

SPECIAL EDUCATION CITIZEN COMPLAINT (SECC) NO. 17-76

PROCEDURAL HISTORY

On October 23, 2017, the Office of Superintendent of Public Instruction (OSPI) received a Special Education Citizen 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 October 24, 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 November 16, 2017, OSPI received the District's response to the complaint and forwarded it to the Parent on November 17, 2017. OSPI invited the Parent to reply with any information she had that was inconsistent with the District's information.

On November 29, 2017, OSPI received the Parent's reply and forwarded that reply to the District on the same day.

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

OVERVIEW

During the 2016-2017 school year, the Student attended a District elementary school and was not eligible to receive special education services. In March 2017, the Student's private counselor referred him for a special education evaluation and a Section 504 plan. The District then held a meeting in April 2017 and determined that the Student's school performance did not support the need for a special education evaluation at that time, but agreed to evaluate the Student for a Section 504 plan and to hold a meeting in October 2017 to reconsider the Student's need for a special education evaluation. During the 2017-2018 school year, the Student continued to attend the District elementary school. In early October 2017, the District held a meeting to review the Student's progress and his Section 504 plan. The Parent alleged that the District failed to follow special education referral procedures. The District denied the allegation.

SCOPE OF INVESTIGATION

This decision references events which occurred prior to the investigation time period, which began on October 24, 2016. 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 time period.

ISSUE

1. Did the District follow special education referral procedures?

LEGAL STANDARDS

Referral: Any person who is knowledgeable about the student may make a referral of a student suspected of having a disability. 34 CFR §300.301; WAC 392-172A-03005(1). A referral may be implied when a parent informs a school that a child may have special needs. *In the Matter of the Lake Washington School District*, 57 IDELR 27, OSPI Cause No. 2011-SE-0020X (WA SEA 2011). When a student suspected of having a disability is brought to the attention of school personnel, the district must document that referral. It must provide the parents with written notice that the student has been referred because of a suspected disabling condition and that the district, with parental input, will determine whether the student is a good candidate for evaluation. It must review the referral, and it must collect and examine existing school, medical, and other records. The district must determine within 25 school days after receipt of the referral whether it will evaluate the student. The district must provide the parent with written notice of its decision. 34 CFR §300.301; WAC 392-172A-03005.

FINDINGS OF FACT

2016-2017 School Year

1. During the 2016-2017 school year, the Student attended kindergarten at a District elementary school and was not eligible to receive special education services.

Timeline for this Complaint Begins on October 24, 2016

2. On November 17, 2016, the elementary school counselor emailed the Parent regarding a behavior incident involving the Student. The school counselor stated that she had spoken with the Student's teacher and the teacher "felt" that the incident was an isolated incident and that the Student was "by no means" a behavior problem at school. The school counselor stated that the teacher wanted the Parent to know that besides the incident, the Student was "great and well behaved at school." The school counselor stated that she hoped this eased the Parent's mind and that future family counseling would help the issues with the Student's behavior at home.
3. According to the District's documentation in this complaint, on December 6, 2016, the Parent called the school psychologist to discuss her concerns about the Student's behavior and perceived hyperactivity. The Parent and the school psychologist discussed using the Vanderbilt assessment¹, because the Parent was unsure if the Student was exhibiting these behaviors at both school and home, or only at home. The psychologist agreed to send the Parent a copy of the assessment and a consent form. According to the District's documentation, the school psychologist did not refer the Student for special education at that time.

¹ The Vanderbilt assessment, also known as the National Institute for Children's Health Quality (NICHQ) Vanderbilt Assessment Scales, is used by healthcare professionals to help diagnose attention deficit hyperactivity disorder (ADHD) in children between the ages of 6 and 12.

4. The District's documentation in this complaint included a consent form signed by the Parent on December 13, 2016. The consent form stated that the Parent was:

Requesting a copy of the Vanderbilt Assessment be given to my child's teacher in order to document the behavior concerns about my child, particularly with inattention, impulsivity and hyperactivity. I would also like the Parent Version of the Vanderbilt assessment sent home. I understand the completed forms should be given to my child's doctor and will assist me in communicating with my child's physician about the type and frequency of behaviors occurring both at home and at school.
5. The Vanderbilt assessment to be completed by teachers addressed three areas: symptoms, academic performance, and classroom behavioral performance. The symptoms section asks the teacher to indicate if the child exhibits a variety of thirty-five (35) symptoms and how often the symptoms are exhibited (never, occasionally, often, or very often). The academic performance section addresses reading, mathematics, and written expression and asks the teacher to indicate if the child is performing in the excellent, above average, average, somewhat of a problem, or problematic range. The behavioral performance section addresses relationships with peers, following directions, disrupting class, assignment completion, and organizational skills, and asks the teacher to indicate if the child is performing in the excellent, above average, average, somewhat of a problem, or problematic range.
6. The District's documentation in this complaint included a Vanderbilt assessment completed by the Student's kindergarten teacher. The teacher did not indicate that the Student exhibited any of the symptoms very often, but that the Student exhibited twenty of the symptoms often or occasionally, and never exhibited fifteen of the symptoms. The teacher indicated that the Student was in the average range for academic performance and the average range for relationships with peers, assignment completion, and organizational skills. The teacher indicated that the Student had somewhat of a problem with following directions and disrupting the class.
7. The Vanderbilt assessment to be completed by parents addressed two areas: symptoms and performance. The symptoms section asks the parent to indicate if the child exhibits a variety of forty-seven (47) symptoms and how often the symptoms are exhibited (never, occasionally, often, or very often). The performance section addresses: overall school performance; academic performance in reading, mathematics, and written expression; relationships with parents, siblings, and peers; and, participation in organized activities. The assessment asks the teacher to indicate if the child is performing in the excellent, above average, average, somewhat of a problem, or problematic range in those areas.
8. The District's documentation in this complaint included a Vanderbilt assessment that was completed by the Parent. The Parent indicated that the Student exhibited the following symptoms very often: talks too much, has difficulty waiting his turn, interrupts or intrudes in on others' conversations and/or activities, lies to get out of trouble or to avoid obligations, and is fearful, anxious, or worried. The Parent also indicated that the Student exhibited thirteen symptoms often, sixteen symptoms occasionally, and thirteen symptoms never. The

Parent indicated that the Student was in the average range for academic performance and his relationship with parents, but had somewhat of a problem with relationships with siblings, peers, and participation in organized teams. The Parent included a comment on the assessment, indicating that the Student had punched other students at school on two separate occasions, and would deliberately remove his seatbelt while a car was moving. The Parent also stated that the Student exhibited defiant behavior and sometimes turned violent, hitting family members.

9. According to the District's documentation in this complaint, on December 13, 2016, the school psychologist spoke with the Parent about the results of the Vanderbilt assessment and stated that the Student did not "meet any significant behaviors as described as cut off behaviors" on the assessment completed by the Student's teacher. The school psychologist also explained that the Vanderbilt assessment was a screening tool for attention issues to share with the Student's physician, and that based on the assessment completed by the Parent, the Student showed struggles in the oppositional defiance disorder (ODD) area. According to the documentation, the Parent did not request that the Student be referred for special education at that time.
10. On March 8, 2017, the Student's kindergarten teacher was given a letter from the Student's private counselor. The letter was dated March 1, 2017, and addressed to the counseling and administrative staff at the Student's elementary school. In the letter, the private counselor stated that she had been seeing the Student since November 2016 and that the Student was diagnosed with "Anxiety NOS with a rule out of ADHD and Autism Spectrum Disorder". The private counselor also stated that the Student was in the process of an extensive private evaluation to conclude an appropriate diagnosis. The private counselor recommended that the Student be evaluated by the District to implement a Section 504 plan and individualized education program (IEP), and included a list of accommodations that might be "beneficial" for the Student's academic and social emotional skills. The recommended accommodations were:
 - Participation in a social skills group
 - Use of fidget toys to help him focus and keep hands to himself
 - A positive behavior reward system that helps him recognize when he had good behavior
 - Preferential seating
 - Regular checking from staff about understanding social cues and process issues that come up
 - Ability to have a safe staff person when he has escalated or needs an out
 - Physical activity every half hour
 - Use of sensory cushion for chair to help with focus and fidgeting
 - If distracted or upset the use of another location to complete work and calm
11. Based on the documentation in this complaint, during the week of March 13-17, 2017, the Parent spoke with the elementary school counselor about her concerns regarding the Student.
12. On March 20, 2017, the school counselor emailed the Student's kindergarten teacher, stating that she had spoken with the Parent the prior week and that it sounded like the Parent

wanted the Student to have a Section 504 plan. The school counselor stated that she may need to speak with the teacher prior to speaking with the Parent again, and that it sounded like the Parent was trying to get an additional diagnosis of the Student completed.

13. On March 28, 2017, the Student's private counselor sent another letter to the elementary school staff. The private counselor stated that she had written to the school on March 7, 2017, about her concerns regarding the Student, but a meeting had not been scheduled to discuss the concerns and staff had not contacted the Parent to discuss why the request for an evaluation was denied. The private counselor stated that she had provided documentation of the Student's diagnosis and that after speaking with the Student's private psychologist, she was able to verify that the Student had a diagnosis of "Autism spectrum disorder, a rule out ADHD, and Anxiety." The private counselor also stated that it was "wonderful" if the Student was being successful at school, but that she was requesting services knowing that the Student would need them in the future. The private counselor said that she had seen the Student in multiple contexts and that he struggled socially and emotionally. Additionally, the private counselor stated that the Parent had shown the counselor letters from the school outlining over nine behavioral events since January 2017, and the Parent had originally brought the Student to counseling due to the Student's behavior at school and fear that he may be kicked out. The private counselor said that if there were only one or two events, this might be typical five-year old behavior; however, the Student seemed to struggle in non-structured time and with understanding peer affect, as there had been many instances of him hitting other children, stealing, or threatening. The private counselor further stated that she was sending the letter to all District administration and the superintendent, and hoped that a Section 504 plan would be put in place and that the Student would be evaluated for special education. The private counselor asked that she be contacted about a plan to move forward.
14. According to the District's documentation in this complaint, on March 29, 2017, the elementary school principal spoke with the Student's private counselor regarding the counselor's March 28, 2017 letter. The principal apologized that she had not seen the private counselor's March 1, 2017 letter. The principal and the private counselor discussed the differences between a Section 504 plan and an IEP, and the principal stated that once the District received information from the Student's private psychologist, a Section 504 plan could be created. The principal and the private counselor also discussed school staff scheduling a meeting with the Parent to get her input, and the private counselor requested that she be invited to the meeting.
15. The District was on break April 3-7, 2017.
16. On April 10, 2017, the Parent provided the elementary school with a copy of the Student's evaluation report from his private psychologist and asked that the Student be referred for special education. The private report was dated March 29, 2017, and stated that the Student's symptoms were best explained by a diagnosis of disruptive mood dysregulation disorder, autism, and anxiety.

17. On April 11, 2017, the District issued a notice of referral to the Parent. The notice stated that the school evaluation team had received a referral for a possible comprehensive evaluation of the Student's qualification and/or need for special education services, and that within twenty-five (25) school days, a meeting to discuss the need for an evaluation would be held. The notice stated that the Parent would be contacted about a meeting.
18. On April 13, 2017, the District sent the Parent an invitation to attend a meeting on April 19, 2017, to discuss evaluating the Student for special education and considering a Section 504 plan.
19. On April 18, 2017, the elementary school speech language pathologist (SLP) observed the Student in his classroom, and then emailed the school psychologist regarding the observation. The SLP stated:

I observed [the Student] on Tuesday morning in his [kindergarten] classroom and in transition to another [kindergarten] class for math group. He was noted to follow directions the first time, without redirects, in 7/10 instances. Given a redirect on the other 3 occasions, he was then able to proceed with the expected behavior. When he noticed me following a group of students (of which he was a part) to the other classroom, he appropriately looked at me and asked, "Who are you?". He joined his peers on the carpet in both rooms, and participated in both music video activities and a math game, respectively. At one time during the music video, he began spinning around and the teacher asked him to stop. When she asked him why he was spinning he responded that it was a dance he made up with his mom. His teacher later indicated to me that it was not a "stemming" behavior.

In the other classroom for the math group, he turned around with his back to the front where the teacher was on two different occasions, both times seemed to be talking with peers. It was difficult to tell who had initiated, and which child was the actual distractor. He looked up and met my eye gaze at one point. When I subtly shook my head "no", he immediately turned back facing front. His teacher later indicated to me that he seems to respond best to non-verbal cues. At times that he wasn't sure what to do, it was noted that he looked at his peers and followed what he saw them doing.

No talking out /blurting behavior were noted, he waited to be called on, with his hand up to answer questions. Overall, he did not "stand out" amongst his peers as having behaviors that were unusual for his age. From what I was able to hear, he did not exhibit speech sound errors which were not age appropriate and was easily understood.
20. On April 19, 2017, staff from the elementary school met with the Parent to discuss evaluating the Student for special education. According to the meeting notes, the group discussed that the Student had outbursts and was violent at home, but that the kindergarten teacher did not see this problem at school, as the Student almost never had inappropriate behavior, except typical kindergarten behavior. The group also discussed that the Student's social interactions were appropriate for his grade level, as he talked to other students and solved problems with adult help. The Parent expressed concern that the Student had issues transitioning and that his behaviors were anxiety driven. Additionally, the group discussed

that the Student's academics were "not quite at standard", but that the Student was "catching onto the concepts". The Parent expressed concern that the Student was hard to understand, and the kindergarten teacher stated that the Student was vocal, used words to communicate, and could be understood. The group also discussed the SLP's observation of the Student. District staff then determined that a special education evaluation was not appropriate at that time "due to unseen educational impact" and recommended that the Student have a Section 504 plan.

21. Also on April 19, 2017, the District issued a "Notice of Decision About Need for Evaluation", stating that the multidisciplinary team discussed the Student's educational needs and decided that an evaluation to gather additional data was not appropriate at that time. The notice stated that a review of the Student's school records indicated adequate educational performance at that time. The notice also stated:

[The Student's] academic and/or behavioral progress within the general ed. curriculum does not warrant consideration for special education services at this time. However, given his diagnosis of Autism and other disorders the team has agreed to meet again in October 2017 to determine if this decision should be reconsidered. [The Student] is having a great deal of behavior issues at home, but at this time is not exhibiting significant concerns at school.

The team has determined a 504 [plan] should be in place now to ensure strategies which are being successful are put in place for next school year. At the end of the meeting on 4/19/17, [the Parent] wanted more time to consider the results of the meeting and request for [a] 504 [plan]. In a phone call with [the school psychologist] on 5/2/17, [the Parent] agreed to move forward with the recommendations listed above.

22. On May 24, 2017, the District completed the Student's Section 504 plan evaluation.

23. On May 25, 2017, the Parent emailed the elementary school principal, stating that the Student had been injured by another student on May 24 and expressed concern that this was the fourth time in the last few months that the Student had been injured by the same student. The Parent stated that she had previously brought her concerns to the elementary school's dean of students, but the behavior continued. The Parent asked that the other student be removed from the Student's classroom and that the other student be kept away from the Student at all times.

24. Based on the documentation in this complaint, on May 30, 2017, the District developed a 504 plan for the Student and provided the Parent with a copy of the plan.

25. On the evening of May 30, 2017, the Student's private counselor emailed the District director for special education and attached a letter. The private counselor stated that she had been communicating with the school, and that the family was working with the state Office of the Educational Ombuds. The private counselor said that she and the family had a meeting with an educational ombuds the next day, to discuss how to proceed with this matter. The counselor asked that the director call her or the Parent to discuss the matter.

26. In the letter, the private counselor stated that during the 2016-2017 school year, the Parent and the counselor had requested on multiple occasions that the Student be evaluated for an IEP and a Section 504 plan, but the District had not provided a written explanation as to why the Student was being denied a IEP evaluation, and the accommodations in the Student's Section 504 plan did "not encompass the needs" the Student had been evaluated for. The counselor then expressed concerns that there had been several mix-ups in regard to the school principal receiving her original written request and concerns about the Student's home/school communication notebook. Additionally, the counselor stated that school staff had stated that they did not see inappropriate behavior from the Student, but the home/school communication notebook included nine incidents of inappropriate behavior from January through March. The counselor also stated that the Student's independent evaluation indicated concerns with cognition and social and emotional needs, and that the parents and the counselor wanted the Student to be evaluated to help support the Student's needs, the best way the school could.
27. The District's documentation in this complaint included a copy of the Student's home/school communication notebook showing communications between the Parent and school staff from the time period of January 20, 2017 through March 30, 2017. The communications from staff show that the Student's behavior was generally "great" with the exception of the following behavior:
- February 9 – "Great afternoon, but he got a little wound up in music and was flinging his coat at another student. We talked about how the zipper would feel if it hit a face."
 - February 16 – "We have two incidences of [the Student] putting my things in his pockets. He said he was just putting them there to clean up, but some of the chain links made their way to the lunch room. [The PE teacher] mentioned he's had some trouble with [the Student] staying on task the last two times."
 - February 24 – "He kept touching his tablemate's food at lunch and was pretending to eat it after the boy told him to stop and started crying. I had him apologize and we talked about how we wouldn't want people touching our food before we ate it."
 - February 28 – "No happy face this morning because he told another student he was going to take his necklace. He also lied to me about the incident."
 - March 16 (substitute teacher) – "[The Student] had to be redirected on several occasions. Behavior was okay but not good as expected. Made [a] big mess then needed to be reminded to not rough play and pick up."
 - March 20 – "He is usually very good about cleaning and organizing, but today he kept taking out toys and didn't get them put away before taking out more toys."
 - March 24 – "Difficult afternoon. He wasn't able to get his rainbow project done and wasn't being very nice to another student. He was making unnecessary comments and made the boy cry. He was also throwing paper at another student on the carpet."
28. On May 31, 2017, the District director for special education emailed the Student's private counselor in response to the counselor's May 30 email and letter. The director stated that she would follow up with the elementary school staff to understand what steps had been taken in response to the referral request, and also provided some information about the referral process. The director agreed to call the private counselor later that day.

29. Also on May 31, 2017, the Student's private counselor emailed an educational ombuds, the District director for special education, and the elementary school principal, and included the Parent. The private counselor asked for help with the Student with regard to his "emotional state in regards to bullying." The private counselor stated that the Student expressed concerns that he was going to get "beat up" at school by the student who was bullying him and other students, and was brought to school that day "kicking and screaming" from his fear of school. The counselor stated that she wanted to discuss how the Student's autism was playing a role in confusing the actions of other kids as being bullying, instead of accidents or other possibly normal behavior. The counselor also wanted to discuss whether a staff person, whom the Student had designated as safe, could reassure him the school was going to keep him safe and that he did not need to worry.
30. Later on May 31, 2017, the elementary school counselor called and left a message for the Student's private counselor to discuss the Student's 504 accommodations.
31. According to the District's documentation in this complaint, on June 1, 2017, the District assistant director of student support services called and spoke with the Student's private counselor regarding the counselor's concerns. The assistant director explained the referral process and the District's reasons for not evaluating the Student for special education. The private counselor expressed concern that the Parent had misunderstood the purpose of the April 19, 2017 meeting and had felt intimidated. The assistant director then stated that the District would hold another meeting with the Parent on June 14, 2017², and that the Parent could invite the private counselor to the meeting.
32. On June 2, 2017, the school counselor emailed the Student's private counselor. The school counselor stated that as far as the Student's 504 accommodations, the school counselor had included all of the private counselor's recommended accommodations except the wiggle seat and fidget toys, as these had been tried and became more a distraction for the Student than a help. The school counselor stated that she was willing to revisit those suggestions or any other suggestions the private counselor had. The school counselor also said that as far as an independent evaluation, the only evaluation she was aware of was the evaluation diagnosing the Student's autism, and asked if there was anything else she should be aware of to support the Student going forward. Additionally, the school counselor said that the Student was highly, emotionally intelligent and loved discussing his feelings and emotions. The private counselor responded on June 6, 2017, stating that she had been working with the assistant director of student support services and was hoping to set up meeting. The private counselor asked if the school counselor had heard anything about a meeting, and stated that she would be happy to go over ideas for accommodations at the meeting.
33. Based on the District's documentation in this complaint, on June 15, 2017, District staff met with the Parent to discuss the special education referral process and the District's decision not to evaluate the Student at that time. The group also discussed the Student's Section 504

² The meeting was actually scheduled for June 15, 2017.

plan. Also that day, the District issued a prior written notice, proposing to implement the Student's Section 504 plan.

34. The District's 2016-2017 school year ended on June 22, 2017.

2017-2018 School Year

35. The District's 2017-2018 school year began on September 6, 2017, and the Student was enrolled in first grade at the same elementary school.

36. The Student was absent September 6-8, 2017, due to being hospitalized. The Student's hospital report stated that he had been admitted on September 5, 2017, due to aggression at home and school. The hospital report stated that the "treatment team" recommended the following to treat the Student's disruptive behaviors: parent management training, including house rules, specific praise for appropriate behaviors, and active ignoring for minor, inappropriate behaviors, time out, and contingent, daily privileges; applied behavior analysis (ABA) therapy; and, medication trial.

37. On September 8, 2017, the elementary school counselor emailed the Parent, asking how the Student was doing and to see if he would be back at school the following week. Based on the District's documentation, the Student returned to school on September 11, 2017.

38. On September 13, 2017, the Student's first grade teacher emailed the Parent to "touch base". The teacher stated that things seemed to be "going great" and that there were no issues that he was aware of. The teacher asked that the Parent let him know if she heard of anything he should be aware of. The teacher stated that the Student was completing the things the class had done so far, and that the Student had been cooperative, helpful, and got along well with his neighbors. The teacher also stated that the Student had not needed any breaks the prior day, and had only asked for one break on September 13.

39. On September 14, 2017, the Parent responded that the information was great to hear. The Parent stated that the family had developed more of a schedule at home and things seemed to be "going great" for the Student at home as well. The Parent stated that it made her happy to hear things were going great at school as well. The Parent also stated that she appreciated the email check-ins from the teacher, and found comfort in knowing the teacher was keeping up with the communications. The Parent said that if it made it easier, the teacher could send a communication every couple days or at the end of the week.

40. Later on September 14, 2017, the first grade teacher forwarded his email exchange with the Parent to the school counselor and school psychologist. The teacher stated that at school that day (September 14), the Student had expressed feelings of being unsafe at his table group and feeling anxious during music class. The teacher had also been told by another staff member that the Student had some difficulty in the lunch line as well with pushing and "whatnot." The teacher stated that it seemed like the Student had not felt well. The teacher asked if he should pass this type of information on to the Parent or wait to see what happened in the next few days.

41. On September 21, 2017, the elementary school counselor emailed the Parent and the Student's first grade teacher, asking to set up a meeting on the afternoon of September 27, 2017, to review the Student's Section 504 plan. In response, the Parent stated that she could not attend a meeting at that time. The counselor then replied, asking if the Parent could meet on September 28, 2017.
42. On September 27, 2017, the elementary school counselor emailed the Parent, asking when would be a good time to hold the meeting to review the Student's Section 504 plan. A meeting was later scheduled for October 3, 2017.
43. Based on the documentation in this complaint, on October 3, 2017, elementary school staff met with the Parent to review the Student's Section 504 plan and also discussed the Student's recent hospitalization. After the meeting, the school counselor emailed the Parent information about parenting classes offered by a community organization.
44. On October 23, 2017, the Parent filed this citizen complaint.
45. On November 2, 2017, the District staff held a meeting with the Parent and the Student's private counselor to discuss evaluating the Student for special education. The District determined that it would not evaluate the Student at that time.
46. On November 7, 2017, the District sent the Parent prior written notice, stating that the District was not providing the Student with a special education evaluation at that time, "because although significant behavioral issues are reported at home, no significant behavioral or learning issues are observed at school." The notice also stated that school team did not suspect that the Student required an IEP. The notice said that the school team and the Parent discussed that the Student's current academic data and observations from the first grade teacher showed that the Student was within the expected academic skill range. Current observations from the teacher and other school staff also showed that the Student had "been pretty good behaviorally most of the time" and had not demonstrated any significant behaviors at school that had "not responded well to the positive behavior supports available to all students." Additionally, the notice documented the Parent and the private counselor's concern that the Student may go from "0-10" and hurt someone, and that there was not a plan in place to handle this type of situation. The notice said that the school team recommended the following:
 - Continuing the Student's current Section 504 plan.
 - Continuing to provide adult support with transitions into school and when leaving school.
 - Continuing to monitor the Student's academics and behavior, and if there were concerns, reconvene the special education evaluation team.
 - In the event the Student goes from "0-10" the school has many responsive supports to keep the Student and other students safe. Should these types of needs present at school in the future, in addition to reconsidering a need for a special education evaluation, the team could consider such actions as amending the Section 504 plan, requesting consultation with a district behavior specialist, and/or developing a general education behavior improvement plan.

CONCLUSIONS

The Parent alleged that the District failed to follow special education referral procedures. Any person who is knowledgeable about a student may refer a student for a special education evaluation. When a student is referred for a special education evaluation, the district must document that referral, and provide the parents with written notice that the student has been referred and that the district, with parental input, will determine whether the student is a good candidate for evaluation. The district must then review the referral, collect and examine existing school, medical, and other records, and make a determination within twenty-five (25) school days after receipt of the referral whether it will evaluate the student. The district must provide the parent with written notice of its decision. Here, the Student's private counselor referred the Student for a special education evaluation in her March 1, 2017 letter. The letter was provided to the Student's kindergarten teacher on March 8, 2017. Therefore, the District was required to make a decision regarding whether to evaluate the Student for special education by April 19, 2017 (which is twenty-five school days after March 8, 2017). The District's documentation in this complaint shows that the District sent the Parent notice of the referral on April 11, 2017, and then held a meeting with the Parent on April 19, 2017, to review information regarding the Student. At the meeting, the District determined that it would not evaluate the Student for special education at that time, due to the Student's adequate school performance. The District then provided the Parent with notice documenting the decision. The District has substantiated that it followed special education referral procedures. However, it is noted that the District should review referral procedures with all staff to ensure staff understand the referral procedures and are promptly responding to any referral requests. It is also noted that there is no requirement that a student have a medical diagnosis in order to be referred for or evaluated for special education.

CORRECTIVE ACTIONS

STUDENT SPECIFIC:

None

DISTRICT SPECIFIC:

None

Dated this ____ day of December, 2017

Glenna L. 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.)