

SPECIAL EDUCATION COMMUNITY COMPLAINT (SECC) NO. 24-76

PROCEDURAL HISTORY

On May 24, 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 Seattle 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 May 24, 2024, OSPI acknowledged receipt of this complaint and forwarded a copy of it to the District superintendent on May 28, 2024. OSPI asked the District to respond to the allegations made in the complaint.

On June 14, 2024, OSPI received the District's response to the complaint and forwarded it to the Parent on June 17, 2024. OSPI invited the Parent to reply.

On June 28, 2024, OSPI requested that the Parent provide additional information, and the Parent provided the requested information the same day. OSPI forwarded the information to the District on July 1, 2024.

On July 1, 2024, OSPI requested that the District provide additional information, and the District provided the requested information the same day. OSPI forwarded the information to the Parent on July 3, 2024.

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

ISSUES

1. Did the District follow proper individualized education program (IEP) attendance procedures on May 17, 2024?
2. In spring 2024, did the District follow proper IEP development procedures for responding to the Parent's safety plan concerns?

LEGAL STANDARDS

IEP Team: An IEP team must include, in part: not less than one regular education teacher of the student (if the student is, or may be, participating in the regular education environment). 34 CFR §300.321(a); WAC 392-172A-03095(1).

IEP Team Member Excusal: Parents and districts can agree in writing that an IEP team member's participation is not necessary and that the team member may be excused from attending an IEP meeting, in whole or part, if the team member's area of curriculum or related services is not being modified or discussed in the meeting. If the meeting involves a modification to or discussion of the team member's area of the curriculum or related services and the parties both consent in

writing to the excusal of the team member, the excused team member must submit written input into the development of the IEP in prior to the meeting. 34 CFR §300.321(e); WAC 392-172A-03095(5).

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).

Prior Written Notice: Prior written notice ensures that the parent is aware of the decisions a district has made regarding evaluation and other matters affecting placement or implementation of the IEP. The prior written notice should document any disagreement with the parent, and should clearly describe what the district proposes or refuses to initiate. 34 CFR 300.503; WAC 392-172A-05010.

IEP Team Unable to Reach Consensus: The IEP team should work toward consensus, but the district has ultimate responsibility to ensure that the IEP includes the services that the student needs in order to receive FAPE. No one team member has "veto power" over individual IEP provisions or the right to dictate a particular educational program. If the team cannot reach consensus, the district must provide the parents with prior written notice of the district's proposals or refusals, or both, regarding the student's educational program. IDEA, 64 Fed. Reg. 12, 472, 12,473 (March 12, 1999) (Appendix A to 34 CFR Part 300, Question 9). *Ms. S. ex rel. G. v. Vashon Island Sch. Dist.*, 337 F.3d 1115, 1131 (9th Cir. 2003). *See also, Wilson v. Marana Unified Sch. Dist.*, 735 F.2d 1178, 1182-83 (9th Cir. 1984) (Holding that a school district is responsible for providing a student with a disability an education it considers appropriate, even if the educational program is different from a program sought by the parents.)

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.

FINDINGS OF FACT

1. At the start of the 2023–24 school year, the Student was eligible for special education services under the category of autism, was in the sixth grade, attended a District middle school, and his June 2023 amended individualized education program (IEP) was in effect.

In part, the June 2023 amended IEP included the following goals in the area of social-behavior: emotional regulation; pragmatic language; and self-advocacy.¹

In part, the June 2023 amended IEP included the following accommodations: positive reinforcement of appropriate behavior; quiet area for sensory breaks; inform the Student prior to transitions and/or change in routine; use of graphic organizer; reduction of visual distractions; and Student-selected break available.

The June 2023 amended IEP read, in part:

Student's developmental disability of Autism Spectrum Disorder affects his verbal and nonverbal communication and social interaction and inhibits his educational progress. Specifically, his disability adversely affects his capacity to plan, organize, and prioritize his workload and sustain focused attention in class in order to complete assignments within time limits. It also impacts his self-image and his ability to accurately interpret interactions with his peers and demonstrate social problem solving skills. These factors prevent Student from participating in academic instruction and meeting classroom expectations as well as from building and maintaining friendships with his peers.

...

[The special education teacher report] Student does demonstrate a significant amount of worry and fear during the day. This includes finishing work, being embarrassed, transitions, and challenging and/or unfamiliar activities, new or unfamiliar people. These worries do sometime interfere with his work, especially around new or challenging tasks, Student does become easily overwhelmed which can lead to shut down behaviors. This might look like refusal, intense need to escape the task, and occasionally tears. I would like to work with Student on having a clearer understanding of his feelings and behavior, what triggers those feelings and behaviors, and what strategies that work well for Student. I have found that the 5 point scale works well for this, as it is also useful in measuring the size a problem that a student is facing...[speech language pathologist] (SLP) and I will also be working with Student on problem solving including his use of pragmatic language, and strategies for identify problems and solutions in social situations. These social stories will include both realistic fictional stories or Student's personal retelling of a problem.

In part, the June 2023 amended IEP provided the Student with the following specially designed instruction in social behavior in a *general education setting* from the start of the 2023–24 school year through October 20, 2023: 76 minutes a week (to be provided by special education staff).

In part, the June 2023 amended IEP provided the Student with the following specially designed instruction in social behavior in a *special education setting* from the start of the 2023–24 school year through October 20, 2023: 100 minutes a week (to be provided by special education staff).

¹ The Student also received specially designed instruction in math, reading, and written language; however, those areas were not raised in the complaint as areas of concern. Thus, OSPI omits some of the IEP details for brevity.

2. The District's 2023–24 school year began on September 6, 2023.

According to the District's response, during the 2023–24 school year, the Student was enrolled in "Extended Resource Pathway," which the District described as follows:

[Students in this pathway] receive specially designed instruction to support their social/emotional skills and social understanding. Students in this pathway generally spend much of their day in general education classes...Extended Resource programs are staffed with one special education teacher, three instructional assistances, and can have up to 13 students.

3. According to attendance data, the Student's average attendance rate for each month between September 2023 and January 2024 was 88%.
4. During the instant investigation, the Parent provided the following statement:
There was a time [during the 2023-2024 school year] when Student was being pushed by kids during unsupervised lunch time outside and when I talked to the assistant principal via email he shrugged it off and said that the kids had a fight club thing going on and didn't seem concerned. Student would become physically sick when going to school. I felt like I was getting no help and that is why he has been out of school since mid-winter break.
5. On October 4, 2023, the Student's IEP team developed a new annual IEP for the Student.

In part, the October 2023 IEP included the following social-behavior goals: self-regulation; growth mindset; and self-advocacy. The October 2023 IEP included those accommodations detailed in the June 2023 amended IEP, above. The October 2023 IEP stated the Student would spend approximately 68% of his time in a *general education setting* from October 5, 2023 through October 3, 2024.

The October 2023 IEP read, in part:

[The] co-teacher language arts reports: 'Student seems to be influenced or distracted by off task behavior. When surrounded by more positive peer examples he is more successful. He still is working on building his endurance for staying on task.' He adds, 'Student is below grade level and needs to build his stamina within the educational setting.'

In part, the October 2023 IEP provided the Student with the following specially designed instruction in social behavior in a *general education setting* through the end of the 2023–24 school year: 50 minutes a week (to be provided by special education staff).

In part, the October 2023 IEP provided the Student with the following specially designed instruction in social behavior in a *special education setting* through the end of the 2023–24 school year: 279 minutes a week (to be provided by special education staff).

An October 4, 2023 prior written notice read, in part:

Student started the year with escorts from a.m. bus and between classes. Now that he has transitioned well, the team suggested reducing these escorts to encourage ownership and independence. The caveat being that if lateness to class or hallway dysregulation become an issue, the escorts will be built back in.

Parent said Student is happy at [Student's current school]. The team agreed that his comfort level at school was paramount.

Parent shared sensitive family trauma that may continue to impact Student. Case Manager will monitor comments from Student that may indicate struggles with mental health.

...

Student responds well to positive adult connections.

6. According to the Student's attendance data, the Student's February 2024 attendance rate was 57%.
7. Progress reporting, dated February 6, 2024, showed the Student made the following progress on his social-behavior goals, "some progress made" on self-advocacy, self-regulation, and growth mindset.
8. According to the Parent's complaint request, "Student has not been in school since mid-February [and] I have [been] homeschooling my son and [spending] time trying to fix the mistakes of the school."
9. According to late February 2024 emails:
 - The Parent informed District staff the Student was "physically ill about being at school," and requested a "transfer...back to [the Student's previous school]."
 - The assistant principal stated he had "reached out to enrollment [regarding your transfer request] but have not heard back yet."
 - The Parent stated, "Student will [stay] home until we can get him transferred and if that's going to cause a problem with unexcused absences, please let me know so I can just do a withdrawal with intent to do home school."
 - On February 27, 2024, the Parent submitted a Declaration of Intent to Provide Home-Based Instruction.
 - On February 28, 2024, in response to an email request by the Parent, the District registrar emailed the Parent, stating, "Student has been withdrawn."
10. The District's response read, in part:

Parent re-enrolled Student [on February 28, 2024] and requested he be assigned to [his previous school]. However, because there was no room in the Extended Resource pathway [at his previous school] and [because the previous school] was not Student's attendance area school, this request was denied and he was re-assigned to [his initial 2023-2024 school] on March 5. That same day, Parent again withdrew him from the District.
11. According to March 2024 emails:
 - On March 4th, the Parent was provided with instructions on how to appeal the denial of her transfer request, as well as a school choice form for the 2024-25 school year.
 - On March 6th, the District's Transfer Appeals Board informed the Parent her transfer appeal had been denied. In response, the Parent stated the Student would "not attend [school] for the rest of the year...I will withdraw him [effective] today."
 - On March 7th, the program specialist emailed the director, stating, "I talked to the case manager yesterday. He said Student was doing great – has a positive relationship with [the] case manager, was engaging in school. The only thing the case manager could think of was

Student had a conflict with a peer, but that peer has moved to California. Case manager did not think Student wanted to leave [his 2023-24] school.”

- On March 7th, the student support supervisor emailed the program specialist and special education teacher, asking “why Parent wants to leave [the Student’s 2023-24 school]?”
- In a separate email, dated March 7th, the Parent informed several District staff she had “heard of an instructional assistant being fired for being drunk at work” at the 2023–24 school, as well as students engaging in inappropriate actions in the bathrooms, and that she “did not want that” for Student.
- On March 8th, the director emailed several District staff, stating, in part, “From a special education perspective, there is not a reason to move the Student...The only reason we would supersede enrollment is if there was an inability...to deliver the Student’s program at the current school [and that is not the case here].”

12. During this investigation, OSPI asked the District several follow up questions. Those questions, as well as the District’s answers, are reproduced here:

Question: Generally, was there any programming difference between the Extended Resource Pathway at [the Student’s 2023-24 school] and the Extended Resource Pathway at [the Student’s previous school]? Answer: There is no programming difference.

Question: If not, what is the District’s understanding regarding why the Parent made the transfer request in late February 2024? Answer: The Parent works at [the Student’s previous school].

Question: At some point between mid-March 2024 and April 30, 2024, the Parent reenrolled the Student in the District. What date did this occur? Answer: April 24, 2024.

13. The District was on break April 8–12, 2024.

14. On April 30, 2024, the Parent emailed the special education teacher, asking why no transportation had been provided to the Student to the 2023–24 school since she had reenrolled the Student. In its response, the District stated this was the “first notification that Parent wanted Student to return to school.”

According to an email from the program specialist on April 30, 2024, “when students are dropped and then reenrolled, there is not a notification that is sent to school teams [and] when the student arrive[s] at school for their first day attending again [only then is] a schedule built...attendance [taken], and a case manager assigned, etc.”

15. According to emails, transportation for the Student resumed May 8, 2024.

16. In a May 15, 2024 email, the Parent informed the District the “Student is refusing to get on the bus.”

17. On May 16, 2024, the Parent emailed District staff that the Student was “scared” and that other students “bully him.” In response, District staff requested “additional information about which students he is worried about so we can make sure Student feels supported and safe.”

18. According to an email, on May 17, 2024, District staff called the Parent and left a voicemail— District staff wanted to discuss the Student’s needs regarding anxiety and alleged bullying.²
19. The Student’s IEP team met on May 17, 2024. According to a prior written notice, the purpose of the meeting was “to create a plan for Student to take transportation and reengage in school.”

A “Review IEP Amendment” and “Microsoft Teams” invitation record showed two general education teachers were invited to the May 17, 2024 IEP meeting. In its response, though, the District acknowledged, “Neither [general education] teacher ended up attending the meeting.” The Parent attended the May 17, 2024 IEP meeting.

According to the Parent’s complaint request, “There was no general education teacher present [and] I never signed anything excusing anyone.”

In part, the May 2024 amended IEP included the same social-behavior goals and related accommodations as those detailed in the October 2023 IEP, above: 50 minutes a week (to be provided by special education staff) of specially designed instruction in social-behavior in a *general education setting*; and 140 minutes a week (to be provided by special education staff) of specially designed instruction in social-behavior in a *special education setting*.

A May 17, 2024 prior written notice read, in part:

Description of any other options considered and rejected: The team considered a return to school with a full day schedule.

The reasons we rejected those options were: This was rejected by the parent who requested a shortened day and a change to schedule to support re-entry. The school team will provide Student with a shortened schedule that includes a modified Language Arts Class for reading and writing SDI in the *special education setting* and a study skills class where he can receive math and social behavior support in the *special education setting*.

...

Any other factors that are relevant to this action: Student will start on Wednesday, 5/22 and parent will plan to support Student getting on the bus. The special education teacher will meet Student at the front door to walk him to class and welcome him back to school.

The team will meet before school is out for summer to evaluate success of reentry and to determine if IEP minutes need to change for next year when Student returns to a full day schedule.

A description of each [piece of data] use[d] as the basis for taking [these actions]: teacher qualitative data, parent qualitative data, the current IEP, [and] the current evaluation.

According to both an IEP Online schedule-related document, as well as the District’s narrative response: prior to May 22, 2024, the Student attended six separate class periods; beginning

² It is OSPI’s understanding of the email that the assistant principal, special education teacher, and principal were physically together when they made the call to the Parent.

May 22, 2024, with the shortened school day, the Student would attend four separate class periods.

20. On May 21, 2024, a District staff person emailed the special education teacher, the assistant principal, and the principal, stating, in part, "Is there any way to place him in any class but third? It is no longer really a co-taught class and Student struggles with [two students specifically] and several other new additions to third period."

21. The Student's IEP team developed a "Safety Plan" for the Student, to be in effect from May 22 through June 21, 2024. It read:

The special education teacher will meet Student in the front office every morning upon Student's arrival at school.

Student will have access to daily check-ins with the special education teacher, guidance counselor, or a preferred adult.

Student will be dismissed from every class five minutes early and be escorted by the special education teacher or an Instructional Assistant.

All of Student's teachers will have the special education teacher's direct number and can call/text any time during those four periods for support.

In relation to the May 2024 "Safety Plan," the District's response read, in part:

Generally, the District does not do safety planning as part of an IEP; rather, it is done with the student, parent, and administration to ensure the student's needs are met quickly. If the safety concerns do have the potential to interfere with a student's ability to access their special education program, then the District does work through the IEP process to address these concerns.

In this case, the Student's school was aware of a student that Student had a conflict with, but not to an extent that it was interfering with Student's special education program. If there were other issues, they were never brought to the school's attention.

22. On May 22, 2024, the Parent emailed the special education teacher, stating, in part, "The Safety Plan is not a safety plan."

That same day, the special education teacher emailed the Parent, asking, in part, "What is missing in the Safety Plan?" According to the District's response, "the special education teacher did not receive a response to his email."

The Parent's complaint request further read, "The safety plan that I received had a few bullet points but I don't see plans or procedures set in place for teachers and staff to know what to do in case of a problem."

During the instant investigation, OSPI's investigator asked the Parent for additional information regarding her concerns with the May 2024 Safety Plan. In response, the Parent stated:

[The Safety Plan] is not thorough enough and it doesn't address keeping Student safe while in the bathroom where he has had problems with students that I have addressed with admin and they claimed to have resolved it. My son says the problems were still existing [as of late spring 2024]...Kids were looking over the stalls when my son was using the toilet the teacher said he knew who it was and spoke with the kid.

23. The District's final day of school was June 21, 2024.

24. The District's response read, in part, "Student will be transferring to [a different] middle school at the start of the 24-25 school year."

CONCLUSIONS

Issue 1: IEP Meeting Attendance – The Parent alleged the District did not follow proper IEP meeting attendance on May 17, 2024. Specifically, the Parent stated a general education teacher was not present.

An IEP team must include, in part, not less than one general education teacher of the student (if the student is, or may be, participating in the general education environment). Parents and districts can agree in writing that an IEP team member's participation is not necessary and that the team member may be excused from attending an IEP meeting, in whole or part, if the team member's area of curriculum or related services is not being modified or discussed in the meeting. If the meeting involves a modification to or discussion of the team member's area of the curriculum or related services and the parties both consent in writing to the excusal of the team member, the excused team member must submit written input into the development of the IEP in prior to the meeting.

Here, the October 2024 IEP stated the Student would spend approximately 68% of his time in a *general education setting* through October 3, 2024. At the May 17, 2024 IEP meeting, although general education teachers were invited, no general education teacher was present. And the Parent and District did not agree, in writing, that the attendance of a general education teacher was not necessary; the Student's participation in the *general education setting* was a topic discussed at the May 17, 2024 meeting—for example—at said meeting, the IEP team determined the Student would resume schooling with a shortened school day, and the documentation provided to OSPI during this investigation did not specifically delineate that a general education teacher provided written input to the IEP team, including the Parent, prior to May 17, 2024 meeting. Accordingly, the foregoing circumstances represent a violation of the IDEA.

Still, there is no indication in the documentation provided to OSPI that the violation impacted the Student's ability to access a free appropriate public education (FAPE). For example, in part, the shortened school day that began May 22, 2024 was implemented at the Parent's request, as was detailed in the May 17, 2024 prior written notice. Accordingly, the following represents an appropriate corrective action for this violation: the District will be required to disseminate written guidance to certain staff regarding the rules regarding the attendance of general education teachers at IEP meetings, and the procedures regarding the excusal of IEP team members from IEP meetings.

Issue 2: District’s Response to Parent’s Concerns Regarding Safety Plan – The Parent alleged the District did not follow proper procedures for responding to her concerns regarding the Safety Plan.

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. Prior written notice ensures that the parent is aware of the decisions a district has made regarding evaluation and other matters affecting placement or implementation of the IEP. The prior written notice should document any disagreement with the parent,³ and should clearly describe what the district proposes or refuses to initiate.

Here, on May 17, 2024, the Student’s IEP team developed a Safety Plan. Principally, the May 2024 Safety Plan provided the Student with four supports: (1) “daily check-ins with the special education teacher, guidance counselor, or preferred adult;” (2) reinstatement of staff escorts during transition periods;⁴ (3) five-minute early dismissal from class periods, to aid in transitions; and (4) the provision of “the special education teacher’s direct [phone] number” to each of the Student’s teachers.⁵

On May 22, 2024, the Parent emailed the special education teacher, stating, in part, “The Safety Plan is not a safety plan.” That same day, the special education teacher emailed the Parent, asking, in part, “What is missing in the Safety Plan?” Based on the documentation provided to OSPI, the Parent did not respond to the special education teacher’s May 22, 2024 email.

Here, for several reasons, OSPI does not find a violation of the IDEA. First, based on the documentation provided to OSPI, the Parent’s May 22, 2024 communication was the only occasion

³ An IEP team should work toward consensus, but the district has ultimate responsibility to ensure that the IEP includes the services that the student needs in order to receive FAPE. No one team member has ‘veto power’ over individual IEP provisions or the right to dictate a particular educational program. If the team cannot reach consensus, the district must provide the parents with prior written notice of the district’s proposals or refusals, or both, regarding the student’s educational program.

⁴ Staff escorts during transition periods were provided at the start of the 2023–24 school year, but the provision of these were reduced on or about October 4, 2023, as, at that time, the Student demonstrated increased independence during transition periods.

⁵ The May 2024 Safety Plan also stated, “The special education teacher will meet Student in the front office every morning upon arrival to school.” But spring 2024 emails reference the fact that the Student’s IEP already included “curb-to-curb” transportation assistance. It is therefore unclear whether this particular portion of the May 2024 Safety Plan represented a new support that was provided to the Student.

in spring 2024 where the Parent expressed concern with the Safety Plan. Furthermore, that communication did not detail the Parent's exact concerns with the Safety Plan. Second, again, based on the documentation provided to OSPI, the Parent did not respond to the special education teacher's May 22, 2024 email, which requested greater detail on Parent's concerns.⁶ Third, the Parent attended the May 17, 2024 IEP meeting, and there is no indication her participation in that meeting was improperly limited. Fourth, the IEP team's decisions on May 17, 2024 appear to have been based, generally, on sufficient, relevant data on the Student's needs resulting from the Student's disability. For example, in part, the May 17, 2024 prior written notice noted: "teacher qualitative data, parent qualitative data, the current IEP, [and] the current evaluation" was reviewed. For the foregoing reasons, OSPI finds the District followed procedures in responding to the Parent's May 22, 2024 email regarding the Safety Plan. OSPI does not find a violation of the IDEA.

In an effort to assist the Student's IEP team in future discussions regarding the Safety Plan, OSPI notes it appears the Parent's concerns relate, in part, to bullying she believes the Student experienced during the 2023–24 school year, specifically in the bathroom. For example, during the investigation, the Parent informed OSPI's investigator the Student experienced "problems" with other students in the bathroom, specifically that "kids...look[ed] over stalls when Student" used the restroom.

Based on the documentation provided to OSPI, it is not clear whether the Student's interactions with other students during the 2023–24 school year represented bullying that denied the Student the ability to access FAPE. For example, as of early February 2024, the Student made some progress on each of his three social-behavior IEP goals. And, in a March 7, 2024 email, the program specialist stated the Student was "doing great" and "engaging in school." In that email, the program specialist did acknowledge the Student previously had "a conflict with a peer," but noted the other student had since left the District. In a May 21, 2024 email, a District staff person did note the Student had a history of challenging interactions with certain students in the third period class he was enrolled in at the beginning of the school year.⁷ In and of itself, though, this does not show the presence of bullying that prevented the Student accessing FAPE. For example, the Student's IEPs noted the Student's needs resulting from the Student's disability concerned peer interactions and social skills, and the Student's IEPs included goals and services to address these needs. In sum, OSPI does not find a violation of the IDEA; OSPI notes the Parent's Safety Plan concerns appear to be related to alleged bullying, and OSPI encourages the Student's IEP team to work collaboratively on clarifying and gathering additional information on the Parent's concerns regarding the Student's Safety Plan, to better prepare for the start of the 2024–25 school year.

⁶ Though occurring prior to the development of the Safety Plan, it is notable the District made at least two other, earlier efforts to obtain greater detail regarding the Parent's potential bullying concerns.

⁷ During this investigation, the Parent informed OSPI's investigator that, on at least one occasion, the Student had been "pushed by [other] kids during...lunch." But the Parent did not provide further information on this alleged incident, such as either the date it occurred or the names of the individuals involved, and the emails provided to OSPI during this investigation did not appear to reference or detail said incident.

CORRECTIVE ACTIONS

By or before **August 9, 2024** and **September 20, 2024**, the District will provide documentation to OSPI that it has completed the following corrective actions.

STUDENT SPECIFIC:

None.

DISTRICT SPECIFIC:

Written Guidance

By **September 13, 2024**, the District will ensure that the following individuals receive written guidance on the topics listed below: special education administrators, the principal, the assistant principal, and special education certificated staff (teachers), and school psychologists, etc., at the school that the Student was attended during the 2023–24 school year. The guidance will include examples and discussion of best practices:

- Topic 1: the rules regarding the attendance of general education teachers at IEP meetings; and,
- Topic 2: the procedures regarding the excusal of IEP team members from IEP meetings.

By or before **August 9, 2024**, the District will provide OSPI with a draft of the proposed written guidance. By or before August 16, 2024, OSPI will either approve or provide feedback on the same.

By **September 20, 2024**, the District will submit documentation that all required staff received the guidance. This will include a roster of the required personnel. This roster will allow OSPI to verify that all required staff members received the guidance.

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 #1

For the 2024–25 school year, OSPI reminds the Student's IEP team of the following, general information regarding 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 the 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).

REMINDER #2

OSPI reminds the Parent of the following resource: Partnerships for Action, Voices for Empowerment (PAVE). PAVE is a parent advocacy organization. PAVE can oftentimes assist with facilitating communications between a parent and a district. Additionally, depending on resource availability, PAVE can occasionally send an advocate to an IEP meeting with a parent, to act, in part, as their advocate. PAVE's contact information is as follows: 253-565-2266 and pave@wapave.org.

Dated this 18th day of July, 2024

Alyssa Fairbanks
Assistant Director for Dispute Resolution
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.)