

SPECIAL EDUCATION COMMUNITY COMPLAINT (SECC) NO. 24-22

PROCEDURAL HISTORY

On February 13, 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 Tumwater 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 February 13, 2024, OSPI acknowledged receipt of this complaint and forwarded a copy of it to the District superintendent on February 15, 2024. OSPI asked the District to respond to the allegations made in the complaint.

On March 1, 2024, OSPI received the District's response to the complaint and forwarded it to the Parent on March 5, 2024. OSPI invited the Parent to reply.

On March 21, 2024, the OSPI complaint investigator interviewed the Parent.

On March 22, 2024, the OSPI complaint investigator interviewed the District's director of special programs.

OSPI considered all information provided by the 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.

ISSUES

1. Did the District follow proper procedures for responding to the Parent's request in spring 2023 that the Student's IEP be amended?
2. Beginning with the 2023-24 school year, did the District follow proper IEP development procedures in relation:
 - a. To any potential need for ABA therapy and/or BCBA support the Student may have had resulting from the Student's disability?
 - b. To the Student's transportation-related needs?
3. Beginning with the 2023-24 school year, did the District follow proper procedures for responding to any potential bullying the Student was experiencing to ensure the Student's access to FAPE was not impacted?

LEGAL STANDARDS

Parent Request for IEP Meeting: When a parent or district believes that a required component of a student's individualized education program (IEP) should be changed and requests an IEP meeting, the district must conduct an IEP meeting if it believes that the change may be necessary to ensure the provision of FAPE. Individuals with Disabilities Education Act (IDEA), 64 Fed. Reg. 12,475, 12,476 (March 12, 1999) (Appendix A to 34 CFR Part 300, Question 20). The District must

schedule the meeting at a mutually agreeable time and place, and appropriately invite the parent to the meeting. 34 CFR §§300.322 and 300.328; WAC 392-172A-03100. If a parent requests an IEP meeting because the parent believes that a change is needed in the provision of FAPE to the student or the educational placement of the student, and the school district refuses to convene an IEP meeting because no change is necessary for the provision of FAPE, the district must provide written notice to the parents of the refusal, including an explanation of why the district has determined that conducting the meeting is not necessary to ensure the provision of FAPE to the student. IDEA (Appendix A to 34 CFR Part 300, Question 20).

IEP Development: 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. 34 CFR §300.324(a). WAC 392-172A-03110.

IEP Development for a Student with Behavioral Needs: In developing, reviewing and revising each student's IEP, the team must consider the use of positive behavioral interventions and supports and other strategies to address the student's behavior. 34 CFR §300.324(a)(2); WAC 392-172A-03110(2). This means that in most cases in which a student's behavior impedes his or her learning or that of others, and can be readily anticipated to be repetitive, proper development of the student's IEP will include positive behavioral interventions, strategies, and supports to address that behavior. IDEA, 64 Fed. Reg. 12,475, 12,479 (March 12, 1999) (Appendix A to 34 CFR Part 300, Question 38). A functional behavioral assessment (FBA) and behavioral intervention plan (BIP) must be used proactively, if an IEP team determines that they would be appropriate for a child. For a child with a disability whose behavior impedes his or her learning or that of others, and for whom the IEP team has decided that a BIP is appropriate, the IEP team must include a BIP in the child's IEP to address the behavioral needs of the child. Questions and Answers on Discipline Procedures (OSERS June 2009) (Question E-1 and E-2).

Definition of a Free Appropriate Public Education (FAPE): A "free appropriate public education" (FAPE) consists of instruction that is specifically designed to meet the needs of the child with a disability, along with whatever support services are necessary to permit him to benefit from that instruction. The instruction and support services must be provided at public expense and under public supervision. They must meet the State's educational standards, approximate the grade levels used in the State's regular education system, and comport with the child's IEP. *Hendrick Hudson District Board of Education v. Rowley*, 458 U.S. 176, 186-188, (1982). Every student eligible for special education between the ages of three and twenty-one has a right to receive a FAPE. 34 CFR §300.101; WAC 392-172A-02000. An eligible student receives a FAPE when he or she receives, at public expense, an educational program that meets state educational standards, is provided in conformance with an IEP designed to meet the student's unique needs and includes whatever support services necessary for the student to benefit from that specially designed instruction. 34 CFR §300.17; WAC 392-172A-01080.

Disability-Based Harassment: Harassment occurring due to a student's status of having a disability that adversely affects that student's education may result in a denial of FAPE. A denial of FAPE occurs when, taking into consideration the student's unique characteristics, it may be fairly said

that a school district did not provide the student an opportunity to obtain some progress from the program it has offered. *Ojai Unified School District v. Jackson*, 4 F.3d 1467 (9th Cir. 1993), *cert. den. id.*, 115 S. Ct. 90 (1994). Harassment and bullying of a student eligible for special education that prevents the student from receiving meaningful educational benefit constitutes a denial of a FAPE that districts must remedy. As part of its response, the district should convene an IEP team meeting to determine whether additional or different services are necessary and must revise the student's IEP accordingly. The IEP team should be careful when considering a change of placement for a student eligible for special education who was the target of bullying or harassment. A more restrictive placement may constitute a denial of a FAPE in the LRE. A fundamental step in preventing disability-based harassment is developing and disseminating a policy that prohibits such harassment. *Dear Colleague Letter* (OSERS/OSEP Aug. 20, 2013).

Each school district shall adopt a policy and procedure that prohibits the harassment, intimidation, or bullying of any student. RCW 28A.300.285. Bullying is defined as aggression used within a relationship where the aggressor has more or real perceived power than the target, and the aggression is repeated or has the potential to be repeated. (*Dear Colleague Letter*, 61 IDELR 263.) In addition, under the IDEA, school districts have an obligation to ensure that students who are the targets of bullying continue to receive a FAPE in accordance with the student's IEP. As part of an appropriate response to bullying under the IDEA, districts should consider convening an IEP team meeting to determine whether the effects of bullying have caused the student's needs to change such that his/her IEP is no longer providing educational benefit. (*Dear Colleague Letter*, 61 IDELR 263.) If a teacher is deliberately indifferent to teasing of a disabled child and the abuse is so severe that the child can derive no benefit from the services that he or she is offered by the school district, the child has been denied FAPE. *In the Matter of Federal Way School*, OSPI Cause No. 2011-SE-0013 citing *M.L. v Federal Way Sch. Dist.*, 394 F3d 634, 105 LRP 13966 (9th Cir. 2005).

FINDINGS OF FACT

2022–23 School Year

1. The Student was eligible for special education services under the category of developmental delay and was in preschool.
2. The complaint investigation timeline began on February 14, 2023.
3. On March 28, 2023, the Student's IEP team met to discuss the addition of services as the Student would soon transition from preschool to kindergarten. During this meeting, the Parent expressed interest in the Student receiving applied behavior analysis (ABA) therapy in school as the Student had received such services privately during preschool. During this meeting, the District indicated that such therapy services might not be available in school due to least restrictive environment (LRE) considerations.
4. On May 16, 2023, the Parent sent an email to the District, inquiring about the potential of the District providing the Student with ABA services in school. The Parent reported that the Student was then receiving ABA services outside of school.

The District responded that it did not generally allow outside therapists into the school environment, as the primary focus of the school setting were educational services, rather than therapeutic services.

5. On May 17, 2023, the Parent emailed the District, raising the concern that the Student's IEP did not provide the support that the Student needed in the classroom. The Parent requested that the District update the Student's IEP to include the Student's autism spectrum disorder (ASD) diagnosis and the Student's need for ABA therapy. The Parent further reported that the Student was diagnosed with autism in 2022. The Parent also suggested that the District consider services for the Student to address the numerous transitions throughout the school day. The Parent also asked whether the District provided ABA therapy only to students with significant behavior needs.

The District responded on May 18, 2023, that the District "calculate(s) services for reasonable progress toward goals..." The District stated the Student has shown progress toward IEP goals as demonstrated by progress monitoring data. The District reported that with the Student's transition to kindergarten, the District would "support [the Student's] educational needs within our setting" and, "If there are needs that have not been explored, then opening a re-evaluation to determine if there are additional areas of specially designed instruction is the next step." The District also indicated that if there was new or additional diagnosis information since the previous evaluation, then the Student's IEP team may consider that in the evaluation planning process.

6. On May 19, 2023, the Parent, responding to the District's May 18, 2023 email, again indicated an interest in the District updating the Student's IEP to include their ASD diagnosis. The Parent also indicated that the Student received ABA therapy privately, and that their school progress was due in part to that support. The Parent suggested that the District consider offering the Student ABA therapy to ensure that the Student is successful. The Parent voiced further concern about pull-out services for the Student.

In multiple emails, the District responded that services are provided in their LRE and observed that the Student's IEP indicated a mix of services and supports in the general education and special education settings. The District acknowledged that the first step was a reevaluation to consider the impact of the Student's ASD diagnosis. The District further provided a summary of the services that the Student received, and the percentage of time the Student was pulled out of general education.

7. On June 16, 2023, the Student's IEP team met to discuss the Student's upcoming early reevaluation ahead of the Student attending kindergarten. During this meeting, the Parents suggested that the District have an outside ABA therapist come to the school to provide the ABA therapy that the Student was then receiving outside of school. At the meeting, the District presented services District staff could offer to address the Student's needs. The Student's ABA therapist attended this meeting and provided feedback for staff to help address the Student's needs. The team determined that evaluating the Student's needs was the appropriate next step and moved forward with the evaluation process.

8. On June 20, 2023, the District sent the Parent a meeting invitation for an evaluation planning meeting, scheduled for the same day.
9. Also, on June 20, 2023, the District sent the Parent a prior written notice (PWN), documenting the District's rejection of the Parent's proposal that the Student's private ABA therapist provide therapy in the school setting.

Summer 2023

10. On July 27, 2023, the Parent emailed the District, asking for documentation from the June 16, 2023 IEP team meeting. The Parent specifically requested copies of relevant educational records for the Student.
11. On July 27, 2023, the District responded that it would assist with the response. On the same date, the Parent clarified that they were looking for copies of documents signed, related to the Student's most recent IEP meeting and the PWN provided by the District.
12. On July 31, 2023, the District, responding to a request from the Parent, indicated that the requested information was sent to the Parent by email on May 19, 2023. The District indicated that at the time, the Student's IEP team determined that a reevaluation was appropriate, rather than an amendment to the Student's IEP. The District noted that the reevaluation would be completed during the 2023–24 school year.
13. On August 15, 2023, the Parent emailed the District, requesting a PWN documenting the District's refusal to provide ABA services in the classroom for the Student. In addition, the Parent requested all documentation from the earlier IEP meeting, including meeting notes. The Parent asked whether the District was completing a reevaluation of the Student, and if so, requested that the reevaluation be completed prior to the start of the 2023–24 school year.

The District responded, providing a PWN relevant to the IEP team meeting held in the spring of 2023. The District highlighted that the PWN indicated that the Student's IEP addressed areas of service, including adaptive skills, social/emotional skills, communication skills, and fine motor skills. The District also observed that "services at school are specific to [the Student's] educational goals which are different from the services you may obtain privately in an ABA therapy setting." The District also reported that school was not then in session, and that a comprehensive evaluation could not be completed until staff returned. The District noted that it was unable to begin the evaluation of the Student earlier because the Parent had not provided written consent until after the end of the 2022–23 school year.

14. Also, on August 15, 2023, the District provided the Parent with PWN in English and the Parents' native language as requested by the Parent.
15. Later, on August 15, 2023, the Parent requested that the District revise the PWN with additional details, specifically a description of other options that the IEP team considered and the reasons

why those options were rejected, and a description of other factors that are relevant to the District's proposal or refusal.

16. On August 17, 2023, the District sent an email to the Parent, indicating how the District collects and uses regression data. The District also indicated where in the PWN provided to the Parent they could find the information sought in their August 15, 2023 email.

2023–24 School Year

17. At the start of the 2023–24 school year, the Student was eligible for special education services under the category of developmental delay, was in kindergarten and attended a District elementary school, and their March 23, 2023 IEP was in effect.
18. The District's 2023–24 school year began on September 6, 2023.
19. On September 6, 2023, the Parent, responding to the District's August 17, 2023 email, acknowledged the presence of the requested information in the PWN, but requested additional detail in those areas. The Parent also asked for additional education records for the Student.
20. On September 8, 2023, the District responded that the requested records were provided to the Parent previously.
21. Also, on September 8, 2023, the Parent requested that the District complete the Student's reevaluation sooner than the time allotted.
22. Later, on September 8, 2023, the District's school psychologist sent an email to the Parent, inquiring about their availability for a meeting to review the results of the Student's reevaluation and suggesting September 26, 2023 for the meeting date. The school psychologist also indicated that they would send the Parent rating scales to complete as part of the Student's reevaluation.
23. On September 26, 2023, the District held a meeting to review the reevaluation of the Student. The Student was initially found eligible for special education services in 2021. The Student's evaluation group determined that the Student met eligibility criteria under the autism eligibility category. The Student displayed needs in communication, social/emotional, fine motor, and sensory needs, although specially designed instruction was only recommended in communication and occupational therapy. The evaluation determined that the Student no longer required specially designed instruction in adaptive skills.
24. On September 26, 2023, as the result of the reevaluation, the Student's IEP team developed a new IEP for the Student. The District implemented the new IEP beginning October 2, 2023.

The October 2, 2023 IEP included annual goals in communication: articulation, expressive language, and fine motor, with progress reporting quarterly. The Student's IEP provided the Student with the following specially designed instruction in a *special education setting*:

- Occupational Therapy: 20 minutes monthly (to be provided by general education staff)
- Communication: 30 minutes two times a week (to be provided by special education staff)

Based on the IEP team's discussion, it was agreed that the Student would benefit most from peer models and an increased presence in the general education classroom rather than pull-out services. The IEP included several accommodations, such as advance notice of transitions, modify/repeat/model directions, peer to peer tutoring, sensory supports, simplify and repeat directions, small group instruction, time warnings and increased transition time, and visual supports.

25. Also, on September 26, 2023, the Student's hand was injured when it was caught in a door at school. The Parent reported taking the Student for x-rays.
26. On September 29, 2023, the Student's IEP team met to finalize the Student's IEP, and to further discuss the results of the reevaluation and services provided to the Student. During the meeting, the Parent suggested that the Student would benefit from ABA therapy and suggested that an outside therapist come to the school to provide the Student with that therapy during the Student's recess. The Parent also suggested that an outside ABA therapist come to the classroom to support the Student and be present for all behaviors the Student might exhibit. The team discussed the various behaviors and needs and how the District proposed to address those.
27. The PWN documenting the development of the Student's IEP included the District's refusal to provide outside ABA services in school, rejected the use of a "chewy" toy as a sensory aid, and rejected the Parent's request for special transportation. The District indicated that outside or private ABA therapy services cannot be provided in the school setting, that alternative sensory options were suggested by IEP team members that avoided drooling/excessive saliva, and that the team must follow specific data collection and interventions before special transportation can be considered.
28. On October 3, 2023, the Parent was informed that a peer who was bothering the Student would be separated from the Student during school hours.
29. On November 2, 2024, the District recorded that the Student was scoring in the "emerging skill" level of their articulation goal and was showing "emerging skill" toward their expressive language goal.
30. On December 15, 2023, the Parent reported that they discovered that the Student had bruises on their knees from being pushed down by a peer. The Parent reported having taken the Student for medical attention for this injury. The District documented that the Student was standing in line when a peer pushed them forward in line, causing them to fall.
31. On January 29, 2024, the District documented an incident at school where the Student "walked in front of someone swinging and their foot made contact with the side of [the Student's] face on the (R) side during morning recess."

32. On February 5, 2024, the District recorded that the Student was scoring in the “emerging skill” level of their articulation goal and was making “sufficient progress” toward their expressive language goal.
33. On March 21, 2024, the OSPI complaint investigator interviewed the Parent. The Parent reported that the Student received private ABA therapy during preschool. As part of the move to kindergarten, the Parent hoped that the District would provide ABA therapy, allow the Student’s private ABA therapist to come into the school to provide such therapy, or provide transportation to the Student’s private ABA therapist. The Parent expressed dissatisfaction when the District told them that outside therapists were not allowed into the school. Consequently, the Parent allows the Student to attend school three days per week and sends the Student to private ABA therapy twice per week. The Parent expressed concern that as a result of removing the Student from school, that the Student missed out on physical education classes, thereby limiting their access to gross motor development.

The Parent reported that the District’s position was that the Student did not require specialized transportation. The Parent had concerns regarding the length of transport, and potential noise concerns with general education transportation. While the Parent acknowledged that the District offered potential accommodations for the Student on the bus, the Parent had remaining concerns for the Student that they felt were better addressed by specialized transportation.

The Parent also voiced concern regarding accidents and potential bullying in the school environment. The Parent reported the concern that the accidents experienced by the Student were potentially the result of the Student not understanding social cues with peers and putting themselves in situations that resulted in the accidents. The Parent also had concerns that the Student required additional supervision, and that the accidents were proof of that need. The Parent also reported that other bullying experienced by the Student was reported to them by the Student’s older sibling who attended the same school.

34. On March 22, 2024, the OSPI complaint investigator interviewed the District director of special services. The District reported that based on the concerns raised by the Parent ahead of the Student’s transition to kindergarten, they determined it was appropriate to reassess the Student’s needs. The District reported that they do have board certified behavior analyst (BCBA) on staff and had the Student shown a need for such services, that the District would have provided them. The District highlighted that the District’s evaluation, and the Parent assessment as part of the evaluation agreed that the Student did not display behavior concerns. Rather, the Student’s behavior aligned with similar aged peers. The District noted that the evaluation found that the Student benefitted from increased instruction time in the classroom environment.

The District was aware that the Parent requested special transportation. The District offered general education transportation with accommodations, such as headphones and assigned seating. The District reported that the Parent rejected these offers and requested specialized transportation for the Student. The District reported that without data, it could not determine

whether the Student required specialized transportation, or whether the suggested accommodations were sufficient, or should be modified in some way.

The District acknowledged that the Student experienced injuries during the school year. The District recounted their efforts to determine the cause of those injuries. While one of the Student's injuries was caused by a peer pushing them, the others appeared to be accidental. The District discussed with the OSPI complaint investigator the District's policy and definition of bullying. The District reported that it did not find a connection between the accidents experienced by the Student. The District did not find evidence that any peer targeted or singled out the Student; rather, the evidence showed that the Student experienced accidents during school. The District reported awareness of the Parent's concerns, and that these concerns were discussed with the building administrator and the Student's teacher, who were asked to maintain awareness of this concern.

CONCLUSIONS

Issue One: Parent's Request for IEP Meeting – The Parent alleged that the District violated the IDEA when it did not follow proper procedures for responding to the Parent's request in spring 2023 that the Student's IEP be amended.

When a parent or district believes that a required component of a student's IEP should be changed and requests an IEP meeting, the district must conduct an IEP meeting if it believes that the change may be necessary to ensure the provision of FAPE. The District must schedule the meeting at a mutually agreeable time and place, and appropriately invite the parent to the meeting. If a parent requests an IEP meeting because the parent believes that a change is needed in the provision of FAPE to the student or the educational placement of the student, and the school district refuses to convene an IEP meeting because no change is necessary for the provision of FAPE, the district must provide written notice to the parents of the refusal, including an explanation of why the district has determined that conducting the meeting is not necessary to ensure the provision of FAPE to the student.

On March 23, 2023, the Student's IEP team met to discuss concerns raised by the Parent regarding the Student's transition from preschool to kindergarten. At this meeting, the Parent requested that the Student's ABA therapist provide therapy to the Student in the school environment. The IEP team discussed these requests and the Student's services. Following this meeting, the Parent corresponded with the District by email, reiterating the interest in the Student receiving ABA therapy in the school environment. Subsequently, the District proposed conducting a reevaluation to reassess the Student's needs. On June 16, 2023, the Student's IEP team met to discuss additional services that the Student might need for kindergarten. Following the meeting, on June 20, 2023, the District documented the District's rejection of the proposal that the private ABA therapist provide services inside of the school. The District agreed to expedite a reevaluation of the Student to determine the Student's needs for kindergarten. On September 26, 2023, the District completed the reevaluation. On September 29, 2023, the Student's IEP team met to consider the results of the reevaluation and to amend the Student's IEP accordingly.

The evidence in the record supports that the District responded to the concerns raised by the Parent regarding the Student's potential needs in kindergarten by holding an IEP meeting, discussing concerns and the Student's needs, scheduling an evaluation planning meeting, and conducting a reevaluation of the Student. Based on the results of the reevaluation, the Student's IEP team made changes to the Student's IEP. For these reasons, OSPI does not find a violation.

Issue Two: IEP Development – The Parent alleged that the District violated the IDEA when, beginning with the 2023–24 school year, the District failed to follow proper IEP development procedures in relation: (a) to any potential need for ABA therapy and/or BCBA support the Student may have had resulting from the Student's disability, and (b) to the Student's transportation-related needs.

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 the spring of 2023, the Parent raised concerns regarding the Student's potential need for ABA therapy during the school day. On March 28, 2023, the Student's IEP team met to discuss the Student's needs for starting kindergarten in the 2023–24 school year. The Parent observed that the Student was then receiving ABA therapy privately and inquired about the potential for the Student to receive ABA therapy in kindergarten, either from the existing private therapist or provided by the District. In May of 2023, the District and Parent exchanged emails regarding the Student's potential need for ABA therapy. The District observed that they did not generally permit outside providers into the school to provide therapy. The Parent reiterated their concern that the Student had needs that their current IEP did not address. On May 18, 2023, the District sent an email to the Parent, observing that it "calculate(s) services for reasonable progress toward goals..." that the Student had shown progress toward IEP goals as demonstrated by progress monitoring data. The District also reported that if there were needs that had not been explored, then opening a reevaluation to determine if there were additional areas need would be the appropriate next step. On September 8, 2023, the District completed the reevaluation of the Student. The reevaluation determined that the Student did not demonstrate a need for ABA therapy in the educational setting. The reevaluation also did not find that the Student required special education transportation. The District did offer accommodations for general education transportation. During interviews with the District, it was noted that because the Student had not utilized District transportation, the District did not have data regarding the Student's need for specialized transportation.

The evidence in the record supports that the District responded to the concerns raised by the Parent regarding the Student's potential needs by conducting a reevaluation of the Student. The results of the reevaluation, and the lack of data resulting from the Student's short period of attendance in school did not support a need for ABA therapy for the Student to access their education. Similarly, the District reported that the Student had not utilized District provided transportation and therefore had no data regarding the Student's transportation needs. For these reasons, OSPI does not find a violation.

Issue Three: Consideration of Special Factors – The Parent alleged that the District violated the IDEA when, beginning with the 2023–24 school year, the District failed to follow proper procedures for responding to any potential bullying the Student was experiencing to ensure the Student’s access to FAPE was not impacted.

A FAPE consists of instruction that is specifically designed to meet the needs of the child with a disability, along with whatever support services are necessary to permit him to benefit from that instruction. Harassment and bullying of a student eligible for special education that prevents the student from receiving meaningful educational benefit constitutes a denial of a FAPE that districts must remedy. Each school district shall adopt a policy and procedure that prohibits the harassment, intimidation, or bullying of any student. Bullying is defined as aggression used within a relationship where the aggressor has more or real perceived power than the target, and the aggression is repeated or has the potential to be repeated. The District maintains a policy regarding harassment and bullying. The policy defined these actions as physical acts that, “physically or emotionally harms a student or damages the student’s property; has the effect of substantially interfering with a student’s education; is so severe persistent or pervasive that it creates an intimidating or threatening educational environment”; and “has the effect of substantially disrupting the orderly operation of the school.”¹

The Parent alleged that the Student was subject to bullying during the 2023–24 school year, and that the District did not appropriately respond to these issues, resulting in a denial of FAPE. Three incidents were highlighted by the Parent. These included the September 26, 2023 incident where the Student’s hand was caught in a door, a December 15, 2023 incident where a peer pushed the Student causing them to fall, and a January 29, 2024 incident where the Student “walked in front of someone swinging and their foot made contact with the side of [the Student’s] face on the (R) side during morning recess.” The District observed that while unfortunate, the incidents where the Student was injured were unrelated, did not involve the same classmates, and two appeared to be accidents. The District reported speaking with the Student’s teacher and principal regarding the accidents and the potential for peer bullying. The District reported that it could not find a connection between the events, that the incidents were unintentional, and that the Student was not targeted generally, or due to their disability. For these reasons, OSPI does not find a violation.

CORRECTIVE ACTION

STUDENT SPECIFIC:

None.

DISTRICT SPECIFIC:

None.

¹ Tumwater School District policy 3207.

Dated this 9th day of April, 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.)