

SPECIAL EDUCATION COMMUNITY COMPLAINT (SECC) NO. 23-184

PROCEDURAL HISTORY

On December 18, 2023, the Office of Superintendent of Public Instruction (OSPI) received and opened a Special Education Community Complaint from the parent (Parent) of a student (Student) attending the Northshore 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 December 18, 2023, OSPI acknowledged receipt of this complaint and forwarded a copy of it to the District superintendent on December 19, 2023. OSPI asked the District to respond to the allegations made in the complaint by January 5, 2024.

On January 5, 2024, the District requested an extension of time to respond to the complaint. OSPI granted the extension to January 12, 2024.

On January 12, 2024, 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 by January 25, 2024.

On January 25, 2024, the Parent requested an extension of time to reply to the District's response. OSPI granted the extension to February 1, 2024.

On February 2, 2024, OSPI received the Parent's reply and additional information. OSPI forwarded that reply to the District the same day.

On February 5, 2024, OSPI received additional information from the Parent, and OSPI forwarded the information to the District on the same day.

On February 7, 2024, the OSPI complaint investigator consulted with OSPI's assistant director, special education dispute resolution.

On February 8, 2024, OSPI received additional information from the Parent, and OSPI forwarded the information to the District on the same day.

On February 9, 2024, OSPI received additional information from the Parent, and OSPI forwarded the information to the District on February 12, 2024.

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 December 19, 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. In fall 2023, did the District follow proper consent procedures regarding the reevaluation of the Student?
2. In fall 2023, did the District follow proper IEP development procedures regarding decisions around paraeducator support for the Student?
3. In fall 2023, did the District follow proper prior written notice procedures regarding decisions around a reevaluation of the Student and paraeducator support for the Student?
4. In fall 2023, did the District follow proper procedures for ensuring the Parent's participation in IEP meetings?
5. Beginning December 19, 2022, did the District follow proper procedures for implementing the Student's IEP?
6. Between January and June 2023, did the District follow proper procedures for responding to the Parent's request to access the Student's educational records?

LEGAL STANDARDS

Consent for Reevaluation: A district is required to obtain informed parental consent before conducting any assessments as part of a reevaluation of a student eligible for special education services. 34 CFR §300.300(c); WAC 392-172A-03000(3). Consent means that the parent: has been fully informed of all information relevant to the activity for which consent is sought in his or her native language, or other mode of communication; understands and agrees in writing to the activity for which consent is sought, and the consent describes the activity and lists any records which will be released and to whom; and understands that the granting of consent is voluntary and may be revoked at any time. 34 CFR §300.9; WAC 392-172A-01040(1). The District may proceed with a reevaluation, without obtaining consent if it can demonstrate that it has taken reasonable measures to obtain that consent, and the student's parent has failed to respond. The District must record its efforts to obtain parental consent. A district does not violate its child find obligations if it declines to pursue the reevaluation. A district is not required to obtain informed parental consent prior to reviewing existing data. 34 CFR §300.300; WAC 392-172A-03000. A district is required to obtain consent when conducting a functional behavioral assessment (FBA). *Questions and Answers on Discipline Procedures* (OSERS June 2009) (Question E-4).

IEP Development: When developing each child's individualized education program (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.

Parent Participation in IEP Development: The parents of a child with a disability are expected to be equal participants along with school personnel, in developing, reviewing, and revising the IEP for their child. This is an active role in which the parents (1) provide critical information regarding the strengths of their child and express their concerns for enhancing the education of their child; (2) participate in discussions about the child's need for special education and related services and supplementary aids and services; and (3) join with the other participants in deciding how the child

will be involved and progress in the general curriculum and participate in State and district-wide assessments, and what services the agency will provide to the child and in what setting. Individuals with Disabilities Education Act (IDEA), 64 Fed. Reg. 12,472, 12,473 (March 12, 1999) (Appendix A to 34 CFR Part 300, Question 5).

Parent Participation in IEP Meetings: IDEA specifically provides that parents of children with disabilities have an opportunity to participate in meetings with respect to the identification, evaluation, educational placement, and provision of FAPE to their child. 34 CFR §300.501(b); WAC 392-172A-05000(2)(a). Parents must be part of the groups that determine what additional data is needed as part of an evaluation of their child, their child's eligibility, and educational placement. 34 CFR §§300.304, 300.306(1), 300.501; WAC 392-172A-03020(2), WAC 392-172A-03040, WAC 392-172A-05000(3)(c). IEP teams must consider the parents' concerns and the information that parents provide regarding their child in developing and reviewing their child's IEP. 34 CFR §300.324; WAC 392-172A-03110(1)(b). Parents must be regularly informed, as specified in their child's IEP, of their child's progress toward the annual IEP goals and the extent to which that progress is sufficient to enable the child to achieve their IEP goals. 34 CFR §300.320; WAC 392-172A-03090.

Prior Written Notice: Written notice must be provided to the parents of a student eligible for special education, or referred for special education a reasonable time before the school district: proposes or refuses to initiate or change the identification, evaluation, or educational placement of the student or the provision of FAPE to the student; or (b) Refuses to initiate or change the identification, evaluation, or educational placement of the student or the provision of FAPE to the student. Prior written notice ensures that the parent is aware of the decisions a district has made regarding evaluation and other matters affecting placement or implementation of the IEP. It documents that full consideration has been given to input provided regarding the student's educational needs, and it clarifies that a decision has been made. The prior written notice should document any disagreement with the parent and should clearly describe what the district proposes or refuses to initiate. It also includes a statement that the parent has procedural safeguards so that if they wish to do so, they can follow procedures to resolve the conflict. Prior written notice is not an invitation to a meeting. 34 CFR 300.503; WAC 392-172A-05010.

IEP Implementation: At the beginning of each school year, each district must have in effect an IEP for every student within its jurisdiction served through enrollment who is eligible to receive special education services. A school district must develop a student's IEP in compliance with the procedural requirements of the IDEA and state regulations. 34 CFR §§300.320 through 300.328; WAC 392-172A-03090 through 392-172A-03115. It must also ensure it provides all services in a student's IEP, consistent with the student's needs as described in that IEP. The initial IEP must be implemented as soon as possible after it is developed. Each school district must ensure that the student's IEP is accessible to each general education teacher, special education teacher, related service provider, and any other service provider who is responsible for its implementation. 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).

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; the right to request that the district provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising their right to inspect and review the records; and the right to have a representative of the parent or adult student inspect and review records. 34 CFR §300.613; WAC 392-172A-05190.

FINDINGS OF FACT

2022–23 School Year

1. At the start of the 2022–23 school year, the Student was eligible for special education services under the category of autism, was in the seventh grade, and attended a District middle school. The Student’s June 2, 2022 IEP was in effect. The Student’s most recent evaluation was dated May 1, 2020.
2. The District’s 2022–23 school year began on September 1, 2022.
3. The June 2022 IEP included annual goals in social/emotional (self-regulation academic, self-regulation social), written language (conventions, paragraph structure), and behavior (task completion), with progress reporting quarterly. The Student’s June 2022 IEP provided the Student with the following specially designed instruction (SDI) in a *general education setting*:
 - Social/emotional: 30 minutes/week (to be provided by special education staff)
 - Written language: 60 minutes/week (to be provided by special education staff)
 - Behavior: 30 minutes/week (to be provide by special education staff)

The Parent participated and attended the IEP meeting, as evidenced by her signature on the IEP attendance page, and her input into the strengths of the Student, as well as concerns. The IEP meeting invitation documents that the Parent was notified of the meeting on May 24, 2022, and the Parent responded they could attend on May 26, 2022.

4. On October 21, 2022, the District invited the Parent to attend a manifestation determination meeting on October 24, 2022, to discuss a recent behavioral incident of the Student.
5. The District conducted a reevaluation of the Student on December 8, 2022, with the notice of the meeting sent to the Parent on December 2, 2022. The purpose of the reevaluation was to review the evaluation reports and determine continued special education eligibility.

Complaint Investigation Timeline Begins: December 19, 2022

6. On January 5, 2023, the Student's IEP team developed a new annual IEP for the Student. The meeting invitation was sent to the Parent on December 8, 2022, and the Parent responded they could attend on the same date.

The IEP included annual goals in social/emotional (self-advocacy academics, self-regulation social), behavior (task completion), math (multi-step problems), written language (conventions, paragraph structure), with progress to be reported quarterly. The Student's January 5, 2023 IEP provided the Student with the following SDI in a *general education setting*:

- Social/emotional: 30 minutes/week (to be provided by special education staff)
- Behavior: 30 minutes/week (to be provided by special education staff)
- Math: 30 minutes/week (to be provided by special education staff)
- Written language: 60 minutes/week (to be provided by special education staff)

The Student's January 2023 IEP included supplementary aids and services (communication), provided by the speech language pathologist (SLP) in support of their social/emotional goals for 120 minutes monthly in a *special education setting*.

The Student's IEP, under the team considerations section, indicated that the Student's social and behavioral needs are addressed with annual goals within the IEP.

The Parent and Student signed the attendance page of the IEP for the January 5, 2023 IEP meeting.

7. On January 13, 2023, the Parent notified the District of difficulties accessing IEP online (the District's online IEP platform) "connect portal", and the District responded to her questions. Eventually, the Parent then was able to access the portal on her own.
8. On January 18, 2023, the Parent request a copy of the January 5, 2023 IEP, and the special education teacher emailed a copy to the Parent on January 19, 2023, including the agenda, notes, sign-in sheet, and the notes from the December 8, 2022 reevaluation meeting.
9. On January 24, 2023, the District responded to a Parent request (of the same date) regarding the December 2022 prior written notice (PWN), which was provided to the Parent by the special education teacher.
10. In March 2023, the Parent again requested a copy of the January 5, 2023 IEP and the participant sign-in sheet. The District responded, and in addition, the District provided copies of the "Vanderbilt" surveys (behavior/attention deficit hyperactivity disorder) completed as part of the reevaluation process.
11. On March 10, 2023, the Parent emailed the District requesting a copy of the Student's file, and the school office manager responded that same day that the registrar handles records requests, and that the registrar was out and would return on March 13, 2023. The registrar was out a few additional days and provided the Student's cumulative file to the Parent on

March 16, 2023. The principal followed up to confirm that a copy was also sent to the Student's father.

12. On March 16, 2023, the Parent emailed the registrar with questions regarding the Student's records, specifically asking about release of information documents, health records, report cards, parenting plans, and the Student's birth certificate.
13. On March 21, 2023, the registrar responded to the Parent's questions, regarding the two copies of the cumulative file that were produced for both Parents and assured that everything was "an exact reproduction" of the Student's cumulative file. The registrar specifically replied that discipline records are not a part of the cumulative file, and provided information that if the Parent was requesting "complete SpEd records", to direct the request to the District's main office and provided the email address. In addition, the registrar provided information about how to obtain confidential nurse office records of medication dispensing, as well as how to locate report cards in the District's student information system, which was always accessible to parents. The registrar offered to generate copies of records that the Parent could not find. With clarification on what is included in a "student file", the District provided additional records to the Parent on March 21, 2023.
14. On March 31, 2023, the Parent and the IEP team met to review and amend the Student's IEP, with the meeting invitation indicating Parent notification of the meeting on March 28, 2023. A second meeting invitation was sent to the Parent, indicating that a behavioral intervention plan (BIP) would also be discussed at the meeting. The District contact attempt documentation indicated the Parent responded on March 28, 2023, that she could attend the meeting. Parent signature indicates she attended/participated in the meeting.
15. The Student's March 31, 2023 amended IEP included annual goals in social/emotional (self-advocacy, self-regulation), behavior (task completion, work completion *added*), math (multi-step problems), written language (conventions, paragraph structure). The IEP provided the Student with the following SDI in a *general education setting* to begin June 21, 2023, and continue to January 4, 2024:
 - Math: 30 minutes/week (to be provided by special education staff)
 - Written language: 60 minutes/week (to be provided by special education staff)The March 31, 2023 IEP provided the Student with the following SDI in a *special education setting* to begin June 21, 2023, and continue to January 4, 2024:
 - Behavior: 120 minutes/week (to be provided by special education staff)
 - Social/emotional: 120 minutes/week (to be provided by special education staff)The IEP continued the supplementary aids and services (communication), provided by the SLP in support of their social/emotional goals for 120 minutes monthly from June 21, 2023 to January 4, 2024. These services were in a *special education setting*.
16. At the March 31, 2023 IEP meeting, the team also finalized the Student's BIP, focusing on non-preferred tasks and negative social interactions with peers.

17. On April 24, 2023, the District provided the Parent notes from a parent-principal-team meeting held on April 17, 2023, that focused on communication between the Parent and school to best support the Student.

2023–24 School Year

18. At the start of the 2023–24 school year, the Student continued to be eligible for special education services, attended a District middle school, and their March 2023 IEP was in effect. The Student's most recent reevaluation was December 8, 2022.
19. The District's 2023–24 school year began on September 6, 2023.
20. On September 29, 2023, a non-IEP team meeting was held with the Parent, special education staff, principal, and the Student's private provider to discuss safety concerns. Meeting notes documented that the private provider informed the District that there had been several incidents last school year and over the summer where the Student was unable to control impulsive behaviors. As part of the discussion, the topic of reevaluation and functional behavioral assessment (FBA) was raised, and the principal shared that the District was providing the Student supervision ('eyes on') upon arrival and until the end of the school day. The private provider indicated he was in the process of evaluating the Student to better understand what supports would be needed. The special education director proposed the District initiate a reevaluation with assessment from the private provider to better understand the needs of the Student. The Parent stated she did not feel that the reevaluation would be helpful.
21. Meeting notes from the September 29, 2023, non-IEP meeting with the Parent indicated the special education director made a proposal regarding the District initiating a reevaluation of the Student in concert with the assessment the private provider was conducting.
22. On October 3, 2023, the Parent met with the principal regarding discipline (suspension) stemming from a recent behavior incident. Meeting notes indicated the principal shared that the private provider's recommendation to the District had been for the Student to have supervision for the restroom. The Parent shared that the Student was already working with several professionals and did not need additional professional supports at school. In addition, she shared that the private provider was determining the best treatment plan for the Student to make safer choices.
23. On October 5, 2023, a non-IEP meeting was held with the Parent, father, special education director, principal, special education teacher and SLP, where it was decided that the special education teacher would check in with the Student's private provider once per month and that the private provider recommended the Student walk with "his hands in his pockets" when in public places. The group also discussed conducting a new FBA for the Student based on the behavior incidents that had occurred.
24. On October 16, 2023, the school psychologist sent the Parent and Student's father a consent form for a new FBA for the Student, noting the discussion that occurred on October 5, 2023.

The Parent shared she felt it would be best to wait until the private provider concluded his evaluation.

25. On October 17, 2023, a non-IEP team meeting was held with the Parent regarding Student progress. The Parent provided an outline of topics to discuss. The meeting included discussion on the use of social stories following a behavior incident, the development of a safety plan, and the need for 1:1 support. Meeting notes indicate that no decisions were made at this meeting, except for scheduling a future meeting with the private provider. The Parent indicated she knew the District was providing supervision ('eyes on') of the Student between classes and throughout the day (e.g., lunch supervised by principal, restroom by other staff).
26. On October 19, 2023, the Parent wrote to the District regarding communication concerns, and stated she was "pausing to reopen the FBA" as they were still waiting for the private provider's evaluation results.
27. On November 2, 2023, the District received consent for the FBA from the Student's father, and shared this information with the Parent, noting that completing the FBA in a timely manner would provide current data to inform a BIP. The Parent responded that same day that she was not comfortable moving forward and that the father's signature does not authorize a "joint decision."
28. On November 7, 2023, the Parent sent an email to the District, checking in on the availability for a date to schedule an IEP meeting.
29. On November 9, 2023, the special education director emailed and suggested scheduling an IEP meeting on November 22, 2023.
30. On December 13, 2023, the Parent responded to a potential FBA feedback meeting invitation (scheduled for January 3, 2024) sent on December 13, 2023, by the special education teacher. The Parent indicated that she was not available on any of the dates proposed for "any IEP meeting." The District then contacted Sound Options Group to schedule a facilitated IEP meeting with the Parent for January 10, 2024. The Parent declined to participate in the facilitated IEP meeting and so the meeting was not held.
31. On January 12, 2024, the Student's father revoked consent for the FBA of the Student, and the District discontinued completion of the FBA.
32. Also, on January 12, 2024, the District sent a PWN to the Parent and father, stating that they were proposing to discontinue the FBA meeting to discuss the results of the assessment, as the father had revoked consent for the assessment on the same day.
33. District documents of progress reporting indicated that written progress reports of the Student's IEP goals were provided to the Parent as of November 4, 2022, January 27, 2023, June 14, 2023, November 13, 2023, and January 29, 2024. Specifically, the goals were rated as:
 - November 4, 2022: all 5 goals on the Students' IEP were rated as 'emerging skill'

- January 27, 2023: all 6 goals on the Student's IEP were rated as 'new goal' having been recently implemented
- June 14, 2023: 2 goals rated as 'emerging skill' and 5 goals rated "sufficient progress"
- November 13, 2023: 1 goal rated as 'emerging skill' and 6 goals rated 'sufficient progress'
- January 29, 2024: 4 goals rated as 'sufficient progress', 2 goals rated as 'emerging skill' and 1 goal rated as 'mastered'

34. During the 2022–23 school year, District documents show that the Student received SDI minutes in math and written language in the general education classroom and during the 'pride' period, as evidenced in his schedule. Behavior/social-emotional SDI was provided by the SLP during scheduled sessions, and during lunch. The Student was also pulled from class by the SLP to address individual concerns, when necessary.

35. For the 2023–24 school year, the Student is receiving minutes of SDI in math and written language in the general education classroom and 'pride' period. Social-emotional/behavior minutes of SDI are being provided during academic lab. If needed, math and written language support is also provided during 'ac lab'. The SLP is addressing behavior and social-emotional goals during pull-out sessions, as well.

36. The District provided evidence of data collected during the 2022–23 and 2023–24 school years across SLP sessions, academic lab, math and written language, and 'pride' period.

CONCLUSIONS

Issue 1: Reevaluation Consent Procedures – The Parent alleged that the District did not follow consent procedures prior to initiating the reevaluation. A district is required to obtain informed parental consent before conducting any assessments as part of a reevaluation, including an FBA, of a student eligible for special education services.

In this case, on October 5, 2023, a non-IEP meeting was held with the school team supporting the Student, the Parent, and Student's father, to discuss behavior incidents and concerns. Discussion included obtaining more information from the Student's private provider, as well proposing to initiate an FBA of the Student. Following that meeting on October 16, 2023, the school psychologist sent the Parent and father a consent form to conduct an FBA for the Student. On October 19, 2023, the Parent responded that she wanted to pause the FBA until the private provider was finished with his evaluation of the Student. However, on November 2, 2023, the District received a signed consent form from the Student's father and shared this information with the Parent. The Parent responded that same day that she was not comfortable moving forward and that the father's signature does not authorize a "joint decision." As districts are not required to obtain both parents' signatures for consent, the District moved forward with conducting the FBA and on December 13, 2023, offered a potential FBA feedback meeting on January 3, 2024. The Parent responded the same day that she was not available on any of the dates. Subsequently, the father revoked consent for the FBA and the District discontinued the FBA process and provided a PWN to the Parent and father of this decision that same day.

The District followed appropriate reevaluation consent procedures for the FBA as it sought to obtain consent, received consent provided by the father, and then discontinued the FBA process when consent was revoked. Therefore, OSPI finds no violation.

Issue 2: IEP Development: Paraeducator Support – The Parent alleged that the District did not follow proper IEP development procedures regarding decisions around paraeducator support.

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.

In this case, the District documentation does not support that the District added paraeducator support to the Student's program without an IEP meeting or input from the Parent. Several non-IEP meetings were held with staff throughout fall 2023 regarding behavioral incidents and keeping the Student safe. Discussion occurred regarding supervision of the Student throughout the day (recommended by the Student's private provider), as well as the possibility of adding paraeducator support. District meeting notes indicated the Parent understood, and supported, that the Student would be supervised at passing times, lunch, in the restroom, and that she was comfortable with this level of general supervision, but did not want added paraeducator support to his IEP. The District did not develop or implement a new IEP with added paraeducator support during fall 2023. Therefore, OSPI finds no violation.

Issue 3: PWN Procedures – The Parent alleged that the District did not follow proper PWN procedures regarding reevaluation of the Student and paraeducator support.

In this case, the District acknowledged that it did not follow proper PWN procedures related to its proposal to initiate an FBA of the Student, as required by law. The District did not provide the Parent with a PWN following the September 29, 2023 meeting, where the special education director proposed the reevaluation. Therefore, OSPI finds violation. The District will be required to provide staff written guidance on this topic.

Related to the issue of added paraeducator support, no documentation exists that the District decided to add, or added, any paraeducator support to the Student's IEP program, thus, no failure occurred with respect to providing PWN. OSPI finds no violation.

Issue 4: Parent Participation in IEP Meetings – The Parent alleged that the District did not follow procedures for ensuring the Parent's participation in IEP meetings during fall 2023. The IDEA specifically provides that parents of children with disabilities have an opportunity to participate in meetings with respect to the identification, evaluation, educational placement, and provision of FAPE to their child. The parents of a child with a disability are expected to be equal participants along with school personnel, in developing, reviewing, and revising the IEP for their child.

During the 2022–23 school year, two IEP meetings were held for the Student (January 5 and March 31, 2023), with proper meeting invitations sent and accepted, as well as PWN sent after the conclusion of the IEP meetings, outlining the decisions made. The IEPs document the inclusion of Parent input regarding concerns, strengths, and outside supports, and the Parent's signature on

both IEPs confirms attendance at the meetings. In addition, District emails documented ongoing communication with the Parent prior to, and after, the IEP meetings to answer, clarify, and respond to Parent concerns and questions. While there were no formal IEP meetings in the fall of 2023, the Parent attended several non-IEP meetings with various District staff to discuss a variety of concerns. Potential IEP meeting dates were offered for November 2023 and January 2024 (to be facilitated by Sound Options), as well as an FBA feedback meeting offered for early January 2024, prior to the father revoking consent. The Parent either indicated she was not available or declined to participate. Overall, the District afforded the Parent the opportunity to participate in IEP meetings, other meetings, and through ongoing discussion of concerns and Student needs, including through email. Therefore, OSPI finds no violation.

Issue 5: IEP Implementation – The Parent alleged that the District did not follow proper procedures in implementing the Student’s IEPs from December 2022 to December 2023. Districts must provide the special education and related services in accordance with the Student’s IEP and provide parents with progress reports as to the student’s performance on IEP goals. A district must also ensure it provides all services in a student’s IEP, consistent with the student’s needs as described in that IEP.

In this case, District documents, specifically quarterly progress reports, were provided six times, beginning November 4, 2022, on five goals. The reporting further occurred January 27, 2023 on six goals, following the IEP meeting of January 5, 2023; June 14, 2023 on seven goals, following an IEP amendment was developed on March 31, 2023; November 13, 2023 on seven goals; and as recently as January 29, 2024 on seven goals. The progress reporting overall indicated that the Student made progress, moving from emerging skill to sufficient progress as the school year went on, reflecting instruction throughout the school year. The Student’s schedule for 2022–23 reflects a math and language arts class where SDI was provided in the general education setting, as well as the ‘pride’ class. SLP services were provided during regularly scheduled sessions. In the 2023–24 school year, the ‘ac lab’ class was added to provide additional behavioral/social-emotional support, and SLP services continued during scheduled sessions. The District documents included data collected on Student performance over the 2022–23 and 2023–24 school years, reflective of all goals areas. OSPI finds this supports that the IEP was materially implemented and OSPI finds no violation.

Issue 6: Educational Records Requests – The Parent alleged that the District did not respond appropriately to Parent requests for records from January–June 2023.

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 IEP or provision of a free appropriate public education (FAPE) to the student. The district must respond in no more than 45 calendar days after the request has been made.

In this case, the documents highlight the records requests made by the Parent during January–June 2023, and the District’s response to each request. Initially, the Parent had difficulty accessing

"IEP Online Connect" to view the Student's IEPs, and the District promptly assisted the Parent. The subsequent requests for IEPs/PWNs/meeting notes were responded to promptly, either the same day or within a few days. In March 2023, the Parent requested the Student's file, though there was confusion as to what records she was seeking. Through several communications with the registrar over 11 days in March, the Parent's requests were clarified, and records provided to the Parent. The registrar also provided information on how to request the Student's special education records through the District office. In all instances, the District provided the requested records, well within 45 calendar days of the request. OSPI finds no violation.

CORRECTIVE ACTION

By or before **February 26, 2024** and **March 15, 2024**, the District will provide documentation to OSPI that it has completed the following corrective action.

STUDENT SPECIFIC:

None.

DISTRICT SPECIFIC:

Written Guidance

By **March 12, 2024**, the District will ensure that the following individuals receive written guidance on the topic listed below: special education administrator, principal, the assistant principal, and special education staff (teachers, school psychologist, case managers, SLP, OT), at the school that the Student is enrolled in this school year. The guidance will address when PWN must be provided to parents, and the content requirements of a PWN.

By **February 26, 2024**, the District will submit a draft of the written guidance to OSPI for review. OSPI will approve the guidance or provide comments by March 5, 2024.

By **March 15, 2024**, the District will submit documentation that all required staff received the guidance. This will include a roster of the required personnel. This roster will allow OSPI to verify that all required staff members received the guidance.

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 16th day of February 2024

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.)