

## **SPECIAL EDUCATION COMMUNITY COMPLAINT (SECC) NO. 24-14**

### **PROCEDURAL HISTORY**

On January 27, 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 Sedro-Woolley School District (District). The Parent alleged that the District violated the Individuals with Disabilities Education Act (IDEA), or a regulation implementing the IDEA.

On January 27, 2024, OSPI acknowledged receipt of this complaint and forwarded a copy of it to the District superintendent. OSPI asked the District to respond to the allegations made in the complaint.

On February 15, 2024, OSPI received the District's response to the complaint and forwarded it to the Parent on February 16, 2024. OSPI invited the Parent to reply.

On February 18, 2024, the Parent provided a reply to the District response via an email sent to the both the District and OSPI. OSPI did not reforward this email to the District.

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

### **ISSUE**

1. Whether the District followed proper procedures for ensuring the confidentiality of the Student's personally identifiable information in accordance with WAC 392-172A-05180 and WAC 392-172A-05245, in relation to the incident described in the Parents' community complaint request.

### **LEGAL STANDARDS**

Confidentiality of Education Records: FERPA requires districts to maintain the confidentiality of students' education records. 34 CFR §300.623; WAC 392-172A-05230. FERPA controls the circumstances under which a district may disclose personally identifiable information from educational records, and prohibits non-authorized disclosure of that information. As a general rule, personally identifiable information may not be disclosed without specific, informed parental consent. This rule is subject to a number of exceptions, including the allowance for school districts to disclose information to teachers within the district or officials of participating agencies for purposes of meeting a requirement of the Act. 34 CFR §300.622; WAC 392-172A-05225.

Disclosure of Student Records: Parental consent must be obtained before personally identifiable information is disclosed. If a request for personally identifiable information is received from officials with a participating agency, parental consent is not required. Additionally, parental consent may not be required if the information is contained in education records and the disclosure is authorized without parental consent under FERPA, 34 CFR Part 99. 34 CFR §300.622; WAC 392-172A-05225.

## FINDINGS OF FACT

1. At the start of the 2023–24 school year, the Student was eligible for special education services under the category of autism, was in the third grade, attended a District elementary school, and their March 6, 2023 individualized education program (IEP) was in effect.
2. On December 28, 2023, the Parent alleged that a former District employee sent a social media message to the Parent, which included the Student’s IEP information. The Parent stated the IEP information was shared by a District staff member actively working within the District program. In their complaint, the Parent alleged that this violated the Student’s confidentiality under the IDEA and FERPA. The Parent did not provide a copy of the social media message to OSPI.
3. On December 31, 2023, the District received an email communication from the Parents, outlining the incident and the alleged breach of privacy for the Student. The District responded on the same day, calling the Parent, and detailing the complaint to share with District administration. The Parent did not provide the District with a copy of the private social media message.
4. On December 31, 2023 and January 1, 2024, the District initiated an investigation of the reported confidentiality breach from December 28, 2023. The District was unable to clearly determine whether a breach occurred, or specifically who breached the Student’s confidentiality.
5. On January 9, 2024, the District met with the special education program staff at the school and reviewed FERPA and confidentiality expectations. The District provided OSPI with a sign-in sheet from the meeting. The District shared with District staff working with the Student, a report received that someone from the District program had shared confidential IEP information with a former employee. The District school level staff were asked to come forward privately to resolve and prevent FERPA violations. The District reported no one came forward.
6. On February 15, 2024, the District provided a response to the Parent’s special education complaint and denied it failed to follow proper procedures for ensuring the confidentiality for student information as required by state regulations.

In the February 15, 2024 response, the District stated it was unable to determine that the Student’s information was shared by any current District employee or that any FERPA violation occurred. The District stated that “given how serious the District takes student privacy, the District met with the [District program staff] on January 9, 2024 and reiterated their obligations under FERPA.”

7. On February 18, 2024, the Parent provided a reply to the District response, expressed disappointment with the District’s lack of accountability and denial of mistakes made, and raised other general concerns about the District.

## CONCLUSIONS

**Confidentiality of Education Records** – The Parent alleged the District violated FERPA and the IDEA when the District did not ensure the confidentiality of the Student’s personally identifiable information in accordance with WAC 392-172A-05180 and WAC 392-172A-05245, and that the District released personally identifiable Student information to a former District employee.

FERPA requires districts to maintain the confidentiality of students’ education records. As outlined in stated special education regulations, FERPA controls the circumstances under which a district may disclose personally identifiable information from educational records, and prohibits non-authorized disclosure of that information. As a general rule, personally identifiable information may not be disclosed without specific, informed parental consent. This rule is subject to a number of exceptions, including the allowance for school districts to disclose information to teachers within the district or officials of participating agencies for purposes of meeting a requirement of the Act.

The alleged failure to maintain confidentiality in this instance, as outlined in this complaint, are not substantiated, and the OSPI investigation does not determine if a violation of FERPA occurred. There is no documentation that confirms a District employee shared information from the Student’s records with non-District individuals. Regardless, even if information was improperly shared, the District took reasonable and responsive steps to address the Parent’s concern, by communicating quickly and clearly with the Parent, calling them to understand the situation, and initiating an internal investigation with District administrators, resulting in training on FERPA.

The District conceded that while it did not find a FERPA violation in relation to the incidents described in the Parent’s community complaint request, it takes student privacy seriously and responded by providing a training to District staff involved in the Student’s program on how to follow proper procedures for ensuring the confidentiality of the Student’s personally identifiable information in accordance with WAC 392-172A-05180 and WAC 392-172A-05245.

OSPI finds that the District followed proper procedures for ensuring the confidentiality of the Student’s personally identifiable information in accordance with WAC 392-172A-05180 and WAC 392-172A-05245 and responded appropriately to the Parent’s report of a breach of Student confidentiality with an investigation and training. OSPI finds no violation.

## CORRECTIVE ACTION

### **STUDENT SPECIFIC:**

None.

### **DISTRICT SPECIFIC:**

None.

Dated this 26th 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.)