

## **SPECIAL EDUCATION COMMUNITY COMPLAINT (SECC) NO. 23-12**

### **PROCEDURAL HISTORY**

On January 24, 2024, 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 Snohomish 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 24, 2024, OSPI acknowledged receipt of this complaint and forwarded a copy of it to the District superintendent on January 26, 2024. OSPI asked the District to respond to the allegations made in the complaint.

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

On February 15, 2024, OSPI requested additional information from the Parent. The Parent provided that information on February 16, 2024, and OSPI forwarded the information to the District on February 17, 2024.

On February 15, 2024, OSPI requested additional information from the District. The District provided that information on February 20, 2024, and OSPI forwarded the information to the Parent on the same day.

On February 22, 2024, OSPI interviewed the Student's case manager.

On February 22, 2024, OSPI requested additional information from the Parent. The Parent provided that information on February 23, 2024, and OSPI forwarded the information to the District on the same day.

On February 23, 2024, OSPI received the Parent's reply to the District's response and forwarded the information to the District on the same day.

On February 29 and March 1, 2024, OSPI received additional information from the District and forwarded that information to the Parent on March 3, 2024.

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

### **ISSUE**

1. Has the District ensured that the Parent has had the opportunity to provide input into the Student's individualized educational program (IEP) development that occurred in December 2023 per WACs 392-172A-03110 and 392-172A-03100/05001 regarding the Student's IEP minutes and 1:1 paraeducator support?

## LEGAL STANDARDS

Parent Participation in IEP Process: The parents of a student eligible for special education services must be afforded an opportunity to participate in meetings with respect to the identification, evaluation, educational placement, and FAPE to the student. IEP teams must consider the parents' concerns and the information that parents provide regarding their child in developing and reviewing their child's IEP. Parent participation is an active role in which the parents provide critical information regarding the strengths of their child, and express their concerns for enhancing their child's educational program; participate in discussions about their child's need for special education, related services, and supplementary aids and services; and join with 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.

The IEP team should work toward consensus, but the district has ultimate responsibility to ensure that the IEP includes the services that the student needs in order to receive FAPE. If the team cannot reach consensus, the district must provide the parents with prior written notice of the district's proposals or refusals, or both, regarding the student's educational program and the parents have the right to seek resolution of any disagreements by initiating an impartial due process hearing.

## FINDINGS OF FACT

### Background

1. On December 8, 2022, the Student's IEP team met. The Student was eligible for special education services under the autism category. The Student's IEP provided specially designed instruction (SDI), delivered by the special education teacher, from December 8, 2022 until December 7, 2023, as follows:
  - Written Expression: 30 minutes/4 times weekly in a special education setting
  - Social Emotional/Behavior: 24 minutes/5 times weekly in a special education setting
  - Organization: 24 minutes/5 times weekly in a general education setting

The Student received 1,730 minutes per week of building instructional time, with 240 minutes per week served in the special education setting. The percent of time in a general education setting was 86.13%. The Student's LRE was LRE 80–100%.

### Complaint Timeline Began January 25, 2023

2. On September 6, 2023, the District held its first day of instruction for the 2023–24 school year. The Student attended a District middle school and the Student's December 8, 2022 IEP was in effect.
3. On December 14, 2023, the Student's IEP team met. The Student's IEP provided SDI, delivered by the special education teacher, from December 14, 2023 until June 13, 2024, as follows:
  - Written Expression: 48 minutes/5 times weekly in a general education setting

- Social Emotional/Behavior: 24 minutes/5 times weekly in a special education setting
- Organization: 24 minutes/5 times weekly in a general education setting
- Written Expression: 30 minutes/3 times weekly in a special education setting

The Student received 1,730 minutes per week of building instructional time, with 210 minutes per week served in the special education setting. The percent of time in a general education setting was 87.86%. The Student's LRE was LRE 80–100%.

The Student's IEP additionally provided SDI, delivered by the special education teacher, from June 14, 2024 until December 13, 2024, as follows:

- Written Expression: 48 minutes/5 times weekly in a general education setting
- Social Emotional/Behavior: 24 minutes/5 times weekly in a special education setting
- Organization: 24 minutes/5 times weekly in a general education setting

The Student received 1,740 minutes per week of building instructional time, with 120 minutes per week served in the special education setting. The percent of time in a general education setting was 93.1%. The Student's LRE was LRE 80–100%.

4. On January 24, 2024, the Parent filed a complaint that alleged, in part, that the District was in violation of special education regulations for:

Significantly reducing the number of minutes in a special education setting from the transition to high school. There was no reasoning or facts given behind the cut. This significant cut in time will cause significant harm to his transition to High School from middle school. [The Student] is a kid that has a high potential for 'getting lost' in the education system without appropriate support.<sup>1</sup> A section of [Student's] IEP on Social Emotional/Behavioral Historical/Evaluation is blank. His need for services in this area is not a new item and should be filled in as it is a legal document.

5. On January 26, 2024, the parties held an IEP meeting and notes from that meeting indicated the parties discussed, in part, IEP service minutes and 1:1 paraeducator support.

6. On February 26, 2024, the IEP team met again and the prior written notice (PWN) from that meeting stated, in part:

The district proposes to implement the IEP written today, including updating [Student's] service minutes to correct an error in the previous draft that had a reduction in service minutes in the special education setting due to his minutes mistakenly being served in the general education setting. The team also updated [Student's] minutes for his 9th grade year to add additional service minutes ... for written expression.

...

There was an error in the high school portion of the split matrix; half of the minutes for his Learning Strategies class were mistakenly listed as General Education. Adding ... minutes allows for the continuation of similar services received this year.

...

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<sup>1</sup> The Parent's complaint request highlighted an "F" grade the Student received in Language Arts as an example.

The parent proposed adding one-on-one paraeducator for [Student] during his English class.

...

At this time there is no evidence that [Student] requires 1:1 paraeducator support to access his education and make progress on his IEP goals. The IEP team, including [Parent] and her advocate, agreed that [Student] can receive a free and appropriate education with the current staffing and supports available. The team discussed the proposal of a 1:1 and agreed that at this time the addition of a 1:1 is not needed but that the team can review the need at a future date if his progress changes.

## CONCLUSIONS

**Issue 1: Parent Input** – Regarding the present case’s issue, Parent input, the Parent’s complaint alleged that the District significantly reduced the Student’s SDI minutes in a special education setting for his transition to high school without a reason for that reduction.

IEP teams must consider the parents’ concerns and the information that parents provide regarding their child in developing and reviewing their child’s IEP. Parent participation is an active role in which the parents provide critical information regarding the strengths of their child, and express their concerns for enhancing their child’s educational program; participate in discussions about their child’s need for special education, related services, and supplementary aids and services. The IEP team should work toward consensus, but the district has ultimate responsibility to ensure that the IEP includes the services that the student needs in order to receive FAPE. If the team cannot reach consensus, the district must provide the parents with prior written notice of the district’s proposals or refusals, or both, regarding the student’s educational program and the parents have the right to seek resolution of any disagreements by initiating an impartial due process hearing.

OSPI notes a district is not required to adopt or agree with every request made by a parent, nor does disagreement necessarily mean a parent was not able to participate. The District’s failure to comply with the Parent’s requests does not mean that a violation exists. Here, the Parent attended and participated in multiple IEP meetings and the IEP team incorporated many of her requested changes to the IEP.

In the present case, the Parent did not agree with the annual IEP that was drafted on December 14, 2023, which reduced the Student’s SDI by about 50% when the Student is scheduled to begin high school next school year. Additionally, the Parent informed the District she wanted the Student to be assigned a 1:1 paraeducator.

On January 26 and February 26, 2024, the parties met to discuss modifying the Student’s December 14, 2023 IEP. A PWN from the February 26, 2024 meeting stated in part that there had been a mistake made on the December 14, 2023 IEP that reduced the Student’s service minutes and that the parties agreed to correct that mistake and increase the Student’s SDI minutes to allow “for the continuation of similar services” as the Student enters high school. The investigation shows that the team did not reduce the Student’s SDI without Parent participation, rather an error was made and then corrected on the IEP. Additionally, the parties discussed assigning a 1:1 paraeducator for the Student and agreed “that at this time the addition of a 1:1 is not needed but

that the team can review the need at a future date if his progress changes.” Thus, based on the facts just provided, there is not a violation in the present case because the District did consider the Parent’s input regarding the Student’s IEP development, addressed the Parent’s concerns, and subsequently corrected the error in the IEP.

**CORRECTIVE ACTION**

**STUDENT SPECIFIC:**

None.

**DISTRICT SPECIFIC:**

None.

Dated this 21st day of March, 2024

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.)