SPECIAL EDUCATION COMMUNITY COMPLAINT (SECC) NO. 25-14A

PROCEDURAL HISTORY

On February 3, 2025, 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 Richland 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 February 3, 2025, OSPI acknowledged receipt of this complaint and forwarded a copy of it to the District superintendent on February 5, 2025. OSPI asked the District to respond to the allegations made in the complaint.

On February 6, 2025, the OSPI complaint investigator conducted a phone interview with the Parent.

On February 21, 2025, OSPI received the District's response to the complaint and forwarded it to the Parent on February 25, 2025. OSPI invited the Parent to reply.

OSPI reached out to the District via email on March 14, 2025, to inquire if the IEP team meeting scheduled for March 3, 2024, occurred and the District responded the same day with confirmation. OSPI forwarded this to the Parent on March 27, 2025.

On March 14, 2025, OSPI received a copy of a request for a due process hearing, No. 2025-SE-0039, filed by counsel for the Parent. OSPI placed issue 2 in abeyance pending the outcome of the due process as the issue overlapped with the allegations in the due process hearing request.[1]

OSPI considered all information provided by the Parent and the District as part of its investigation. It also considered the information received by the complaint investigator during a Parent interview.

ISSUES

1. Whether the District appropriately responded to the Parent's written request to convene the individualized education program (IEP) team, per WAC 392-172A-03100?
2. Whether the District implemented the Student's behavior intervention plan (BIP) and made accommodations available in conformity with the IEP per WAC 392-172A-03105?[2]

[1] If a written complaint is received that is also the subject of a due process hearing under this chapter or contains multiple issues, of which one or more are part of that hearing, the OSPI must set aside any part of the complaint that is being addressed in the due process hearing, until the conclusion of the hearing. However, any issue in the complaint that is not a part of the due process hearing must be resolved using the time limit and procedures described in this section. WAC 392-172A-05035.

[2] As noted above, issue two was placed in abeyance pending the outcome of due process no. 2025-SE-0039 and will not be addressed in this decision.

LEGAL STANDARDS

Parent Request for IEP Meeting: When a parent or district believes that a required component of a student's IEP should be changed and requests an IEP meeting, the district must conduct an IEP meeting if it believes that the change may be necessary to ensure the provision of FAPE. Individuals with Disabilities Education Act (IDEA), 64 Fed. Reg. 12,475, 12,476 (March 12, 1999) (Appendix A to 34 CFR Part 300, Question 20). The District must schedule the meeting at a mutually agreeable time and place, and appropriately invite the parent to the meeting. 34 CFR §§300.322 and 300.328; WAC 392-172A-03100. If a parent requests an IEP meeting because the parent believes that a change is needed in the provision of FAPE to the student or the educational placement of the student, and the school district refuses to convene an IEP meeting because no change is necessary for the provision of FAPE, the district must provide written notice to the parents of the refusal, including an explanation of why the district has determined that conducting the meeting is not necessary to ensure the provision of FAPE to the student. IDEA (Appendix A to 34 CFR Part 300, Question 20).

FINDINGS OF FACT

1. At the start of the 2024–25 school year, the Student was eligible for special education services under the category of autism, was in the first grade, attended a District elementary school, and the Student's May 3, 2024 individualized education program (IEP) was in effect.

2. The District's 2024–25 school year began on August 27, 2024.

3. The Student's May 2024 IEP included specially designed instruction in the area of social/emotional skills, to occur in the special education setting for 90 minutes, 5 times weekly, and to be provided by a special education staff member. The Student's May 3, 2024 IEP indicated the Student would spend 74.14% of their time in a general education setting.

4. Between August 27 and December 18, 2024, multiple emails were exchanged between the Parent and the Student's general education first grade teacher, regarding a number of matters such as general updates about the Student's day, changes in daycare transportation, sharing of the Student's daily behavior tracker, strategies to try in different locations at lunch time, and the Student absences, demonstrating consistent communication between the District and the Parent.

5. In a September 9, 2024, email from the Parent to the Student's general education first grade teacher, the Parent wrote, "I don't think he's distracted in the lunch room I think it's just very over stimulating for him and needs a break from the loud noises and a place to take a breather/break."

6. On October 22, 2024, the Student's special education teacher first mentioned the need to convene the IEP team when she emailed other members of the Student's IEP team, excluding the Parent, and wrote, "[District staff] I'll connect with you tomorrow regarding mom's concerns. I feel that we are following his BIP, though I'm wondering if we need to meet as a

team to review, adjust, and brainstorm ideas that might help him be more successful. With mom's input as well."

7. The District's special education teacher initiated scheduling conversations to convene the IEP team by emailing the Parent on October 22, 2024, and indicating that "…we might need to set up a meeting to discuss possibly making some changes to [Student's] plan. Please let me know when you are ready, and I can schedule a team meeting."

8. Several other emails were exchanged between the District's special education teacher and the Parent on October 22, 2024, trying to solidify a date and time for the IEP team to convene. Emails demonstrated there were challenges with scheduling due to the Parent's desire to have the Student's private therapist attend the meeting.

9. At 4:48 pm on October 22, 2024, the Student's special education teacher emailed the Parent and wrote:

   > I have a meeting set for us for tomorrow at 3:30. For admin, [District staff] can attend for a short amount of [sic] if that is ok with you? My thinking is that we will not be making changes to the IEP/BIP, but discussing and determining how to improve on his plan. Then, I can make the changes to his plan/s, schedule an IEP meeting, and ensure all team members are there to review and sign off. Does this sound good to you? If not, then I can work with you and the therapist to reschedule.

10. At 8:46 am on October 23, 2024, the day the IEP team meeting was scheduled to occur, the District's special education teacher emailed the Parent and wrote:

    > We will need to reschedule our meeting for a time when I can get all of the team in attendance. We would need to meet before or after school due to our teaching time. We are looking forward to meeting the therapist and learning more about how to support [Student].

11. At 9:09 am on October 23, 2024, the Parent responded to the District's email and wrote, "Then I need to know what days you guys have availability because I can't keep doing this back and forth stuff."

12. At 12:18 pm on October 23, 2024, the Student's special education teacher responded to the Parent's email and wrote, "Next week on the 31st at 3:30 pm is the soonest I have available with all team members."

13. On October 23, 2024, the Parent responded and wrote, "He is not available that day" referring to the Student's private therapist, whom the Parent wanted to have in attendance at the IEP team meeting.

14. On October 25, 2024, the Parent emailed the special education teacher the availability of her private therapist.

15. The District reported in its written response to this complaint that on October 25, 2024, the Parent also requested an IEP meeting "through the school counselor."

16. On November 20, 2024, the Parent emailed the Student's general education first grade teacher and wrote:

> [Student's] therapist, doctor and I feel like it is anxiety and overwhelming for [Student} and this is why I have been pushing so hard to get an IEP/BIP meeting and that still [sic] is not happened so it [sic] had been very frustrating. I personally am not wanting to change his meds but it seems that not saying you but because the team is having difficulty to schedule a meeting and it has been about almost a month, this needs to be addressed soon because it is not fair to [Student] and me having to medicate [Student] if it is not needed. I feel like this appointment is being avoided and it's very frustrating.

17. On November 20, 2024, the school principal sent an email to the team, asking about the possibility of scheduling an IEP meeting during parent/teacher conference week.

18. On November 20, 2024, the special education teacher sent an email to the Parent and the Student's IEP team and wrote:

> [Parent], I want to start with an apology for not getting back to you regarding the last email I received from you on 10/25. I had looked at our schedules for November 15th and could not get all team members in attendance, and at 4:30 pm we are not available to begin a meeting. I should have gotten back to you well before today. I'm having difficulty finding a time to get the school team and the therapist together. Does anyone have any ideas on how to navigate this? We could zoom him in if the time is before or after school during our contractual hours, if that would be easier for the therapist to be in attendance. Again, I apologize for the delayed response.

19. On November 21, 2024, the assistant principal sent an email to the Parent and several members of the Student's IEP team and wrote:

> I do remember the request for a meeting but was unaware that it hadn't taken place. I apologize if I missed something in helping to schedule that. In an effort to speed up the process to connect with [Student's] doctor, would an (release of information) ROI be an option for a team member to reach out to the doctor directly? The team can then meet to collaborate.

20. On November 21, 2024, the Parent emailed the IEP team and wrote, amongst other things, "As for the ROI I have not talked to him about [sic] I sent him a message. He did say that 7 or 7:30 works in the AM for a meeting but it will have to be via zoom for him."

21. In a written response to this complaint, the District indicated that on November 25, 2024, a Parent/teacher conference occurred from 3:20–4:05 pm and there was a discussion about waiting for the ROI form to connect with the private therapist in order to try some of their behavioral suggestions before convening the IEP team.

22. In a written response to this complaint, the District indicated that on December 5, 2024, the Parent provided the school counselor with contact information for the private therapist to obtain a release of information.

23. On December 17, 2024, the school psychologist sent an email to the school counselor and wrote, "Can you pull up an ROI for me in [IEP online] for [Student] and his therapist, [therapist]?"

24. In a written response to this complaint, the District reported that the Parent signed the release of records form on December 17, 2024.

25. On January 14, 2025, the Student's special education teacher emailed the school counselor and wrote:

> Hello, I spoke with [District staff] and wanted to reach out. My takeaway from conferences was that [District staff] would connect with [Student's] therapist then she would take his recommendations to make them school 'friendly'. Next, we would meet in person (or over email/parent square) to talk as a team about what support would look like moving forward, and to ensure that you were comfortable with the plan before making any changes to the IEP. I'm not sure right now what changes to make to the IEP as I want them to align with what you and his therapist suggest, and think are best. Would you like to meet in person before [District staff] speaks with the therapist?

26. On January 14, 2025, the school counselor emailed the Parent and wrote:

> I wanted to let you know that I have reached out and left a couple voicemails with [Student's] therapist but have not heard back from him. We would love to collaborate with him and receive any ideas/suggestions he might have! If/when you talk to him next, can you let him know that we are waiting to hear from him? Also, verify with him if you need to sign a release with him that would allow him to speak with me. Sometimes with medical providers and schools it's double the forms because of FERPA and HIPPA.

27. On January 14, 2025, the Parent emailed the school counselor and wrote, "We see him next week. I will talk to him, but him and I are not happy that we still have not had an IEP meeting. Which was asked for back in October 2024."

28. On January 30, 2025, the Parent emailed the director of special education and wrote:

> Hi [District staff], I am the mother of [Student] he attends [elementary school]. I was given your name/information to reach out to you regarding my son's school and not accommodating/following his IEP/BIP. I asked for an IEP meeting back in October 2024 and still not have received one. I wanted my son's therapist to be involved and have asked for days/times they have available and have not been provided that. They thought that because I provided an ROI for the school to communicate with his therapist that they did not have to set up an IEP meeting. Which I informed them there still needed to be one. They are now requesting I go through his IEP and BIP and mark everything that is not being accommodated/followed and then we can set up something. They informed me that they will only be able to have the meeting between 8:00am-3:30pm, when last year we had meetings before school and after school got out after 3:30pm, but now, I am being told otherwise. I am not sure where to go from here. If you could please point me in the right direction. Thank you for your time.

29. On February 3, 2025, the Parent filed this special education community complaint with OSPI.

30. In a written response to this complaint, the District indicated that the Parent was offered a meeting date of February 19, 2025, via an email from the assistant principal sent on February 4, 2025. The District indicated that on February 11, 2025, the Parent requested that the meeting occur on March 3, 2025.

31. The District's written response to the complaint indicated that an IEP meeting for the Student had been scheduled for March 3, 2025. And additional information confirmed the meeting was held.

CONCLUSIONS

Issue 1: Parent's Written Request for an IEP Meeting – The Parent alleged that she requested an IEP team meeting in October of 2024, and the District failed to schedule a meeting.

When a parent or district believes that a student's IEP should be changed and requests an IEP meeting, the district must conduct an IEP meeting in a reasonable amount of time or provide prior written notice if the district refuses to convene an IEP meeting because no change is necessary for the provision of FAPE.

Between August 27 and October 22, 2024, several emails were exchanged between District staff and the Parent, discussing the Student's school day and sharing both concerns and data about the Student's behaviors. On October 22, 2024, the Student's special education teacher initiated an email with first, the school IEP team, and then the Parent, and suggested convening the IEP team to consider possible adjustments to the Student's IEP or BIP to best support him. An IEP team meeting was initially scheduled for the following day, October 23, 2024. However, on October 23, 2024, the District's special education teacher emailed the Parent to cancel the IEP team meeting scheduled for that day, stating that all required District members of the IEP team could not be present at that time.

There were more emails exchanged between the District and the Parent from November 20, 2024 through January 30, 2025, attempting to schedule an IEP team meeting. The challenging process of scheduling was further complicated by the schedule of the Student's private therapist, whom the Parent wanted in attendance. While the District did initially try and quickly scheduled an IEP team meeting, they also immediately canceled that meeting and there was a period of time, between October 25 and November 20, 2024, where no attempts to schedule a meeting were made. All the while, the Student continued to struggle behaviorally at school. While Washington special education regulations do not specify a certain number of days in which a team must convene to review or revise an IEP if one is requested, it does state that the district must conduct an IEP meeting if it believes that a change may be necessary to ensure the provision of FAPE. In this instance, the District's special education teacher first expressed in writing, on October 22, 2024, that a change to the Student's IEP may be in order, which was immediately reiterated by the Parent.

The Parent did participate in a parent-teacher conference on November 25, 2024; however, an IEP meeting was not held until March 3, 2025. The District failed to offer a new meeting date for 121 calendar days, or to find a mutually agreeable time to meet for 133 calendar days.

OSPI finds that the District failed to timely and appropriately respond to the Parent's request to convene an IEP team meeting; therefore, a violation did occur. Given there were multiple factors leading to the delay, including challenges aligning District and Parent provider schedules, delays due to holidays/school breaks, and attempts to trying interventions prior to meeting, and because the meeting that was scheduled for March 3, 2025, has now occurred, correcting the identified violation, no further corrective action is required. The District is encouraged, nevertheless, to strive for the best practice of convening IEP teams within 30 calendar days of a Parent's request or a team member's suggestion that a meeting is warranted.

CORRECTIVE ACTION

STUDENT SPECIFIC:
None.

DISTRICT SPECIFIC:
None.

Dated this 1st day of April, 2025

Dr. Tania May
Assistant Superintendent of Special Education
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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.)