

SPECIAL EDUCATION COMMUNITY COMPLAINT (SECC) NO. 24-96

PROCEDURAL HISTORY

On June 18, 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 Federal Way Public Schools (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 18, 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 by July 5, 2024.

On July 5, 2024, the District requested an extension of time to respond to the complaint, stating it would provide its response on July 8, 2024. On July 10, 2024, OSPI responded to the extension request, noting an extension was allowable but that the response had not been received yet.

On July 10, 2024, OSPI received part 1 of the District's response¹ to the complaint and forwarded it to the Parent on the same day.

On July 19, 2024, OSPI received part 2 of the District's response and forwarded a copy to the Parent on July 22, 2024. The Parent was invited to reply by August 2, 2024.

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

ISSUES

1. Whether, during the 2023–24 school year, the District denied the Student a free appropriate public education (FAPE), specifically whether the District implemented the Student's individualized education program (IEP)?
2. Whether, during the 2023–24 school year, the District followed procedures to hold a manifestation determination meeting following a suspension?
3. Whether, during the 2023–24 school year, the District addressed the Parents' requests regarding the Student's behavior needs, including support during transportation?
4. Whether, during the 2023–24 school year, the District provided agreed upon compensatory education?

¹ In its response, the District notified OSPI that the remainder of the response (email correspondence) would be provided to OSPI the week of July 15, 2024. While OSPI has discretion to grant extensions, OSPI reminds the District that generally, state regulations require: "The school district or other agency [to] respond in writing to the OSPI with documentation of the investigation, no later than seventeen calendar days after the date of receipt of the complaint." WAC 392-172A-05030.

LEGAL STANDARDS

Free Appropriate Public Education (FAPE): A “free appropriate public education” (FAPE) consists of instruction that is specifically designed to meet the needs of the student with a disability, along with whatever support services are necessary to permit him to benefit from that instruction. The instruction and support services must be provided at public expense and under public supervision. They must meet the State’s educational standards, approximate the grade levels used in the State’s regular education system, and comport with the student’s individualized education program (IEP). *Hendrick Hudson District Board of Education v. Rowley*, 458 U.S. 176, 186-188, (1982). Every student eligible for special education between the ages of three and twenty-one has a right to receive a FAPE. 34 CFR §300.101; WAC 392-172A-02000. An eligible student receives a FAPE when they receive, at public expense, an educational program that meets state educational standards, is provided in conformance with an IEP designed to meet the student’s unique needs and includes whatever support services necessary for the student to benefit from that specially designed instruction. 34 CFR §300.17; WAC 392-172A-01080.

IEP Implementation: At the beginning of each school year, each district must have in effect an IEP for every student within its jurisdiction served through enrollment who is eligible to receive special education services. A school district must develop a student’s IEP in compliance with the procedural requirements of the IDEA and state regulations. 34 CFR §§300.320 through 300.328; WAC 392-172A-03090 through 392-172A-03115. It must also 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).

Manifestation Determination: Within ten school days of the district’s decision to change the student’s placement through discipline, the district, parents and other relevant members of the IEP team (as determined by the parents and the district) must determine whether the behavior that led to the disciplinary action was a manifestation of the student’s disability. In making the manifestation determination, the district, parents and other relevant members of the IEP team must consider all relevant information in the student’s file to determine if the conduct in question was caused by, or had a direct and substantial relationship to, the student’s disability; or if the conduct in question was the direct result of the school district’s failure to properly implement the student’s IEP or behavior intervention plan. 34 CFR §300.530(e); WAC 392-172A-05146.

If the school district, parent(s), and other relevant members of the student's IEP team determine the conduct was a manifestation of the student's disability, the IEP team must either: conduct a functional behavioral assessment (FBA), unless the district had conducted an FBA before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan (BIP) for the student; or, if a BIP already has been developed, review the BIP, and modify it, as necessary, to address the behavior; and, except for special circumstances, return the student to the placement from which the student was removed, unless the parent and the district

agree to a change of placement as part of the modification of the BIP. 34 CFR §300.530(f); WAC 392-172A-05147.

Functional Behavioral Assessment (FBA): An FBA focuses on identifying the function or purpose behind a student's behavior. Typically, the process involves looking closely at a wide range of child-specific factors (e.g., social, affective, environmental). Knowing why a student misbehaves is directly helpful to the IEP team in developing a behavioral intervention plan (BIP) that will reduce or eliminate the misbehavior. The FBA process is frequently used to determine the nature and extent of the special education and related services that the student needs, including the need for a BIP, which includes behavioral intervention services and modifications that are designed to address and attempt to prevent future behavioral violations. *Questions and Answers on Discipline Procedures* (OSERS June 2009) (Question E-2); *Letter to Janssen*, 51 IDELR 253 (OSERS 2008).

Parent Participation in IEP Development: The parents of a student with a disability are expected to be equal participants along with school personnel, in developing, reviewing, and revising the IEP for their student. This is an active role in which the parents (1) provide critical information regarding the strengths of their student and express their concerns for enhancing the education of their student; (2) participate in discussions about the student's need for special education and related services and supplementary aids and services; and (3) join with the other participants in deciding how the student 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 student 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).

Compensatory Education: A state educational agency is authorized to order compensatory education, as appropriate, through the special education community complaint process. 34 CFR §300.151(b)(1); WAC 392-172A-05030. The state educational agency, pursuant to its general supervisory authority, has broad flexibility to determine appropriate remedies to address the denial of appropriate services to an individual student or group of children. *Letter to Lipsitt*, 181 LRP 17281 (2018). Compensatory education is an equitable remedy that seeks to make up for education services a student should have received in the first place, and aims to place the student in the same position he or she would have been, but for the district's violations of the IDEA. *R.P. ex rel. C.P. v. Prescott Unified Sch. Dist.*, 631 F.3d 1117, 56 IDELR 31, (9th Cir. 2011); *See also, Letter to Lipsitt*, 181 LRP 17281 (2018) ("The purpose of a compensatory services award is to remedy the public agency's failure to provide a student with a disability with 'appropriate services' during the time that the student is (or was) entitled to a free appropriate public education and was denied appropriate services.")

FINDINGS OF FACT

1. At the start of the 2023–24 school year, the Student was not eligible for special education services, was in the third grade, and was enrolled in a District elementary school.

2. The Student had transferred at the beginning of the 2023–24 school year from another Washington state school district. Transfer documents from the previous district indicated an incomplete special education evaluation process may have been initiated.
3. The District’s 2023–24 school year began on August 30, 2023.
4. The District provided the Parent with a notice of placement for a transferring student on September 12, 2023, and due to the lack of eligibility determination by the previous district, the District requested Parent consent to initiate a special education evaluation. The Parent provided consent on September 18, 2023.
5. On September 28, 2023, the District completed its initial evaluation and held a multi-disciplinary team meeting to discuss the results and determine special education eligibility. The participants included the Parent, stepparent, grandmother, District representative, school psychologist, two general education teachers, special education teacher, occupational therapist, and principal-designee. The team determined the Student met eligibility under the disability category of other health impairment (OHI).
6. Also, on September 28 and October 4, 2023, the District held IEP meetings and developed the initial IEP for the Student. The IEP included annual goals in social-emotional/behavior (self-regulation, perspective-taking) and adaptive behavior (work completion, transitions, organization), with progress reporting at regular grade reporting periods. The Student’s IEP provided the Student with the following specially designed instruction (SDI) in a *special education setting*:
 - Social/emotional/behavior: 30 minutes/4 times per week (to be provided by special education staff)
 - Adaptive behavior: 30 minutes/4 times per week (to be provided by special education staff)

The Student’s IEP provided the Student with occupational therapy as a related service for 30 minutes/twice per month in a special education setting. The occupational therapist (OT) would provide support in class, collaboration with school staff, small group/individual support, accommodation and adaptation support.

7. On October 4, 2023, the District provided a prior written notice (PWN) to the Parent, proposing to initiate the Student’s IEP. The notice also documented that the need for a 1:1 paraeducator to support the Student was discussed and determined to not be needed at this time. In addition, the need for a functional behavioral assessment (FBA) was discussed and the team decided to implement the strategies and goals outlined in the IEP and monitor progress first.
8. On October 10, 2023, the Parent provided written consent for the Student’s initial placement in special education.
9. On October 19, 2023, the IEP team met to discuss the District’s proposal of initiating an FBA, as well as adding 1:1 support from a behavior technician to the Student’s IEP. The PWN indicated the Parent was not in favor of these two proposals, so the team decided to update

the Student's visual schedule and create a leveled response plan to include as accommodations on the Student's IEP.

10. On October 23, 2023, the District provided the Parent a PWN, where it was stated that the District was proposing to add additional supports to the Student's IEP (update visual schedule, leveled response plan). The District also documented the Parent's refusal to consent to an FBA or agree to a 1:1 behavior technician being assigned to support the Student.
11. On October 27, 2023, the Parent sent a response to the District's PWN of October 19, 2023, stating that the District should implement the Student's IEP prior to their consent for an FBA. The Parent also corrected that she feels that the Student "needs to feel comfortable" prior to the support of a 1:1 behavior technician. It was also noted that the District received Parent input to the draft PWN on October 27, 2023, and included corrections/additions from the Parent.
12. In November 2023, the Student was transferred to another District elementary school based on Parent request/input and District administrative involvement.
13. The Student's new IEP team met on November 28, 2023, to update the Student's IEP. Specific actions taken at this IEP amendment meeting were updated present levels of performance, added objectives to the work completion goal, updating the special factors section to document team agreement to an FBA and development of a behavioral intervention plan (BIP), updating curricular adaptations, updating SDI minutes, and updating testing accommodations. The Parent attended this IEP meeting, as did the Student, stepparent, District representative, principal/designee, general education teacher, OT, special education program specialist, special education teacher, grandparent, and a former teacher of the Student. The Student's amended IEP provided the Student with the following SDI in a *special education setting*:
 - Social/emotional/behavior: 20 minutes/5 times per week (to be provided by special education staff)
 - Adaptive behavior: 20 minutes/5 times per week (to be provided by special education staff)

The Student's IEP provided the Student with occupational therapy as a related service for 30 minutes/twice per month in a special education setting.

14. On November 29, 2023, the District provided the Parent a PWN, documenting the amendments and decisions made at the IEP meeting the previous day. The team agreed to meet in January 2024 to review the FBA and BIP.
15. On January 22, 2024, the Student's IEP team, including the Parent, met to review the FBA and BIP, and to amend the IEP to include the newly developed BIP. The IEP team also discussed concerns about the Student's attendance, and the team identified strategies to improve attendance. The FBA identified three target behaviors to be addressed (elopement, aggression, and property destruction), as well as the setting events and antecedents that preceded the target behaviors. The BIP developed, based on the FBA, included specific setting

event strategies to change the target behaviors, as well as positive consequence/reward strategies when the desired behavior occurred.

The IEP team amended the IEP to update the special factors section to include the addition of a BIP, to add a 1:1 behavior technician support for the Student, and to add testing accommodations. The team agreed to meet in March 2024 to review progress.

The Student's amended IEP provided the Student with the following SDI in a *special education setting*:

- Social/emotional/behavior: 30 minutes/4 times per week (to be provided by special education staff)
- Adaptive behavior: 30 minutes/4 times per week (to be provided by special education staff)

The Student's amended IEP provided the Student with occupational therapy as a related service for 30 minutes/twice per month in a special education setting. The Student's amended IEP provided the Student with the following related services in a general education setting:

- 1:1 behavior technician: 390 minutes/day
- Board certified behavior analyst: 190 minutes/week

16. A PWN was provided to the Parent on January 23, 2024, outlining the decisions made at the IEP meeting the previous day. The PWN also included notes regarding the discussion about the Student's absences and strategies to implement to help him attend school on a regular basis.
17. On February 8, 2024, following a behavioral incident related to property destruction and vandalism, the Student was issued a short-term suspension for 1.5 days, and the District determined to hold a manifestation determination meeting, even though the total number of days of suspension previously imposed on the Student was three days.
18. On February 9, 2024, the Parent was invited to attend the manifestation determination meeting scheduled for February 12, 2024, and she confirmed her attendance on that same day. The Parent also received a PWN regarding the District's proposal to suspend the Student for 1.5 days, which also stated that a manifestation determination meeting would be convened to discuss the behavior incident.
19. On February 12, 2024, the District held a manifestation determination meeting to discuss the Student's behavior incident and whether it was related to their disability. The team agreed that the school team had been unable to follow the Student's BIP due to safety concerns with staffing and determined that the conduct in question was directly related to the Student's disabilities. It was noted that the Parent agreed to allow the team to revise the Student's BIP without holding a formal meeting. The Student returned to school with no change in placement. The District updated the Student's BIP and IEP to add a second behavior technician.
20. On February 15, 2024, the Student received a six-day suspension for behavior incidents that occurred throughout the day, including hitting/pushing peers, throwing objects, and breaking equipment.

21. On February 16, 2024, the Student's IEP was amended to include a second behavior technician to support the Student. The Parent participated in the amendment via phone call and provided permission to amend the IEP without a full IEP team meeting.
22. The District provided the Parent a PWN on February 20, 2024, describing the proposal to increase the Student's support to two behavior technicians and noted the Parent's agreement to the additional behavioral support.

The Student's amended IEP of February 16, 2024 provided the Student with the following related services in a general education setting:

- 1:1 behavior technician: 390 minutes/day
- 1:1 behavior technician: 390 minutes/day
- Board certified behavior analyst: 180 minutes/week

23. On February 27, 2024, the District held a manifestation determination meeting and the team determined that the conduct in question was a result of the District's failure to implement the Student's IEP (behavior technician on required lunch break) and that the conduct had a direct relationship to the Student's disabilities. The Student was returned to his current placement.
24. On February 27, 2024, the Student was issued a one-day suspension for "physical violence on another" and was also issued a 3.5-day suspension on March 4, 2024, following an "assault of teacher". These suspensions brought the total number of days of removal for the school year to 15.
25. On March 12, 2024, the District held a manifestation determination review meeting. The group determined that the February 27, 2024 incident was not a result of the failure of the District to implement the Student's IEP and the conduct in question had a direct relationship to the Student's disabilities. For the incident on March 4, 2024, the team determined the District failed to implement the Student's IEP (Student arrived late to school and only one behavior technician was available) and the conduct in question was directly related to the Student's disabilities. For both instances, the Student was returned to his current placement. The team also decided to review the Student's FBA and BIP, with the District BCBA leading the revisions with family and school.
26. Also, on March 12, 2024, the team held an IEP meeting, following the manifestation determination meeting, and the meeting was continued on March 25, 2024, as there was not sufficient time to discuss all the Parent's concerns.

The District provided a PWN to the Parent on March 26, 2024, describing the concerns discussed and the actions proposed. The team agreed to change the Student's "break" system to align with information shared by the Parent, revise the Student's visual schedule and share it with the Parent, provide choices during music class (e.g., go outside or do art), and schedule another IEP meeting to continue discussing concerns not yet addressed.

27. On April 9, 2024, the IEP team met, with the Parent in attendance, to develop an attendance plan to support the Student attending school and to add extended school year (ESY) services

to the IEP. During the IEP meeting, the Parent requested tutoring outside of school hours, and additional occupational therapy services during the summer. The District rejected the request for tutoring for days the Parent kept the Student home or was brought to school late, causing missed access to special education services. The team planned to meet again in June 2024, to discuss whether a referral to a nonpublic agency (NPA) school might be appropriate.

28. On April 10, 2024, the District provided the Parent a PWN, describing the actions agreed to at the IEP meeting on April 9, 2024, including developing an attendance plan for the Student, adding ESY to the IEP, and resending the manifestation determination documents to team members. The District also documented its denial of the Parent's requests for tutoring outside of the school day and occupational therapy services during the summer. These options were rejected as "data does not currently support compensatory services."
29. On April 15, 2024, the IEP team met to update the Student's FBA and BIP, following a series of behavioral incidents and manifestation determination reviews. The Parent was provided a PWN on the same date, describing the discussion and actions. The Parent agreed to the use of healthy foods as a reward. The amended IEP included the addition of ESY services for the Student, attendance support, and the updated BIP and FBA. The team subsequently proposed to increase the BCBA's service minutes to support the Student's team and added 360 minutes/monthly of BCBA support to the Student's IEP.
30. On May 2, 2024, The IEP team convened again and discussed recent successes, including attendance (getting to school earlier and staying longer), the Student's engagement in social-emotional group and occupational therapy services, as well as showing increased social skills and asking for help. The Parent shared that the Students wanted to be at school and "loves" the school and the behavior technicians.
31. On May 9, 2024, the Parent emailed the District regarding her thoughts about compensatory education and requested that the District purchase an educational computer program for the Student. The District responded on May 17, 2024, agreeing to purchase the product for one calendar year, "if it is something that would address your request for compensatory education." A formal agreement was attached to the email for the Parent to sign. The email to the Parent also included information that the District would reimburse the Parent for roundtrip mileage for the days she picked up the Student in-lieu of them riding District transportation. The "mileage in-lieu of District transportation" form was attached for her signature. The District would then provide fully executed forms to the Parent for the computer program and mileage reimbursement.
32. The Parent received a PWN on May 10, 2024, that documented the discussion and actions agreed to by the team. The District agreed to consider compensatory services for the Student, as well as transportation reimbursement to the Parent. ESY was agreed to earlier and was already included in the IEP, and the District agreed that the Parent would receive communication about behavior escalations from certificated teachers or administrators. The Parent requested behavior technician support on the special education bus, and the District agreed to collect data to determine whether the support was needed.

33. On May 29, 2024, the IEP team, including the Parent, met again, to discuss the Student's improving attendance, review behavioral data, review the Parent's request for a behavior technician to ride the bus with the Student, and review the compensatory services and transportation reimbursement.

The PWN, provided on May 29, 2024, documented that the Parent did not accept the offer for the District to purchase the educational computer program for the Student to use for one year, nor the mileage reimbursement for in-lieu of District transportation. The PWN also included that the District's proposed to "continue to consider compensatory education services and transportation reimbursement" and working with the Parent on those offers. In addition, the District proposed to continue to monitor what supports the Student needed on the bus.

34. On June 11, 2024, the District offered compensatory education, including tutoring and occupational therapy, for the Student, and emailed the Parent the agreement, asking that she return a copy with her signature, "if this is something you would like us to move [forward] with." The District also offered mileage reimbursement and asked that the Parent return a signed agreement should she want to accept the offer. Both agreements were provided as attachments to the email.

35. On June 13, 2024, the District met with the Parent and the Parent shared she was not in agreement with either of the District's offers.

36. On June 17, 2024, the District emailed the Parent, and provided a PWN, to indicate that the Parent had not agreed to the two offers made for compensatory services and transportation reimbursement. The District asked that she provide "what specific compensatory services you feel would be appropriate," as well as "specific additional transportation reimbursement you feel is appropriate." When the Parent provided her input, the District stated it would schedule another meeting to discuss the options and work towards an agreement.

CONCLUSIONS

Issue 1: IEP Implementation and FAPE – The Parent alleged that the District did not implement the Student's IEP and denied the Student a free appropriate public education (FAPE).

At the beginning of each school year, each district must have in effect an IEP for every student within its jurisdiction served through enrollment who is eligible to receive special education services. A school 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 FAPE consists of instruction that is specifically designed to meet the needs of the student with a disability, along with whatever support services are necessary to permit him to benefit from that instruction.

In this case, the District, with Parent participation, held nine IEP meetings to develop, refine, and amend the Student's special education services and supports throughout the 2023–24 school year, based on the needs of the Student and concerns that the Parent shared. The Student's initial IEP, following their special education eligibility evaluation, included goals in social-emotional and adaptive, with occupational therapy as a related service. At the end of the school year, the Student's IEP also included a BIP developed through the FBA process and refined throughout the year, the daily support of two behavior technicians, services from a BCBA, the addition of ESY services for summer 2024, and strategies to support the Student's attendance. Throughout these IEP amendments, additional instructional strategies were included, as well as accommodations to support learning, as the District implemented the Student's services and learned what different or additional needs the Student had. Each IEP was followed by a PWN provided to the Parent, detailing the discussions held, proposals offered, and team decisions made. OSPI notes that at the manifestation determination meetings, the team did acknowledge a few instances when the IEP or BIP was not implemented, in that, at times due to staffing issues, the behavior technicians were absent. However, these instances, when considering the whole school year, do not show a material failure to implement the IEP and instead represent a few deviations from the IEP. Further, the District was diligent in addressing these issues and, as discussed above, continued to refine the Student's IEP and address his needs.

Therefore, given the District's attention to the Student's needs and the concerns of the Parent addressed through multiple IEP meetings, which show the IEPs were implemented, OSPI finds no violation.

Issue 2: Manifestation Determination Procedures – The Parent alleged that the District did not properly follow manifestation determination procedures following Student suspensions.

Within ten school days of the district's decision to change the student's placement through discipline, the district, parents and other relevant members of the IEP team (as determined by the parents and the district) must determine whether the behavior that led to the disciplinary action was a manifestation of the student's disability or if the conduct in question was the direct result of the school district's failure to properly implement the student's IEP or behavior intervention plan. When a disciplinary exclusion exceeds ten school days and the behavior in question is found not to be a manifestation of the student's disability, a district may apply the same relevant disciplinary procedures, in the same manner and for the same duration as it would to a student not eligible for special education.

In this case, the Student's first manifestation determination meeting was held when the Student was suspended for the second time for 1.5 days. At that time, the total number of suspended days for the Student equaled 4.5 days. The District decided to hold a manifestation meeting to discuss how to support the Student at school, even though the meeting was not required. The Student's BIP was updated, and staffing schedules addressed. Mid-year, the Student was suspended for six days, and the District held a manifestation determination meeting, where the team amended the IEP to address staffing concerns and added an additional behavior technician to support the Student during the day. This meeting was required since the total number of removals exceeded 10 days. In March 2024, the District held another manifestation determination meeting after the

Student was suspended for two separate incidents for a total of 15 days of suspension for the school year. For the first incident, the Student was removed for one day, and for the second incident, the Student was removed for 3.5 days. The manifestation determination meeting was properly held within 10 school days of the first suspension and within six school days of the second suspension.

After each manifestation determination meeting, the District provided the Parent a PWN, documenting the decisions made, proposed changes to the Student's IEP, and other relevant information. Each meeting determined the conduct in question was related to the Student's disabilities, and in some of the incidents, the District did not follow the IEP. When that was the case, the District amended the IEP to address the concerns that impacted the Student's behavior.

Therefore, OSPI finds the District appropriately followed manifestation determination procedures following the Student's suspensions and no violation occurred.

Issue 3: Parent Concerns/Behavioral Needs – The Parent alleged that the District did not address her concerns regarding the Student's behavioral needs and transportation.

When developing an IEP for a student, the team must consider the strengths of the child, the concerns of the parents for enhancing the education of their child, the results of the initial or most recent evaluation of the child. In addition, the parents are expected to be equal participants in developing, reviewing and revising the IEP for their child. If either the parent or district feels that a component of the student's IEP should be changed and requests and IEP, the district must convene an IEP meeting.

As described above, the District convened nine IEP meetings, with Parent participation, to address the increasing behavior concerns, learning needs, and attendance difficulties of the Student. The IEP and BIP were both revised during the school year multiple times to address the Student's needs. The Parent was afforded the opportunity to provide input at IEP and manifestation determination meetings, and via email. Regarding the Parent's transportation concern and request for a behavior technician on the bus, it was noted in two PWNs that the District was monitoring data regarding the supports the Student needed on the bus. All discussions proposals were clearly documented for the Parent in the PWNs.

Therefore, OSPI finds no violation.

Issue 3: Compensatory Services – The Parent alleged that the District did not provide compensatory education.

Compensatory education is an equitable remedy that seeks to make up for education services a student should have received in the first place and aims to place the student in the same position he or she would have been, but for the district's violations of the IDEA.

In this case, the District first responded to the Parent's request for outside tutoring and occupational therapy services during summer 2024 in April 2024, and denied her requests based

on "data does not currently support compensatory services." These decisions were properly documented in a PWN. At a subsequent IEP meeting, the team added ESY services for the Student for summer 2024. In May 2024, the Parent emailed the District, requesting it purchase an educational computer program for the Student. The District developed an offer to purchase the desired program the Parent requested, as well as provide transportation reimbursement to the Parent, and the Parent declined this first offer despite having originally requested the computer program. In early June, the District made a second offer of compensatory educational services, including occupational therapy, and transportation reimbursement to the Parent, and the Parent declined those offers, as well. Finally, the District met with the Parent at the end of the school year where she shared that she was not in agreement with either of the offers. The District followed up this meeting with a PWN, requesting the Parent provide information regarding what she thought were appropriate compensatory services and transportation reimbursement. The District stated a meeting would then be scheduled with the Parent to discuss her suggestions.

OSPI finds that the District appropriately responded to the Parent's request, and both considered and offered options for compensatory education. While OSPI does not find a violation in this complaint that would warrant ordering compensatory education, OSPI encourages the District to continue considering the Parent's request. OSPI finds no violation.

CORRECTIVE ACTION

STUDENT SPECIFIC:

None.

DISTRICT SPECIFIC:

None.

Dated this 15 day of August 2024

Dr. Tania May
Assistant Superintendent of Special Education
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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.)