

## **SPECIAL EDUCATION COMMUNITY COMPLAINT (SECC) NO. 24-33**

### **PROCEDURAL HISTORY**

On March 12, 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 Lake Washington 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 March 12, 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 March 13, 2024, the Parent provided additional information to OSPI. OSPI forwarded the information to District on the same day.

On March 28, 2024, the District requested a timeline extension to respond to the complaint. OSPI extended the timeline to respond to April 3, 2024.

On April 3, 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.

On April 23, 2024, OSPI received additional information from the Parent. OSPI forwarded the additional information to the District on the same day.

On April 12, 2024, the OSPI complaint investigator conducted an interview with the Parent.

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 March 13, 2023. 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. Since March 13, 2023, per WAC 392-172A-03110, has the Student's individualized education program (IEP) been developed properly?
2. Since March 13, 2023, per WACs 392-172A-03110 and 392-172A-03100/05001, has the District ensured that the Parent has had the opportunity to provide input into the Student's IEP?
3. Since March 13, 2023, per WAC 392-172A-03105, has the Student's IEP been implemented properly?
4. Since March 13, 2023, per WAC 392-172A-05180 through WAC 392-172A-05245, have the Student's records been inappropriately disclosed without the Parent's consent?

## LEGAL STANDARDS

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).

IEP Implementation: A district must ensure it provides all services in a student's IEP, consistent with the student's needs as described in that IEP. 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).

FERPA: Personally Identifiable Information (PII): PII includes, but is not limited to: the student's name; the name of the student's parent or other family members; the address of the student or student's family; a personal identifier, such as the student's social security number, student number, or biometric record; other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name; other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or information requested by a person who the educational agency or institution reasonably believes knows the identity of the student to whom the education record relates. 34 CFR Sec. 99.3.

## FINDINGS OF FACT

### Background: 2022–23 School Year

1. During the 2022–23 school year, the Student attended third grade in the District and was eligible for special education services under the category of developmental delay.

2. On February 13, 2023, the Student's team developed an "Initial Amendment" to the IEP. The Student's IEP provided annual goals in the areas of social/emotional, behavior, math, writing, and reading. The special education and related services were as follows:
  - Reading: 25 minutes, 4 times weekly (provided by a paraeducator in a special education setting)
  - Writing: 25 minutes, 4 times weekly (provided by a paraeducator in a special education setting)
  - Math: 20 minutes, 4 times weekly (provided by a paraeducator in a special education setting)
  - Social/Emotional: 25 minutes, 1 time weekly (provided by a paraeducator in a special education setting)
  - Behavior: 30 minutes, 4 times weekly (provided by a paraeducator in a general education setting)
  - Math: 30 minutes, 1 time weekly (provided by a paraeducator in a general education setting)
  - Occupational Therapy: 30 minutes, 1 time weekly (provided by a paraeducator in a special education setting)

The IEP also provided 18 accommodations that included, in part, daily incentive/positive reinforcement tracking, debriefing with trusted adult, and access to sensory items and seating arrangements. And the IEP included a behavioral intervention plan (BIP) that addressed following directions, unsafe behaviors (pushing, kicking, and throwing objects), and leaving the classroom without permission.

3. With an upcoming IEP meeting in mind, the Parent provided her input into the IEP on March 29, 2023 (which was updated from input the Parent provided on December 13, 2022). The document listed the following:
  - Target behaviors: "Initiating conflict with teachers, adults, and peers and along with nervous, tense, worried, uptight, poor self-esteem/self-concept, low confidence, overwhelmed, frustrated, confused, and rattled."
  - Objectives: "Included, in part, social expectation worksheets, communication with and social preferences for asking questions and for help, improving relationship skills, problem-solving, conflict resolution, and coping skills."
  - Teacher alternative behavior: "Collaboration with providers, visual emotional color scheme to strengthen communication, positive self-talk, and facilitating social interactions, among others."
  - Positive reinforcement: "Highlight Student strengths, communicate failure, low marks, and mistakes are normal, sending positive notes to home, and collaborating with [agency]."
  - Sensory needs: "Has sensory needs, benefits from having access to tools to build, healthy boundaries, and articulating issues with safe individuals, among others."
4. In the spring of 2023, the Student began attending school in another Washington state school district.

### **2023–24 School**

5. At the start of the 2023–24 school year, the Student was in the fourth grade and was eligible to receive special education services under the category of developmental delay.
6. The District's 2023–24 school year began on September 5, 2023.

7. The Student did not initially attend school in the District at the beginning of the school year.
8. On November 14, 2023, the Parent completed the "Request for Part-Time Enrollment or Ancillary Services From Private School Student or a Student Receiving Home-Based Instruction" and completed the declaration of intent to provide home-based instruction and provided it to the District on the following day. The Parent requested services/courses in the areas of "special education period, occupational therapy, reading, and tutoring."
9. The Student began attending school on November 27, 2023.
10. A prior written notice (PWN) to the Parent, dated November 29, 2023, stated the Parent requested the Student attend school two hours a day from 9:30 to 11:30 am. The Student would be accessing general education reading, specialists, and special education reading services. The notice pointed out the list of subjects and services the Student would be missing, and that those subjects/services were "rejected" by the Parent. The notice further stated, in part:

[Student's] annual IEP meeting will be held on 12/6/23. During this meeting we will discuss [Student's] progress during the first week at school and make necessary updates to this IEP. Since we do not have ample time to collect enough data, and [Student] will not be accessing a large part of his special education programming, most of his previous IEP goals will be remaining in place until further data can be collected. [District] stands ready to provides services as prescribed on the IEP upon full enrollment.
11. On December 6, 2023, the Student's IEP team reviewed the IEP and BIP for the Student. The team included the director of the Native American Education program, the multilingual teacher, and the Parent's advocate. Team considerations included, among others, that the Student was in the multilingual program which was taken into consideration in developing the IEP. The District noted no concern about the Student's communication skills, although the Parent expressed a concern.

The IEP stated that an evaluation had been requested and initiated. The District proposed conducting multilingual screening for more information about the Student.

The IEP included annual goals in reading, math, social/emotional, and behavior. The Student's IEP provided the Student with the following specially designed instruction and related services:

- Reading: 30 minutes, 4 times weekly (to be provided by special education teacher in a special education setting)
- Writing: 30 minutes, 4 times weekly (to be provided by special education teacher in a special education setting)
- Math: 30 minutes, 4 times weekly (to be provided by special education teacher in a special education setting)
- Social/Emotional: 25 minutes, 2 times weekly (to be provided by special education teacher in a special education setting)
- Behavior: 30 minutes, 5 times weekly (to be provided by special education teacher in a general education setting)
- Occupational therapy: 30 minutes, 1 time weekly (to be provided by an occupational therapist (OT) in a special education setting)

The IEP included 18 accommodations that included the same accommodations from the previous February 2023 IEP, including small group or individual setting for test taking and breaks inside and outside the classroom.

12. The PWN that accompanied the IEP meeting stated the Parent agreed to have the Student attend school 8:40 am to 1:15 pm on Monday, Tuesday, Wednesday, and Thursday, and 9:30 am to 1:15 pm on Friday to access services in math, reading, behavior, social/emotional, and occupational therapy. He would not receive services for writing. The procedural safeguards notice was attached to the IEP.
13. The District stated that after the meeting, the Student's "IEP-At-a-Glance" and BIP were sent to all the Student's teachers and building administrators.
14. On January 16, 2024, the Student's general education teacher emailed the Parent about an incident where the Student allegedly threw his backpack over the balcony. A teacher who saw the incident talked with the Student about safety. The Parent responded:  
[Special education teacher] tried to force me to internalize the fault of my sons behavior for dropping his backpack, for allegedly not having rules at him. This is a racial stereotype of Native People not having parenting skills, organization, cleaning, or life skills management. Native parents were not taught these skills at boarding school, this is why parents before me were targeted for the gap of these social parenting skills. I am however, educated about parenting and life skills.

When interviewed, the Parent stated the backpack was an example of the IEP/BIP not being followed. The Parent stated the Student's teacher questioned the Parent's parenting skills rather than addressing the Student's behavior.

15. On January 23, 2024, the Parent attended a parent-teacher conference. The Parent followed up with an email to the Student's teachers, noting that the Student may have dyslexia and attention deficit/hyperactive disorder (ADHD). The Parent requested a dyslexia screening and supports in reading, impulsivity, and defiance. The Parent expressed concerns about grading and "polarization." The Parent also noted that she believed that the staff was "culturally insensitive" and was trying to discipline the Student rather than relating to his behavioral support needs. A meeting was scheduled for January 30, 2024, to discuss the upcoming reevaluation.
16. On January 24, 2024, the Parent provided input in the Student's IEP. Her input is summarized below:
  - The Parent disagreed with behavior section of the IEP because the onus to change was on the Student.
  - The BIP was not working to meet the Student's goals.
  - The Student is experiencing a lack of social awareness and requires a "culturally informed, trauma-informed IEP."
  - The Student needs to improve his communication skills and understanding personal space. He needs to expand his vocabulary words and expressing himself.
  - The Student needs a 1:1 paraeducator for reading, learning daily skills, and behavior skills.

- The Student needs coping skills addressed in the IEP.
- The Student needs advocacy skills, which is why the onus is on the Student to change.
- The Student needs impulse control by using frequent breaks, visual aids, and alternative seating.

17. Sometime before January 25, 2024, according to the District, the Student allegedly took a toy from another student. The Parent reacted by keeping the Student home on January 25, 2024, for a "mental health day" because the Student was "triggered." The Student denied the incident, according to the Parent.

18. On the same day, the documentation indicated the principal and Parent discussed the incident. The principal emailed the Parent and clarified that the incident was about other students reporting that the Student had written on another student's toy. The principal offered to talk with the Student about the incident.

The Parent then emailed the principal about concerns regarding polarization and the Student previously experiencing discrimination and suffered from post-traumatic stress disorder. The Parent also stated their family also encountered racial violence, prejudice, and discrimination.

The principal replied and the Parent then emailed school staff that she had previously reported "polarization", meaning that the teachers minimized the Student's ADHD needs. The Parent felt "judged" and the District was being "racially insensitive." The principal replied that the Parent's feelings were affirmed and sought to work with the Parent.

19. On January 27, 2024, the Parent responded to the principal, stating that she "needed someone present to communicate to you." The Parent requested her advocates attend all meetings with her and stated that she would "no longer engage without community support."

20. On January 29, 2024, the Parent emailed the school staff, canceling the meeting. The Parent requested assessments in the areas of vision and central auditory processing. The documentation included an "OCR Complaint" from the Parent to the District.

21. On the same day, the Parent emailed school staff and stated her voice was not being heard: She had previously requested a dyslexia screening, which was not followed up on. The Parent also requested an interpreter.

22. On January 31, 2024, the Parent and school psychologist exchanged emails about the Student's reevaluation and the request for a dyslexia screening. The school psychologist stated, "...We do not diagnose dyslexia in schools" and referred the Parent to an outside provider; at the same time, the school psychologist also reminded the Parent that the Student was already receiving specially designed instruction in reading "to address challenges associated with dyslexia..." In addition, the psychologist stated auditory processing could be addressed through reading services and sensory processing could be talked about with the OT at the next meeting. The Parent responded:

I'm not sure I understand your position and protocol for advocating for [Student's] special education needs, special needs child. Could you clarify if you will assist with developing

instructional supports, staff cross collaboration, with our family in the best interest of my son [Student]. The tone of your message does not align for the concern I have for my son. [Student] tells me he doesn't want to go to the learning groups because he feels bullied, bothered, and isolated. This is not contributing to his education. Instead, it is stunting his development. In conclusion as a concerned parent, I would like for school staff to be on one accord for [Student's] quality care, education [Student] deserves. I would like to remind you [Student] is special needs. He does not have neurotypical behaviors. Therefore he requires empathetic care, with compassion, cultural competency, and patience.

23. On February 2, 2024, the Parent sent a letter to the District superintendent. The Parent's concerns were as follows:

- The Parent is not being treated as a team member.
- Staff perceive the Student lives in a home without rules and do not understand the Native cultural aspect of parenting. Staff has not checked in with the Parent about the family structure or asked about the parenting plan.
- Student's teacher graded the Student's behavior during parent-teacher conferences. Parent would like to discuss interventions and strategies to support the Student.
- Parent had not received the ADHD diagnosis.
- Student's teacher focused on reporting the Student's behavior to the Parent rather than addressing his education goals.
- Parent requested information about teacher qualifications, dyslexia assessment/referral, aide/paraeducator training, participating with non-disabled peers, and grading.
- Parent requested assistance from the school psychologist to obtain public and private services for the Student.
- Student had experienced adverse disciplinary action.
- Staff were unable to relate to his special needs.
- Staff ignored Parent's requests for assessments.
- Parent wanted to ensure testing tools were appropriate for the Student and not rushed.

The Parent also requested an IEP meeting to discuss all her concerns.

24. On February 5, 2024, the Parent requested a reevaluation of the Student. The Parent also emailed school staff to request an independent educational evaluation (IEE). The Parent stated that the Student struggled with ADHD, lack of organization in work, especially written and essay questions; had difficulty following directions, listening, and concentrating; struggled with blurting out answers; had difficulty in preparing class assignments; and was easily distracted. The Student lacked adaptive skills for personal safety; had motivational issues; struggled with social and peer interactions and to comply with adult directives; expresses difficulty maintaining attention and concentration; exhibits mood swings; and expresses that he was easily frustrated.

25. On February 6, 2024, the Parent and special education director exchanged emails to schedule a meeting on February 9, 2024.

26. On February 9, 2024, the District met with the Parent and multiple advocates to discuss the proposed reevaluation. According to the accompanying PWN that was sent to the Parent on February 20, 2024, the Parent had a doctor's appointment for the Student very soon and the

team agreed to wait and put the Parent's consent on hold pending the receipt of the information.

27. On February 13, 2024, the Parent filed a harassment, intimidation, and bullying report regarding an incident between the Student and another student. On February 14, 2024, the District issued the investigation report that found no violations.
28. On February 20, 2024, the school psychologist emailed the Parent related to a follow-up medical appointment for the Student. The school psychologist stated that if there was no information, the reevaluation would proceed, and that it was the District's understanding that consent for reevaluation would be sent after the Student's medical appointment so the reevaluation would be timed with medical information. The psychologist stated District was also on hold pending the release of information. The school psychologist asked the Parent how she wanted to proceed.

On the same day, the Parent responded by emailing the District special education executive director, asking to wait for the release of information before proceeding with the evaluation and the Parent stated she wanted the Student's IEP to "stay put." The Parent asked for a copy of the consent documents. The Parent stated, "We don't need to schedule a meeting for a reevaluation."

29. Also, on February 20, 2024, the District director of special education emailed a PWN to the Parent. In light of the medical appointment, the director stated, "We agreed to hold (consent) until we had a better understanding as to what the evaluation would look like and then make some collaborative decisions moving forward."
30. The Parent replied on the same day to the school psychologist with concerns about the District's "neglect and hostility" towards the Student and that the District failed to address the need cultural knowledge. The Parent also stated the Student did not feel "safe enough" to communicate with the District staff and wanted to understand how the reevaluation would be productive given the circumstances.
31. On February 21, 2024, the Parent signed a release of information, authorizing the District to receive information from a hospital. The Parent emailed the District special education executive director regarding the release.
32. On February 22, 2024, the school psychologist emailed a consent to evaluate form to the Parent.
33. On February 23, 2024, the Parent emailed the school psychologist a detailed proposed agenda for an IEP meeting scheduled for March 8, 2024, that included input from the school psychologist, Student's teacher, and hospital staff, along with a discussion about the assessments and other concerns.

34. On February 27, 2024, the Parent emailed the special education executive director, complaining that the school psychologist “overlooked my feedback, as parent placing concerns...” The Parent named “explicit bias” and “lack of mutual respect, the presence of sensory mental, or physical disability” as concerns. The Parent requested a meeting with the District. On February 29, 2024, the elementary program specialist responded and offered to schedule a meeting. The Parent responded and stated she was meeting with the District superintendent and requested no scheduled meetings until she met with the superintendent.
35. On February 26, 2024, the Parent emailed the special education executive director, alleging the special education director “had prepared a false document outside the WAC for PWN. He prepared this document 11 days after our meeting; therefore, it is inadmissible. Please accept this as my formal complaint. I realize I am being bullied and harassed, and a false representation is being added to my son's Special Education case file.”
36. On February 29, 2024, the Parent emailed the principal the issues she wanted to talk about at the March 8, 2024 IEP meeting, including “IEP and how to apply the tools,” safety, cultural sensitivity, student participation, and a safe environment. The Parent also stated the Student should be moved to a different classroom because the Student’s teacher “pulled [Student] up in front of his Math class to isolate, other, and facilitate bullying against from his peers.” In an interview with the Parent, the Parent alleged that the teacher told the Student in front of the class that he was not at the same level as his peers and that the Student was removed to the principal’s office.
37. The District’s response stated, “...Parent had raised the math incident with principal, who later determined that [math teacher] had spoken directly with Student about his option to complete a math assignment in an alternative workspace.”
38. On March 1, 2024, the principal replied to the Parent about the following:
- The principal confirmed that the participants the Parent requested were invited.
  - Sensitivity training would be discussed.
  - Student will be transferred to a different general education classroom.
  - Requesting confirmation from Parent about a translator.
  - There would be no follow-up about staff with parents.
39. On the same day, the Parent replied that she did not give “consent” for participation of the District special education director or school’s assistant principal to attend the meeting because of the lack of cooperation and strong biases towards the Student and the Parent.
40. On March 4, 2024, the principal replied that the assistant principal would not attend, but the District special education director needed to attend because he was overseeing the Parent’s request for reevaluation. The director provided a short agenda that included cultural sensitivity, IEP review and questions, and safe environment and support tools. In addition, the email asked about the translator and informed the Parent which classroom the Student was reassigned to.

41. On March 4, 2024, the Parent replied that she did not give consent for the special education director to attend the meeting for above-named reason. The Parent stated the special education director had resisted taking action on behalf of the Student, which led to the teacher abusing the Student. The Parent further stated, "I wish for [Student's] IEP to stay put." The Parent also pointed out that no one had followed up with the interpreter. The Parent then stated she would not attend the IEP meeting because "you plan to manipulate our team and take the focus off [Student] and the impacts he has experienced at [school]..." The Parent also requested an IEE.
42. Also, on March 4, 2024, the Parent emailed the special education director and executive director, stating that she did not accept the February 20, 2024 PWN. The Parent stated:

I do not accept the PWN that was written, no sir. That PWN is written out of the code of ethics for a PWN. I disagree with you trying to insert your voice over mine, and I do not believe you have the best interest, [Student]. I sent a follow up email within the allotted time of that meeting 02/09/2024 and reported concerns impacting [Student] within the learning environment. I do not consent to a re-evaluation at this time. I will not consent to your re-evaluation due to the inconsistencies in ensuring the best quality and thorough care for [Student] and the lack of integrity. I told you I've obtained great community resources for [Student]. This includes his appointment at [hospital staff member], [clinic] on March 11, 2024. You refuse to follow up with my previous concerns and questions as [Student's] parent, and at this point, you have made it your mission not to collaborate with me in [Student's] best interest. Your email is passive-aggressive, and at this point, I understand now that I am being harassed. Please temporarily cease communication until we meet with our interpreter because there is a huge disconnect. I am hoping by then, our communication will no longer be covertly hostile.
43. On March 7 and 8, 2024, the Parent and principal exchanged emails about changing the Student's case manager. The principal offered the Parent another opportunity to meet.
44. On March 8, 2024, the District offered to reschedule the IEP meeting and to discuss case managers with the Parent.
45. On March 12, 2024, the Parent filed this complaint with OSPI.

## **CONCLUSIONS**

**Issue One: IEP Development** – The complaint alleged the District failed to develop an IEP that met the Student's needs. A district 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. The District denied the allegation.

Here, the Student attended school for approximately two weeks before the December 2023 IEP meeting was held. The Student was only part-time enrolled and not receiving all the recommended services on the IEP. Because of the short period of time to assess the Student's needs, the IEP team continued with the previous February 2023 IEP's goals and services.

Following this, the Parent continued to express concerns about whether the IEP met the Student's needs related to post traumatic stress disorder and safety. Responding to the Parent's requests to meet, the District attempted to meet with the Parent and her advocates, although some meetings were canceled by the Parent. In addition, the District proposed reevaluating the Student to assess the Student's needs, but the Parent revoked her consent after initially providing consent for the reevaluation.

OSPI finds the District reasonably sought to reevaluate the Student to obtain current data and information about the Student's needs. Initiating a reevaluation was also appropriate given the limited time the Student had been in the District during the 2023–24 school year. Although it is the Parent's prerogative to revoke consent for the reevaluation, the Parent bears some responsibility in preventing or delaying the District from gathering updated information about the Student's needs via a reevaluation. OSPI finds that based on the information the District had, it developed an IEP that met the Student's needs and appropriately sought to conduct a reevaluation. No violation is found.

**Issue Two: Parent Participation** – The complaint alleged the District failed to provide the Parent with an opportunity to provide input into the Student's IEP.

A district is required to provide the parent with a genuine opportunity to participate in decision-making. A district must ensure that the Parent has an opportunity to (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. The District denied the allegation.

Here, the Parent believed that her input was discounted. However, the documentation showed that the District invited the Parent to meetings along with her advocates and interpreter to discuss the Parent's concerns. This included the December 2023 IEP meeting and the February 2024 evaluation meeting, which the Parent attended. In addition, the Parent's numerous emails to the District and the District's responses demonstrated the Parent had considerable input as the District responded to these emails in a manner that showed it considered the Parent's input. While not specific to special education, the Parent also had input during parent-teacher conferences. The Parent appeared to believe that the District had to agree with the Parent for the Parent to have participated. However, there is no requirement that a district agree with every request of a parent; here, the Parent may disagree with some of the actions and decisions made and still have had an opportunity to participate in the special education process. No violation is found.

It should be noted that the Parent repeatedly expressed concern about the Student's trauma history and the family's cultural heritage and their impact on the Student. While the District appeared to be sensitive to those issues, OSPI recommends the District continue to become more aware of the impact of trauma on students and their cultural heritage.

**Issue Three: IEP Implementation** – The complaint alleged the District failed to implement the special education services in conformity with the Student’s IEP. A district is required to implement the special education services in conformity with the IEP. The District denied the allegation.

Here, the Student’s December 2023 IEP and BIP addressed the Student’s challenges with following directions, unsafe behavior such pushing, kicking, and throwing items, and leaving the classroom without permission. The Parent alleged the District did not implement the Student’s IEP/BIP when the Student allegedly threw his backpack over the balcony and a teacher talked with the Student about safety. Later, the Parent stated that one of the Student’s teachers questioned the Parent’s parenting skills. When interviewed, the Parent stated that the District failed to implement the IEP/BIP because the teacher questioned her parenting skills and did not address the Student throwing the backpack. Thus, according to the Parent, the District failed to provide the Student with required social support.

In this case, the District reasonably addressed the incident when the teacher talked to the Student about safety. Although the Parent may have believed that a teacher had questioned her parent ability, there was no documentation that this indicated the IEP and BIP were not implemented. No violation is found.

**Issue Four: Confidentiality** – The complaint alleged the District violated the Student’s confidentiality by mentioning his accommodation in the classroom. A district is required to have consent from the parent to disclose personally identifiable information. The District denied the allegation.

Here, the Parent alleged that sometime in February 2024, the Student’s general education teacher violated the Family Education Rights and Privacy Act (FERPA) by telling the Student in front of the math class that he was not at the same level as his peers and then the teacher removed the Student to the principal’s office. The Parent apparently heard about the incident from the Student. The District’s response stated, “...Parent had raised the math incident with principal, who later determined that [math teacher] had spoken directly with Student about his option to complete a math assignment in an alternative workspace.” Based on the conflicting accounts about the peer-level comment, there is insufficient evidence to substantiate a violation. Regarding the Student going to the principal’s office, the Student’s IEP provided accommodations for small group or individual testing and breaks outside the classroom, which are consistent with the Student going to a workspace outside the classroom. This incident indicates the Student’s IEP was being implemented and does not show that personally identifiable information was improperly disclosed. Thus, no violation is found.

### **CORRECTIVE ACTION**

**STUDENT SPECIFIC:**

None.

**DISTRICT SPECIFIC:**

None.

Dated this 9th day of May, 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.)