

## **SPECIAL EDUCATION COMMUNITY COMPLAINT (SECC) NO. 24-55**

### **PROCEDURAL HISTORY**

On April 17, 2024, the Office of Superintendent of Public Instruction (OSPI) received and opened a Special Education Community Complaint from the parent (Parent) of students (Students) attending the Central Kitsap 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 education of two Students: Student A and Student B.

On April 17, 2024, OSPI acknowledged receipt of this complaint and forwarded a copy of it to the District superintendent on April 19, 2024. OSPI asked the District to respond to the allegations made in the complaint.

On May 6, 2024, OSPI received the District's response to the complaint and forwarded it to the Parent on May 8, 2024. OSPI invited the Parent to reply.

On May 10 and 22, 2024, OSPI's investigator spoke with the Parent.

On May 22, 2024, the Parent provided OSPI with additional information. OSPI provided the District a copy of that information on June 5, 2024.

On June 5, 2024, OSPI requested additional information from the District. OSPI received said information on June 7, 2024. OSPI provided a copy of the same to the District on June 10, 2024.

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

### **SCOPE**

The statement of facts, below, reference information dated prior to either October 2023 (the beginning of the investigatory window for Student B) or November 2023 (the beginning of the investigatory window for Student A). This information is for context only.

### **ISSUES**

1. Student A: Did the District materially implement Student A's individualized education program (IEP) beginning November 20, 2023?
2. Student B: Did the District follow proper IEP development procedures beginning October 2023? Specifically, did Student B require a shortened school day beginning October 2023?

### **LEGAL STANDARDS**

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).

Home School and Part-time Enrollment: Students who are home schooled are entitled to enroll part-time in their resident district for any course, activity, or ancillary service provided by the district in addition to the home school instruction. A student whose parents elect to enroll him/her part-time in their resident school district in order to receive special education and/or related services is served through an IEP and is counted for federal and state special education reimbursement. 34 CFR §300.132; WAC 392-172A-04010.

If a student is part-time enrolled, and wishes to access a course, activity, or ancillary service provided by the district, the district does not need to alter its general schedule of services to accommodate that particular student. For example, if SLP services at an agreed upon location are available 9:00 – 2:00 on Tuesday, the SLP is not required to provide speech services to a part-time enrolled student at 3:30 pm on Tuesday. OSPI Monthly Update (February 2016).

Basis for IEP Team Decisions: Generally speaking, an IEP team's decisions must be based on a student's needs resulting from that student's disability. *See generally* WAC 392-172A-03090(1); *see also* WAC 392-172A-03110. An IEP team should base its decisions on appropriate programming for a student on sufficient, relevant data on the student's needs resulting from the student's disability. *See, e.g.*, WAC 392-172A-03020(g); *see also, generally*, WAC 392-172A-03090.

Program Length: Students who receive special education should be allowed to participate in a district's educational programs and services to the same extent as their non-disabled peers, consistent with their rights under IDEA. Any decision to limit or restrict their access and participation must be made by their IEP team, based solely on any adjustments necessary due to their disability and/or unique needs. 34 CFR §300.114; WAC 392-172A-02050. If a student receiving special education services cannot attend school a full school day, the reason must be documented in his or her records and addressed in the student's IEP. 34 CFR §300.320; WAC 392-172A-03090. *See also Shoreline School District No. 412*, 55 IDELR 178 (OCR 2010).

Reevaluation Procedures: A school district must ensure that a reevaluation of each student eligible for special education is conducted when the school district determines that the educational or related services needs, including improved academic achievement and functional performance of the student warrant a reevaluation. 34 CFR §300.303(a); WAC 392-172A-03015(1).

Consent for Reevaluation: A district is required to obtain informed parental consent before conducting any assessments as part of a reevaluation of a student eligible for special education services. 34 CFR §300.300(c); WAC 392-172A-03000(3).

Reevaluation Not Required: If a parent refuses to provide consent for a reevaluation, the district may, but is not required to, pursue the reevaluation by using due process procedures to override consent or mediation to obtain an agreement from the parent. The district does not violate its

child find obligations or the reevaluation procedures if it declines to pursue reevaluation. 34 CFR §300.300(c); WAC 392-172A-03000(3)(b)-(c).

## **FINDINGS OF FACT**

### **Student A**

1. At the start of the 2023–24 school year, Student A was eligible for special education services under the category of speech and language impairment, was in the fourth grade, attended a District elementary school, and Student A’s January 2023 IEP was in effect.

The January 2023 IEP provided Student A with 30 minutes a week of specially designed instruction (SDI) in speech in a special education setting, to be provided by a speech language pathologist (SLP).

2. The Parent’s complaint request read, in part:  
Student A has been homeschooled since around Nov/Dec 2023. The school district has refused to give Student A part-time enrollment...[they have] said that they do not provide it for elementary school student[s]...At this moment Student A has not been provided any service since November 2023.
3. On November 21, 2023, the Parent emailed the District several completed forms: a Declaration of Intent to Provide Home-Based Instruction for School Year 2023–24, and a Washington Homeschool Organization form.

The latter form read, in part, “I, Parent, hereby withdrawn Student A from the District effective November 20, 2023. We will be keeping the following classes/ancillary services: speech therapy.”

4. According to the District, “Following Thanksgiving break, staff was unclear whether Parent wanted Student A to continue her SLP services as an ancillary service via remote SLP services, in-person services, or potentially at the District’s...Parent Partnership location, where homeschoolers could receive ancillary services.”
5. The SLP log included the following entry for November 30, 2023, “SLP was out on personal leave and unable to facilitate therapy with Student A.”
6. According to December 2023 emails:
  - On December 3, 2023, the Parent emailed the District a signed statement that read, “I, Parent, hereby withdrawn Student A from the District effective November 20, 2023. We will be keeping the following classes/ancillary services: speech therapy, science, PE, and reading.”
  - On or about December 13, 2023, the Parent provided the principal with two forms entitled, “Part-Enrollment/Ancillary Service Requested.”
  - On December 12, 2023, the SLP emailed the Parent, stating, “Given our current schedule, we have availability on Thursdays or Fridays between 10:45 AM and 12:30 PM for Student’s 30 minute [SLP] session.” The Parent’s responsive email appeared to propose the following time for the Student’s SLP session: “Friday [at] 12:10 PM.”

- On December 15, 2023, the SLP proposed “add[ing] 10 minutes to each [SLP] session...until the [SLP time] missed [in the first part of November 2023] is made up.”
  - On December 27, 2023, the Parent requested a different SLP be assigned to work with the Student.
7. According to the District, “Following winter break, [a different individual] was assigned as Student A’s SLP and case manager: [SLP 2].”
  8. On January 26, 2024, Student A’s IEP team developed a new annual IEP for Student A. The IEP contained the same amount of speech services as the previous IEP.

According to the District, “The team agreed that Student A would access her SLP services remotely with sessions with SLP 2.”

9. According to the District, on or about January 29, 2024, it reiterated to the Parent it “was offering Student A 120 minutes of make-up SLP services, [to be provided] over the rest of the school year.”
10. On January 30, 2024, SLP 2 emailed the Parent, informing the Parent she had the option of “bringing Student A to school or having Student A complete weekly zooms” to access her speech SDI. SLP 2 wrote, “As of right now, I have Student A scheduled for Thursday mornings from 11 – 11:30. You can bring her into [the building] or she can zoom, [using the zoom link provided below].”
11. The SLP log included the following entry for February 1, 2024, “[On] January 30, 2024 [the] time and day [was] set up [for the provision of Student A’s SLP services.] Parent acknowledged and chose zoom as [the] delivery method.”
12. According to the SLP log, between February 8 and April 29, 2024, the Student “did not attend” approximately 11 SLP sessions.
13. According to February 2024 emails:
  - On February 1, 2024, SLP 2 stated she attempted to provide SDI to Student A but “it turned into a 5-10 minute venting sessions from Parent”, and at one point, the Parent stated she “was not [going to] allow Student A to be seen.”
  - On February 5, 2024, SLP 2 emailed the assistant director, stating, “I have a standing calendar invite for Student A’s Thursday 11 AM zoom. This shows up on Parent’s calendar as well each week.”
  - On February 6, 2024, the assistant director emailed the Parent, in regard to the February 1, 2024 Zoom with SLP 2, stating, “If you choose to use the speech service time for anything other than speech services for Student A, SLP 2 will discontinue the call [and we would then] need to withdraw our option of Zoom speech services and instead offer only in-person speech services.”
14. According to the District, “Student A did not appear for the February 8, 2024 SLP session. Nor did Parent make Student A available for any subsequent SLP sessions offered by the District...I have a standing calendar meeting for every Thursday that includes Parent and Student A.”

15. On March 18, 2024, SLP 2 emailed the assistant director, stating, "I have not heard from Parent and there have been no attempts [for Student A] to attend our scheduled zoom sessions."

### **Student B**

16. In October 2022, the District completed a reevaluation of Student B. According to the District, "Based upon the October 2022 reevaluation, Student B was...eligible for special education in reading, written language, mathematics, and social/emotion/behavior skills, with the related service of communication."

The October 2022 reevaluation noted Student B had a "seizure disorder" and "a sleep disorder." The October 2022 reevaluation read, in part:

Behavior Assessment System for Children, 3<sup>rd</sup> Edition...Student B may be experiencing issues with mood and anxiety. It also implies that she engages in behaviors that are hard to explain given her current context, and that she tends to escape or shut down when faced with difficulties. These findings are in contrast to teacher reports, that she is active and engaged in class, and that she is open, pleasant for others to be around, and even helpful in class.

17. In August 2023, the Parent had Student B evaluated by a private neuropsychologist. The resulting report read, in part:

Student B demonstrated the characteristic 'peak and valleys' in her neuropsychological profile that are often associated with an early history of acquired brain injury and epilepsy. The effects of epilepsy on development and functioning often translate into a limited capacity for new learning, an uneven skill profile, and frequent fluctuations in performance. As such, day to day performance, even of activities of daily living, is less predictable...[My results do] not necessarily indicate invalidity of the school's [October 2022] evaluation results...Treatment with antiepileptic medications can have a significant negative effect on physical stamina as well as mental endurance...Student B meets criteria for a diagnosis of a Major Neurocognitive Disorder.

...

Parents and teachers may underestimate the mismatch between increasing expectations and limited available energy. Students with epilepsy often need more sleep, rest, and downtime, and perhaps a nap after school. They also have a much harder time catching up after school absences due to limited energy. It is important to avoid pushing beyond personal limits to the point of diminishing returns.

...

**Recommendations...**Waning mental endurance may be observed over the course of a day and/or over the course of the school week. As such, consideration should be given to a shortened school day or a reduced school week. Modifications to the school schedule may include a late start...a rest or study period in the middle of the day, and/or not attending school on Wednesdays. Shorter learning periods, more frequent breaks in instructional time, breaking assignments down into small, manageable steps [should also be considered].

18. At the start of the 2023–24 school year, Student B was eligible for special education services under the category of other health impairment, was in the tenth grade, attended a District school, and Student B's October 2022 IEP was in effect.

19. On October 4, 2023, Student B's IEP team developed a new IEP for Student B.

According to the District, both the Parent and the private neuropsychologist took part in the October 4, 2023 IEP meeting, and the August 2023 report by the private neuropsychologist was discussed.

The October 2023 IEP stated the Student was to have a total of 1,154 minutes in a *general education setting* and a total of 631 minutes in a *special education setting*.

In its response, the District stated, "The team agreed Student B would access a full-day...There was no request by Parent or the private neuropsychologist for Student B to attend [the high school] on a parttime schedule."

20. The Parent's complaint request read, in part:

Student B was diagnosed with a new medical condition of a neurocognitive disorder by her neuropsychiatric [doctor] and the doctor even attended her IEP meeting in late October 2023 and gave District staff a whole medical summary describing her condition and how it can affect her academics...Currently I have given them several medical notes to excuse her for medical leave for the whole year by her neurologist due to her neuropsychiatric retiring and they won't honor them...[The District has requested a release of information to permit them to speak with the neuropsychiatrist and] I have refused [this request, as] I can get them any information they need...They have harassed Student B with truancy due to her absences due to her new medical condition...I want Student B's medical leave to be honor[ed] [by the District] for the whole [school] year, [as] request[ed] by her doctor.

21. On October 19, 2023, the Parent informed District staff that Student B had experienced a seizure that morning.

22. The District's response read, in part, "Student B never physically returned to [school] after November 3, 2023."

23. According to emails, on several occasions in early November 2023, the Parent emailed District staff, stating Student B would be absent and that she should be excused.

24. According to December 2023 emails:

- A Zoom meeting took place, including the Parent, on December 12, 2023. Student B's attendance and Washington state truancy rules were discussed during that meeting.
- As of December 13, 2023, Student B had "missed about 50% of school days."
- On or about December 13, 2023, the Parent provided the District with certain "medical documentation" that showed Student B was "currently receiving care for her medical needs." (Upon knowledge and belief, the foregoing "medical documentation" was referred to as a "blanket letter" by the secondary education director.)

- On or about December 15, 2023, a District staff member likely handed off Student B's Chromebook to the Parent, to permit Student B to access certain educational services.

25. According to January 2024 emails:

- On January 3, 2024, the Parent stated, "I will not sign off [on] any release of information for the school to communicate with the neurologist." On this date, the Parent also provided the District with a letter from a children's medical provider that read, "Please excuse her from school until mid-January, 2024. Please help family with the potential for online learning."
- On January 10, 2024, the nurse wrote an email that read, in part, "I did leave a message with the neurologist...I did not request health information as Parent refuses to complete an exchange of information form. Instead, I requested guidance on how to medically support a student at school who has missed nearly 50 days of school."
- On January 17, 2024, the Parent emailed several District staff, stating, in part, "Student B is still on medical leave from her doctor. She [is] still under doctor supervision."
- On January 26, 2024, the case manager emailed the Parent, stating there were four options for providing services to Student B, moving forward: online schooling; home/hospital; in-person; or, "parttime at [the school] with Pearson Connexus courses to fill in the missing classes due to parttime status."

26. A January 9, 2024 letter from the children's medical provider read, in part, "I had the pleasure of seeing Student B. Please excuse her from school for the remainder of this school year based on medical concerns."

27. The Student's IEP team met on January 25, 2024. A January 25, 2024 PWN read, in part:

I asked if there was a new diagnosis and Parent stated that the information I was requesting was in the medical report given to the school for Student B's reevaluation meeting [in] October 2022, which stated [the presence of a] seizure disorder and neurocognitive disorder.

I mentioned to Parent that given Student B's current medical conditions, we need to look at alternate ways to meet her educational needs. [The District presented] 3 options: virtual academy (totally online schooling with minimal teacher support), home/hospital (Student B would be provided a liaison for up to 3 hours per week)...or return to [the] high school. A fourth option was brought to the table...shortened in-person schedule (classes with SDI) and then Pearson Connexus which could be completed off campus.

...

Parent has reached out to Student B's doctor to determine the best method for [her] receiving her instruction and is waiting to hear back. Parent will get back to the team by 1.30.24 or 1.31.24.

28. According to February 2024 emails:

- On February 7, 2024, the Parent emailed the District a letter from Student B's private doctor that read, in part, "Please allow Student B to do online school. Please be aware that she may not be able to do school work based on her medical needs at times."
- On February 7, 2024, the executive director of student supports emailed the Parent two links with information on the District's virtual program. That email read, in part, "Please get started with the Inquiry Form on the registration page" for the virtual program. The executive director also wrote, "The District declines to [change Student B's placement at this time]. The District

previously received a doctor's note, dated 1.9.24...Neither doctor note identifies the reason for the doctor's recommendation...The District is requesting an ROI with the appropriate doctor in order to ensure that all academic programming changes are appropriated for the diagnosed condition. The District will continue the current programming at [the] high school."

- On February 8, 2024, the Parent emailed the case manager, stating, in part, "Student B's doctor want[s] her to be online with some caution."

29. A March 1, 2024 letter from the Student's medical provider reads, in part, "Student B was seen in my clinic on March 1, 2023 at 12:20 PM. She continues in our care in Pediatric Neurology. Based on her medical needs please excuse her from missing school."

30. According to a March 19, 2024 email, the Parent refused to provide a release of information, and stated the District had "all [that it] needs" regarding Student B's medical condition.

31. The District's response read, in part:

On April 8, 2024, the assistant principal spoke with the Parent over the phone...[They] spoke about Student B completing her health course through the District's Pearson Connexus Program, which allowed online access to [high school] courses. The assistant principal told Parent that as soon as Student B completed her current class – [the] health [course was] 85% complete – Student B could then move on to other classes. The following day, the assistant principal emailed Student B and encouraged her to work on her Pearson assignments [but] Student B did not respond.

## CONCLUSIONS

### Student A

**Issue: IEP Implementation** – The Parent alleged the District did not follow proper procedures for implementing the Student's IEP beginning November 20, 2023.

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.

Here, the January 2023 IEP provided Student A with 30 minutes a week of SDI in speech in a *special education setting*, to be provided by an SLP.

Between November 21 and mid-December 2023, the Parent submitted various enrollment-related documents to the District. Some of these documents suggested the Parent wanted to disenroll Student A entirely; other documents suggested the Parent wanted to part-time enroll Student A. In a December 2023 email, the executive director offered a third possibility: for Student A to participate in the District's online program, which would have represented fulltime enrollment in the District. Ultimately, it was understood by both parties, as of mid-December 2023, that the Parent still wanted Student A to be able to access the speech SDI detailed in her January 2023 IEP.

Students who are home schooled are entitled to enroll part-time in their resident district for any course, activity, or ancillary service provided by the district in addition to the home school instruction. A student whose parents elect to enroll him/her part-time in their resident school district in order to receive special education and/or related services is served through an IEP and is counted for federal and state special education reimbursement. If a student is part-time enrolled, and wishes to access a course, activity, or ancillary service provided by the district, the district does not need to alter its general schedule of services to accommodate that particular student. For example, if SLP services at an agreed upon location are available 9 am–2 pm on Tuesday, the SLP is not required to provide speech services to a part-time enrolled student at 3:30 pm on Tuesday.

Here, the District collaborated with the Parent regarding the provision of speech SDI to Student A. For example, in December 2023 and January 2024, the District was responsive to the Parent's input regarding the individual best suited to provide that service and switched the SLP working with the Student. On January 30, 2024: SLP 2 emailed the Parent, informing the Parent she had the option of "bringing Student A to school or having Student A complete weekly zooms" to access her speech SDI; the District informed the Parent it stood ready to provide Student A with her speech SDI on Thursday mornings from 11 through 11:30 am; and Parent opted for the Zoom format. Between February and March 2024, though, the Student did not attend the speech SDI at the agreed-upon time. The foregoing represents proper part-time enrollment scheduling procedures and OSPI finds the District offered and made available speech services. OSPI does not find a violation of the IDEA.

### **Student B**

**Issue: IEP Development (Shortened School Day)** – The Parent alleged the District did not follow proper IEP development procedures beginning October 2023. Specifically, the Parent alleged Student B required a shortened school day, and Student B's IEP team failed to provide Student B with the same.

An IEP team's decisions must be based on a student's needs resulting from that student's disability. An IEP team should base its decisions on appropriate programming for a student on sufficient, relevant data on the student's needs resulting from the student's disability.

Students who receive special education should be allowed to participate in a district's educational programs and services to the same extent as their non-disabled peers, consistent with their rights under IDEA. Any decision to limit or restrict their access and participation must be made by their IEP team, based solely on any adjustments necessary due to their disability and/or unique needs. If a student receiving special education services cannot attend school a full school day, the reason must be documented in his or her records and addressed in the student's IEP.

Here, the District conducted a reevaluation of Student B in October 2022. The October 2022 reevaluation did include some information regarding Student B's ability to attend a full day of school. For example, the October 2022 reevaluation noted Student B had both a "seizure disorder"

and “a sleep disorder.” It also noted Student B “tends to escape or shut down when faced with difficulties,” though teachers reported Student B was “active and engaged in class.”

In August 2023, the Parent had Student B evaluated by a private neuropsychologist, and the related report was provided to the District. The August 2023 report noted Student B had “an early history of acquired brain injury and epilepsy, explained that said diagnoses had “a significant negative effect on [Student B’s] physical stamina [and] mental endurance”, and recommended “consideration [of] a shortened school day or reduced school week.”

In October 2023, Student B’s IEP team developed a new IEP for Student B. Said IEP provided for Student B to attend a full day of school.

According to the District’s response, Student B stopped attending school in person November 3, 2023.

Between December 13, 2023 and March 1, 2024, the Parent provided the District with approximately five letters authored by a private medical provider<sup>1</sup>, asserting that Student B was under the provider’s medical care, and that Student B’s attendance should be excused. The foregoing letters did not provide detailed information on the nature of the medical care being provided to Student B. During this same date range, the Parent refused to provide the District with a release of information for either the private medical provider or the private neuropsychologist.

On January 26, 2024, following an IEP meeting, the case manager emailed the Parent, stating there were four options for providing services to Student B, moving forward: online schooling; home/hospital; in-person; or, “parttime at [the school] with Pearson Connexus courses to fill in the missing classes due to parttime status.” On February 7, 2024, though, the executive director emailed the Parent:

The District declines to [change Student B’s placement at this time]. The District previously received a doctor’s note, dated 1.9.24...Neither doctor note identifies the reason for the doctor’s recommendation...The District is requesting an ROI with the appropriate doctor in order to ensure that all academic programming changes are appropriated for the diagnosed condition. The District will continue the current programming at [the] high school.

In light of the foregoing, OSPI states the District did have some information regarding the fact that Student B’s needs resulting from her disability may have required a shortened school day, namely the August 2023 private neuropsychological report. This report appears to be sufficiently comprehensive, and comprised of reliable assessments.

It would make sense, though, that the District would want additional information from the other private medical provider or more information about the Student’s potential disability related need for a shortened day or alternative special education placement. As detailed above, the five letters

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<sup>1</sup> This was a different private medical provider than the private neuropsychologist that completed the August 2023 report.

authored by the private medical provider between December 13, 2023 and March 1, 2024, did not include detailed information on the nature of the medical care being provided to Student B or a clear recommendation on how educational services could be provided, as the letters primarily stated that Student B should be “excused” due to medical concerns.

Ultimately, it is a district’s responsibility to be prepared to offer and provide FAPE to a student. Here, Student B stopped attending school on November 3, 2023, and as early as December 13, 2023, the District was aware Student B was receiving medical treatment from the private medical provider. And as early as December 13, 2023, it was clear there were concerns about the Student’s attendance. But it does not appear the District began to explore whether alternative methods of providing instruction would be appropriate for the Student based on her disability until late January 2024, or articulated a clear assertion of what it currently considered FAPE for Student B to be until February 7, 2024, when the executive director emailed the Parent, stating, “The District will continue the current programming at [the] high school.” Although, on February 7 and April 8, 2024, the District also provided the Parent with information on how she might enroll Student B in the District’s virtual classroom. While OSPI understands with the District’s desire to obtain more information from the Student’s medical providers, the foregoing represents an improper delay in responding to a potential change in need resulting from Student B’s disability, and a violation of the IDEA.

To address this violation, the District will be required to undertake certain actions:

- Provide the Parent with a prior written notice that clearly identifies its current understanding of what programming represents FAPE for the Student and documents proposed next steps to address the Student’s special education needs, including whether a change in placement should be considered by the IEP team.
- The District’s group of qualified professionals must determine whether a reevaluation of Student B is warranted, and if so, in which areas, and/or which assessments needs to be administered.<sup>2</sup> If the District’s group of qualified professionals determine a reevaluation is warranted, then the District must seek consent for the same.<sup>3</sup>

### **CORRECTIVE ACTIONS**

By or before **June 21, 2024** and **June 28, 2024**, the District will provide documentation to OSPI that it has completed the following corrective actions.

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<sup>2</sup> A school district must ensure that a reevaluation of each student eligible for special education conducted when the school district determines that the educational or related services needs, including improved academic achievement and functional performance of the student warrant a reevaluation.

<sup>3</sup> A district is required to obtain informed parental consent before conducting any assessments as part of a reevaluation of a student eligible for special education services. If a parent refuses to provide consent for a reevaluation, the district may, but is not required to, pursue the reevaluation by using due process procedures to override consent or mediation to obtain an agreement from the parent. The district does not violate its child find obligations or the reevaluation procedures if it declines to pursue reevaluation.

**STUDENT SPECIFIC:**

**Student B**

**Issuance of Prior Written Notice Detailing Current Understanding of FAPE**

By or before **June 21, 2024**, the District will provide the Parent with a prior written notice that clearly identifies its current understanding of what programming represents FAPE for the Student and documents proposed next steps to address the Student's special education needs, including whether a change in placement should be considered by the IEP team.

**Determination of Whether Reevaluation Warranted**

The District's group of qualified professionals must determine whether a reevaluation of Student B is warranted, and if so, in which areas, and/or which assessments needs to be administered. If the District's group of qualified professionals determine a reevaluation is warranted, then the District must seek consent for the same.

By or before **June 28, 2024**, the District will send OSPI all related documentation, including a prior written notice summarizing the decisions made, and reasons for the same.

**DISTRICT SPECIFIC:**

None.

The District will submit a completed copy of the Corrective Action Plan (CAP) matrix, documenting the specific actions it has taken to address the violations and will attach any other supporting documents or required information.

Dated this 10th day of June, 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.)