

SPECIAL EDUCATION COMMUNITY COMPLAINT (SECC) NO. 24-91

PROCEDURAL HISTORY

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

On July 3, 2024, OSPI received the District's response to the complaint and forwarded it to the Parent on July 5, 2024. OSPI invited the Parent to reply.

On July 16, 2024, OSPI received additional information from the Parent, and provided that information to the District on July 29, 2024.

On July 17, 2024, OSPI received the Parent's reply. OSPI forwarded that reply to the District the same day.

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

ISSUES

1. Whether the District used restraint and followed all applicable restraint procedures during the June 10, 2024 incident described in the complaint, per WAC 392-172A-02110?
2. Whether the District implemented the Student's individualized education program (IEP) and behavioral intervention plan (BIP), including de-escalation, other behavior supports, and paraeducator support during and since the June 10, 2024 incident described in the complaint?

LEGAL STANDARDS

Restraint: Restraint as defined in RCW 28A.600.485 means: Physical intervention or force used to control a student, including the use of a restraint device to restrict a student's freedom of movement. It does not include appropriate use of a prescribed medical, orthopedic, or therapeutic device when used as intended, such as to achieve proper body position, balance, or alignment, or to permit a student to participate in activities safely. WAC 392-172A-01162.

Restraint Conditions: Restraint shall be used only when a student's behavior poses an imminent likelihood of serious harm. The use of restraint as defined by RCW 28A.600.485 is subject to each of the following conditions: a) the restraint must be discontinued as soon as the likelihood of serious harm has dissipated; b) The restraint shall not interfere with the student's breathing; and c) any staff member or other adults using a restraint must be trained and certified by a qualified

provider in the use of such restraints, or otherwise available in the case of an emergency when trained personnel are not immediately available due to the unforeseeable nature of the emergency. School districts must follow the documentation and reporting requirements for any use of restraint consistent with RCW 28A.600.485. WAC 392-172A-02110.

Likelihood of Serious Harm: Likelihood of serious harm as defined in RCW 71.05.020 means: (1) A substantial risk that: (a) Physical harm will be inflicted by a person upon his or her own person, as evidenced by threats or attempts to commit suicide, or inflict physical harm on oneself; (b) Physical harm will be inflicted by a person upon another, as evidenced by behavior that has caused such harm or that places another person or persons in reasonable fear of sustaining such harm; or (c) Physical harm will be inflicted by a person upon the property of others, as evidenced by behavior that has caused substantial loss or damage to the property of others; or (2) The person has threatened the physical safety of another and has a history of one or more violent acts. WAC 392-172A-01109.

Follow-up and Reporting Requirements: School districts must follow the documentation and reporting requirements for any use of isolation or restraint consistent with RCW 28A.600.485. WAC 392-172A-02110. Following the release of a student from the use of restraint or isolation, the school must implement follow-up procedures. These procedures must include reviewing the incident with the student and the parent or guardian to address the behavior that precipitated the restraint or isolation and the appropriateness of the response, and reviewing the incident with the staff member who administered the restraint or isolation to discuss whether proper procedures were followed and what training or support the staff member needs to help the student avoid similar incidents. Any school employee, resource officer, or school security officer who uses isolation or restraint on a student during school-sponsored instruction or activities must inform the building administrator or building administrator's designee as soon as possible, and within two business days submit a written report of the incident to the district office. The written report must include, at a minimum, the following information: the date and time of the incident; the name and job title of the individual who administered the restraint or isolation; a description of the activity that led to the restraint or isolation; the type of restraint or isolation used on the student, including the duration; whether the student or staff was physically injured during the restraint or isolation incident and any medical care provided; and any recommendations for changing the nature or amount of resources available to the student and staff members in order to avoid similar incidents. The principal or principal's designee must make a reasonable effort to verbally inform the student's parent or guardian within twenty-four hours of the incident, and must send written notification as soon as practical but postmarked no later than five business days after the restraint or isolation occurred. If the school or school district customarily provides the parent or guardian with school-related information in a language other than English, the written report under this section must be provided to the parent or guardian in that language. RCW 28A.600.485.

IEP Implementation: At the beginning of each school year, each district must have in effect an individualized education program (IEP) for every student within its jurisdiction served through enrollment who is eligible to receive special education services. It 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 student'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).

FINDINGS OF FACT

1. At the start of the 2023–24 school year, the Student was not eligible for special education services and was in the second grade.
2. The District's 2023–24 school year began on September 11, 2023.
3. On December 5, 2023, the Student was found eligible for special education services under the eligibility category emotional behavior disturbance. The initial evaluation report included the recommendation that the Student receive specially designed instruction in social/emotional skills.
4. On December 13, 2023, the Student's IEP team developed an initial IEP for the Student. The IEP included annual goals in social emotional skills, including self-management and relationship skills, with progress reporting at the trimester. The IEP indicated the Student's "behaviors at school impede his learning and could impede the learning of others" and that he had difficulty "regulating his larger emotions" and has "demonstrated struggles with accessing work, his general participation and focus in class, and work completion."

The Student's IEP provided the Student with the following specially designed instruction in a *general education setting*:

- Social emotional skills: 15 minutes, 10 times a week (to be provided by a staff assistant)
- Social emotional skills: 30 minutes, 4 times a week (to be provided by a special education teacher)
- Social emotional skills: 15 minutes, 4 times a week (to be provided by a staff assistant)
- Social emotional skills: 30 minutes, 5 times a week (to be provided by a staff assistant)

The IEP explained:

[Student] will receive SEL services during all recesses through the week (approximately 15 minutes per recess, approximately 14 recesses per week). This will take place in the general education setting with peers or in an alternative setting which may include the special education setting, hallway, or other area during recess.

[Student] will receive SEL services for 30 minutes 4x a week for specially designed instruction to focus on relationship skills, good sportsmanship with peers and coping strategies.

[Student] will also receive 30 minutes of SEL support during his classes' specialist times (5 times/week).

5. A March 22, 2024 progress report indicated the Student was making insufficient progress on his self-management goal and emerging progress on the relationship skills goal. The progress

report indicated that a functional behavioral assessment (FBA) and behavioral intervention plan (BIP) were in progress.

6. On March 28, 2024, the Student's IEP team met to review the results of the FBA, which identified target behaviors in the areas of classroom disruption, aggression, threatening language/competitive behavior, and property destruction. The team developed a BIP, which included strategies and supports to address these behaviors.

7. The Parents' complaint related to an incident that occurred on June 10, 2024. According to the Parents' complaint, based on what the Student shared, the incident occurred as follows:

[Student] stated that today's PE class was outdoors in the field behind the school. He said the class was playing...a game similar to dodge ball. He got frustrated when he was ruled out and stomped away from the play area. There was a hula hoop on the ground and he picked it up and threw it. It accidentally hit another student and the student yelled they were mad at him. He apologized and the student said it was ok.

The PE teacher...approached him and yelled, 'It isn't ok! Get off my field!' [PE teacher] grabbed him by the right arm, lifted him off the ground and threw him backwards. [Student] landed on his left arm, which broke a scab and caused some bleeding. When he stood up and brushed himself off, he was startled to find [PE teacher] had advanced toward him. He then started punching [PE teacher] to defend himself. He was once again grabbed and thrown to the ground by [PE teacher]. At this point [Student] is crying and yelling for [PE teacher] to stop. He said that [PE teacher] continued to yell at him and kept coming at him. He again was punching towards [PE teacher] to try and keep him away. [Student] was again grabbed, lifted off his feet and thrown backwards.

...According to [Student], [the paraeducator] stepped in-between [PE teacher] and him and told [PE teacher] that he was the adult and needed to show the proper example. [Student] said once she stepped in, he ran to the principal's office and told you what happened. He said the principal told him that what happened wasn't right and then he went to [interventionist's] office (Interventionist).

8. On June 10, 2024, the Parents sent an email/letter to the principal regarding the incident and expressing interest in seeing the outcome of the school's investigation into the incident.
9. According to the District, the Student was restrained by school staff "response to physical aggression by the Student directed toward peer(s) (i.e. throwing objects) and the general education teacher (i.e. kicking and punching) during physical education."

The District stated in its response that the following occurred that day after the incident:

- "The Building Principal had a verbal conversation with the Student's parents later that day and indicated that they...aware of an incident during physical education and that they were going to investigate it and follow up with the parents."
- "The Student's IEP team, with parent participation, met to review their instructional needs and ensure that their IEP continued to meet their unique needs. The IEP team and parents agreed to meet again prior to the start of the 24-25 school year (August 2024) to review the Student's IEP and ensure it continues to meet their unique needs."

- "Three students from the Student's general education classroom were interviewed and asked what they observed during Physical Education class that specific day."

10. According to the restraint report, completed on June 11, 2024, the Student was restrained by the PE teacher for approximately a minute. The restraint report included the following:

- "Grabbed wrist of student and blocked punches and kicks from student."
- "Student had a previous injury/scab on elbow. During the interaction [S]tudent fell on the ground and the scab came off. Student reports receiving a bruise on the hip from hitting the ground/grass. Student did not go to health room."
- "Staff member was punched in stomach and kicked in groin."

The report indicated the Parents were notified on June 11, 2024, sent written notification on June 11, 2024, and the incident was reviewed with the Student and Parents on June 11, 2024. The report indicated the building administrator and District office were notified on June 10, 2024 and the incident was reviewed with staff on June 13, 2024.

The initial report indicated an "investigation was in process" under recommendations for changing the nature or amount of resources available in order to avoid similar incidents and under the description of behaviors that the Student exhibited that posed an imminent likelihood of serious harm.

An updated restraint report included more detail of the activity that led to the restraint and recommendations for changing the nature or amount of resources available to avoid similar incidents. Recommendations included having "ukeru" pads in close proximity to the Student; 2:1 staffing during PE and recess; alternative activities during PE and recess; continued support for trauma informed practices; reviewing the function of the Student's behavior with a BCBA; and the IEP team reviewing the behavior plan.

11. On June 10, 2024, the Student's IEP team met via Google meet. According to the prior written notice, the team discussed and reviewed "instructional needs, specifically the applicability of IEP goals and impact of current supports/strategies" due to recent behaviors that "indicated a need to review instructional needs." The prior written notice indicated the team agreed to meet on August 19, 2024, to continue the IEP meeting.

12. According to the District's response, the District acknowledged it used restraint on the Student and stated it followed all applicable procedures. The District stated the PE teacher:

attempted to verbally prompt and redirect the Student when escalated and only utilized physical restraint when the Student exhibited physical aggression (i.e. punching and kicking) toward the said staff. The punching and kicking exhibited by the Student and directed at the staff's stomach and groin area posed an imminent likelihood of harm to the staff at the time and resulted in them (general education teacher) utilizing physical restraint to protect themselves from the Student's physical aggression. The physical restraint lasted approximately two minutes and was discontinued when an additional staff member was able to intervene and create a barrier between the Student and the staff whom the Student was still trying to kick. Subsequently, appropriate documentation and reporting procedures were conducted and staff met to identify additional staffing, further professional

development, and support related to the Student's IEP, specifically the FBA/BIP, to help increase staff response and to minimize the recurrence of physical restraint in the future.

13. In the Parents' reply to the District's response to the complaint, the Parents stated they disagreed with the District's response because they did not think there was an imminent likelihood of serious harm that justified the restraint. The Parents also stated the Student had bruises, and they provided pictures.
14. Regarding whether the BIP was implemented, the District stated it "cannot conclude with certainty that the Student's IEP, including the BIP, was implemented with fidelity during the incident on June 10th, 2024." The District further stated:

The general education teacher and paraeducator both in their written statements submitted June 11th, 2024, and in staff interviews conducted on June 11th, 2024 (general education teacher and paraeducator) and later on June 17th, 2024 (paraeducator) by the site administration present different versions of the incident on June 10th, 2024. Whereas the general education teacher indicates that they did not yell or display actions (i.e. taunting, posturing) that could have potentially escalated the Student's behavior during the incident, the paraeducator indicates that the general education teacher was yelling and posturing in a manner that, in their perception, escalated the Student's behavior at the time of the incident. Additionally, student interviews, which were conducted prior to them leaving school the day of the incident (June 10th, 2024), reveal that the Student was observed using physical aggression toward the general education teacher, but does not specify whether the general education teacher yelled or displayed any actions that potentially could have escalated the Student to exhibit physical aggression toward them. Due to the general education teacher and paraeducators varying versions of events related to the June 10th, 2024 incident, the District cannot conclude, as stated above, that the Student's IEP, including the BIP was implemented with fidelity during the incident on June 10th, 2024.

Therefore, the District proposed that staff receive training related to the Student's IEP and BIP, stating:

A comprehensive training of the Student's current IEP and BIP will be presented to pertinent staff (i.e. the Student's general education and special education staff, including paraeducator(s) and related service staff and site administrators) and will be conducted by the Student's case manager with support from the district's board certified behavior analyst (BCBA) and Special Services administration at the beginning of the 24-25 school year and no later than September 10th, 2024. As evidence, the district will submit to OSPI the training agenda and the sign-in sheet of participants and their roles no later than September 17th, 2024.

In addition, an IEP meeting will be convened prior to the start of the 23-24 (August 28th, 2024) school year to review the Student's current IEP and BIP and determine whether any updates are needed to address the Student's unique needs. As evidence, the district will send a copy of the IEP amendment to OSPI no later than September 17th, 2024.

15. According to the PE teacher, when the Student became escalated, the PE teacher attempted to do "2, 1, 30 second countdown so he knew when PE was ending" and the Student "picked up a hoola hoop and flung it about 20 feet, striking a student in the face." The PE teacher

noted he walked toward the Student, who continued to escalate, and then punch and kick the teacher, which the teacher blocked. The teacher stated that the Student fell on the grass and continued to punch and kick, while the Student's paraeducator also intervened.

16. According to the paraeducator, the Student frequently became escalated in PE class and stated the PE teacher "has stated on several occasions that he is trying to have the Student banned from PE. He told me he is now on anxiety medication as a direct result of dealing with this student. He has expressed constant frustration that this student is still in his class."

The paraeducator acknowledged that the Student, as expected, became escalated in PE class and began to "yell and stop". The paraeducator described the incident further and stated the teacher yelled; matched the Student's energy instead of deescalating the situation; and postured, yelling "do you want to hit me?" The paraeducator stated the teacher "grabbed the Student by the upper left arm and yanked him to the ground abruptly." The paraeducator described this back-and-forth yelling, posturing, and the Student hitting the teacher continuing, further stating:

...He still had the students arm and he yanked him to the ground again. The teacher kept yelling 'I have the right to defend myself. Do you want to hit me again?' over and over.

The Student got up and hit the teacher several times and then the teacher grabbed his wrist and twisted it back until the student was on the ground crying out in pain. I was yelling 'let go of him!' And grabbed the teachers arm to try and get him to let go of the student... When the teacher finally let go the Student flipped over to his back and tried kicking the teacher who was standing up. The teacher grabbed both of his ankles and flipped the Student over to his back by twisting his arm behind him. The Student was trying to flip back over so he could crawl away.

When the teacher let go the Student got back up and came to me to show me that his he sobbed that the teacher that he had hurt him and he showed me a scab that he had gotten over the weekend had opened back up. The teacher was about 10 feet away and he charged at the student with his chest puffed out and pushed the Student backwards several steps. Since they were both standing I once again got in between them and the teacher reached over me and grabbed the Student a third time yanking him to the ground. At this point I was between them facing the teacher yelling 'you are the adult this is not OK' ...

The paraeducator's statement went on to describe further similar behavior by the PE teacher and Student. Ultimately, the paraeducator stated she put her arm around the teacher's shoulder and the Student walked away. After the incident, the paraeducator stated the Student was still escalated but was heading toward the principal's office.

The paraeducator stated that at this point, she was also escalated and went into another room to calm down. She stated the principal, and another special education teacher, came to talk to her about what happened. The paraeducator stated she texted the Parent to come pick the Student up but did not tell the Parent about the incident at that time. The paraeducator ended her written statement with, "These are the events as I remember them. In my 21 years of being an adult I have never been this afraid for a child's safety or felt so helpless."

17. The school site administrator investigated and spoke with the PE teacher and paraeducator. According to the documentation:

- The PE teacher stated he had requested the Student be removed from PE and had told other staff that he was on anxiety medication due to the Student's behaviors.
- The PE teacher stated he used a stern voice but did not yell or scream. The PE teacher stated that he blocked the Student while the Student was trying to hit and kick him, and as the Student would move toward him around the paraeducator.
- The PE teacher stated the Student fell to the ground once or twice, and that he grabbed the Student's wrist and maybe ankle or calf to try to block the Student punching and kicking.
- The PE teacher confirmed that he said he had the right to defend himself.
- The paraeducator acknowledged she panicked during the incident but emphasized she was concerned for the Student's safety.
- The paraeducator acknowledged that the Student was frustrated and may have hit the PE teacher first, the paraeducator stated, however, that the PE teacher "matched [the Student's] energy and that was the problem I think" and stated the PE teacher "yelled" at the Student.

According to the documentation, the expectation expressed to the PE teacher during the investigation and end of school year was to not interact with the Student and to "go out of his way to avoid [the Student]," including maintaining a distance during field day.

18. On June 11, 2024, the principal emailed the Parents a copy of the written restrain report and notification.

19. According to a June 2024 progress report, the Student was making sufficient progress on all his goals.

20. June 18, 2024 was the last day of the school year.

21. Also, on June 18, 2024, the site administrator spoke with the Parents and summarized the investigation findings. In part, the notes from the call indicated they discussed the incident and what happened. In questions from the phone conversation, the Parents asked about the Student being "thrown" the District stated the Student "was not thrown" but "did fall when [PE teacher] grabbed his leg/calf." The notes also indicated the team could meet in August to create a safety plan and do further planning around the Student's needs and services.

22. On June 20, 2024, the principal emailed the Parents an updated restraint report following the investigation into the incident.

CONCLUSIONS

Issue One & Two: Restraint and Behavior Intervention Plan Implementation¹ – The Parents alleged the District inappropriately restrained the Student: that there was not an imminent likelihood of serious harm that justified the restraint. The Parents also alleged that during the

¹¹ OSPI notes that originally, the complaint was opened with two separate issues; however, both issues related to the June 10, 2024 incident and it is difficult to analyze the restraint situation without looking at the implementation of the BIP at the same time. Thus, the conclusion will address both issues together.

incident in PE, the Student was not provided appropriate behavior supports and that the teacher's actions escalated the Student.

Restraint means physical intervention or force used to control a student, including the use of a restraint device to restrict a student's freedom of movement. Restraint shall be used only when a student's behavior poses an imminent likelihood of serious harm. Likelihood of serious harm means there is a substantial risk that: physical harm will be inflicted by a person upon his or her own person, as evidenced by threats or attempts to commit suicide, or inflict physical harm on oneself; or physical harm will be inflicted by a person upon another, as evidenced by behavior that has caused such harm or that places another person or persons in reasonable fear of sustaining such harm; or, The person has threatened the physical safety of another and has a history of one or more violent acts.

Related to behavior supports, a district must ensure it provides all services in a student's IEP, consistent with the student's needs as described in that IEP. 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 student'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.

Use of Restraint & BIP Implementation: Here, the District acknowledged that a restraint occurred, although argued there was an imminent likelihood of serious harm.

The documentation, including written statements from the PE teacher involved and paraeducator, and statements from District interviews, provide different explanations of what occurred during the incident. OSPI notes that it is challenging to determine, based on documentation and not having been present for the incident, whether there was an imminent likelihood of serious harm. Here, the documentation does indicate moments when there was a likelihood of harm, such as when the Student threw a hoola hoop at another student's head and when the Student kicked or punched at the teacher's groin.

At the same time, documentation reviewed in the complaint showed that the Student's primary special education needs were related to behavior and social emotional, including regulating emotions; the Student's IEP specifically included the following: "instruction to focus on relationship skills, good sportsmanship with peers and coping strategies...[Student] will also receive 30 minutes of SEL support during his classes' specialist times (5 times/week)"; the Student had a BIP; and statements from both the PE teacher and the paraeducator indicated that the Student frequently became escalated in PE class and that the PE teacher had requested that the Student be removed from his PE class. All that to say that staff were aware of the Student's behavior needs, particularly in PE. And, while that does not guarantee that a behavior incident involving restraint will never occur, it does mean that staff should be prepared to address the Student's needs, which the PE teacher here does not seem to have been equipped to do.

And, while OSPI was not present during the incident, a few elements seem certain. The PE teacher did restrain the Student while blocking the Student from hitting and kicking, including grabbing

the Student's wrist and ankle or calf (which may have caused the Student to fall, or at least prevented the Student from getting up); there was yelling or what the Student perceived as being yelled at—while the PE teacher stated he used a stern voice but did not yell, the teacher confirmed he stated he had a right to defend himself (similar to the paraeducator's account) and OSPI notes that this likely caused the Student to continue escalating or at least did not help the Student deescalate or provide any support for emotional regulation. It is likely, given the various descriptions, that even if the PE teacher was not yelling, he was, based on all accounts, "matching [the Student's] energy," which only seemed to further escalate the situation.

Finally, while there is some information that supports the PE teacher and paraeducator attempting to verbally prompt the Student and redirect him at the end of class and initially in his escalation, overall, it does not seem the Student's BIP was implemented with fidelity during this incident. The District acknowledged this, stating it "cannot conclude with certainty that the Student's IEP, including the BIP, was implemented with fidelity during the incident on June 10th, 2024." The District proposed that staff receive training related to the Student's IEP and BIP.

Thus, OSPI finds that while there were likely instances during the incident that presented a brief, imminent likelihood of harm that justified the brief use of restraint; overall, the Student's BIP was not implemented and behavior strategies and supports were not utilized to deescalate the Student, which unnecessarily escalated and prolonged the incident and resulted in the use of restraint when it could otherwise have been avoided. OSPI agrees with the District's proposed training and the Student's IEP team will meet to discuss behavior supports, social emotional instruction, and how to work toward avoiding such situations in the future.

Follow Up, Documentation, & Reporting Requirements: School districts must follow the documentation, reporting, and follow-up requirements for any use of restraint.

These procedures must include reviewing the incident with the student and the parent or guardian to address the behavior that precipitated the restraint or isolation and the appropriateness of the response, and reviewing the incident with the staff member who administered the restraint or isolation to discuss whether proper procedures were followed and what training or support the staff member needs to help the student avoid similar incidents. The District's report form and documentation indicate that the incident was reviewed with the Student, Parents, and staff involved.

Any school employee who uses restraint on must inform the building administrator or building administrator's designee as soon as possible, and within two business days submit a written report of the incident to the district office. The written report must include, at a minimum, the following information: the date and time of the incident; the name and job title of the individual who administered the restraint or isolation; a description of the activity that led to the restraint or isolation; the type of restraint or isolation used on the student, including the duration; whether the student or staff was physically injured during the restraint or isolation incident and any medical care provided; and any recommendations for changing the nature or amount of resources available to the student and staff members in order to avoid similar incidents.

Here, the incident was reported, and a written report completed. While the initial version of the report indicated an “investigation was in process” under recommendations for changing the nature or amount of resources available in order to avoid similar incidents and under the description of behaviors that Student exhibited that posed an imminent likelihood of serious harm, the updated restraint included information in these sections. Recommendations included having “ukeru” pads in close proximity to the Student; 2:1 staffing during PE and recess; alternative activities during PE and recess; continued support for trauma informed practices; reviewing the function of the Student’s behavior with a BCBA; and the IEP team reviewing the behavior plan. In this case, given the concerns about the incident shared by the Parents, it was appropriate that the District conducted a more detailed investigation and updated the restraint report.

In addition, the principal or principal's designee must make a reasonable effort to verbally inform the student's parent or guardian within 24 hours of the incident and must send written notification as soon as practical but postmarked no later than five business days after the restraint or isolation occurred. Both of these requirements were met in this situation.

Thus, OSPI finds no violation related to the reporting, documentation, and follow-up requirements.

CORRECTIVE ACTIONS

By or before **September 17, 2024**, the District will provide documentation to OSPI that it has completed the following corrective actions.

STUDENT SPECIFIC:

IEP Meeting

By or before **September 6, 2024**, the Student’s IEP team will meet. At the meeting, the IEP team will discuss behavior supports, social emotional instruction, and how to work toward avoiding such situations in the future. The team will review the Student’s current IEP and BIP and determine whether any updates are needed to address the Student’s unique needs.

By **September 17, 2024**, the District will provide OSPI with: i) a prior written notice, summarizing the group’s discussion and decisions concerning the above matters; ii) a copy of the Student’s IEP; iii) any relevant meeting invitations and prior written notices; and iv) any other relevant documentation.

DISTRICT SPECIFIC:

Training

By or before **September 10, 2024**, the District’s special services administration, BCBA, and Student’s case manager will conduct a training on the Student’s current IEP and BIP with relevant staff working with the Student (including general education teachers—including teachers for specials such PE, music, library, etc., special education teachers, paraeducators, related service providers, principal, assistant principal, etc.)

The training will include a comprehensive review of the Student's IEP and BIP and provide practical strategies for implementing instruction and behavior supports.

By **September 17, 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.

Dated this 13th day of August, 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.)