

SPECIAL EDUCATION COMMUNITY COMPLAINT (SECC) NO. 24-64

PROCEDURAL HISTORY

On April 29, 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 University Place 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 April 29, 2024, OSPI acknowledged receipt of this complaint and forwarded a copy of it to the District superintendent on April 30, 2024. OSPI asked the District to respond to the allegations made in the complaint.

On May 24, 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 May 9, 2024, OSPI received additional information from the Parent. As this information was included in the District's response, provided to OSPI on May 24, 2024, OSPI did not forward a copy to the District.

On June 6, 2024, OSPI received the Parent's reply. OSPI forwarded that reply to the District on June 20, 2024.

OSPI considered the 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 with the start of the 2023–24 school year, per the allegations in the complaint. These references are included to add context to the issue under investigation and are not intended to identify additional issues or potential violations, which occurred prior to the investigation period.

ISSUE

1. Beginning with the 2023–24 school year, did the District follow proper individualized education program (IEP) development procedures in responding to any change in need in behavior resulting from the Student's disability?

LEGAL STANDARDS

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.

IEP Revision: A student's IEP must be reviewed and revised periodically, but not less than annually, to address: any lack of expected progress toward annual goals or in the general education curriculum; the results of any reevaluations; information about the student provided to, or by, the parents; the student's anticipated needs; or any other matters. 34 CFR §300.324(b); WAC 392-172A-03110(3).

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.

Components of IEPs: IEPs must include a statement of the student's measurable annual goals, including academic and functional goals designed to: meet the student's needs that result from the student's disability so that he or she can be involved in and make progress in the general education curriculum. An IEP should also detail the special education services, related services, and supplementary aids to be provided to the student to permit the student to make progress on the IEP goals. 34 CFR §300.320; WAC 392-172A-03090.

Shortened School Days: Students who receive special education and related services must be allowed to participate in a school district's educational programs and services, such as a full day of school, to the same extent as their non-disabled peers. A decision to shorten a school day should be rare and based on the student's unique needs. An IEP team that does agree to provide a student with a shortened school day is encouraged to consider including a systematic and data driven plan in the IEP to gradually increase the student's time at school, monitor the student's progress, regularly check in with IEP team, and return the student to a full school day. *Tips from the Special Education Division: Shortened School Days (OSPI).*

Districts should not use a shortened school day as a substitute for positive behavior strategies and supports or a behavioral intervention plan (BIP). Instead, an IEP team should consider developing an IEP that includes a BIP that describes the use of positive behavioral interventions, supports, and strategies reasonably calculated to address the student's behavioral needs and enable the student to participate in the full school day. *Tips from the Special Education Division: Shortened School Days (OSPI).*

Positive Behavioral Interventions: Positive behavioral interventions are strategies and instruction that can be implemented in a systematic manner in order to provide alternatives to challenging behaviors, reinforce desired behaviors, and reduce or eliminate the frequency and severity of challenging behaviors. Positive behavioral interventions include the consideration of environmental factors that may trigger challenging behaviors and teaching a student the skills to manage his or her own behavior. WAC 392-172A-01142.

Functional Behavioral Assessment (FBA) and Behavioral Intervention Plan (BIP): An FBA focuses on identifying the function or purpose behind a child's behavior. Typically, the process involves looking closely at a wide range of child-specific factors (e.g., social, affective, environmental). Knowing why a child misbehaves is directly helpful to the IEP team in developing a BIP that will

reduce or eliminate the misbehavior. *Questions and Answers on Discipline Procedures* (OSERS June 2009) (Question E-2). The FBA process is frequently used to determine the nature and extent of the special education and related services that the child needs, including the need for a BIP, which includes behavioral intervention services and modifications that are designed to address and attempt to prevent future behavioral violations. *Letter to Janssen*, 51 IDELR 253 (OSERS 2008); WAC 392-172A-01031. An FBA and BIP must be used proactively. *Questions and Answers on Discipline Procedures* (OSERS June 2009) (Questions E-1 and E-2).

Continuum of Alternative Placement Options: Each school district shall ensure that a continuum of alternative placements is available to meet the special education and related services needs of students. The continuum required in this section must: include the alternative placements listed in the definition of special education in WAC 392-172A-01175, such as instruction in general education classes, special education classes, special schools, home instruction, and instruction in hospitals and institutions; and make provision for supplementary services such as resource room or itinerant instruction to be provided in conjunction with general education classroom placement. 34 CFR §300.115; WAC 392-172A-02055.

FINDINGS OF FACT

Background Information

1. According to the Parent, in March 2022, the Student “was diagnosed with Severe Selective Mutism¹ and Severe Social Anxiety Disorder.”
2. In September 2022, the Parent provided a private neuropsychological report to the District. It read, in part:

Student present[s] with inattention, academic underachievement, selective mutism, and social anxiety...He was generally able to demonstrate good attention and concentration in the quiet, highly-structured context of the testing environment. I suspect that he will be significantly more inattentive due to anxiety in the context of a noisy, busy classroom...He will have challenges with...processing information rapidly...spatial tasks...cognitive flexibility, [and] social perspective taking skills...At present, I suspect that his functional social skill difficulties are primarily attributable to longstanding and undertreated social anxiety and selective mutism, rather than to any underlying autism spectrum disorder.

...

Recommendations...An immediate referral for psychiatric treatment to [address] his severe social anxiety and selective mutism...Individual therapy that focuses on managing anxiety and frustration...Student should avoid multitasking [and] distractions...A clear and consistent behavior plan should be immediately established...to assist Student with managing anxiety, selective mutism, and frustration, and have an emphasis on building age-appropriate responsibility and insight into the triggers for his anxiety.

¹ “A child or adult with selective [is] literally unable to speak [in certain situations]. The expectation to talk to certain people triggers a freeze response with feelings of anxiety and panic, and talking is impossible.” <https://www.nhs.uk/mental-health/conditions/selective-mutism/#:~:text=A%20child%20or%20adult%20with,panic%2C%20and%20talking%20is%20impossible.>

3. The Student was referred to the District for potential special education eligibility on or about September 27, 2022.
4. The District completed an initial evaluation of the Student on November 15, 2022.

The District's group of qualified professionals found the Student eligible under the category of emotional behavioral disability. The November 2022 initial evaluation report recommended the Student be provided with specially designed instruction (SDI) in the following areas: math; social-emotional-behavioral (SEB); and written language.

The November 2022 initial evaluation report included, in part:

- A review of existing data, including, in part: the September 2022 private neuropsychological report; teacher reports; and,
- The administration of several assessments, including, in part: the Behavior Assessment System for Children; and the Woodcock-Johnson IV-Tests of Achievement.

The November 2022 initial evaluation report detailed that the Student struggled, in part, with attendance. The November 2022 initial evaluation report read, in part:

As Student's anxiety prevents him from speaking in class to teachers, his written expression is the only way that he can demonstrate what he knows in addition to selection from multiple choice items. Student's struggles to write a complete sentence in response to a writing prompt, and seems to demonstrate challenges making a compound sentence. Student will benefit from a sentence model as well as other visuals to indicate how to write a compound sentence, and how to joining two sentences together in one sentence.

...

SEB...In terms of social emotional specially designed instruction the team may wish to consider his significant withdrawal and social skill challenges evident in his BASC -3 results and remarked upon in his clinical report. Finding ways for Student to engage more with others, for example, writing an answer to a teacher's question will be helpful to reduce anxiety and strengthen his ability to interact with others. In addition, Student may benefit for instruction in his social skills which at the time are very compromised by his selective mutism. Lastly, the team may wish to consider how to address his avoidance of the school environment to escape social stimulus and completion of work.

5. A November 15, 2022 prior written notice read, in part:
Student's BASC-3 results indicate that the following scores are Clinically Significant in the school setting: Withdrawal, Adaptability, Social Skills, Leadership, Study Skills, Functional Communication, and Adaptive Skills. It should be noted...Student does not demonstrate as much of his symptomatology at home in terms of social anxiety and selective mutism as he is not exposed to the same stressors at home. At home, he can control his environment and avoid his stressors. Unfortunately, this leads to excessive absences that impact his progress academically.
6. The Student's annual IEP was amended in April 2023. According to the District, the purpose of this amendment was to "reduce the minutes [of] services, as Student was having difficulty attending school and [had] demonstrated suicidal ideation."

The Student's April 2023 amended IEP provided the Student with the following SDI in a *special education setting* through December 11, 2023:

- Math: approximately 4.5 hours a week (to be provided by a special education teacher)
- Social-Emotional-Behavior: 50 minutes a week (to be provided by a special education teacher)
- Written Language: approximately 3.5 hours a week (to be provided by a special education teacher)

The April 2023 amended IEP included the following goals:

- SEB: ability to respond in writing to instructional questions or discussions.
- Writing: ability to write an academic paragraph when presented with a writing prompt.
- Math: ability to "manipulate fractions and solve for accuracy."

An April 2023 prior written notice read, in part:

Student's eligibility of Emotional Behavioral Disability is greatly impacting his ability to arrive at school. His social anxiety, depression, and recent suicidal ideation has debilitated Student that he requires his parents wake him up every morning, however at this point they are unable to get him to leave the house. Student currently has over 20 consecutive absences.

Two options were presented to Student at home that the team agreed upon during the meeting. Student chose option one which is:

1. Student will return to campus with a truncated schedule, attending periods 4, 5, and 6. He would receive his math services during the fourth period, science class fifth period, and social, emotional, behavioral services for 15 mins in the sixth period, with the remaining minutes served in ELA.

Option two was rejected:

2. Student will be moved to home hospital in order to access his education. Teachers will prepare his work and a home hospital teacher will deliver and provide instruction to Student at his home.

...

The reason option two was rejected was due to the team, including Student felt that option two would impact Student even more and that being on campus was the best environment for Student.

7. According to a written, signed statement by the special services coordinator, following the April 2023 IEP meeting, the "Student attempted to come to school. He would attend for a day or two, then get overwhelmed and return to a pattern of absences."
8. According to the Parent, in June 2023, the Student experienced an increase in need resulting from the Student's disability in the area of anxiety.

2023–24 School Year

9. The District's 2023–24 school year began on August 29, 2023.

10. At the start of the 2023–24 school year, the Student was eligible for special education services under the category of emotional behavioral disability, was in the eleventh grade, attended a District high school, and the Student’s April 2023 amended IEP was in effect.
11. According to the Parent’s complaint request, during the 2023–24 school year, the Student was “not...able to attend the in-person part of his school [program at various points because of the needs resulting from the Student’s disability]” and the District did “not develop a behavior support plan” for the Student.

The Parent’s complaint request further read, “Student [received] counseling for severe depression due to struggles with his disabilities [throughout the 2023-2024 school year].”

The District’s response read, in part:

Student historically had difficulty with attending...school [due] to his sleep difficulties, social anxiety, and selective mutism...Parent has reported that he will actually have stomach cramps, headaches, and insomnia [because of his] anxiety [about] going to school. These are physical symptoms and not behaviors that the District can modify. The District cannot develop an FBA to ensure Student does not get a stomachache or [that he] will [be able to] sleep at night.

12. The special services coordinator’s written statement read, in part, “Student attended the first two weeks of the 23-24 school year with decent attendance, but quickly returned to prior patterns...Student was tardy for the first period every day from August 31 through September 18...He was then excused for illness from September 21 through the end of October.”
13. The Student’s IEP team met on November 13, 2023. A related prior written notice read, in part: It was agreed upon that Student will shorten his schedule on a trial basis to four periods a day. Student will attend on campus classes for periods 1-4 and still partake in his Apex courses...In order to increase Student’s attendance, the team has decided to shorten his schedule until his next annual IEP meeting which is scheduled for December 5, 2023.
14. The Student’s IEP team developed a new annual IEP for the Student on December 5, 2023.

The Student’s December 2023 IEP provided the Student with the following SDI in a *special education setting* through December 4, 2024:

- Math: approximately 3.5 hours a week (to be provided by a special education teacher)
- Social-Emotional-Behavior: 100 minutes a week (to be provided by a special education teacher)
- Written Language: approximately 3.5 hours a week (to be provided by a special education teacher)

The December 2023 IEP included the following goals:

- SEB: ability to improve attendance rate.²

² Specifically, the goal read, “By 12.4.24, when given the opportunity to attend school, Student will arrive to each class on time, improving attendance rate from 32.3% in a 12 week period, to 75% in a 12 week period, as measured by attendance data.”

- Writing: ability to “write fluently and accurately improving...from 21 correct words per minute to 40 correct words per minute.”
- Math: ability to “solve math equations improving math...skills from 8 in 10 minutes to 17 in 10 minutes.”

A December 5, 2023 prior written notice read, in part, “Student has also been on a trial of a shortened schedule, the team agreed to continue with the shortened schedule, which will look like Student attending periods 1-4 for a total of 1,350 minutes on campus.”

15. According to the attendance data included in the District’s response, between December 5, 2023 and April 30, 2024, the Student was absent on approximately 70 occasions.
16. On January 19, 2024, the Parent emailed the special services coordinator, stating, “Student has only attended a few days over the last several weeks in school.” The Parent mentioned the Student’s IEP services were meant to address “severe school anxiety which manifests as school avoidance.”
17. The Student’s IEP team met on February 26, 2024. A related prior written notice read, in part:

The team agreed on the following:

A referral will be put into District Office for Student to join Grad Alliance. He will receiving [SDI] for written language on the google video platform. Then Student will arrive on campus...for 5th and 6th period, where he will receive [SDI] in math and social emotional.

The reason we are proposing or refusing to take action is: The team is proposing this action because Student has not been attending school on a regular basis. He currently has 97 recorded absences for this school year. Student and his mom report that his social anxiety and depression have been unmanageable and causing him to not be able to attend school. It is also reported that Student becomes over stimulated in high social environments and that looks like a group of 4 or more people.
18. According to the special services coordinator, on or about February 26, 2024, “the IEP team agreed Student would access his general education coursework on the District’s online platform, provided by Graduation Alliance...to be completed at [Student’s] own pace.”³
19. According to the special services coordinator, the Student enrolled in Graduation Alliance on March 14, 2024, and:

Initially, Student responded well. However, he reverted to increased absences. Student had a pattern since April 2023 wherein the team would attempt to adjust his schedule several times to better meet his needs. For example, the team adjusted his schedule to coordinate with a lunch period, where he would meet friends and socialize. The team also adjusted his schedule to reduce transitions and fewer opportunities for crowds. However, the responsive adjustments did not ultimately change the pattern of a few days of attendance followed by significant absences. The same applied with the change to Graduation Alliance and in-person special services.

³ The special services coordinator described Graduation Alliance as follows, “Students take up to three classes online and each course is intended to take approximately three weeks to complete. [The program] also provides access to an advocate, coordinator, and an academic coach.”

[Regarding the provision of the Student's special education services, around this time], the IEP team agreed to offer Student's [SDI in] written expression via Google Meet...and Student [was to continue to] attend social emotional [SDI] and math [SDI] in-person...Even with [some SDI] services online, Student did not log in an rarely attended the in-person classes.

20. A District staff person authored a March 29, 2024 email that read, in part, "The paperwork indicates Student will be on campus in 2 sped classes per day [and] Student is also...doing some online sped time."
21. A Graduation Alliance messaging system detailed, as of mid-April 2024, the Student had completed a distinct minority of the assigned materials in both the Fitness for Life class and the Current World Issues class.
22. On April 17, 2024, the special services coordinator emailed the counselor, stating, "I notice Student has not been in school for almost a month and all of the absences have been excused. What documentation has been received to excuse these absences?"

The counselor responded, "To my knowledge, Parent calls in every day and excuses them as mental health days."

23. The Student's IEP team met on April 24, 2024. An April 24, 2024 prior written notice read, in part:

The IEP team proposed to continue Grad Alliance and have Student attend SDI classes in-person...Student is currently making some progress in Grad Alliance.

The team is refusing to have Student continue with online [SDI] in written language because Student has not attended to the online [SDI].⁴ Student is currently not attending special education classes in-person either. At this time, [the] High School no longer offers special education online classes and only offers on-line course through Grad Alliance (general education). Students in special education are required to come in person for services.

...

When a student is on an IEP with service minutes, those said service minutes are to be served on campus because the District no longer provides special education online services.

...

Parent stated she wanted to have Student...transition to full-time Grad Alliance.

24. According to the special services coordinator, on or about April 24, 2024:

I advised Parent that if she was seeking a full-time online program for both general education and special education, there were online schools that did offer both. I referred her to explore [City] Online, Washington Virtual Academy, and Washington Connection.

...

Parent also questioned how to allow Student to continue with Graduation Alliance fulltime with no special education services. I discussed that option with her too, explaining the impact of revocation of special education services.

⁴ In her reply, the Parent stated the Student had some initial difficulty in accessing the online SDI, due to technological challenges with login credentials and the visual display.

The team also discussed an additional evaluation to possibly exit Student from services. The Parent advised that Student...may no longer need special services. The District staff questioned this claim.

...

At present, District is continuing to offer the services as identified in the February 26, 2024 IEP amendment whereby Student continues to access Graduation Alliance but access special education services in the District. Alternatively, the District is offering to meet with the Parent to discuss an early reevaluation.

25. On or about May 3, 2024, the Parent provided the District with a letter from a private pediatrician that read, in part:

The above-named individual is an adolescent under my care. He is known to have selective mutism and severe anxiety, as well as a specific learning disorder...Student struggles especially with groups of more than four individuals and when around authority figures. Because of this, attending school in-person is exceptionally difficult. He has been participating actively in therapy and is receiving appropriate medical treatment.

It is hoped that his school can provide appropriate accommodations such that Student can continue his education in a way that doesn't worsen his experience of anxiety while he receives treatment.

26. On May 13, 2024, the English skills teacher authored an email that stated, "Student understands he will not be earning his diploma this year."

27. On May 26, 2024, the Parent provided the District with certain medical letters related to the Student.

28. The Parent's reply read, in part, "What [is] the District's responsibilities [regarding] school avoidance and fear of school due to Student's disabilities? This...was never addressed."

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

The District is continuing to trial new modalities of instruction and adjusting Student's IEP to try and figure out a way to reach Student. What [the IEP team is] not [going to do], however, is continue a modality that has not worked for Student, by allowing Student to continue not attending his online sessions with the writing teacher...Instead, the District is implementing the February 2024 IEP as written, with Student attending in-person services for his special education needs, as he has at least made attempts to attend in-person.

CONCLUSIONS

Issue 1: IEP Development – The Parent alleged the District did not follow proper procedures during the 2023–24 school year to respond to any change in need in behavior resulting from the Student's disability.

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. Additionally, a student's IEP must be reviewed and revised periodically, but not less than annually, to address:

any lack of expected progress toward annual goals or in the general education curriculum; the results of any reevaluations; information about the student provided to, or by, the parents; the student's anticipated needs; or any other matters.

Here, the Student's IEP team did take several responsive measures in relation to the Student's anxiety and school refusal during the 2023–24 school year. For example, in part: on or about November 13, 2023, the Student was placed on a shortened schedule, "on a trial basis [for] four periods a day"; from approximately early March 2024 through late April 2024, the District provided a portion of the SDI in the Student's IEP in a remote setting⁵; beginning in mid-March 2024, the District permitted the Student to access the general education portion of his services in a remote setting; and on or about mid-March 2024, "the [IEP] team adjusted Student's schedule [so he] would meet friends and socialize [and] the [IEP] team also adjusted his schedule to reduce transitions and fewer opportunities for crowds."

Despite the foregoing measures, there were several responsive steps mandated by IDEA processes that were not taken.

First, in developing an IEP, the IEP team must consider, in part, the results of the most recent evaluation of the student. Here, the District's November 2022 initial evaluation report included three recommendations in relation to the SEB services that should be provided to the Student: (Recommendation 1) empowering the Student to "writ[e] an answer to a teacher's question will be helpful to reduce anxiety and strengthen his ability to interact with others"; (Recommendation 2) "Student may benefit from instruction in his social skills, which...are very compromised by his selective mutism"; and (Recommendation 3) "the team may wish to consider how to address his avoidance of the school environment to escape social stimulus and completion of work." In relation to the IEPs that were in effect during the 2023–24 school year: the April 2023 amended IEP provided the Student with SDI in accordance with Recommendation 1; principally, the SEB goal; but neither the April 2023 amended IEP, nor the December 2023 IEP provided the Student with SDI in accordance with Recommendations 2 or 3. While an IEP team does not necessarily have to follow each and every recommendation in an evaluation report, here, it does not appear the IEP team provided a clear statement regarding why SEB Recommendations 2 and 3, in the November 2022 initial evaluation report, were not needed. In fact, the data available to the Student's IEP team during the 2023–24 school year showed the foregoing services likely would have helped address the Student's social anxiety and school refusal.

Second, it is not clear the IEP team fully considered the use of positive behavioral interventions during the 2023–24 school year. Positive behavioral interventions are strategies and instruction that can be implemented in a systematic manner in order to provide alternatives to challenging behaviors, reinforce desired behaviors, and reduce or eliminate the frequency and severity of challenging behaviors. Districts should not use a shortened school day as a substitute for positive

⁵ The District provided the Student's SDI in writing in a remote setting; the District continued to require the Student to be physically present in the school for his SDI in SEB and math. On or about April 24, 2024, the District required the Student to attend SDI in writing in-person, as the Student had not been accessing the remote SDI writing sessions in a consistent manner.

behavior strategies. Instead, an IEP team should consider developing an IEP that describes the use of positive behavioral interventions, supports, and strategies reasonably calculated to address the student's behavioral needs and enable the student to participate in the full school day.

Third, an FBA focuses on identifying the function or purpose behind a child's behavior. Typically, the process involves looking closely at a wide range of child-specific factors (e.g., social, affective, environmental). Knowing why a child displays certain behavioral needs is directly helpful to the IEP team in developing a BIP that will reduce or eliminate the misbehavior. A BIP includes behavioral intervention services and modifications that are designed to address and attempt to prevent future behavioral violations. FBAs and BIPs must be used proactively. Here, the District should have sought consent to conduct an FBA of the Student during the 2023–24 school year. For example, an FBA could have examined any antecedent conditions contributing to the Student's social anxiety and school refusal. An FBA could have helped identify additional accommodations or services to address anxiety triggers, etc. For example, it is not clear the Student's IEP team considered, during the 2023–24 school year, whether the Student's in-person SDI could have been delivered in either a small group setting or a 1:1 setting.

In general, students who receive special education and related services must be allowed to participate in a school district's educational programs and services, such as a full day of school, to the same extent as their non-disabled peers. The decision to shorten a school day for a student should be rare and based on that student's unique needs. Here, the primary method the District used to address the Student's needs was a shortened schedule. Yet there were several responsive steps mandated by IDEA processes that the District did not take during the 2023–24 school year. Therefore, OSPI finds a violation in the District's response to the Student's need in behavior during the 2023–24 school year.

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

- Provide a training for certain staff on how to properly respond to a student's change in behavioral need resulting from that student's disability;
- Seek consent from the Parent to conduct an FBA of the Student; and,
- Provide the Student with a total of 45 hours of compensatory education: 15 hours in SEB, 15 hours in writing, and 15 hours of math.

CORRECTIVE ACTIONS

By or before **July 12, 2024, July 19, 2024, August 9, 2024, September 30, 2024, November 15, 2024, February 21, 2025, and May 9, 2025**, the District will provide documentation to OSPI that it has completed the following corrective actions.

STUDENT SPECIFIC:

Consent for an FBA

By or before **July 12, 2024**, the Student's IEP team will seek consent from the Parent to conduct an FBA of the Student, to relate, at least in part, to the Student's behavior needs regarding social anxiety and school refusal.

By **July 12, 2024**, the District will provide OSPI with the following documentation: a) any relevant meeting invitations, b) a prior written notice, summarizing the IEP team's discussion and decisions; c) a list of people, including their roles, who attended the meeting; d) the IEP if amended; and e) any other relevant documentation.

Compensatory Education

By or before **July 19, 2024**, the District and Parent will develop a schedule for 45 hours of compensatory education: 15 hours in SEB, 15 hours in writing, and 15 hours of math.

Unless otherwise agreed to by the District and Parent, services will be provided by a certified special education teacher or related service provider. Services may be provided in a 1:1 setting or a group setting, if appropriate. Services will be provided outside the District's school day and can be schedule on weekends, over District breaks, or before or after school. The compensatory services can be provided through a District summer program, if that program will provide specially designed instruction in the Student's areas of service. The District will provide OSPI with documentation of the schedule for services by or before **July 19, 2024**.

If the District's provider is unable to attend a scheduled session, the session must be rescheduled. If the Student is absent, or otherwise does not attend a session without providing the District or provider with at least 24 hours' notice of the absence, the session does not need to be rescheduled. The services must be completed no later than **May 9, 2025**.

The District must provide OSPI with an update on the amount of compensatory services provided to the Student by providing documentation on **November 15, 2024** and **February 21, 2025**, of the compensatory services provided to the Student at that point. This documentation must include the dates, times, and length of each session, and state whether any of the sessions were rescheduled or missed by the Student. By or before **May 9, 2025**, the District must provide OSPI with documentation that it has completed compensatory services for the Student.

The District either must provide the transportation necessary for the Student to access these services or reimburse the Parent for the cost of providing transportation for these services. If the District reimburses the Parent for transportation, the District must provide reimbursement for round trip mileage at the District's privately-owned vehicle rate. The District must provide OSPI with documentation of compliance with this requirement by **May 9, 2025**.

DISTRICT SPECIFIC:

Training

The District, in cooperation and collaboration with a non-District employee (e.g., the ESD or other trainer), will co-develop and jointly conduct a training on the below topics. The District will provide the trainer with a copy of this decision, SECC 24-64.

The following District staff will receive training: the following staff at the Student's 2023–24 school: principal, assistant principal, special education administrators, special education certified staff (teachers), general education teachers who have students with IEPs in their classes, educational

staff associates (ESAs), psychologists, paraeducators, etc. The training will cover the following topic:

- How to properly respond to a student's change in behavioral need resulting from that student's disability.

The training will include examples.

By or before **July 12, 2024**, the District will notify OSPI of the name of the trainer and provide documentation that the District has provided the trainer with a copy of this decision for use in preparing the training materials.

The training will also include post-training implementation activities for staff to demonstrate their learning and the District to support implementation. The District will propose the plan and OSPI will review and provide input. For example, the implementation support could include job-embedded coaching, holding community/parent engagement meetings, additional trainings or development of a training series, exploring policy and procedure revision, development of a District monthly audit to ensure discipline is being properly tracked, etc. By or before **August 9, 2024**, the District will provide OSPI with the training plan and post-training activities for review, input, and approval.

By or before **August 9, 2024**, the District will submit a draft of the training materials for OSPI to review. OSPI will approve the materials or provide comments by August 16, 2024.

By **September 27, 2024**, the District will conduct the training regarding the topics raised in this complaint decision.

By **September 30, 2024**, the District will submit documentation that required staff participated in the training. This will include 1) a sign-in sheet from the training, and 2) a separate official human resources roster of all staff required to attend the training, so OSPI can verify that all required staff participated in the training.

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.

REMINDER

The District's response read, in part, "When a student is on an IEP with service minutes, those said service minutes are to be served on campus because the District no longer provides special education online services" and, "The District does not have an online special education program."

While an IEP team may determine that online special education services are inappropriate for any individual student, based on that particular student's needs resulting from the student's disability, it is inappropriate, as a matter of administrative programming, to state that online special education services are unavailable to any students with IEPs, without consideration of an individual student's disability-related needs.

RECOMMENDATION

An IEP must include a statement of the student’s measurable annual goals, including academic and functional goals designed to meet the student’s needs that result from the student’s disability so that he or she can be involved in and make progress in the general education curriculum. An IEP should also detail the special education services, related services, and supplementary aids to be provided to the student to permit the student to make progress on the IEP goals. Here, the SEB goal in the December 2023 IEP read, “By 12.4.24, when given the opportunity to attend school, Student will arrive to each class on time, improving attendance rate from 32.3% in a 12 week period, to 75% in a 12 week period, as measured by attendance data.” OSPI encourages the Student’s IEP team to ensure all service providers—and the Parent—are aware of the specific SEB skillsets to be addressed in relation to empowering the Student to make progress on this goal.

Dated this 26th 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.)