

SPECIAL EDUCATION COMMUNITY COMPLAINT (SECC) NO. 23-74

PROCEDURAL HISTORY

On May 26, 2023, the Office of Superintendent of Public Instruction (OSPI) received and opened a Special Education Community Complaint from the PTSA (Complainant) about a student (Student) attending the Seattle School District (District). The Complainant alleged that the District violated the Individuals with Disabilities Education Act (IDEA), or a regulation implementing the IDEA, regarding the Student's education.

On May 26, 2023, OSPI acknowledged receipt of this complaint and forwarded a copy of it to the District superintendent June 1, 2023. OSPI asked the District to respond to the allegations made in the complaint.

On June 21 and 27, 2023, OSPI received the District's response to the complaint and forwarded a redacted version of the response to the Complainant on June 27, 2023. OSPI invited the Complainant to reply.

On June 29, 2023, OSPI received additional information from the Student's Parent. OSPI forwarded the additional information to the District on the same day.

On June 29, 2023, the OSPI complaint investigator interviewed the Student's Parent.

On July 11, 2023, OSPI received the Complainant's reply. OSPI forwarded that reply to the District on July 12, 2023.

On July 13, 2023, OSPI requested that the Complainant provide additional information, and the Complainant provided the requested information on July 17, 2023. OSPI forwarded the information to the District on the same day.

OSPI considered all information provided by the Complainant, 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 May 27, 2022. 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 special education services in conformity with the Student's individualized education program (IEP) according to WAC 392-172A-03105 during the 2022-23 school year?

2. Did the District consider the need to re-evaluate the Student upon receiving the private autism diagnosis according to WAC 392-172A-03015?
3. Did the District address the Parent's request for private behavior services to be provided at school during the 2022-23 school year according to WAC 392-172A-03110?

LEGAL STANDARDS

IEP Implementation: A district must 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. "When a school district does not perform exactly as called for by the IEP, the district does not violate the IDEA unless it is shown to have materially failed to implement the child's IEP. A material failure occurs when there is more than a minor discrepancy between the services provided to a [student with a disability] and those required by the IEP." *Baker v. Van Duyn*, 502 F. 3d 811 (9th Cir. 2007).

Reevaluation Procedures: A school district must ensure that a reevaluation of each student eligible for special education is conducted when the school district determines that the educational or related services needs, including improved academic achievement and functional performance of the student warrant a reevaluation, or if the parent or teacher requests a reevaluation. 34 CFR §300.303(a); WAC 392-172A-03015(1).

IEP Development: When developing each child's IEP, the IEP team must consider the strengths of the child, the concerns of the parents for enhancing the education of their child, the results of the initial or most recent evaluation of the child, and the academic, developmental, and functional needs of the child. 34 CFR §300.324(a). WAC 392-172A-03110.

FINDINGS OF FACT: BACKGROUND

1. [REDACTED]
 2. [REDACTED]
- [REDACTED]



ISSUE ONE: IEP IMPLEMENTATION

FINDINGS OF FACT

3.



4. On September 14, 2023, the 2022–23 school year began in the District.

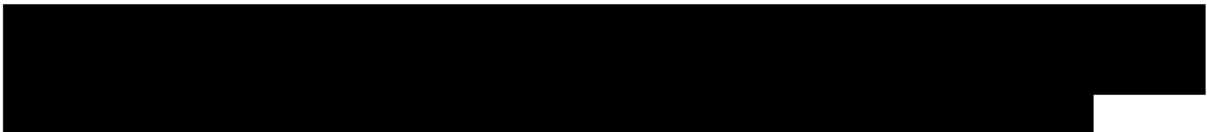
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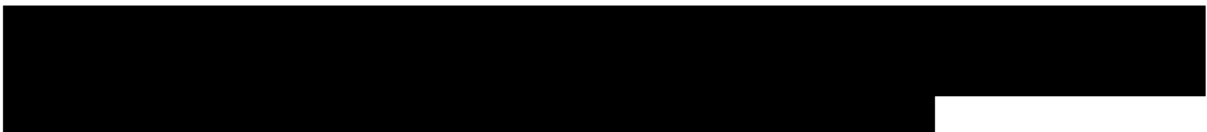
6.



7.



8.



9.

[REDACTED]

[REDACTED]

10.

[REDACTED]

ISSUE ONE: CONCLUSION

The complaint alleged the District failed to provide social/behavior services to the Student. A district is required to provide special education in conformity with the student's IEP. The District did not deny the allegation.

[REDACTED]

[REDACTED]

[REDACTED] a violation is found. [REDACTED]

[Redacted]

ISSUE TWO: REEVALUATION

FINDINGS OF FACT

11. [Redacted]

12. [Redacted]

13. [Redacted]

14. [Redacted]

15. [Redacted]

16. [Redacted]

17. From December 19, 2022 through January 2, 2023, the District was on winter break.

18. [REDACTED]

[REDACTED]

19. [REDACTED]

20. [REDACTED]

21. [REDACTED]

22. [REDACTED]

ISSUE TWO: CONCLUSION

Issue Two: Reevaluation – The complaint alleged the District failed to respond to the Student’s newly acquired autism diagnosis. A school district must ensure that a reevaluation is conducted when the school district determines that the education needs warrant a reevaluation.

[REDACTED]

The District was required to consider the need for a reevaluation after receiving a new medical diagnosis, [REDACTED]

[REDACTED]

[REDACTED]

Based on the documentation showing the District reasonably responded and complied with the reevaluation process, no violation is found.

ISSUE THREE: PRIVATE SERVICES

FINDINGS OF FACT

23.

[REDACTED]

24.

[REDACTED]

25.

[REDACTED]

26.

[REDACTED]

27.

[REDACTED]

28.

[REDACTED]

29.

[REDACTED]

30.

[REDACTED]

31.

[REDACTED]

32.

[REDACTED]

33. On May 26, 2023, this complaint was filed with OSPI.

34.

[REDACTED]

35.

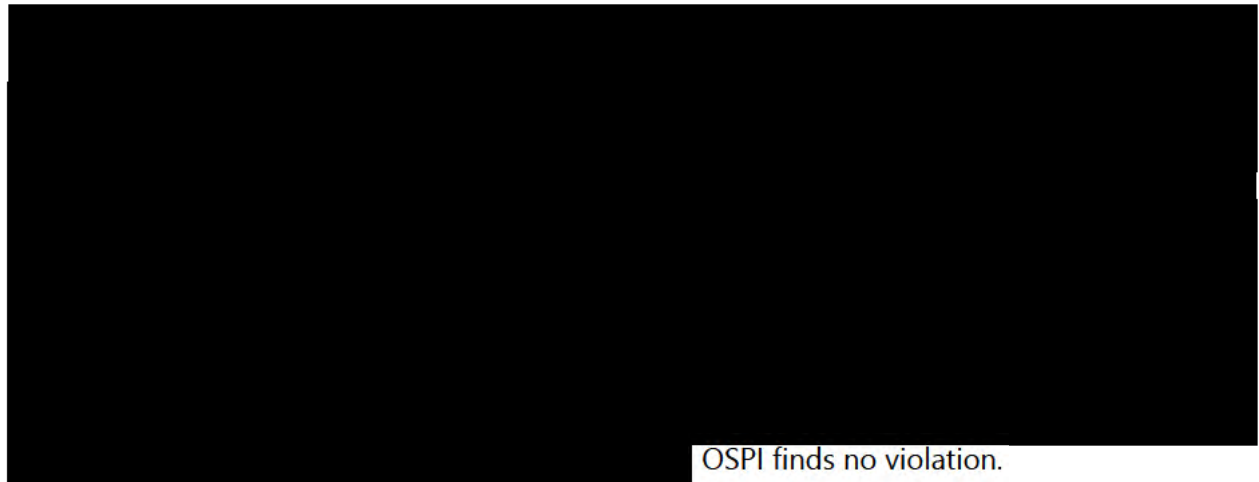
[REDACTED]

36.



ISSUE THREE: CONCLUSION

Issue Three: Private Services – The complaint alleged the District failed to timely consider the Parent’s request for private services to be delivered at school. A district is required to consider the concerns of parents for enhancing the education of their child.



OSPI finds no violation.

CORRECTIVE ACTIONS

By or before **September 22, 2023** and **January 12, 2024**, the District will provide documentation to OSPI that it has completed the following corrective actions.

STUDENT SPECIFIC:

Compensatory Education

By or before **September 15, 2023**, the District and Parent will develop a schedule for 11 hours of compensatory education in the area of social/behavior.

Unless otherwise agreed to by the District and Parent, services will be provided by a certified special education teacher. Services will be provided in a 1:1 setting. Services will be provided outside the District’s school day and can be schedule on weekends, over District breaks, or before or after school. The compensatory services can be provided through a District summer program, if that program will provide specially designed instruction in the Student’s areas of service. The

District will provide OSPI with documentation of the schedule for services by or before **September 22, 2023**.

If the District's provider is unable to attend a scheduled session, the session must be rescheduled. If the Student is absent, or otherwise does not attend a session without providing the District or provider with at least 24 hours' notice of the absence, the session does not need to be rescheduled. The services must be completed no later than **December 31, 2023**.

The District must document the dates, times, and length of each session, and state whether any of the sessions were rescheduled or missed by the Student. By or before **January 12, 2024**, the District must provide OSPI with documentation that it has completed compensatory services for the Student.

DISTRICT SPECIFIC:

None.

The District will submit a completed copy of the Corrective Action Plan (CAP) Matrix, documenting the specific actions it has taken to address the violations and will attach any other supporting documents or required information.

Dated this 20th day of July, 2023

Dr. Tania May
Assistant Superintendent of Special Education
PO BOX 47200
Olympia, WA 98504-7200

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.)