

SPECIAL EDUCATION CITIZEN COMPLAINT (SECC) NO. 17-59

PROCEDURAL HISTORY

On August 14, 2017, the Office of Superintendent of Public Instruction (OSPI) received a Special Education Citizen Complaint from an attorney (Complainant) representing the parent (Parent) of a student (Student) attending the Pasco 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 August 14, 2017, 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 September 6, 2017, OSPI received the District's response to the complaint and forwarded it to the Complainant on September 7, 2017. OSPI invited the Complainant to reply with any information she had that was inconsistent with the District's information.

On September 18, 2017, OSPI received the Complainant's reply and forwarded that reply to the District on the same day.

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

OVERVIEW

During the 2016-2017 school year, the Student attended a District elementary school and was eligible to receive special education services. In October 2016, the Student's individualized education program (IEP) team, including the Parent, met to develop the Student's annual IEP. A District bilingual paraeducator/home visitor acted as an interpreter for the Parent during the meeting. The Complainant alleged that the District paraeducator/home visitor was not a competent interpreter, which resulted in the Parent being unable to make informed decision about the Student's IEP. The District denied the allegation.

ISSUE

1. Did the District follow procedures to afford the Parent an opportunity to participate in the Student's individualized education program (IEP) meetings, including but not limited to arranging for interpreter services for the Parent?

LEGAL STANDARDS

Parent Participation: A school district must ensure that one or both of the parents of a student eligible for special education are present at each IEP team meeting or are afforded the opportunity to participate, including: notifying parents of the meeting early enough to ensure that they will have an opportunity to attend and scheduling the meeting at a mutually agreed on

time and place. The notification must: indicate the purpose, time, and location of the meeting and who will be in attendance and inform the parents about the provisions relating to the participation of other individuals on the IEP team who have knowledge or special expertise about the student, and participation of the Part C service coordinator or other designated representatives of the Part C system as specified by the state lead agency for Part C at the initial IEP team meeting for a child previously served under Part C of IDEA. The school district must take whatever action is necessary to ensure that the parent understands the proceedings of the IEP team meeting, including arranging for an interpreter for parents with deafness or whose native language is other than English. The school district must give the parent a copy of the student's IEP at no cost to the parent. 34 CFR §300.322; WAC 392-172A-03100.

FINDINGS OF FACT

Background Facts

1. The Parent's primary language is Spanish, and she requires an interpreter and translated documents in order to participate in individualized education program (IEP) meetings and other special education related meetings.
2. The District initially evaluated the Student for special education in 2008. He has been eligible to receive special education services since that time.
3. During the 2015-2016 school year, the Student attended a District elementary school and was eligible to receive special education services.
4. On October 15, 2015, the Student's IEP team, including the Parent, met to develop the Student's annual IEP. An employee of the District (interpreter) also attended the meeting to interpret for the Parent. The interpreter signed the October 2015 IEP, indicating she attended the meeting and acted as a "bilingual representative".
5. In March 2016, the Student's IEP team, including the Parent, met to amend the Student's October 2015 IEP. The interpreter attended the meeting and signed the IEP amendment, indicating that she acted as the "bilingual representative".

2016-2017 School Year

6. The District's 2016-2017 school year began on August 30, 2016.
7. During the 2016-2017 school year, the Student continued to attend the same District elementary school.
8. Also during the 2016-2017 school year, the interpreter worked for the District as both a bilingual paraeducator and a home visitor.
9. The District's job description for a bilingual paraeducator position requires an applicant to "proficiently read, speak, and write both English and Spanish" and "communicate clearly and

work effectively with staff, students, and patrons.” The District’s job description for a home visitor position requires an applicant to “proficiently read, speak, and write both English and Spanish” and the “ability to provide workshop/training sessions for parents”. According to the District’s response to this complaint, the interpreter demonstrated that she met the Spanish language requirement for both job positions by scoring a rating of “fluent” on the District’s Spanish assessment.

10. Also according to the District’s response to this complaint, the interpreter has worked in the District for over twenty years, and also worked for another regional school district, as well as regional social services agencies. In her role as a District home visitor, she has attended numerous IEP meetings and provided interpretation for families. According to the District’s response, the principal of the Student’s elementary school, who is fluent in Spanish, has attended IEP meetings with the interpreter and “has had no concerns about the information being communicated” by the interpreter.
11. On September 19, 2016, the District sent the Parent a translated meeting invitation for an IEP meeting scheduled on October 6, 2016. The purpose of the meeting was to develop the Student’s annual IEP. The invitation stated that the interpreter would be present at the meeting.
12. On October 6, 2016, the Student’s IEP team met to develop the Student’s annual IEP. The IEP meeting was attended by the following people:
 - Parent
 - Interpreter
 - Assistant Principal
 - Occupational Therapist
 - Special Education Teacher
 - General Education Teacher
13. According to the Complainant, at the meeting, it “was clear to [the Parent] that [the interpreter] did not have an understanding of the specialized terms that were being used, she summarized the discussions instead of interpreting word for word, and she had difficulty translating from Spanish to English.” Also according to the Complainant, due to the interpreter summarizing the conversations, instead of interpreting word for word, the Parent missed out on information being said at the meeting. The Complainant also stated that at the IEP meeting, it was apparent to the Parent that the interpreter “does not speak Spanish very well”.
14. According to information from the assistant principal, at the meeting, the Parent did not indicate that she did not understand the proceedings of the meeting or that she had concerns about the interpretation. The District also provided information that this citizen complaint was the first time it was made aware of the Parent’s concerns with the interpreter. Additionally, the District had not received any other parent concerns regarding the interpreter.
15. Also on October 6, 2016, the District issued a prior written notice, in Spanish, proposing to change the Student’s IEP.

CONCLUSIONS

The Complainant alleged that as a result of the interpreter not being “competent”, the Parent was unable to make informed decisions about the Student’s IEP. The IDEA does not prescribe the qualifications for an interpreter, and the state of Washington has not yet adopted qualifications for educational language interpreters. However, school districts are required to take whatever action is necessary to ensure that the parent understands the proceedings of the IEP team meeting, including arranging for an interpreter. Here, the District arranged for an interpreter at the October 6, 2016 IEP meeting to ensure that the Parent would understand the proceedings of the IEP team meeting. The interpreter was assessed by the District as being fluent in Spanish, was experienced in communicating with families, and was familiar with the proceedings of IEP meetings, having attended “numerous” meetings. While the Parent may have felt that the interpreter was not “competent”, the Parent did not express any concerns at the October 2016 meeting or at another time during the 2016-2017 school year. It is also noted that the interpreter was present at the Student’s prior October 2015 and March 2016 IEP meetings and the Parent did not express any concerns about the interpreter during or following those meetings. Absent any knowledge of the Parent’s concerns, the District could not be expected to take any additional steps to ensure the Parent understood the proceedings of the meeting. The District has stated in its response to this complaint, that now that it is aware of the Parent’s concerns, it will evaluate the interpreter services being provided to determine if any changes are needed, and has offered to meet with the Complainant to discuss any suggestions to improve the District’s interpreter services. The District has substantiated that it followed procedures under the IDEA and state regulations to ensure the Parent understood the proceedings of the October 2016 IEP meeting.

CORRECTIVE ACTIONS

STUDENT SPECIFIC:

None

DISTRICT SPECIFIC:

None

Dated this ____ day of October, 2017

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