

## **SPECIAL EDUCATION COMMUNITY COMPLAINT (SECC) NO. 24-07**

### **PROCEDURAL HISTORY**

On January 8, 2024, the Office of Superintendent of Public Instruction (OSPI) received and opened a Special Education Community Complaint from an attorney (Complainant) representing the parent (Parent) of a student (Student) attending the Bellevue 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 8, 2024, OSPI acknowledged receipt of this complaint and forwarded a copy of it to the District superintendent on January 9, 2024. OSPI asked the District to respond to the allegations made in the complaint.

On January 9 and 10, 2024, OSPI received the District's response to the complaint and forwarded it to the Complainant on January 12, 2024. OSPI invited the Complainant to reply.

From January 16 to February 29, 2024, both the Complainant and the District provided OSPI with additional information. Because both the Complainant and the District were copied on all emails, OSPI did not resend the information.

On February 24, 2024, the OSPI complaint investigator conducted an interview with the evaluator who attended the January 5, 2024 meeting.

On February 26, 2024, the OSPI complaint investigator interviewed the Parent and the Complainant.

On February 28, 2024, the OSPI complaint investigator interviewed the Student's legal counsel.

On February 29, 2024, the OSPI investigator interviewed the District's legal counsel.

OSPI considered all information provided by the Complainant, Parent, and the District as part of its investigation. It also considered the information received and observations made by the complaint investigator during the interviews.

### **ISSUE**

1. Did the District provide the Parent and her advocate an opportunity provide input into the evaluation meeting that occurred on January 5, 2024, according to WAC 392-172A-03040?

### **LEGAL STANDARDS**

Parent Participation: 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). Upon completion of the administration of assessments and other evaluation measures, a group

of qualified professionals and the parent of the student determine whether the student is eligible for special education services and the educational needs of the student. WAC 392-172A-03040.

### **FINDINGS OF FACT**

1. At the start of the 2023–24 school year, the Student attended the District virtual program and was not eligible for special education services.
2. In October 2023, the Student was referred by the District and Parent for an “independent educational evaluation” conducted by a private psychologist. The District also evaluated the Student in the area of secondary transition.
3. On January 4, 2024, the District’s legal counsel emailed the Complainant about the meeting that was scheduled for the next day to review the evaluations. The District’s counsel stated, in part, the Parent had been leaving phone messages and sending emails to District staff that were “unwanted, harassing, and threatening.” The email addressed a records request made by the Student’s sibling, eligibility categories, placement options, and options for the school setting. The email concluded:

It will be my expectation of you tomorrow to ensure that [Parent] behaves in a civil manner. If she starts engaging in harassment, threats of violence, personal attacks, or profanity during tomorrow’s meeting, she will be muted. Also, as was mentioned previously several times, if [Parent] believes that she needs accommodations as a person with a disability to participate in [Student’s] education in the same manner that a parent without disabilities could, she can and should reach out to [ADA/504 coordinator] to engage in the ADA/Section 504 process. [Parent] needs to stop illegally recording private conversations without providing notice and receiving consent in violation of RCW 9.73.030: Intercepting, recording, or divulging private communication—Consent required—Exceptions. (wa.gov).
4. On January 5, 2024, the District convened the evaluation/eligibility group to review the evaluation and determine the Student’s eligibility for special education. The meeting was held remotely via Teams, and the Parent and Complainant left the meeting prior to its end.
5. After the Parent and Complainant left the meeting, according to the District, the eligibility group determined that the Student was eligible for special education under the category of multiple disabilities and recommended specially designed services in the areas of math, writing, behavior, and social/emotional. Social work services were recommended as related services. The District is in the process of developing an IEP for the Student.
6. After the meeting, the District’s counsel emailed the Student’s legal counsel about why the meeting was held remotely. The email stated:
  - (1) [Parent] enrolled [Student] in [District program] for the 2023-2024 school year and [District program] meetings are generally held remotely given that it is an online school.
  - (2) [Parent] has sent thousands of unwanted, harassing, and threatening emails to [District] staff over the course of the last two years. This included several dozen over this past weekend. In those, [Parent] made continual threats of physical violence towards me, [evaluator], and [school psychologist] specifically. [Parent] also made very

inappropriate comments regarding [school psychologist] based upon her national origin/race. Both [Parent] and [Student's sibling] have also left unwanted, harassing, and threatening voicemails with all three of us. Both [Parent] and [Student's sibling] have sent unwanted, harassing, and threatening emails to many other District staff who work at the [building], which is where [District program] is housed. Those staff do not want to be in the same building as [Parent] and [Student's sibling] separate from any concerns [evaluator], [school psychologist], and I may have had. The District is not going to put its staff or contractors in danger or subject them to unnecessary abuse if it can avoid it.

7. The Parent and the Complainant described the meeting as follows:

- The meeting was to review the evaluation report that included a transition assessment and determine eligibility for special education.
- The meeting was held remotely, but the Parent and legal counsel (Complainant) were physically in the same room.
- The Parent and Complainant received a copy of the evaluation ahead of the meeting, but the District provided the transition assessment just before the meeting.
- The District opened the meeting by explaining the purpose of meeting and provided information about the evaluation.
- The evaluator reviewed the results of the evaluation but not transition assessment.
- As the evaluator reviewed the assessment, the Parent requested to record the meeting. The District asked if the Parent was recording the meeting.
- At that time, the Parent and Complainant were muted and could not unmute themselves. The Parent and Complainant were unable to ask any questions or provide input.
- Upon discovering they were muted and did not have the opportunity to ask questions, the Parent and Complainant left the meeting.
- The Parent stated she wanted to ask the District about other legal issues regarding the Student and the District.

8. The evaluator described the meeting as follows:

- The evaluator was hired by the District to complete an independent educational evaluation.
- The evaluator had had previous contact with the Parent.
- The evaluator reviewed the evaluation with the team.
- The Complainant asked questions about the evaluation, but the discussion changed to the Parent recording the meeting.
- When reviewing the evaluation, the evaluator did not remember anyone being muted.
- When asked if the Parent and her legal counsel participated in the meeting, the evaluator stated that the Parent had a reasonable opportunity to participate in the meeting, but the meeting devolved into a discussion about recording the meeting after which the Parent and Complainant left the meeting.

9. The Student's legal counsel described the meeting as follows:

- The Student's counsel participated in the IEP as a court-ordered legal representative of the Student.
- At the beginning of the meeting, the District explained the meeting guidelines, such as not talking over another person.
- The group discussed the Parent's request to record the meeting.
- The Student's counsel did not recall the District's counsel asking the Parent if she was recording.

- The Student’s counsel stated that with her previous interactions with the Parent, the Parent’s questioning style usually began with addressing broader social concerns regarding racism, abuse, etc., before getting to the more pertinent questions.
- The Student’s counsel received the evaluation before the meeting. During the discussion about the evaluation results, it was difficult to follow all the special education acronyms being used by the District.
- When the Parent attempted to ask questions about the evaluation and started to talk about the broader concerns, the District would respond by stating “that was already litigated” and the Parent was muted.
- The Parent was muted three or four times.
- The Parent and Complainant exited the meeting because they were unable to ask questions.
- The Student’s counsel stated the District did not make sufficient effort to accommodate the Parent’s questioning style for the Parent to participate in a meaningful way.
- The District could have given the Parent a limited time to express her broader concerns, take a break and then have the Parent’s counsel summarize the Parent’s concerns, or have a facilitator who could have directed the meeting.

10. The District’s legal counsel described the meeting as follows:

- Before the January 5, 2024 meeting, District counsel sent the Parent an email about the District’s policy regarding recording meetings.
- The Parent and Complainant shared the same computer to participate in the Teams meeting.
- The Teams meeting began with the District’s legal counsel explaining that participants should be muted when not talking and to raise their hand if there was a question, among other things.
- The eligibility group reviewed the evaluation reports.
- During the review, the Parent said she was going to record the meeting. Other participants asked questions about the evaluation.
- It was unclear whether the Parent actually recorded the meeting.
- At a bathroom break, the District muted the Parent’s and Complainant’s room so they had an opportunity to discuss matters privately.
- The two other times the Parent and counsel were muted was when the Parent interrupted the evaluators to discuss other legal matters.
- The Parent and Complainant could unmute themselves at any time.
- The Student’s counsel asked many questions.
- At some point after the break, the Parent and Complainant stopped participating.
- The Parent had sent numerous emails to the evaluator and the District about the evaluation which were considered.

## **CONCLUSIONS**

**Issue: Parent Participation** – The Complainant alleged that the Parent and Complainant were not given an opportunity to participate in the January 5, 2024 eligibility meeting because they were muted. A district is required to give the parent an opportunity to provide input into the eligibility decision and determining the educational needs of the student.

On January 5, 2024, the District staff, District’s legal counsel, Student, Parent, Complainant, Student’s sibling, and Student’s legal counsel attended an online meeting via Teams to review the special education evaluation that had been conducted and determine the Student’s eligibility for

special education services. The Parent, Complainant, and Student attended the online meeting while physically in the same room.

According to the documentation, there has been a long and contentious history between the Parent and the District. According to the District, the Parent had made numerous racist and inflammatory comments to District staff along with emails; others characterized this commentary as legitimate social commentary in the context of the Student. Before the meeting, the District had informed the Parent by way of the Complainant that she did not have the District's permission to record the meeting and the Parent would be put on mute if the Parent became abusive.

The Parent was aware of the District's position on the Parent recording before the meeting. The District made it clear that if the Parent wanted to record the meeting, the Parent needed to make the request through the District ADA/504 coordinator. But it appeared that there was a discussion at the beginning of the meeting about the Parent recording, which was denied by the District. According to the evaluator in an interview, as the evaluator reviewed the evaluation during the meeting, the discussion about the evaluation changed when the Parent apparently announced that she was going to record the meeting. The District again stated that recording the meeting was not allowed. It was unclear whether the Parent recorded the meeting.

According to the Parent and Complainant, at some point, the District muted them and they were unable to ask any questions about the evaluation. Because they were unable to ask questions, they exited the meeting, although the meeting continued. The District stated the Parent and counsel were muted two to three times because the Parent began to talk about other legal issues with the District unrelated to the evaluation and when there was a break in the meeting. The District stated the Parent and Complainant could unmute themselves at any time. The Complainant stated they were unable to ask any questions because they could not unmute themselves.

In an interview with the Parent and Complainant, the complaint investigator asked what the Parent wanted to bring up or ask while muted about the Student's evaluation. The Parent responded that she wanted to talk about legal issues with the District that appeared to be outside the scope of the evaluation meeting.

The District had reason to put the Parent on notice about recording and potential abusive behavior. However, an online meeting is the same as an in-person meeting and the District would not have muted the Parent at an in-person meeting; although, the District could have ended the meeting early. Muting the Parent and Complainant during the discussion limited the Parent's ability to participate in the meeting. Even given the history, the District had other reasonable options other than muting the Parent and Complainant. The District could have stopped the meeting and taken a break to give the Complainant an opportunity to counsel the Parent before proceeding with the meeting. The District could also have stopped the meeting and rescheduled, which would have given the Parent an opportunity to address the need to record meetings up front with the District rather than sidetracking the purpose of the meeting. The District could have requested a facilitator to help conduct the meeting and maintain productive communication. While not taking the Parent's previous behavior and behavior at the meeting lightly, muting the

Parent and Complainant should not have been an option as this cut off the Parent's and Complainant's ability to participate, although OSPI acknowledges there seems to be some confusion around whether someone could unmute themselves. Thus, OSPI finds a violation.

OSPI notes that this does not give the Parent latitude to make inflammatory remarks and send inflammatory emails to District staff and inject other legal agendas into the special education process. There are other legal forums the Parent may employ to address those other issues. Like the District, the Parent has a responsibility to be reasonably collaborative in addressing the Student's education. Since the Student was determined eligible for special education services by the eligibility group and the evaluation report recommended services, there seems to be little negative impact on the Student. Thus, as corrective action, the District is required to develop a plan to facilitate the Parent's participation while at the same time keeping the focus on the purpose of the meeting.

### **CORRECTIVE ACTION**

By or before **March 22, 2024**, the District will provide documentation to OSPI that it has completed the following corrective action.

#### **STUDENT SPECIFIC:**

None.

#### **DISTRICT SPECIFIC:**

By **March 15, 2024**, the District, in collaboration with the Complainant, shall develop strategies for facilitating Parent participation and managing meetings. The plan may include taking breaks, breakout rooms, and facilitation, for example.

By **March 22, 2024**, the District will provide OSPI with the list of strategies.

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 6th day of March, 2024

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.)