

## **SPECIAL EDUCATION COMMUNITY COMPLAINT (SECC) NO. 23-151**

### **PROCEDURAL HISTORY**

On October 26, 2023, the Office of Superintendent of Public Instruction (OSPI) received and opened a Special Education Community Complaint from the parents (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, regarding the Student's education.

On October 26, 2023, OSPI acknowledged receipt of this complaint and forwarded a copy of it to the District superintendent on October 27, 2023. OSPI asked the District to respond to the allegations made in the complaint.

On November 13, 2023, OSPI received the District's response to the complaint and forwarded it to the Parent on the same day. OSPI invited the Parent to reply.

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

### **SCOPE OF INVESTIGATION**

In addition to the issue upon which the present case was opened, the Parents' complaint and November 16, 2023 email contained allegations regarding discrimination, professional practices, and choice transfer issues. OSPI informed the Parents that these allegations are not within the scope of the special education community complaint process and provided them information for filing discrimination and professional practice claims and made the Parents aware that there is a process to appeal a choice transfer denial.

### **ISSUE**

1. Did the District satisfy its responsibilities under WAC 392-172A-03100 when it scheduled a meeting with the Parents on September 25, 2023?

### **LEGAL STANDARDS**

Invitations to Meetings: A district must ensure that parents are given an opportunity to attend and/or otherwise afforded an opportunity to participate at each IEP meeting, including notifying them of the meeting early enough to ensure they can attend and scheduling the meeting at a mutually agreed on time and place. The IEP invitation should include the purpose, time, and location of the meeting; indicate who will be in attendance; and inform the parents of the provisions relating to participation by other individuals on the IEP team who have knowledge or special expertise about the student. 34 CFR §300.322; WAC 392-172A-03100.

### **FINDINGS OF FACT**

1. At the start of the 2023–24 school year, the Student was entering first grade at a District elementary school. The Student was eligible for special education under the category of

speech or language impairment. The Student attended the District through an interdistrict ("choice") transfer.

2. On September 12, 2023, an email invitation was sent to the Parents, inviting them to a meeting on September 25, 2023, at 12 pm, to discuss a potential re-evaluation.
3. On September 25, 2023, the Parents arrived at the District for the scheduled meeting.
4. On October 26, 2023, the Parent filed a complaint with OSPI that alleged, in part:  
My spouse and myself were invited to a comprehensive team meeting (September 25, 2023) about 'Evaluation Purposes'...to renew the IEP for our son...who has been accepted by choice transfer for the second year in a row to attend [the District]. Without warning we were whisked into [the superintendent's] office [along with the assistant director of special education] who simply said [the Student] was no longer welcome to complete the school year. There was no verbal or written specific reasoning given, nor were we given any information on the appeal process. This abrupt and unprofessional behavior should not be tolerated.
5. On November 13, 2023, the District submitted its response to the Parents' complaint. Regarding the case's issue, the District responded, in part:
  - "Special educators including the school psychologist, speech Language pathologist, occupational therapist, and special education teacher had planned on meeting exactly as discussed on September 25, 2023..."
  - The "assistant special education director arrived...at the designated time for the re-evaluation meeting. The assistant director noted that the Parents were already assembled in [superintendent's]...office near the entrance (not where the re-evaluation meeting was to occur) and they flagged the assistant director into the ongoing discussion. The discussion in progress was regarding superintendent [superintendent's] decision to revoke the choice transfer for Student. The Parents departed soon after."

The District response further stated:

The planned IEP meeting for re-evaluation discussion did not take place during the time the Parents were in the Superintendent's office or after the Parents left the building. No further correspondence from the Special Education team was issued...Student was a kindergarten student in the...District receiving special education services from **[REDACTED]**, under an Educational Services Agency (ESA) agreement as student with a Speech or Language Impairment. Student's initial evaluation and initial IEP were current at the time of the scheduled meeting to discuss a re-evaluation to determine if additional areas of specially designed instruction, related services, supplemental aids and services and/or accommodations were necessary. Regarding the requirements of WAC 392-172A-03100 for parent participation (specifically meeting notice) the District met some but not all the required subsections (in italics below).

The parents were invited via email on September 12, 2023, to attend a meeting on September 25, 2023 (*sufficient time notice*) at 12:00pm at the school (*date/time/location*) for re-evaluation planning purposes (*purpose of the meeting*). The email notice did not mention any other topics of discussion, in particular Revocation of the Choice Transfer, because that was not part of the Re-Evaluation Team agenda, nor within the scope of the

team's power. That discussion and decision occurred prior to when the re-evaluation team meeting was to occur. The email did not specifically identify who would be attending the re-evaluation meeting; however, the email invitation for the meeting included the names of the [superintendent]...

Regarding its invitation form, the District stated:

The ESA has a form document, *Meeting Invitation*, available to the team via IEP online that is part of our procedures for ensuring we meet the requirements of WAC 392-172A-03100. However, there is no evidence that the team completed that form and/or sent it to the Parents to ensure complete adherence to WAC 392-172A-03100. As such, the ESA has determined that professional development regarding the requirements of WAC 392-172A-03100 should occur for the IEP Team at [the] District. If it satisfies the outcome of Community Complaint 23-151, the Executive Director of Specialized Student Services will conduct a training on the requirements of WAC 392-172A-03100 using an already approved OSPI PowerPoint on the requirements of WAC 392-172A-03100 (the Executive Director of Specialized Student Services has provided this training for regional **[REDACTED]** school districts, not members of the ESA, subsequent to similar Community Complaint findings for failure to follow all the requirements of WAC 392-172A-03100). The ESA will notify OSPI of our intended training date and forward an attendance sheet for this training if determined appropriate by the outcome of this Community Complaint.

## CONCLUSIONS

On October 26, 2023, the Parents filed a complaint with OSPI, alleging that the District scheduled a September 25, 2023 re-evaluation meeting for the Student and at this meeting, without notice, the District revoked the Student's choice transfer into the District.

A district must ensure that parents are given an opportunity to attend and/or otherwise afforded an opportunity to participate at each IEP meeting. The IEP invitation should include the purpose of the meeting.

The District's response admits that it did not inform the Parents that the September 25, 2023 meeting was to revoke the Student's choice transfer and thus, the District did not provide proper notice of the purpose of the meeting scheduled for September 25, 2023. Based on admission, OSPI finds a violation regarding the present case's issue.

The District suggests as a corrective action "professional development regarding the requirements of WAC 392-172A-03100." OSPI accepts this suggestion with the below addition of deadlines.

## CORRECTIVE ACTION

By or before **April 15, 2024**, the District will provide documentation to OSPI that it has completed the following corrective action.

### STUDENT SPECIFIC:

None.

**DISTRICT SPECIFIC:**

**Training**

By or before **April 1, 2024, [REDACTED]** will conduct a training on the requirements of WAC 392-172A-03100 for the District's IEP team members using an already approved OSPI PowerPoint on the requirements of WAC 392-172A-03100.

By or before **April 15, 2024**, the District will submit documentation that required staff participated in the training. This will include 1) a sign-in sheet from the training, and 2) a separate official human resources roster of all staff required to attend the training, so OSPI can verify that all required staff participated in the training.

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 21st day of December, 2023

Dr. Tania May  
Assistant Superintendent of Special Education  
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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.)