

## **SPECIAL EDUCATION COMMUNITY COMPLAINT (SECC) NO. 22-13**

### **PROCEDURAL HISTORY**

On February 8, 2022, the Office of Superintendent of Public Instruction (OSPI) received a Special Education Community Complaint from the parent (Parent) of a student (Student) attending the Federal Way School District (District). The Parent alleged that the District violated the Individuals with Disabilities Education Act (IDEA), or a regulation implementing the IDEA, with regard to the Student's education.

On February 8, 2022, OSPI acknowledged receipt of this complaint and forwarded a copy of it to the District superintendent on the same day. OSPI asked the District to respond to the allegations made in the complaint.

On February 15, 2022, OSPI received additional information from the Parent. OSPI reviewed the additional information and determined that its contents fell within the purview of the issues already opened for the investigation. No additional issues were added to the complaint. OSPI forwarded the additional information to the District on February 16, 2022.

On February 22, 2022, OSPI received additional information the Parent. OSPI forwarded the additional to the District on the same day.

On February 25, 2022, OSPI received the District's response to the complaint and forwarded it to the Parent the same day. OSPI invited the Parent to reply.

On February 26, 2022, the OSPI complaint investigator spoke with the Parent to clarify the scope of the investigation.

On March 1 and 7, 2022, OSPI received additional information from the Parent. OSPI forwarded the additional information to the District on March 9, 2022.

On March 2, 2022, OSPI requested that the District provide additional information.

On March 3, 2022, the OSPI complaint investigator communicated with counsel for the District regarding the scope of the request for additional information, and the District provided the requested information on March 9, 2022. OSPI forwarded the information to the Parent on March 29, 2022.

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

### **ISSUE**

1. Did the District follow meeting procedures when the Parent requested an IEP meeting to discuss the Student's behavior?

### **LEGAL STANDARD**

Parent Request for IEP Meeting: When a parent or district believes that a required component of a student's individualized education program (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**

### **Background**

1. On May 14, 2020, the District's evaluation team completed a reevaluation of the Student. The May 2020 reevaluation report found that the Student continued to be eligible for special education services under the category of specific learning disability.

### **2021–2022 School Year**

2. During the 2021–2022 school year, the Student attended a District high school. The Student was eligible for special education services under the category of specific learning disability.
3. On September 28, 2021, the Student's individualized education program (IEP) team developed a new IEP for the Student. The Parent, Student, special education teacher, District representative, and Student's general education teachers, including the physical education (PE) teacher, were present. In pertinent part, the Student's September 2021 IEP provided the Student with the following specially designed instruction:
  - Math: 80 minutes/2x per week, to be provided by a general education teacher, overseen by special education teacher in the general education setting.

The Student's IEP also provided the Student with the following accommodations:

- Chunk and organize information, visual/written prompts, directions and demonstrations.
- Verbal and written directions, check for understanding, graphic organizers to help organize complex ideas and information. Focus/guiding questions and structured routines help Student's focus.
- Check for understanding, provide time for questions and note-taking. Extended time for math assignments and assessments requiring math. Access to a calculator for assignments, assessments/tests.
- Access to a calculator, extended time (extra day) to complete extended assessments.
- Seated nearest instruction, access to a computer for written essays.
- Student is a great self-advocate, but may be reluctant to ask for help in class. Encourage his comments, questions and make time to conference with him.

The Student's IEP indicated he would spend 100% of his time in the general education setting.

4. In late January 2022, the Student's special education teacher met with the Student to discuss his grade in his general education PE class and followed up this meeting with an email to the Parent in which she notified the Parent that there may be a personality conflict or misperception between the Student and his PE teacher, which could be affecting the Student's performance in the class. The special education teacher emphasized that she wanted to "support [Student] and facilitate a conversation between teacher and Student," and offered several options to help remedy the Student's relationship with the PE teacher, checked the Student's grade, and gave the Parent dates she was available to meet and discuss.
5. On January 23, 2022, the Parent emailed the special education teacher and the principal and stated:

My son will be absent tomorrow January 24, 2022. My son will be absent because [PE teacher] is hazing my child. He is making comments in front of my son's peers such as 'you are a discouragement' and asking personal questions on the field about my son's biological father. This is not appreciated nor is it legal practice. Also, my son's grade has been affected and unfairly scrutinized as a form of retaliation due to him not participating in wrestling. This is very upsetting as the school is aware my son does suffer from PTSD and I want something to be done about this immediately please! My son was yelled at in front of several peers at the end of the day on Friday the 21, 2022, as well as humiliated and hazed while on the field by [PE teacher]. I would like you to do an investigation on [PE teacher] and I would also like to have a meeting for my son's psychological and personal safety. I want him removed from this class immediately without it affecting his grade.
6. On January 24, 2022, the special education teacher emailed the Parent and stated:

After requesting an investigation of the PE teacher, the next steps are probably a meeting with the PE teacher, the principal and a union representative of his choosing. The PE teacher might not want me to be involved as it's a union issue at this point...If you aren't happy with the results of a building level meeting and you want an investigation to include witness statements and district administration, perhaps a call to our district office and/or OSPI would be appropriate.
7. On January 25, 2022, the special education teacher emailed the Parent again and stated:

Have you tried calling to make an appointment with the principal? Please call our main office number and tell our office manager you'd like to make an appointment with the principal. He's better about responding in person than through email. It's just a guess on my part; but he may want to talk to you before meeting with the PE teacher.

That same day, the Parent responded and stated, "Thank you, yes the office is well aware that I would like to have a meeting and am awaiting a response from the principal. I spoke with attendance about it again today and she notified me that she would relay a message to him again."

8. On January 26, 2022, the office manager emailed the Parent and stated, "Good morning. I received your message requesting an appointment with the principal regarding [Student]. Can you please give me a little bit of information so I can make sure to schedule the right amount of time and have the right people present." The Parent responded, "Thank you for your response. The administration has received several emails requesting this meeting regarding

my wish to file a formal complaint and need for an investigation in regards to the unethical and unprofessional behaviors of a staff member towards my minor child that has caused my family duress.”

9. On February 1, 2022, the Parent emailed the special education teacher and stated:  
Today my son did a suicide attempt and got into a really bad car accident as a result, thank God he’s physically OK and he is home with me now. The purpose of this email is just to thank you for everything and to let you know not to worry about [Student]. Please keep us in your prayers and I will be keeping him home and I will be staying with him for a few days.
10. On February 2, 2022, the special education teacher and the Parent exchanged several emails, which included the following information and statements:
  - The special education teacher emailed the Parent and stated, “Please, let me know if there’s ANYTHING I can do! May I contact his counselor to let him know?”
  - The Parent responded and stated, “Yes you may contact his counselor. We would like to know what options Student has to be homeschooled at this point.”
  - The special education teacher emailed the Parent and stated, “I contacted Student’s counselor to discuss educational options. Of course, I’ll support any decisions you make, but please consider taking a few days before making any huge changes. I hope Student will consider returning to [District program]. I’ll contact the District program counselor to let him know Student was in an accident. I’m going to talk to Student’s counselor to see what his options are. If being on this campus is triggering his depression, off-campus or online classes may be the only option, but I may be wrong. Even if we need to amend the IEP, we’ll figure out a way to support Student (and you).”
11. On February 3, 2022, the Parent emailed the District’s native education coordinator and stated:  
This principal never met with me, nor was he responsive to any of my various emails or phone calls requesting a meeting. In fact, I have further legal documentation that he went behind my son’s back, who has an IEP and is a person of color, and demanded that he write a statement about the PE teacher that was publicly humiliating him and hazing him and causing him further duress knowing that my son has PTSD because I’ve put it in writing. as did my child. As a direct result two days later my son attempted suicide. The principal is not remorseful and admitted what he did to my child and how he declined meeting with me prior to this.
12. On February 4, 2022, the following emails were exchanged:
  - The special education teacher emailed the Parent and stated, “If [Student] doesn’t feel safe, he may want to wait until there’s a written safety plan in place before he returns. Safety plans include details and specific guidelines for everyone involved. It’s like a no contact order, but it relates to only specific places and people within the school and may include designated ‘safe zones’-a safe place to go if needed. You may want to talk to the person writing the plan to find out what their procedures are and when it will be in place. Usually a meeting between administration, student, and parents is required before enacting a plan.”
  - The Parent responded to the special education teacher, “There are several other examples that I have of emails that show I reached out several times to the administration for a meeting and the principal blatantly negated [sic] to contact me or schedule a meeting with me. Also, he was well aware that my son is a special needs kid that has a disability and I told him in an email that he has PTSD not to contact him, and he still forced my son to write that letter.”

- The interim chief of human resources emailed the Parent and stated, "Thank you for taking the time to speak with me this afternoon. I wanted to write a follow up, as I know we talked about a lot. I will be conducting a full investigation into your concerns regarding staff at the high school. As I shared on the phone, I will connect with you next week to begin the investigation by speaking first with the Student. I have also spoken with the learning improvement officer about the need to create a safety plan for Student's return and identifying adults he feels comfortable with for support – I have provided her special education teacher's name as an adult he feels comfortable with and with administrators he can connect with if there is a need for an administrator. I will be in touch with you next week to set a time for me to meet with Student for the initial interview. Thank you so much for your time; I will speak with you soon."
- The Parent responded to the interim chief of human resources and stated, "Thank you for taking the time to talk with me today and for attempting to ensure my son's safety from here on out while he is at your school district. I understand that your job is to protect the best interest of the school district, but I will ensure that this never happens to another student or family again. I will send you forward emails and other documentation that relates to this investigation. Again, I appreciate you! I look forward to receiving a 48-hour written notice when you would like to meet with my son and I."
- The Parent also emailed the special education teacher and stated, "I just wanted to notify you that I finally spoke to the chief of HR and she assured me that the principal and the PE teacher will stay away from my son. I was assured that she will put a safety plan in place to ensure Student's safety. The chief of HR informed me that they will be conducting a thorough investigation into this matter. I just wanted to give you this update and also to thank you tremendously for the love and support that you provide to each and every student!! Student will tentatively return to [high school] on Monday or on Wednesday depending on his mental health status. If this does not work out, I will have to remove him from [high school]."

13. On February 8, 2022, OSPI received the Parent's special education complaint.

14. Also, on February 8, 2022, the following email exchange occurred between the Parent and District staff:

- The Parent emailed the interim chief of human resources and stated, "Good morning ma'am I received a voice message from somebody that identified themselves as the assistant principal wanting to converse with me about a safety plan. The school has my email address, and I am requesting in writing that anything that pertains to Student be done via email correspondence only, due lack of accountability and from [high school] staff. If you can please forward this email to the assistant principal and let him know that I await correspondence via email to discuss that safety plan since they have refused to meet with me and blatantly negated to address my many email correspondences and several phone calls requesting a meeting, as you can see as evidenced by the documentation that I forwarded to you. I greatly appreciate your time and your assistance and still await to hear from you with a 48-hour notice of when you want to speak to my son and I."
- The interim chief of human resources responded that same day and stated, "Your email is timely. I am hoping to set up a time to meet with you and Student on Thursday at 2:30. Would that time possibly work for you? I can meet you at the high school campus or have you come to the district office or set up a Zoom. I will also connect with the learning improvement officer and have her and the assistant principal reach out to you by email regarding a safety plan and any other needs you have."

- The Parent responded that same day, "Student and I will meet with you at 2:30 at the front office at high school campus. I want nobody to discuss this with my son or harass him or haze him about this. Student has suffered enough unnecessarily!"
15. On February 11, 2022, the District emailed an IEP meeting request to the Parent that stated, "The District needs to schedule a meeting with you. The purpose of the meeting is to develop an IEP, including transition planning as appropriate. Parents are permitted to bring guests to the meeting and are encouraged to invite the child's support coordinator if Student is served by another public agency, but are requested to inform the team ahead of time."
  16. On February 15, 2022, the Student's IEP team met to amend the Student's IEP, including corrections to IEP transition page, graduation plan, goals, and accommodations.
  17. On February 15, 2022, the special education teacher emailed the Parent and stated:  
I hope you feel we made progress today and your voice is heard. District special education assistant directors and I took notes during the meeting. I'll put them together and send a summary of our meeting tomorrow. You'll also receive a form from me called a Prior Written Notice (PWN) which documents the plan (evaluation, access to a computer and Home Hospital tutoring) we agreed to this afternoon. Home Hospital tutoring helps students when they cannot be at school for health reasons; thankfully scholars don't need to be in a hospital or at home to receive support. Home tutoring is handled through the Special Services Support (SSS) at the district office.
  19. On February 17, 2022, the District issued a prior written notice, proposing a reevaluation in the areas of social behavioral, mathematics, reading, and writing. The notice stated the reason for the reevaluation was that the Parent had expressed concerns regarding the Student's social/behavioral skills. The team reviewed the Student's May 2020 evaluation, in addition to considering the Parent's feedback, and agreed to conduct a reevaluation to determine present levels of functioning and any additional support or services the Student may need. The prior written notice did not include any mention of issue related to the PE teacher or prior requested meetings with the principal.
  20. On February 26, 2022, the investigator spoke with the Parent in an effort to get more information about her complaint and meeting requests. The Parent stated she was primarily concerned with the PE teacher allegedly bullying the Student, the principal's failure to meet with her to discuss this matter, and an allegation of discrimination, all of which she alleged led to her Student's suicide attempt.

## **CONCLUSIONS**

**Issue: IEP Meeting Request** – The complaint was opened on the issue of whether the District followed meeting procedures when the Parent requested an individualized education program (IEP) meeting to discuss the Student's behavior. However, in investigating the complaint and speaking with the Parent, she clarified that her concerns were primarily related to allegations of bullying and the principal's failure to meet with her to discuss her concerns.

When a parent 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 a free appropriate public education (FAPE), or issue a 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.

Based on the documentation provided by the Parent and the District in this matter, there is no evidence that the Parent requested an IEP meeting to address her concerns. In late January, the Parent requested a meeting with the principal of the school to address an allegation that the Student's physical education (PE) teacher was "hazing" the Student. The Parent repeatedly requested a meeting with the principal to discuss the PE teacher's behavior, and later the principal's behavior, in how he took the Student's statement regarding the incident with the PE teacher. However, the regulations that implement the IDEA are silent as to parent-principal conferences and the Parent did not raise any issue or concern about the Student's access to FAPE in her request for a meeting. The Parent's requests for a meeting also did not indicate she believed the IEP was not being implemented or that the resolution of her concerns would come through a change to the IEP or special education services.

Accordingly, the principal's failure to meet with the Parent regarding the PE teacher's conduct is not governed by the regulations that implement the IDEA. Therefore, there is no noncompliance with respect to the IDEA regulations in regard to the principal's failure to meet with the Parent. Once the District received a copy of this complaint on February 8, 2022 and understood from the complaint that the Parent wanted an IEP meeting, an IEP meeting was promptly scheduled on February 11, 2022 and held on February 15, 2022. Overall, OSPI finds no violation.

### **CORRECTIVE ACTION**

**STUDENT SPECIFIC:**

None.

**DISTRICT SPECIFIC:**

None.

Dated this \_\_\_\_ day of March, 2022

Glenna Gallo, M.S., M.B.A.  
Assistant Superintendent  
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.)