

## **SPECIAL EDUCATION COMMUNITY COMPLAINT (SECC) NO. 24-93**

### **PROCEDURAL HISTORY**

On June 17, 2024, the Office of Superintendent of Public Instruction (OSPI) received and opened a Special Education Community Complaint from the parents (Parents) of a student (Student) who attended the 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 and others.

On June 17, 2024, OSPI acknowledged receipt of this complaint and forwarded a copy of it to the District superintendent on June 20, 2024. OSPI asked the District to respond to the allegations made in the complaint.

On June 24, 2024, the OSPI compliant investigator discussed the complaint issues with the Parents.

On June 25, 2024, OSPI received additional information from the Parents. OSPI forwarded the information to the District on the same day.

On July 2, 2024, OSPI received the District's request to extend the response timeline to July 19, 2024. OSPI approved the extension to July 12, 2024.

On July 11, 2024, OSPI received the District's request to extend the response timeline to July 14, 2024. OSPI approved the extension to July 14, 2024.

On July 14, 2024, OSPI received the District response to the complaint. OSPI forwarded the information to the Parents on the same day.

On July 15, 2024, OSPI received additional parts of the District's response to the complaint and forwarded it to the Parents on the same day. OSPI invited the Parents to reply.

On July 16, 2024, the Parents requested an accommodation of extended time to reply to the District's response. OSPI approved the extension to August 5, 2024. This created an exceptional circumstance that required OSPI to extend the 60-day timeline for completing this complaint investigation to August 26, 2024.

On July 30, 2024, the OSPI complaint investigator interviewed the Student's new district's<sup>1</sup> special education records specialist.

On August 2 and 4, 2024, the OSPI complaint investigator requested interviews with the District school psychologist and the new district's school psychologist, but both school psychologists were unavailable according to the District and new district.

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<sup>1</sup> OSPI notes that the complaint was filed against the District; however, the Student currently attends a private school located in a different Washington district, referred to throughout as "new district."

On August 6, 2024, OSPI received the Parents' reply to the District's response and additional information. OSPI forwarded that reply and additional information to the District on the same day.

On August 7, 2024, the Parents provided OSPI with additional information. OSPI forwarded the information to the District on the same day.

On August 8, 2024, the OSPI complaint investigator interviewed the Parents.

On August 12, 2024, the Parents provided OSPI with additional information. OSPI forwarded the information to the District on the same day.

On August 13, 2024, OSPI requested additional information from the District. OSPI received the information on August 14, 2024, and forwarded it to the Parents on the same day.

On August 20, 2024, OSPI received additional information from the Parents and forwarded the information to the District on the same day.

OSPI considered all information provided by the Parents and the District as part of its investigation and any information not referenced was determined to be not relevant to this investigation.

### **SCOPE OF INVESTIGATION**

This decision references events that occurred prior to the investigation period, which began on July 18, 2023. These references are included to add context to the issues under investigation and are not intended to identify additional issues or potential violations, which occurred prior to the investigation period.

### **ISSUES**

1. During the 2023–24 school year, did the District send the Student's records to another district according to WAC 392-172A-03105(6)(b)?
2. Since June 18, 2023, did the District follow the required procedures regarding request to amend the Student's records according to 392-172A-05215?

### **LEGAL STANDARDS**

Transfer of Educational Records: The new school district in which the student enrolled must take reasonable steps to promptly obtain the student's records, including any documents related to the provision of special education services, from the student's previous school district. The student's previous school district must take reasonable steps to promptly respond to the request from the new school district. The school district that previously served a student is required to transmit information about the student within two school days of receiving the request. If the records are not sent at the same time the information is transmitted, the records should be transmitted as soon as possible. 34 CFR §300.323(g); WAC 392-172A-03105(6). RCW 28A.225.330.

Stay Put: Except for due process hearings involving special education discipline procedures, during the pendency of any administrative hearing or judicial proceeding regarding the due process hearing proceedings, the student involved in the hearing request must remain in his or her current educational placement, unless the school district and the parents of the student agree otherwise. 34 CFR §300.518; WAC 392-172A-05125.

Amendment of Records and Hearing Rights: A parent of a student who believes that information in educational records collected, maintained, or used under this chapter is inaccurate or misleading or violates the privacy or other rights of the student may request that the school district which maintains the information amend the information. The school district shall decide whether to amend the information in accordance with the request within a reasonable period of time after receipt of the request. If the school district refuses to amend the information in accordance with the request, it shall inform the parent of the refusal and advise the parent of the right to a hearing, conducted by the school district, in accordance with school district procedures. The school district, on request, shall provide the parent an opportunity for a hearing to challenge information, in the educational records, to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student. If, as a result of the hearing, the school district decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, the agency shall amend the information accordingly and so inform the parent in writing. If, as a result of the hearing, the school district decides that the information is not inaccurate, misleading or otherwise in violation of the privacy or other rights of the student, the agency shall inform the parents of the right to place a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the school district in the records it maintains on the student. Any explanation placed in the records of the student in compliance with this section shall: be maintained by the school district as part of the records of the student as long as the records or the contested portion is maintained by the educational agency; and be disclosed to any party to whom the records of the student (or the contested portion thereof) are disclosed. 34 CFR §300.618; WAC 392-172A-05215.

## **FINDINGS OF FACT**

### **Background: 2021–22 School Year**

1. At the start of the 2021–22 school year, the Student was a seventh grader who attended a District middle school. The Student was eligible for special education services under the category of specific learning disability.
2. On June 15, 2021, the team met to amend the Student’s individualized education program (IEP). The IEP included annual goals in the area of math (fraction calculation/number sense, equivalent values, word problems, pre-algebra skills, and numbers, operations, and ratios). The IEP provided 35 accommodations and modifications to the Student. The IEP provided the following specially designed instruction:
  - Math: 255 minutes weekly (provided by special education staff in a special education setting)
  - Math: 90 minutes weekly (provided by special education staff in a general education setting)

3. Later, according to the District, the team met four times between December 2021 and March 2022, to develop an amended IEP. Since there was no consensus among team members, the Student's IEP could not be finalized, and the June 2021 IEP remained in effect.
4. The complaint record included an IEP, dated December 9, 2021. The IEP included goals in math, involving estimating and rounding up, applied problems, two-step algebraic equations, calculation and number sense, and equivalent fractions. The IEP provided 33 accommodations to the Student and 150 minutes a week of specially designed instruction in math in a general education setting. The IEP noted that the Student was not receiving math services from the District because the Student was attending private counseling.
5. In May 2022, the District reevaluated the Student and the Student was found to be ineligible for special education services. The Parents then filed for a due process hearing (No. 2022-SE-0069) that invoked the June 2021 IEP as the stay put placement. Under stay put, the Student continued to be eligible for special education. A decision (a consolidation of due process filings 2022-SE-0069, 2022-SE-0072, and 2023-SE-0001) has since been rendered on February 14, 2024.

#### **Background: 2022–23 School Year**

6. At the beginning of the 2022–23 school year, the Student was an eighth grader who attended a District middle school. The Student continued to be eligible for special education services due to the stay put placement.
7. In February 2023, the District received a referral to evaluate the Student for special education from the Parents' legal counsel.
8. On May 22, 2023, after the evaluation assessments were completed, the evaluation team met, and the Student was determined to be eligible for special education services under the category of multiple disabilities. The evaluation report included recommendations for services in the areas of listening comprehension, social/behavior, and study/organization skills.
9. On May 26, 2023, the school psychologist emailed the "draft evaluation" report to the Parents.
10. On May 31, 2023, the Parents' counsel emailed the school psychologist, asking what the District considered a "complete copy" of the evaluation report and whether this included the "attachments." The Parents' counsel requested the following be included with the evaluation report:
  - "ELA (English language arts) Class Score Detail for 2022-2023 School Year As of Date Evaluation Sent"
  - Grades and attendance as of May 26, 2023
  - "Class Detail Score for Science for the 2022-2023 School Through Date Evaluation Received"
11. Also, on May 31, 2023, the school psychologist emailed the Parents and stated:

I emailed to ask IEP online to unlock the evaluation so I can add in that information about choir attendance. If they allow me to unlock it, I can change that wording about choir

attendance. If they don't, I can upload your email about it as an attachment will attach these documents you sent. Then I will send the final evaluation, complete with all of the attachments requested. If there is anything else you would like to add as attachments, let me know.

12. On June 1, 2023, the school psychologist emailed the Parents based on the Parents' feedback, stating:

Here is the final evaluation. I did add that info about choir, the time [teacher] left the meeting to the prior notice, and added an [assistive technology (AT)] summary to the background. I also uploaded all the files sent to me, including the AT and communication info you gave. For meetings held on TEAMS, we now upload a signatures page with names of who attended and the date of the meeting (and the attendance report from TEAMS), and if there are dissenting opinions, we upload them to the evaluation. Please let me know if you have any more uploads to add.

13. Also, on June 1, 2023, the Parents' counsel emailed the District's legal counsel. The email stated:

I think that there has been a misunderstanding along the way. The majority of what was sent below was information the Parents wanted to insure [sic] you had as you did your work. It was not their intention that you attach all of those materials to the final evaluation report. Of that, the only thing that the family was asking to be attached to the final evaluation report was [private evaluator's] complete report as that is being referenced as a significant source of information for the same.

Additionally, we thought from the May 22, 2023 meeting that there was a desire for the family to provide background information on communication and AT (which was done) and then to have the grades and attendance information attached to provide context around [Student's] attendance, her current grades as they are being reported to the Parents as of the time the evaluation was completed, and detailed information about Science and ELA as [Student] still has outstanding ungraded work in those classes to the point where her overall current grade does not actually reflect what her grade would be if grading was completed.

Attached as a single PDF is what the family would like to see be considered to be the final evaluation report and that includes the picture of the attendance report. Would the [District] agree to having this be the final evaluation report with attachments? If yes, I will send this to the rest of the evaluation team who does not work for [District] so that they can review and provide confirmation of agreement or dissent. Will that work?

The proposed evaluation report (District evaluation report plus additional documentation) referenced by the Parents' counsel was 131 pages that included the complete report of an independent education evaluation (IEE) and other data.

14. Later, on June 1, 2023, the District counsel replied to the Parents' counsel:

The District considers the PDF of the evaluation report that [District school psychologist] sent to the parents as the final evaluation report. The attachments she sent were uploaded to IEP Online based on the parents' requests, but they are not combined with the evaluation report. In other words, pages 51 through 131 of the PDF you sent are not part of the final

evaluation report, but they have been uploaded to IEP Online as attachments in response to the parents' requests.

The District members of the evaluation team have access to the evaluation report, so there is no need for you to send them a copy.

The Parents' counsel replied, in part:

We don't know why [school psychologist] uploaded everything that the parents provided as part of the referral to IEP online. They never asked for that. They just wanted her to have all of the prior reports and materials in one place. All they are asking for is one clean copy of the report that has just the attachments that are relevant and not everything that was provided with the referral.

15. On June 6, 2023, the District's counsel emailed the Parents' counsel, stating:

The PDF attached as the [Student] initial evaluation is the 'final evaluation report'. [School psychologist] uploaded the rest of the attached documents (other than the procedural safeguards) because she thought the parents wanted them uploaded as attachments. If the parents let [school psychologist] know which ones they want removed, [school psychologist] can work with IEP Online to remove those attachments.

The "attached documents" referenced by the District's counsel included the following:

- Student's initial evaluation
- 2023 procedural safeguards
- "Parents' Statement of Dissent and Request to Amend False and Misleading Statements in [District] (2022)"
- "[Hospital] STAND referral (2023)"
- Student input for IEP meeting (2023)
- Letters sent to nurse for 2023 evaluation
- AT summary (2023)
- "CBM (curriculum-based measures) Results from [special education teacher] (2022)"
- "Physician's Letter (2021)"
- "Therapist's Letter (2021)"
- "[Hospital] Psychiatry Report (2022)"
- "[Doctor] Letter Re: Hypothyroidism (2022)"
- "Therapist's Letter (2023)"
- "CBM Results from [special education teacher] (2023)"
- Safety plan (2021, 2022)
- Doctor letter (2021)
- Smarter Balance Assessment (SBA) scores
- "[Private evaluator] IEE...Report (2021)"
- "Class Detail Score for Science for the 2022-2023 School"
- "ELA Class Score Detail for 2022-2023 School Year As of Date Evaluation Sent"
- Grades and attendance as of May 26, 2023
- "Summary of Communication (2023)"
- "LMB (Lindamood-Bell) Learning Ability Summary Reports 2016, 2018, 2022 with Records"
- TEAMS attendance

16. On June 7, 2023, the Parents' counsel emailed the District about what documents constituted the "evaluation report." The email stated, in part:

...Attached are the documents that the Parents believe constitute the evaluation report, with attachments. We have also put everything together in one document so that everyone can be certain that this is the complete evaluation, with attachments in the same order. We are asking that this be matched up with what is in IEP Online for this evaluation.

The Parents do hope that over the course of the last two years [District] ensured that all of the private reports and materials that it has received have been included in [Student's] educational records, particularly the ones that [District] has relied upon and explicitly referenced in prior evaluations, reevaluations, assessment revisions, and IEPs. But they do not think that the same need to be associated as attachments to this evaluation.

The documents referenced by the Parents' counsel were as follows:

- Initial evaluation summary, report, and prior written notice (PWN) (2023)
- "[Private evaluator] IEE Report (2021)"
- "Class Detail Score for Science for the 2022-2023 School"
- TEAMS attendance (2023)
- Grades and attendance as of May 26, 2023
- AT summary (2023)
- "ELA Class Score Detail for 2022-2023 School Year As of Date Evaluation Sent"
- "Summary of Communication (2023)"
- "Complete Initial Evaluation with Attachment (2023)"

17. On June 20, 2023, the Student's team met to develop an IEP for the Student. The IEP team did not meet again that school year as the school year ended on June 30, 2023.

### **Complaint Investigation Timeline Begins: July 18, 2023**

18. On July 31, 2023, the Parents' counsel emailed the school psychologist, requesting that the District amend inaccurate and misleading information in the May 2023 evaluation. The request for amendments included the following:

- Agreement by the team members
- The report did not indicate whether members certified their agreement to the evaluation
- The Student's attendance at the choir class
- The prior written notice was not accurate regarding the Student's attendance in the special education class
- The Student's need for counseling

19. On August 23, 2023, the school psychologist emailed the Parents and others a copy of the Student's evaluation. The Parent replied, "We are confused why you sent this without correcting [choir teacher's] misinformation as agreed and without the signature page. Can you help us understand why the draft was not updated with respect to [choir teacher] but the signature page removed?"

20. On August 24, 2023, the school psychologist replied to the Parents, "The language you are asking to be changed is a quote from [choir teacher]. You are welcome to submit a statement

of disagreement with that quote, but I can no longer edit the evaluation.” The Parents replied, asking about the District’s procedure to edit “its own factual error” and require the Parents to submit statement of disagreement.

21. On August 29, 2023, the Parents’ counsel emailed the school principal, requesting that the District amend the second semester report card regarding attendance, grades, and grade point average.
22. On August 31, 2023, the school psychologist replied that the information about the Student’s choir attendance was changed in the evaluation report.

### **2023–24 School Year**

23. At the beginning of 2023–24 school year, the Student was enrolled in a private school. The private school is located within the geography boundaries of a different Washington state school district (new district). The Student continued to be eligible for special education services under the category of multiple disabilities.
24. On September 12, 2023, the Parents emailed the special education director of the new school district (new district director), where the private school was located, indicating the Parents were part-time enrolling the Student in the new school district. The Parents stated the District recently evaluated the Student and found the Student eligible, but the team did not complete the Student’s IEP. The Parents requested special education services from the new district.
25. On September 13, 2023, the new district director emailed the Parents, stating, in part, “After she is in our system, we will request records from [District] in order to develop the IEP...”
26. On September 21, 2023, the new district registrar emailed the Parents, confirming that the Student was registered in the new district. The new district stated that it would need to receive the IEP documents from the Student’s previous school in the District. The Parents followed up, asking about the next steps regarding the new district procuring the Student’s IEP and evaluation on October 2, 2023.
27. On October 2, 2023, the new district emailed the Parents and stated that they were still waiting on the Student’s records. The Parents responded and requested that they move forward, “given that we have provided you our [Student] last IEP and the initial evaluation that just made her eligible again for special education services last May.”
28. Also, on October 2, 2023, the District’s senior special education compliance specialist (compliance specialist) emailed the Parents and new district, acknowledging the Parents’ request for a copy of the evaluation and IEP and sent the Parents and new district the records. The records included the December 2021 draft IEP.
29. Later, on October 2, 2023, the Parents’ counsel responded to the District compliance specialist and included staff from the new district. The Parents’ counsel stated the following:

What is needed is for the [District] to send the [new district] the educational records that it has requested. Unfortunately, what you sent below is an incomplete version of the special education eligibility evaluation completed in May, which lacks all of the attachments to the same. There was substantial discussion about how important it was for the [District] to set this up in a way that ensured when another school district requested the same it would get the complete reevaluation, not just the summary report. [Parent] and [District counsel] should be able to verify that the attached is the complete May 2023 evaluation...However, what was sent as an IEP was not an IEP of [Student's]. It may have been a draft that existed at one point, but it was never an IEP that was finalized and implemented...Attached is the last IEP for [Student] that was completed by the [District], which is an IEP Amendment completed in June of 2021. Again, [District counsel] and [District counsel] should be able to confirm both of these things.

30. According to the District, the District did not initially send the Student's May 2023 evaluation "with attachments" and June 2021 IEP to the new district at the time because the Parents' counsel sent the new district the documents as noted in the Parents' counsel's October 2, 2023 email.

The District, however, subsequently provided the December 2021 IEP and the "evaluation report" on October 2, 2023.

31. Regarding the "attachments" to the May 2023 evaluation, the Parents stated:

We did not request 'attachments' be sent to [new district]. We know based on experience/evidence inspected through public records requests that when [District] claims to attach documents to other documents, it is most often the case that they are actually not 'attached' at all in IEPOnline and whenever the documents are accessed, edited, and/or produced by staff.

32. On October 2, 2023, the new district provided prior written notice that proposed reviewing the Student's May 2023 evaluation. The notice stated, in part, that the new district received records from the District, showing the Student was eligible for special education services. Further, the new district would complete an IEP as soon as possible.

33. In the complaint, the Parents stated that the District failed to provide the new district with the correct version of the Student's evaluation "that was agreed to."

34. On October 3, 2023, the Parents emailed the new district, stating, "Per our conversation, we realized that the complete evaluation was not the one uploaded into [school District's] IEP Online. Forwarding email below with the correct documents attached..." The documents included the initial summary report, evaluation report, prior written notice, "all Attachments," and June 2021 stay put IEP. The attachments consisted of 15 documents, including, among others, "[Parent] private service plan," private evaluator report, attendance, "outside eval – Spring Communication strategies," and "Parent Requested Upload Class Details for Science."

35. Also, on October 3, 2023, the District compliance specialist emailed the District senior legal assistant/office manager and stated, in part, "...here is Parent's counsel emailing me and the SpED records were sent yesterday to [new district] and the parent." The email attachments

from the compliance specialist were "2023.5.22 Initial Evaluation Summary, Report, PWN (prior written notice) and all Attachments," and "[Student] IEP as Amended June 2021." The compliance specialist's email indicated that the District sent the June 2021 IEP to the new district on October 3, 2023.

36. According to a "Conversation Transcript," on October 4, 2023, the District special education information manager emailed the Parents that the records had been sent to the new district.
37. On October 4, 2023, the Parents emailed the District compliance specialist, stating that the District sent "inaccurate and incomplete records" to the Parents and new district on October 2, 2023.
38. On October 5, 2023, the District compliance specialist provided the Parents with copies of the documents that had been sent to the new district on October 2, 2023.
39. In an interview with the Parents, the Parents did not know whether the Student's June 2021 stay put IEP was eventually sent to the new district. Regarding the evaluation "attachments," the Parent stated she did not insist on the evaluation having "attachments," the Parent wanted all the information incorporated into the evaluation like the 131-page evaluation report the Parent proposed.
40. On November 5, 2023, the Parents emailed the District middle school principal, asking about the status of their request to amend the records.
41. On November 9, 2023, the Parents emailed the District special education director (director) and asked for a response to their request to amend the Student's record because they had not heard back.
42. On November 17 and 26, 2023, the Parents emailed the District director, asking about the status of their request to amend the records, among other concerns.
43. On November 29, 2023, the District director responded to the other concerns in the Parents' November 9, 17, and 26, 2023 emails, but not the amendment of records.
44. On December 11, 2023, the Parents responded to the District director the following, in relevant part:

...We didn't ask for records from [middle school] or 'relevant materials.' We have been asking to amend and correct specific records that contain false and misleading information about our child that the [District] produced and maintains so when these are shared the records are correct or amended. Parents have the right to do so under the law and in accordance with the District's own policies and we have been asking to amend and correct educational records since October of 2021. Can you confirm that [middle school principal] is going to respond and assist us with facilitating all of our pending requests to amend and correct the specific educational records that we have been requesting the opportunity to correct or amend from Oct of 2021 through present?

45. On June 17, 2024, the Parents filed this complaint with OSPI. The complaint alleged the District failed to provide the new district with the Student's IEP and evaluation when the Student enrolled in a private school and registered to receive services from the new district for the 2023–24 school year. In addition, the Parents alleged the District did not follow the required procedures when the Parents stated that some of the Student's records were inaccurate and should be amended.
46. The District's response to the complaint acknowledged that the District did not follow the required procedures regarding the request to amend the records, including informing the Parents about the right to request a records hearing. However, the District argued that there was no substantive harm to the Student.
47. The OSPI complaint investigator interviewed the new district special education records specialist regarding the new district's procedures in requesting records. Although the specialist was not in her present role at the beginning of the 2023–24 school year, the specialist reported that it was standard procedure to first request the IEP and evaluation when a student with an IEP first enrolls. Other information and records are requested later. In this case, the specialist was able to confirm that the new district requested the IEP and evaluation on October 2, 2023, and the documents from the District were received on the same day. The new district received additional documents from the District on October 3, 2023.

## **CONCLUSIONS**

**Issue One: Transfer of Records** – The complaint alleged the District failed to transfer the Student's IEP and evaluation to the new school district from which the Student was attempting to receive services. When a student with an IEP transfers, the district receiving the records request is required to take reasonable steps to promptly respond to the new district's request for the student's records, including the IEP and other special education related records from the former district, regardless of the system a district uses for managing and maintaining records and the system used to create special education records like IEPs. This requirement is to ensure that there is a smooth transition from one district to the other. Delays in providing a student's IEP or other records can cause the student to go without comparable services in the new district.

As background, at the start of the 2021–22 school year, the Student was eligible for special education. In June 2021, the Student's team amended the IEP, which would later become the "stay put" IEP due to ongoing due process proceedings. By May 2023, the Student was evaluated again by the District and found eligible for special education services. The June 2021 stay put IEP, however, continued to be in effect since the due process hearing was still ongoing. After the District provided the Parents a copy of the evaluation report, the Parents requested additional information be "attached" or included in the report.<sup>2</sup> It was unclear precisely what information the

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<sup>2</sup> OSPI notes that the Parent maintains that she did not request documents be "attached," rather that information be incorporated into one evaluation report. However, the Parents' counsel in emails referred to the evaluation and "attachments" and the District also referred to attachments to the evaluation. Thus, OSPI

Parents wanted included as there were multiple emails between the Parents and their legal counsel and the District, discussing what information would be included. The Parents proposed a 131-page evaluation report that included the requested information from the Parents. The District finally responded that the evaluation report that referenced the additional information and included additional information/documentation as attachments was the “evaluation report.” The Student’s June 2021 stay put IEP nonetheless remained in effect until the Parents enrolled the Student in a private school located in another district for the 2023–24 school year.

When the Student enrolled in a private school in a different Washington school district, the Parents initially requested the Student’s IEP and evaluation from the District be sent to the private school and the district where the private school was located. The Parents had also asked the district to request the records from the District. When the Parents sent the records to the new district, the district responded that it would make a request directly to the District for a copy of the Student’s IEP and recent evaluation. On October 2, 2023, the district contacted the District to request the Student’s IEP and evaluation according to their procedure. On the same day, the District sent the Student’s December 2021 IEP and the evaluation report, per the request from the new district. On October 3, 2023, the Parents’ counsel emailed the District and new district, stating that the District did not provide the “correct” evaluation—the evaluation with all the attachments—and incorrectly provided the December 2021 IEP. The Parents’ counsel emailed both the District and new district and included the Student’s evaluation with all attachments and the June 2021 stay put IEP. Despite the Parents’ contention that the Student’s IEP was never released to the new district, on October 3, 2023, the District sent the “2023.5.22 Initial Evaluation Summary, Report, PWN and all Attachments” and “[Student] IEP as Amended June 2021”.

Although there was a dispute regarding what the evaluation report consisted of, the District made it clear on June 6, 2023, their position on what constituted the evaluation report and that the evaluation report did not include all the Parents’ requested attachments. It is understandable that the Parents wanted to ensure the new district had enough information about the Student to provide services. However, the District substantially complied with what the new district requested, which was the Student’s IEP and evaluation report. OSPI notes that the dispute over the accuracy of the evaluation report and the Parents’ request to amend records is a different issue addressed below. And, given that the Parents were concerned about the other information being provided to the new district, the Parents could have and did subsequently provide the new district with documentation and Student records. Regarding the IEP, the District should have sent the June 2021 stay put IEP to begin with, but it immediately corrected the error and sent the June 2021 stay put IEP to the new district the next day. Thus, the District provided the requested records in a timely manner. No violation is found.

The Parents also alleged that the District systematically failed to “maintain accurate records and produce complete and accurate records for families districtwide and outside agencies.” Based on the documentation provided in this complaint and the investigation conducted, there was no

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uses the term used by the parties, which encompass the idea that the Parents wanted additional documentation to be included with the evaluation.

evidence that the District has willfully failed to maintain and provide accurate records to other districts for this Student or others.

**Issue Two: Amendment of Records** – The complaint alleged the District failed to follow procedures when the Parents made requests to amend the Student’s records.

A parent who believes that information in a student's educational records maintained by a district is inaccurate or misleading may request the district amend the information. The district will determine whether to amend the information as requested. If the district refuses to amend the information, it must inform the parent of the right to a hearing conducted by the school district and in accordance with district procedures. If, as a result of the hearing, the school district decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, the agency shall inform the parents of the right to place a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the school district in the records it maintains on the student. Any explanation placed in the records of the student in compliance with this section shall: be maintained by the school district as part of the records of the student as long as the records or the contested portion is maintained by the educational agency; and be disclosed to any party to whom the records of the student (or the contested portion thereof) are disclosed.

In July 2023, the Parents’ legal counsel requested that the District amend the Student’s records regarding, in part, attendance in choir class, signature agreement page, and the need for counseling. In August 2023, the school psychologist responded that the information about the choir class could not be changed as it was a direct quote from the teacher but offered the Parents the opportunity to put in a statement of disagreement into the record. Later, the school psychologist amended the record regarding the choir class, but did not address the request regarding the signature agreement page or the other record amendment requests. The record showed that the District provided no formal response to the Parents’ request to amend the Student’s records. The District school psychologist did inform the Parents that the Parents could provide a letter of disagreement, although it was limited to the quote from the choir teacher. The record also did not show that the District informed the Parents about a records hearing after initially refusing to change the information about choir.

In November and December 2023, the Parent followed up on her requests to amend the Student’s records, but there was no indication of a response from the District. On September 21, 2023, the Student enrolled part-time in the new district and the new district accepted the Student. Although some records were transferred to the new district in which the Student was part-time enrolled, the District continued to maintain the Student’s records despite the Student no longer being currently enrolled in the District. Despite the Student not being currently enrolled in the District, the Parent could and did request to amend the Student’s records maintained by the District. And the District still had a responsibility to ensure that the process to amend the records and a records hearing was followed in response to the Parents’ requests. The case record showed that the District failed to follow that process. Thus, a violation is found.

The District is required to address the Parents' requests to amend the records and follow the required procedures. In addition, the District is required to provide written guidance to all school and program administrators (including administrators at alternative learning environments) and school psychologists regarding the process for amendment of records and a records hearing.

### **CORRECTIVE ACTIONS**

By or before **September 20, 2024, October 11, 2024, and October 18, 2024**, the District will provide documentation to OSPI that it has completed the following corrective actions.

#### **STUDENT SPECIFIC:**

##### **Amendment of Records**

By **September 27, 2024**, the District is required to address the Parents' requests to amend the Student's records.<sup>3</sup> For each record that is part of the amendment request, the District will document the following:

- The District's decision whether to amend the record or not, and
- If the District refuses to amend the record, the Parents were informed about the right to a hearing and the right to place a statement in the Student's records.
- If any changes are made in the Student's records or the Parents places a statement in the Student's records, the District will send this information to the new district by **October 4, 2024**.

By **October 11, 2024**, the District will provide OSPI with the above required documentation.

#### **DISTRICT SPECIFIC:**

##### **Written Guidance**

By **October 11, 2024**, the District will ensure that the following individuals receive written guidance on amendment of records and a records hearing. The guidance will be provided to all school and program administrators (including administrators at alternative learning environments) and school psychologists. The guidance will provide detailed steps for District staff to follow when receiving a request to amend the records or to that effect.

By **September 20, 2024**, the District will submit a draft of the written guidance to OSPI for review. OSPI will approve the guidance or provide comments by September 27, 2024.

By **October 18, 2024**, the District will submit documentation that all required staff received the guidance.

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<sup>3</sup> On August 23, 2024, the Parent emailed the District multiple times, renewing her various amendment requests. OSPI notes that the District should ensure it addresses all of the requests per the corrective action plan.

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 26th 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.)