information from the Vanderbilt assessment?
2. Per WAC 392-172A-05190(2), whether the District provided a "response from the school district to reasonable requests for explanations and interpretations of the records"?

## **LEGAL STANDARDS**

Child Find: School districts must conduct child find activities calculated to locate, evaluate, and identify all students who are in need of special education and related services, regardless of the severity of their disability. Child find activities shall extend to students residing within the school district boundaries whether or not they are enrolled in the public school system; except that students attending nonprofit private elementary or secondary schools located within the school district boundaries shall be located, identified and evaluated consistent with WAC 392-172A-04005. School districts will conduct any required child find activities for infants and toddlers, consistent with the child find requirements of the lead agency for Part C of the IDEA. Child find activities must also be calculated to reach students who are homeless, wards of the state, highly mobile students with disabilities, such as homeless and migrant students and students who are suspected of being a student with a disability and in need of special education, even though they are advancing from grade to grade. WAC 392-172A-02040. "[T]he child find duty 'is triggered when the [school district] has reason to suspect a disability, and reason to suspect that special education services may be needed to address that disability.'" *Dep't of Educ., State of Haw. v. Cari Rae S.* 35 IDELR 90 (U.S. District Ct HI, 2001) (quoting *Corpus Christi Indep. Sch. Dist.* 31 IDELR 41 (SEA TX 1999)).

Parents' Access Rights to Student Records: Districts must permit the parents of a student eligible for special education to inspect and review, during school business hours, any educational records relating to the student that are collected, maintained, or used by the district. The district must comply with a request promptly and before any meeting regarding an individualized education program (IEP), hearing, or resolution session relating to the identification, evaluation, educational placement of the student, or provision of a free appropriate public education (FAPE) to the student, including disciplinary proceedings. The district must respond in no more than 45 calendar days after the request has been made. The right to inspect and review educational records includes: the right to a response from the district to a reasonable request for explanations and interpretations of the records. 34 CFR §300.613; WAC 392-172A-05190.

Education Records: Education records means the type of records covered under the definition of "education records" in the Family Educational Rights and Privacy Act (FERPA), 34 CFR Part 99. WAC 392-172A-05180. Under FERPA, "education records" means those records that are: 1) directly related to a student; and 2) maintained by an educational agency or institution or by a party acting for the agency or institution. These records include but are not limited to grades, transcripts, class lists, student course schedules, health records (at the K-12 level), student financial information (at the postsecondary level), and student discipline files. 34 CFR §99.3.

## **FINDINGS OF FACT**

### **Background**

1. At the start of the 2021–2022 school year, the Student was not eligible for special education services. She attended a District elementary school.
2. The Parent filed a request for a special education investigation with OSPI that was opened as SECC 22-136 on November 17, 2022. The issues for investigation included whether the District followed referral procedures in November and December 2022. OSPI issued a decision on January 5, 2023, finding no violation.
3. On December 13, 2021, the Parent emailed the Student's teacher and asked that the teacher complete the "Vanderbilt Assessment" as requested by the Student's private behavioral health provider.
4. On December 17, 2021, the teacher returned the completed "Vanderbilt Assessment" to the Parent.
5. In additional information, the Parent stated that after the general education teacher completed the Vanderbilt assessment, she "failed to inform, report, or refer student to be screened" and that the assessment indicated the Student had "difficulties in the classroom affecting her learning and her academic performance." The Parent stated that by providing the District with the Vanderbilt assessment, it should have triggered the District's child find obligation.
6. The District stated in its response that it "understood Parent to be asking for this information from Student's teacher in relation to work being performed by the Parent's private psychologist regarding Student. As such, it appropriately did not take further action with respect to the assessment other than to provide the requested response."

### **Complaint Investigation Timeline Began January 20, 2022**

7. The District stated in its response to the Parent's complaint that the Parent did not request a special education evaluation of the Student for the remainder of the 2021–2022 school year.
8. On January 20, 2022, the Parent emailed the school psychologist and teacher regarding the Student's performance, the Student missing homework or copying things off the board

because she was "daydreaming," and the Student's iReady testing. The Parent stated, "I also had some questions about [Student's] iReady testing. Specifically the September one and the scoring," and requested previous testing scores.

The Parent, in additional information provided in the complaint, stated that the January 20, 2022 email is an example of her sharing a concern about the Student that should have triggered the District's child find obligation.

9. On January 21, 2022, the teacher responded to the Parent's email and provided a copy of the iReady testing data.

The teacher also agreed with an earlier email sent by the school psychologist related to fidgets and checking in with the Student. The email from the school psychologist also stated she would copy the counselor, who may be able to help with some accommodations.

10. On January 25, 2022, in response to the Parent's additional questions about whether the iReady scores sent were duplicates, the teacher sent the Parent additional testing data, noting that the Student had "made a TON of growth" in reading.

The Parent responded that same day, stating, "Wow! This is amazing. I definitely saw growth starting late last fall."

The District noted the Parent did not ask any further questions about the testing data at this point.

11. In her complaint, the Parent stated that the District had knowledge prior to the parent-teacher conference on February 9, 2022, that the Student "had a suspected diagnosis of AD/HD Inattentive Type and a possible learning disability" as the Parent had provided medical documentation at the beginning of the 2021–2022 school year. The medical documentation provided by the Parent stated in part, "There are certainly signs of ADHD, more so that are consistent with the inattentive subtype. It is possible Student has both a learning disorder and ADHD." The Parent also stated the District had an ADHD self-assessment filled out by the Student and the documentation of the Parent's concerns provided in the referral process.
12. On February 9, 2022, the Parent emailed the school psychologist, counselor, and Student's teacher, noting that she had some questions about the iReady testing and prior written notice "from our last meeting" to ask during the spring conference that day.

The Parent sent a document, outlining her questions following the conference (conference document). This document was broken into three parts: first, the Parent's concerns regarding the December 2021 referral meeting and prior written notice; second, the Parent's summary of the Student's iReady testing data from several years; and third, information and questions the Parent had in conjunction with the Student's private psychologist. The document included:

**PWN 12/09/21**

- A. Reason written on PWN is for a Special Education Eligibility Evaluation.

- a. My request was for an ADHD evaluation, is this not done unless someone first qualifies for SPED? I am not interested in her being provided any services at school.
- B. [School Psychologist] spoke of starting a social group and reaching out to counselor to get that set up...
- C. We spoke about a concern for speech delay and getting [Student] scheduled to have a visit with and SLP. Is that scheduled? We'd like [SLP] if possible.
  - a. PWN also states that her concern for speech delay will be monitored by school. What does this look like?
- D. Discussed strategies used at school to improve [Student's] attention to task and ability to ask for help. [Listed several strategies.]
- E. iReady testing has shown [Student] is consistently below grade level.
  - a. Plan was to revisit after Winter testing.

**iReady Testing**

A. Reading

Grade	Fall Score-Grade Level	Mid	End
2nd	464-G1	488-G1	512-Early G2
3rd	522-Early G3	546-Mid G3	543-Early G3
4th	556-G3	545-G3	566-G4
5th	559-G4	612-Mid G5	

B. Math

Grade	Fall Score-Grade Level	Mid	End
2nd	400-G1	424-G1	443-Mid G2
3rd	438-G2	442-G2	N/A
4th	467-Early G4	465-Early G4	467-Early G4
5th	432-G4	?	

**Psychologist**

- A. Reviewed Vanderbilt Assessment
  - a. Questions the validity of [teacher's] assessment as it does not match PWN.
  - b. Recommends [teacher] revisit the current assessment with parent or fill out again.
  - c. Assessment is attached with questionable answers highlighted.
- B. Recommends
  - a. Work with school to understand iReady testing scores.
    - i. What would iReady Scores need to look like to qualify for an evaluation?
    - ii. How does school decide who qualifies for the ADHD evaluation?
    - iii. What does school recommend to improve [Student's] academic function?<sup>[1]</sup>

13. Following the parent-teacher conference, the Parent sent an updated version of the conference document, including her notes on what they discussed at the conference.

14. Later, on February 9, 2022, the principal responded to the Parent's email, provided information about the iReady tests, and suggested a "possible informal observation" of the Student for

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<sup>1</sup> In additional information provided during the complaint, the Parent stated that this request was a request for an "educational plan tailored to meet the student's needs" and thus should have been understood by the District as a request for an initial special education evaluation.

speech. The principal asked the school counselor to connect with the general education teacher if she had not already. The principal highlighted the iReady testing to indicate below grade level and on grade level scores as follows:

***iReady Testing (KEY → Yellow = Below grade level; Green = On grade level)***

A. Reading

Grade	Fall Score-Grade Level	Mid	End
2nd	464-G1	488-G1	512-Early G2
3rd	522-Early G3	546-Mid G3	543-Early G3
4th	556-G3	545-G3	566-G4
5th	559-G4	612-Mid G5	

B. Math

Grade	Fall Score-Grade Level	Mid	End
2nd	400-G1	424-G1	443-Mid G2
3rd	438-G2	442-G2	N/A
4th	467-Early G4	465-Early G4	467-Early G4
5th	432-G4	474-G4	

(Emphasis in original.)

Additionally, in response to the Parent’s questions about iReady, the principal responded:

This is tough to determine. [Student] is a student that is performing right around the grade level expectation line. As you can see from the tables above, her scores are fluctuating between on grade level and just below grade level. I do not see a score that is two grade levels behind...We do not decide who qualifies for an ADHD evaluation, this are administered by a physician. School staff will complete the form that are provided by doctors to assist in the potential diagnosis.

To the principal’s email, a speech language pathologist (SLP) stated she would loop the speech team in, and the school counselor stated she had done observations and would connect with the Student’s teacher to see if there was anything else she could do to help.

- On February 17, 2022, the Parent responded to an email from the SLP, stating she had “removed [SLP], as her question was answered.” The Parent attached an updated version of the conference document, with additional comments added to the document.

One comment included concerns that “[Student] is still coming home missing information on various things...[Student] doesn’t remember doing [examples of classwork or]...didn’t understand at the time...” The Parent left a comment in the document regarding the iReady scores, stating, “I understand what you are saying and thank you for the updated information and highlighting. When you stated ‘I do not see a score that is two grade levels behind’ is two grade levels the red flag? Is it two grade levels for Overall Placement? OR Does Placement by Domain play a role? Here only 3 of 12 are on par but then her overall doesn’t look that bad, right?”

The Parent, in her complaint, framed this as an example of the District limiting her rights by not responding to her or considering provided documentation (for example, the Parent stated

additionally that the District “staff had knowledge of the self assessment results student did at home when Parent presented the Vanderbilt assessment needing to be done for the Pediatric Psychologist”), and the Parent framed this as child find failure.

16. Also, on February 17, 2022, the school psychologist addressed the question in the conference document about monitoring speech, stating that was written in the prior written notice “so that the team can be aware if current/future teachers/team members have concerns related to this.”

The counselor also responded, providing information about a “lunch bunch” group stating after break and describing her observation of the Student as follows:

I did observe [Student] several times, both when I was teaching lessons in [teacher’s] class and just sitting and watching. I did not observe anything that was too concerning; she does not volunteer answers very often, but that is not unusual as some students aren’t comfortable doing so. During a few lessons kids were grouped together to work on a project. [Student] was grouped with friends and got silly a few times, but the group did produce the work they were supposed to. All in all, I can’t say that I would have picked her out of the class as a student who was struggling to focus. Sometimes that can be hard to spot in a quiet student like [Student]. To me, she presents not as a student with ADHD because I don’t see the hyperactive element. ADD is harder to spot since they typically don’t call attention to themselves the way an ADHD student would. Just a thought.

17. The District noted that as some of the questions the Parent “was raising had already been addressed through both the special education referral and the parent-teacher conference, [teacher] did not further respond to Parent’s questions” in the conference document.

18. With respect to the conference document and other communications, the Parent stated that the District failed to respond to her questions, such as the following:

- “Where do we go from here, what do we learn from this trend?”
- “From [private] Pediatric Psychologist, *What would iReady scores need to look like to qualify for an evaluation?*” (Emphasis in original)
- Questions about the iReady test scores in the January 20 email and conference document including whether two grade levels was a red flag; “is it two grade levels for Overall Placement?”; “Does Placement by Domain play a role?”; and, “Here, only 3 of 12 are on par but then overall doesn’t look that bad right?”
- Questions about the Vanderbilt assessment and her request that the teacher fill out the assessment again or review it with her.

In additional information, the Parent framed this as the District failing to respond to her “reasonable requests for explanations and interpretations of records.”

Further, the Parent alleged that because the District failed to follow up on next steps after the conference, this was a child find violation. The next steps included:

- Observing the Student in class.
- The principal following up with the school counselor, including “have her provide an informal evaluation and have a conversation with the student.”

- The private psychologist recommending the general education teacher revisit the Vanderbilt assessment or fill it out again.
- The SLP would “give us more detailed information post consultation with student.”

And, in additional information, the Parent alleged that because the school counselor was not involved with the Student and the Student was not offered various supports, such as counseling, as described on the District’s website, that these are additional child find violations. The Parent also alleged that the District failed to notify the Parent how to “access [the District’s] Child Find System” and that this is not on the District’s website for “school aged kids.”

19. The Parent, in additional information provided during the complaint investigation, stated that the District failed to consider the Student’s scores on the “Smarter Balance Assessment” (SBA) and that the District did not provide her the SBA scores when she requested the Student’s iReady scores. The Parent stated the SBA scores indicated the Student was not making progress and needed to be evaluated for special education eligibility. The test scores included in the Parent’s information indicated the following (the Student was in the fifth grade):

- January 2022 iReady: Math Level 4, Reading Mid 5;
- April 2022 “WCAP Test”: ELA Literacy Met Standard; Math did not meet standard;
- April 2022 WA Science Assessment: Met standard in 2 of 3 areas, did not meet standard in 1 area; and,
- May 2022 iReady: Math Early 5; Reading Mid 5.

20. Regarding its child find responsibilities, the District stated in its response that with respect to the Parent’s communications in January and February 2022, the referral team had just met to consider the Parent’s request for a special education referral and determined not to evaluate. The District stated the Parent did not provide any new information or diagnosis for the Student in January or February 2022 that would have led the District to reconsider a special education evaluation. Instead, the District stated,

The communications consist of questions Parent had regarding various educational strategies, as well as Parent’s own characterizations of events. These communications did not trigger any additional child find obligation by the District, particularly where it had just followed all proper procedures in considering whether to conduct a special education evaluation of Student the month prior.

The District stated that multiple staff from the District, including the SLP, school counselor, principal, general education teacher, and school psychologist, followed up with the Parent about her questions and concerns. And the District stated it, “provided Parent with requested documentation, specifically, Student’s iReady testing data, which had been considered in the earlier special education referral process.”

With respect to the “Vanderbilt Assessment,” the District stated,

The assessment indicated that the teacher identified no areas of significant concern in academics, social emotional or behavior. The assessment was completed by the same teacher who provided input in November and December 2021 regarding Student and her classroom performance. The results of the Vanderbilt assessment are consistent with the



information the teacher provided previously to the evaluation referral team and do not indicate a suspected disability or a need for specially designed instruction such that a second special education referral would have been required.

21. On June 20, 2022, the District had its last day of the 2021–2022 school year.

22. In December 2022, during the 2022–2023 school year, the Parent again requested the Student be evaluated for special education eligibility and/or Section 504 accommodations. The Parent stated, in part:

I started raising concerns in second grade when iReady testing scores were below grade level and homework would last hours. Each year iReady scores are low and each teacher has said they're not concerned...I am concerned as her parent and I want to set her up for success going into middle school next year. If there is an area she needs extra time, further explanation, reminders, tutoring I want to help her identify that now. Last year I expressed my concerns for AD/HD, the Inattentive type and that is still relevant today...

The District, in its response, noted the District considered this referral in January 2023 and declined to evaluate the Student for special education services.

## CONCLUSIONS

**Issue One: Child Find** – The Parent alleged the District failed in its child find responsibility, specifically that it did not identify the need to evaluate the Student for special education eligibility at various points that should have “triggered the District’s child find obligation.”

School districts must conduct child find activities calculated to locate, evaluate, and identify all students who are in need of special education and related services, regardless of the severity of their disability. Case law from cases in the 9<sup>th</sup> circuit help outline the child find duty, finding that the child find duty is triggered when a district has reason to suspect a disability, and reason to suspect that special education services may be needed to address that disability.

Prior to the period investigated here and already investigated in a previous complaint, the Student was referred for a special education evaluation and the District declined to evaluate the Student in December 2021. Beginning January 20, 2022,<sup>2</sup> the Parent alleged there were several points the District should have again considered the Student for a special education initial evaluation. Examples the Parent gave were a January 20, 2022 email, wherein she expressed concerns regarding the Student “daydreaming”, missing things in class, and asking questions about accommodations and test scores; her questions about the Vanderbilt assessment she requested the Student’s teacher fill out in December 2021; and questions and concerns following a February 2022 parent-teacher conference.

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<sup>2</sup> OSPI has the authority to investigate potential violations of IDEA within a one-year period preceding when the complaint was filed. The Parent filed this complaint on January 19, 2023, thus the applicable time period began January 20, 2022.

When a parent expresses a concern about a student or asks a question, it does not necessarily trigger the District's child find responsibility. Here, the District had considered a special education referral for the Student and determined only a few months before that an initial evaluation for special education eligibility was not warranted because there was not a clear suspected disability<sup>3</sup> or suspected need for specially designed instruction. The District stated that with respect to the Parent's communications in January and February 2022, the referral team had just met to consider the Parent's request for a special education referral and determined not to evaluate. The District stated the Parent did not provide any new information or diagnosis for the Student that would have led the District to reconsider a special education evaluation. Instead, the District stated,

The communications consist of questions Parent had regarding various educational strategies, as well as Parent's own characterizations of events. These communications did not trigger any additional child find obligation by the District, particularly where it had just followed all proper procedures in considering whether to conduct a special education evaluation of Student the month prior.

OSPI notes that several of the concerns expressed by the Parent and documentation she referenced the District being aware of (e.g., medical documentation), the District had recently reviewed and discussed in the December 2021 referral. OSPI finds that the Parent's emails and expressed concerns did not provide new information that should have triggered a new referral for special education.

The Parent also asserted that the Student's iReady and SBA test scores should have triggered a special education evaluation. Test scores would be one piece of information to consider as part of considering whether a student has a suspected disability and a need for specially designed instruction. Here, OSPI finds that the Student's test scores do not necessarily indicate the needed special education evaluation or that the District failed to consider the Student's test scores. The Student's scores are mixed—iReady scores indicate the Student is generally slightly below grade level in reading at the start of the school year, but made progress over the course of the year; and the math scores are lower but were not significant enough for the District to think there was a need for specially designed instruction. The Student's SBA/other test scores, provided by the Parent, are also mixed—indicated the Student met standard in some areas and did not meet standard in other areas.

Regarding the Vanderbilt assessment, the Parent requested the Student's teacher fill this out for the Student's private behavioral health provider, and the teacher subsequently filled out the assessment. The Parent stated that, based on completing this assessment, the teacher failed to "inform, report, or refer student to be screened" and that the assessment indicated the Student had "difficulties in the classroom affecting her learning and her academic performance."

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<sup>3</sup> OSPI notes that the Parent provided documentation to the District from a medical provider that was considered by the District (and discussed in SECC 22-136) that indicated the provider thought the Student might have ADHD or a possible learning disability, but the private provider had not diagnosed the Student. OSPI found in 22-136 that the District's referral process was appropriate and the decision to not evaluate the Student was reasonable, even given the private medical provider's documentation.

The District stated the assessment identified no significant areas of concern and was completed by the same teacher who had provided input in November and December 2021 for the referral process. The District stated,

The results of the Vanderbilt assessment are consistent with the information the teacher provided previously to the evaluation referral team and do not indicate a suspected disability or a need for specially designed instruction such that a second special education referral would have been required.

OSPI finds that the information in the Vanderbilt assessment had already been considered in the referral process and did not present new information that would have triggered a referral.

Overall, OSPI finds that while it is clear the Parent continued to have concerns about the Student, the concerns and information she presented in spring 2022 did not show a need for a special education evaluation, as the information did not necessarily show there was a suspected disability or need for specially designed instruction *and* the District had considered the substance of the concerns shared/information provided in the November/December 2021 referral process. OSPI finds no child find violation.

OSPI does recommend the District and Parent explore whether the Student requires a 504 plan, which would provide accommodations, which appear to be largely what the Parent is requesting in various communications.

**Issue Two: Access to Records** – The Parent alleged the District failed to provide a “response to reasonable requests for explanations and interpretations of the records” following her questions about the Student’s iReady scores, Vanderbilt assessment, and other questions. Upon investigation, OSPI finds that the only *records* the Parent asked about were the iReady scores, the Vanderbilt assessment, and the December 2021 prior written notice. Other questions and emails from the Parent represent questions about instructional strategies, request for accommodations, and questions about next steps—general questions such as these do not fall under the regulations that afford a parent the right to a reasonable explanation and interpretation of records.

Districts must permit the parents of a student eligible for special education to inspect and review, during school business hours, any educational records relating to the student that are collected, maintained, or used by the district. This includes the right to a response from the district to a reasonable request for explanations and interpretations of the records. Under the Family Educational Rights and Privacy Act (FERPA), “education records” means those records that are: 1) directly related to a student; and 2) maintained by an educational agency or institution or by a party acting for the agency or institution.

Vanderbilt Assessment: The Parent framed some of her questions around the Vanderbilt assessment and potential next steps—for example, the Student’s private provider indicated the teacher should “revisit the current assessment with parent or fill out again”—as examples of the District failing to respond to her request for explanation and interpretation of records. While the Parent did provide the assessment to the District, it is not clear the District determined it would maintain the assessment in the Student’s educational record, and thus not clear whether this

would be considered an educational record. Regardless, even if it was considered an educational record, it was something the Parent and the Student's private provider requested the teacher fill out, not something the District initiated as part of any special education process. Thus, the District's ability and responsibility to provide an interpretation of the record based on the Parent's questions is limited. Further, a request that the teacher redo the assessment is not a request for an interpretation or explanation. Overall, OSPI finds that there is no records access violation with respect to the Vanderbilt assessment.

iReady Scores & Prior Written Notice: The Parent requested copies of the Student's iReady scores on January 20, 2022, and stated she had questions about the "September iReady and the scoring." The teacher provided a copy of the test scores, noting the Student had demonstrated growth in reading. The Parent responded that the reading growth was "amazing" and did not ask any further specific questions at that point. In the conference document, the Parent asked several questions about the iReady scores, which can be summarized generally as her attempting to understand the scores and understand whether there was a specific score or threshold that would indicate the Student needed special education.

The District responded to the Parent's questions, including the principal adding scores and color coding to the conference document to indicate off- and on-grade scores and explaining that there is no specific score that would trigger a special education evaluation, stating, "This is tough to determine. [Student] is a student that is performing right around the grade level expectation line. As you can see from the tables above, her scores are fluctuating between on grade level and just below grade level. I do not see a score that is two grade levels behind..."

Subsequently, the Parent asked further questions about the scores, largely wondering whether being two grade levels behind is a "red flag." The Parent maintained that the District did not answer these specific questions. While it appears the District did not explicitly answer the subsequent questions, it is not clear these questions represent a request for explanations and interpretations of the records; the record itself—the Student's iReady scores—did not include scores two grade levels behind and thus a wondering about a score two levels behind is a general question. As discussed above, there is not a specific test score that necessarily triggers the need for a special education evaluation, rather information about a student should be considered holistically to determine whether there is a suspected disability and suspected need for specially designed instruction. Again, the District stated that questions such as the Parent's questions related to the need for a special education evaluation were discussed during the referral process and conference.

Finally, the Parent, in her conference document, wrote under a heading for the December 2021 prior written notice: "Reason written on PWN is for a Special Education Eligibility Evaluation" and "My request was for an ADHD evaluation, is this not done unless someone first qualifies for SPED?" On February 9, 2022, the principal responded to the Parent, in part, "We do not decide who qualifies for an ADHD evaluation, this is administered by a physician. School staff will complete the form that are provided by doctors to assist in the potential diagnosis." As discussed below, the principal's explanation lacked nuance, but he did provide an explanation and thus this does

not rise to the level of a violation. The school psychologist also answered some of the Parent's questions about the prior written notice and why concerns like speech were documented.

Overall, OSPI finds that the District reasonably responded to the Parent's questions about the iReady scores, prior written notice, and other questions. While the Parent may have continued to have questions related to her understanding of when a student would need a special education evaluation, these questions became more about the special education process than a need for an explanation of a Student record. Thus, OSPI finds no violation of the regulations related to access to records. However, it is clear the Parent generally has questions about the special education process, OSPI encourages the District to maintain open communication with the Parent to address her questions.

### **CORRECTIVE ACTION**

#### **STUDENT SPECIFIC:**

None.

#### **DISTRICT SPECIFIC:**

None.

### **RECOMMENDATIONS**

OSPI recommends the District and Parent explore whether the Student requires a 504 plan or continue with the 504 process if that has already begun.

OSPI also recommends the District to maintain open communication with the Parent to address her questions about special education processes generally.

Finally, OSPI notes that the information provided regarding an "ADHD evaluation" lacked nuance. In investigating this complaint, it is clear the principal was trying to explain that in a special education evaluation, a district would not *medically diagnose* a student with ADHD, that a doctor would provide a *medical diagnosis*. What the principal could have made more explicit is that in a special education evaluation, a district would have the responsibility to obtain medical information, including medical diagnoses, if determined needed or a district could make an *educational determination* that a student has a disability.

OSPI reminds the District that it is important for district staff to be aware that the concepts of a *medical diagnosis* of a disabling condition and *eligibility for special education services* are not synonymous. A medical diagnosis is made by a qualified medical provider when an individual meets the clinical criteria necessary for the diagnosis. However, the regulatory criteria for special education eligibility include additional educational factors that would not typically be evaluated in a medical assessment. In a special education evaluation, a district is responsible for coordinating an evaluation that is comprehensive enough to address all three prongs (disability, adverse impact, and need for special education services) and assess the student in all areas related to the suspected disability. This process includes ensuring the evaluation can sufficiently address the first

prong of eligibility by determining if the student has a disability. In addition, a medical diagnosis is not a guarantee that a student will be determined eligible for special education services. If a student has a disability which does not adversely affect their educational performance and/or require SDI, the district may appropriately find that the student is ineligible for special education services.

OSPI recommends the District review the "[Tips from the Special Education Division: Medical Diagnoses and Special Education Eligibility](#)" in OSPI's March Special Education Monthly Update with its staff.

Dated this 17th day of March, 2023

Dr. Tania May  
Assistant Superintendent of Special Education  
PO BOX 47200  
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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.)