

## **SPECIAL EDUCATION COMMUNITY COMPLAINT (SECC) NO. 22-148**

### **PROCEDURAL HISTORY**

On December 5, 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 Renton 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 December 7, 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 December 8, 2022, OSPI requested additional information from the Parent. The Parent provided that information on December 8, 2022, and that information was forwarded to the District on December 14, 2022.

On December 8, 2022, the OSPI complaint investigator conducted a telephone interview with the Parent.

On December 19, 2022, OSPI received the District's response to the complaint and forwarded it to the Parent on December 21, 2022. OSPI invited the Parent to reply.

On December 27, 2022, OSPI received the Parent's reply to the District's response and forwarded it to the District on the same day.

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

### **SCOPE OF INVESTIGATION**

This decision references events that occurred prior to the investigation period, which began on December 6, 2021. 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 period.

### **ISSUES**

1. Per WAC 392-172A-03105, has the Student's individualized education program (IEP) been implemented properly since December 6, 2021?
2. Per WAC 392-172A-03020, were the proper procedures used to conduct a sufficient evaluation of the Student?
3. Per WAC 392-172A-03020, were the Parent's requests taken into consideration regarding the Student's evaluation?

## LEGAL STANDARDS

IEP Implementation: At the beginning of each school year, each district must have in effect an individualized education program (IEP) for every student within its jurisdiction served through enrollment who is eligible to receive special education services. A school district must develop a student's IEP in compliance with the procedural requirements of the IDEA and state regulations. It must also ensure it provides all services in a student's IEP, consistent with the student's needs as described in that IEP. Each school district must ensure that the student's IEP is accessible to each general education teacher, special education teacher, related service provider, and any other service provider who is responsible for its implementation. 34 CFR §300.323; WAC 392-172A-03105. "When a school district does not perform exactly as called for by the IEP, the district does not violate the IDEA unless it is shown to have materially failed to implement the child's IEP. A material failure occurs when there is more than a minor discrepancy between the services provided to a [child with a disability] and those required by the IEP." *Baker v. Van Duyn*, 502 F. 3d 811 (9th Cir. 2007).

Reevaluation – Review of Existing Data: As part of a reevaluation, the IEP team and other qualified professionals must review existing data on the student. Existing data includes previous evaluations, independent evaluations or other information provided by the parents, current classroom-based assessments, observations by teachers or service providers, and any other data relevant to the evaluation of the student. If the student's IEP team and other qualified professionals, as appropriate, determine that no additional data are needed to determine whether the student continues to be eligible for special education services, and/or to determine the student's educational needs, the school district must notify the parents of that determination, the reasons for the determination, and the parents' right to request an assessment to determine whether the student continues to be eligible for special education and/or determine the student's educational needs. 34 CFR §300.305; WAC 392-172A-03025.

Parent Participation in Meetings: The parents of a student eligible for special education services must be afforded an opportunity to participate in meetings with respect to the identification, evaluation, educational placement and the provision of a free appropriate public education (FAPE) to the student. WAC 392-172A-05001. IEP teams must consider the parents' concerns and the information that parents provide regarding their child in developing and reviewing their child's IEP. 34 CFR §300.324; WAC 392-172A-03110(1)(b).

Parent participation is an active role in which the parents: provide critical information regarding the strengths of their child, and express their concerns for enhancing their child's educational program; participate in discussions about their child's need for special education, related services, and supplementary aids and services; and join with other participants in deciding how the child will be involved and progress in the general curriculum and participate in State and district-wide assessments, and what services the agency will provide to the child and in what setting. Individuals with Disabilities Education Act (IDEA), 64 Fed. Reg. 12473 (March 12, 1999) (Appendix A to 34 CFR Part 300, Question 5).

IEP Team Unable to Reach Consensus: The IEP team should work toward consensus, but the district has ultimate responsibility to ensure that the IEP includes the services that the student needs in order to receive FAPE. No one team member has “veto power” over individual IEP provisions or the right to dictate a particular educational program. If the team cannot reach consensus, the district must provide the parents with prior written notice of the district’s proposals or refusals, or both, regarding the student’s educational program and the parents have the right to seek resolution of any disagreements by initiating an impartial due process hearing. Individuals with Disabilities Education Act (IDEA), 64 Fed. Reg. 12, 472, 12,473 (March 12, 1999) (Appendix A to 34 CFR Part 300, Question 9). *Ms. S. ex rel. G. v. Vashon Island Sch. Dist.*, 337 F.3d 1115, 1131 (9<sup>th</sup> Cir. 2003). *See also, Wilson v. Marana Unified Sch. Dist.*, 735 F.2d 1178, 1182-83 (9<sup>th</sup> Cir. 1984) (Holding that a school district is responsible for providing a student with a disability an education it considers appropriate, even if the educational program is different from a program sought by the parents.)

### **FINDINGS OF FACT**

1. The Student was eligible for special education services under the category of intellectual disability and attended school in the District.
2. On June 2, 2021, the Student’s IEP team met to amend the Student’s IEP. The prior written notice (PWN) stated, “District updated service matrix to reflect change in minutes for attending middle school.” The IEP provided the Student specially designed instruction (SDI) and related services from June 24 through December 15, 2021, as follows:
  - Occupational Therapy: 20 minutes/1 time per month (provided by occupational therapist (OT), in a special education setting)
  - Communication: 30 minutes/1 time per week (provided by speech language therapist (SLP), in a special education setting)
  - Math: 59 minutes/5 times per week (provided by special education teacher, in a special education setting)
  - Reading: 59 minutes/5 times per week (provided by special education teacher, in a special education setting)
  - Written Expression: 59 minutes/5 times per week (provided by special education teacher, in a special education setting)
  - Social/Emotional Skills: 29 minutes/5 times per week (provided by special education teacher, in a special education setting)
  - Adaptive: 20 minutes/5 times per week (provided by special education teacher, in a special education setting)
  - Behavior: 10 minutes/5 times per week (provided by special education teacher, in a special education setting)

The Student’s percent of time in a general setting was 30.97%, and the LRE placement in general education classes was 0–39%. Transportation was marked as “regular” in the IEP and the IEP did not include a technology plan, nor a 1:1 paraeducator in general education classes.

3. On August 24, 2021, the Parent sent an email to the District’s transportation office that stated, “I had a question about [the Student’s] busing; she is a disabled Student. She was being picked

up at our house last school year because she is in special education classes. Will that not be happening this year? Please let me know so arrangements can be made.”

Regarding this email, the Parent emailed OSPI on December 8, 2022, as follows, “I followed up over phone and they said that she was no longer eligible but never gave a reason.”

### **2021–2022 School Year**

4. On September 1, 2021, the District held its first day of instruction for the 2021–2022 school year. The Student attended a District middle school as a sixth grader and was eligible for special education services under the eligibility category intellectual disability. The Student’s June 2, 2021 IEP was in effect.
5. The complaint investigation timeline began December 6, 2021.
6. On December 13, 2021, the Student’s IEP team met and developed the Student’s annual IEP. The IEP provided the Student SDI and related services in:
  - Occupational Therapy: 20 minutes/1 time per month (provided by OT, in a special education setting)
  - Communication: 30 minutes/1 time per week (provided by SLP, in a special education setting).
  - Adaptive: 20 minutes/5 times per week (provided by special education teacher, in a special education setting)
  - Behavior: 10 minutes/5 times per week (provided by special education teacher, in a special education setting)
  - Social/Emotional Skills: 20 minutes/5 times per week (provided by special education teacher, in a special education setting)
  - Reading: 59 minutes/5 times per week (provided by special education teacher, in a special education setting)
  - Math: 45 minutes/5 times per week (provided by special education teacher, in a special education setting)
  - Written Expression: 45 minutes/5 times per week (provided by special education teacher, in a special education setting)

The Student’s percent of time in a general setting was 47.16% and the LRE placement in general education classes was 40–79%. Transportation was marked as “regular” in the IEP and the IEP did not include a 1:1 paraeducator in general education classes.

The PWN stated:

[Parent] has requested to the IEP team that [the Student] doesn't have access to the internet...The reasons we rejected those options were: The IEP team has decided that [the Student] needs to have access through her assigned Chromebook because all classrooms use either Google Classroom or Canvas to assign student work. Student will be reminded at the beginning of each class period that she will be monitored and data will be recorded if she is not on the assigned sites. Student's CB will be closed if Student is not in an assigned activity. If data collected demonstrates that she was not on task, the IEP team will reconvene and discuss how to support positive computer use.

7. On May 5, 2022, at 2:10 pm, the District emailed the Parent, in part, as follows, “[it] sounds like [the Student] is accessing a cell phone during the school day...she said it was her friends’ but wouldn’t tell me who...I also shared with everyone your desire that [the Student] does not have access to a Chromebook.”

At 10:56 pm, the Parent sent the District an email that stated, in part:

I am now demanding that all electronics be banned from [the Student’s] use. I had this discussion with her IEP teachers some time ago and they assured me that she would be both safe, and supervised; neither which have happened.

...

It has come to my attention that [the Student] is held to a lesser standard than (sic) her counterparts...We do not use her disability as an excuse to treat other human beings as anything less...I am requesting that she be held at the same standards as her fellow students.

...

I am also requesting a teleconference with her IEP team regarding pulling her out of general education classes.

8. On May 6, 2022, the District sent an email to the Parent that stated, in part, “It does sound like there are some concerns outside of the IEP and we want to make sure and address those as well.”
9. On May 13, 2022, the school’s administration (not the IEP team) created the following technology plan for the Student.

Classwork:

- Will be provided in paper copies for the most part
- Only assignments that cannot be completed on paper will be done on the computer

Computer:

- Each classroom will have a designated spot for her computer when it is not being used in the classroom.
- One tab is open on the Chromebook for the assignment. Tabs must be directly related to what is needed for the assignment.
- A 10 min timer will be set by [the Student] once she has opened her computer for an assignment. Teachers will complete a thorough check in on the computer work once the time goes off.
- Teachers will be checking additional times while the timer is running.
- Computer screen at the brightest setting (added by her case manager)
- Will be left every day in 6th period (no exceptions)
- All of this will be included in the sub plans

Cell Phones:

- She does not have one and should never have one with her.
  - If she does- take it and bring to the attendance office

Consequence

Call home and lunch detention  
Call home and after school detention  
Admin directed

10. On May 24, 2022, the Parent emailed the District, in part, as follows:

We have decided to keep [the Student] home until SPED bus services are implemented and in place. After speaking with the ancillary services from the [local hospital], we will also be keeping her home until she is pulled from Gen Ed classes as we both feel that [the Student] is not capable of dealing with complex social situations that peers her age who are not cognitively delayed experience from day to day but have the mental capacity to adapt to. We both feel that [the Student] is not mentally capable of healthy, advanced decision making as she is socially delayed...

If you will revisit her last neurodevelopment notes, they recommend that [the Student] be placed fully in SPED classes with no pull outs and intensive services. It has come to our knowledge that [the Student] was not bullying students alone, but was manipulated into the act yet was the only one punished. We are aware that [the Student] is easily manipulated and is not a 'leader', but a 'follower'. We also have voiced many concerns with various medical/mental health providers that [the Student] is a 'people pleaser' and will do almost anything to fit in. This has always been a safety concern stemming from not having personal boundaries or 'stranger danger'. We are concerned as to what has changed this trimester as she never had these issues before (save one time...).

I have asked on more than one occasion for her to be removed from Gen Ed classes with a promise of following up...I will also reiterate that SPED bus services were eliminated against our consent with only 'she is no longer eligible' and no follow up after August of 2021.

She has become more volatile in the home, she has threatened to elope both from the bus and the school, she has made it very clear that her only interest is in hanging around children in her Gen Ed classes due to the toxic nature of the interactions/ relationships and we have decided that it is no longer feasible either for her mental or physical health.

If the school refuses to hold the IEP accountable along with medical recommendations from her specialists and DDA eligibility, then we are taking it upon ourselves to keep her safe from herself and others. We will be keeping her home until both the bus and pull outs can be addressed.

11. On May 25, 2022, the Student's IEP was amended. The PWN stated, "Parent requested [the Student] to be transported to and from school under special education transportation...[the Student] does qualify for special education transportation. The IEP team also feels that due to her behavior, she will be best served with special education transportation."

Transportation on the IEP was changed to special education. The Student's SDI, related services, percent of time in general setting, and LRE placement in general education classes remained the same as the December 13, 2021 IEP. There was no mention of a 1:1 paraeducator in general education classes.

12. On May 31, 2022, the IEP team met to amend the Student's IEP. The IEP provided the Student SDI and related services from June 18 through December 13, 2022, as follows:
  - Occupational Therapy: 20 minutes/1 time per month (provided by an OT, in a special education setting)
  - Communication: 30 minutes/1 time per week (provided by an SLP, in a special education setting)

- Adaptive: 50 minutes/5 times per week (provided by special education teacher, in a special education setting)
- Behavior: 59 minutes/5 times per week (provided by special education teacher, in a special education setting)
- Social/Emotional Skills: 59 minutes/5 times per week (provided by special education teacher, in a special education setting)
- Reading: 59 minutes/5 times per week (provided by special education teacher, in a special education setting)
- Math: 59 minutes/5 times per week (provided by special education teacher, in a special education setting)
- Written Expression: 59 minutes/5 times per week (provided by special education teacher, in a special education setting)

The Student's percent of time in a general setting was 16.76% and LRE placement in general education classes was 0–39%. Transportation was marked as "special" but there was no mention of a 1:1 paraeducator in general education classes.

Under "Placement Options," the IEP included:

[The Student] is in the 6th grade. She receives specially design instruction for 4 hours a day. She spends 2 hour a day with non-disabled peers. As of June 3rd 2022 to June 17th, [the Student] will attend the first 4 periods of the day in Special Education Classes requested by [the Parent] and not be enrolled in any general education classes. [The Student] will be transported home via special education transportation after 4th period. In the fall of 2022, [the Student] will be enrolled in 5 special education classes (2 Personal Choices classes) with 1 general education class. [The Student] will not participate with non-disabled peers while receiving specially designed instruction for reading, math, writing, Adaptive, Social/Emotional and Communication due to her academic needs.

The PWN stated:

Parent requested an IEP team meeting to discuss concerns with [the Student] and her ability to handle middle school behaviors. The parents are requesting that [the Student] not attend General Education Classes at this time, so an early release and transportation home after 4th period is being proposed. Parent states that [the Student] is not able at this time to make appropriate personal safety choices with technology and social media due to her lack of cognitive functioning skills.

...

1) The IEP team discussed safety concerns and proposed to keep [the Student] in school full time.

2) Parent is still requesting [the Student] to be exited from her general education classes due to her inability to make appropriate choices with technology.

...

[the Student] schedule will be changed to excuse her from her general education classes and be transported home via special education transportation to her doorstep for the remainder of the 21-22 school year.

...

The reasons the team rejected [the Student] staying in school full time is due to her inability to appropriately use technology for school purposes.

...

[The Student] will continue to receive services in Social/Emotional and Adaptive skills to help her make appropriate choices with her peers. Her special education teachers and general education teachers will continue monitoring and teaching her appropriate communication choices.

...

[The Student] will return in the fall of 2022 with the service page reflecting only 1 general education class and 5 special education classes which includes 2 personal choices classes. A meeting will be held before the start of school or within the first two weeks to discuss her schedule and supervision. [The Student] will continue to receive assignments to take home from science teacher to allow her to keep up with her general education peers.

13. On July 21, 2022 , the Parent emailed the District, in part, as follows:

I was hoping we could hold an emergency IEP meeting before the school year begins...I have decided to keep [the Student] out of school until we can hold an IEP meeting based on the updated information that we have regarding her mental/emotional and physical health. There have been significant changes including the need for autism screening and new medication management.

### **2022–2023 School Year**

14. On August 31, 2022, the District held its first day of instruction for the 2022–2023 school year and the Student’s IEP from May 31, 2022 was in effect.

15. On September 1, 2022, the IEP team met to amend the Student’s IEP. The IEP provided the Student with the following SDI and related services from September 6 through December 13, 2022 as follows:

- Occupational Therapy: 20 minutes/1 time per month (provided by an OT, in a special education setting)
- Communication: 30 minutes/1 time per week (provided by an SLP, in a special education setting)
- Adaptive: 59 minutes/5 times per week (provided by special education teacher, in a special education setting)
- Behavior: 25 minutes/5 times per week (provided by special education teacher, in a special education setting)
- Social/Emotional Skills: 25 minutes/5 times per week (provided by special education teacher, in a special education setting)
- Reading: 59 minutes/5 times per week (provided by special education teacher, in a special education setting)
- Math: 59 minutes/5 times per week (provided by special education teacher, in a special education setting)
- Written Expression: 59 minutes/5 times per week (provided by special education teacher, in a special education setting)

The Student’s percent of time in a general setting was 0% and the LRE placement was “Home-Schooled/Part-Time Enrolled.”

Under “Placement Options,” the IEP included:



[The Student] is in the 7th grade for the fall of 2022. She receives specially design instruction for 5 hours a day per request of [Parent]. [The Parent] requested her to not participate in gen ed while at school. [The Student] will attend the first 5 periods of the day in Special Education Classes and not be enrolled in any general education classes. [The Student] will be transported home via special education transportation after 5th period. [The Student] will not participate with non-disabled peers while receiving specially designed instruction for reading, math, writing, Adaptive, Social/Emotional and Communication due to her academic needs.

Transportation was marked as "special."

16. A September 2, 2022 PWN stated, "[Parent] requested an early re-evaluation for special education services. Parent has concerns regarding [the Student's] social/emotional functioning and adaptive functioning. Additionally, parent would like updated testing. [The Student's] previous re-evaluation was completed during school closures and the team has determined that updated testing is warranted."
17. Regarding the reevaluation, the District selected a group of professionals that included, but were not limited to a special education teacher, general education teacher, a school psychologist who was nationally certified and trained to conduct special education evaluations, school nurse, an SLP, and a licensed OT.

The Student's evaluation addressed the following 12 areas: review of existing data, Student observation, cognitive, writing, social/emotional, adaptive, fine motor, medical-physical, reading, math, behavior, and communication.

The Student received an academic achievement assessment, two cognitive assessments (Comprehensive Test of Nonverbal Intelligence, Second Edition (CTONI-2) and Kaufman Assessment Battery for Children, Second Edition (KABC-2)), Wechsler Individual Achievement Test, Fourth Edition (WIAT-4) academic achievement subtest, and the Behavioral Assessment System for Children, Third Edition (BASC-3) to evaluate behavior was completed by the Parent, a general education teacher, and the special education teacher. The Adaptive Behavioral Assessment System, Third Edition (ABAS-3) assessing adaptive behavior was completed by the Parent, a general education teacher, and the special education teacher. Oral and Written Language Scales, Second Edition (OWLS 2) was performed by an SLP, and an OT evaluated fine motor skills using the Bruininks-Oseretsky Test of Motor Proficiency Second Edition (BOT-2).

Math, reading, writing, adaptive, social/emotional and behavior data was collected through individually administered assessments, district assessments, parent/teacher input, standardized rating scales, record reviews, and observations.

According to the District staff, the instruments used to conduct the assessments were technically sound. The assessments and evaluation materials were selected and administered so as not to be discriminatory on a racial or cultural basis. The assessments were administered in the Student's primary language, which is English, and the Student did not need an

interpreter. According to the District, the assessments were administered in accordance with any instructions provided by the producer of the assessments.

The District received medical assessments from the Student's private provider. The school nurse reviewed information from the Parent and the Student's health records and medical records from sources outside the school district.

18. On September 21, 2022, the Student's IEP team met. The PWN stated:

On Wednesday 9/7/22, [The Parent] requested to add 'listening comprehension' and 'oral expression' to the areas of evaluation. The team will not be adding these areas specifically at this time.

...

The team is not separating these areas because [the Parent's] concerns are all addressed in other areas of the evaluation. Both these areas are directly included in the comprehensive language evaluation completed under communication. Additionally, aspects of social communication and adaptive skills address her ability to follow directions and communicate socially. All of the concerns that listed are addressed via the following areas already selected on the consent form: communication, social/emotional, behavior, adaptive, and reading comprehension. Communication will address receptive and expression language, which directly ties to oral expression and listening comprehension.

19. On October 25, 2022, the IEP team met to review the Student's evaluation. The PWN, dated October 27, 2022, stated, "The district proposes to continue eligibility under the category of Other Health Impairment. The team recommends specially designed instruction in basic reading, reading comprehension, math problem solving, math computation, written language, adaptive behavior, social/emotional, and behavior."

20. On October 26, 2022, at 12:34 pm, the Parent emailed the District, in part, as follows:

I want to thank the team for yesterday. I just had some clarifying questions:

1. Will [the Student] still qualify for the bus?
2. How many points over was she for intellectual disadvantages?
3. Since we are considering general education pullouts, who will be responsible for implementing positive peer models and who will be supervising her?
4. Will all technology safeguards still be in place?
5. In case of Para absences, who will oversee [the Student] in GE classes?
6. Can we be assured that [the Student's] teachers will all be aware of her strengths as well as her deficiencies and know that she still has an IEP and is still considered cognitively delayed and will need extra support as well as knowledge of her IEP?
7. What GE classes do you think she would benefit from the most?

There are still some hard boundaries for [the Student] as far as we are considered. We still want [the Student] received at the bus stop and be taken to her first period. We feel that since she has exhibited anxiety over having an authority figure (by breaking down and crying), that it is still in her best interest. We are very excited that she is able to advocate for herself, but we are doing baby steps to see how this will effect her mental health as well as her education health and support systems. We also want a guarantee that she will have someone with her at lunch periods to ensure her safety and impulse control/ inability to recognize manipulation from other peers as most of her issues stemmed from lack of

supervision and her inability to make good choices while in an environment that left her open to complex social interactions that might not have been appropriate. We have also recently found out that she has been a victim of bullying, please ask her to elaborate. Through this testing it was made very apparent that she is lagging behind her peers with executive functioning.

And lastly, we are demanding that none of these changes be implemented until the beginning of the year until she has had her evaluation with the Autism screening center as some of this may change the outlook of her scholastic supports. She has her appointment on Nov. 28th and we will forward the results to you as soon as they are available.

At 12:57 pm, the District responded:

...yesterday was an Evaluation meeting for eligibility. It was not the IEP, which impacts the plan directly. In regards to the evaluation, [the Student] did not meet criteria for an intellectual disability in accordance with WA state law; this requires significantly subaverage intellectual functioning (2 standard deviations below a mean, 70 or lower). [The Student]'s cognitive profile via two assessments revealed a pattern of strengths and weaknesses, with some cognitive areas solidly average (between 85 and 115), some areas below average (71-84), and only one area as low. Her overall IQ fell within the Below Average range, but did not fall within the Low range (below 70). While the evaluation recommends increased peer modeling and exposure, that is ultimately an IEP team decision. The IEP has not yet been held. All of the aspects you described below (besides number 2), are IEP team decisions, not Evaluation Team decisions. Therefore, you will have time to discuss concerns and bring new information to the team.

The evaluation signature sheet I sent over via adobe sign needs to be signed today to signify that the meeting was held and members are in agreement with the evaluation decisions. The decisions made were changing eligibility category to Other Health Impairment, which reflects the impact of executive functioning deficits and anxiety impacts; continuing services in reading, writing, math, adaptive behavior, social/emotional, and behavior (executive functioning). The team recommended Fine Motor as a Supplemental Aid and Service, which is reflected on the IEP not the evaluation, and exit/graduation from communication.

I will be sending you the entire final draft with all this information and more, including detailed descriptions of intellectual functioning, once I have the signature from everyone. If you disagree with the decisions we made yesterday, it is your right to write a letter of dissent that will attach to the evaluation as well. As we held the meeting and made team decisions, that document needs to be finalized and sent home to you this week. Please complete the Adobe Signature form today for the Evaluation Meeting we held; additionally, please let me know if you would like to chat on the phone to answer any questions related to the evaluation.

The IEP team should address all your further concerns and needs within the IEP. And...can further support any concerns related to bullying, para support, etc.

21. On November 17, 2022, the IEP team held its annual review of the Student's IEP. The PWN stated, "Mom requested to stop the IEP meeting until she has further information from the

school psychologist and the report from Children's Hospital regarding [the Student's] possible diagnoses of Autism."

22. On November 18, 2022, at 1:32 pm, the school psychologist emailed the Parent, stating, in part, that the Parent had the right to write a letter of dissent to the evaluation if she did not agree and stated they could set up a time to answer the Parent's questions.

At 11 pm, the Parent replied, in part, as follows:

I actually have several questions...

1. Why does [the Student] not qualify for behavioral services? If it weren't for the intensive services that she has in place, she is a distraction to herself, her peers and her teachers. She has to be reminded numerous times to stay on tasks which is detrimental to those around her as well as to herself without that support. She has also been observed distracting peers, making conversations instead of staying on task. A teacher also agreed with me on this issue...We demand that she qualify for behavior services.
2. Were the tests supposed to be unbiased? The reason for this question is that there were many 'feeling words/examples' that were brought up during our evaluation meeting. Examples would be when she had the breakdown the day of the bus incident. Is everyone on the team aside from yourself able to make the diagnoses of anxiety? I'm not sure if you are able to make that diagnosis? Is it in their job description? Did [the Student] blatantly express that she was anxious or was this merely an impression and if so, why did that language make it into the IEP? Are all students that have taken this test emotionally evaluated by a non-qualified individual while being tested? Is that part of being 'standardized' and if so, what is the threshold? Were psychologist notes taken into consideration during the testing process? If not, why?
3. How does she not qualify under intellectual disability if she is still reading at a 3rd/early 4th grade level/ math at a 2nd grade level, below average IQ with all of the intensive services still in place? Over the last 6 years she has only progressed 2 grade levels with minimal improvement in most areas. What would be the outcome is (sic) she were not to have services/ minimal services in place?
4. While we are ecstatic that she is able to advocate for herself, it was also brought up that without supervision, she is unable to make good choices; this was exhibited when the bus incident occurred and incidents from Feb-May of last year. It was explained to the team in great detail that [the Student] is unable to decipher healthy relationships/behaviors from what she believes are good decision-making skills. Was this aspect taken into consideration? If not, why? You are aware that [the Student] is not 'immature', but cognitively delayed which may seem like immaturity, but it is the opposite.
5. How many points above the 'intellectual disability' line were her scores.
6. Was the [children's hospital] psychology note taken into consideration? If not, why?
7. Why was [the Student] given one test by yourself...but scored either low or high and then was given a second test in the same subject? Is this normal practice? If not, why (sic) the protocol deviated from? And if so, what were you trying to prove with the retest?
8. If for any reason that we wanted a retest with people who are not familiar with [the Student]...how could that happen?

I am sorry for all the questions, but I do not truly feel like this was an unbiased, standardized test. I feel like opinions rather than hard data were used to come to conclusions or reasons as to why she was having a hard test day. The goal of this testing was to make sure that she has all of the services available to her to help her succeed, not pander to big emotions, ultimately taking those into considerations.

I will not sign something that I don't have all of the answers that an informed parent should have that ultimately defines how she will receive services to help her succeed now and for the next three years. She also has [autism] testing on the 28th and depending on what that shows, we need to have an IEP that addresses not only her scholastic needs, but her mental health needs as well. I understand that the school district is bound by legal timelines, but testing was done a month ago, this meeting could have been held a week or two ago which would have allowed for questions to be addressed in a more timely manner. Please understand that I just got this draft IEP this week...

23. On November 21, 2022, at 10:23 am, school psychologist 1 responded, in part, that they were nationally certified and trained to conduct special education evaluations and they reattached the evaluation report previously sent home on October 24, 2022.

At 2:13 pm, the District responded, in part, as follows, "We can make arrangements to have another school psychologist, not assigned to Nelsen to complete assessments, to incorporate into [the Student's] evaluation."

At 6:36 pm, the Parent responded:

I would like to keep this option open for the next couple of days until I meet with [the Student's] mental health care team. I would like...

1. No 'feeling words' / metal (sic) health impressions will be used during the retest as this is neither unbiased or standardized language.
2. Unless [the Student's] mental health is being thoroughly analyzed with a complete report accompanying the evaluation, her mental health will not be taken into consideration.
3. No other tests will be consented to (parental permission) outside of any first test given. If she fails/passes, there is no need to give a second test/ different test...
4. Testing will be at the 7th grade level as these are deemed her 'peers' both in age and grade.
5. [The Student's] medical record will be taken into consideration. Psychiatry notes, Neurodevelopment notes and PCP notes are to be utilized...
6. If the standardized tests are supposed to be timed, without aids, both visual and audio, we are requiring that [the Student] be held to the same standards.

If all of the above requirements are not able to be met, we demand that she not be tested without a parent present...

24. On November 22, 2022, at 8:54 am, the District sent the Parent an email that stated, in part: It is important to share with you that all assessments must be conducted in the standardized manner outlined in each assessment...Signatures for evaluations indicate agreement, if someone does not agree with the evaluation report a dissenting opinion can be submitted...Signatures for IEP meetings indicate participation, not necessarily

agreement. If either an evaluation or IEP is not completed by the due date, services can continue for the student but in no way different from the expiring evaluation...

At 9:59 pm, the Parent emailed the District as follows:

[We] discussed the reevaluation this evening and we have decided to proceed. The aforementioned criteria still applies to our wishes...Please understand that we are in no way trying to hinder her IEP/growth in any way, but need the school to also be held accountable for the time that [the Student] is enrolled.

25. On November 28, 2022, at 9:16 am, the District sent an email to the Parent that stated, in part, "You have made some requests that are not allowable. As I stated in our last email exchange, all assessments must be conducted in the standardized manner outlined...Current data will be included (sic) the evaluation."

At 11:15 am, school psychologist 2 responded to the Parent's November 21, 2022 email, as follows:

1. It is standard/best practice to include qualitative information, based on observations, that we believe impacted student performance and therefore test scores.
2. All educationally relevant information available should be considered and included. Events outside of testing sessions are relevant to the whole picture of a student and it is standard/best practice to include this information for a comprehensive evaluation/report.
3. It is best practice to administer additional assessments that measure the same broad areas (i.e. cognitive functioning) if anything occurred that results in questioning the validity of results. Assessments measuring cognitive skills do not all measure the same exact skills. There are at least 70 narrow band cognitive skill areas and no two assessments target all the same skills. School Psychologists are qualified to select assessments and make a judgement based on our education and certification to use multiple tools. If determined appropriate, school psychologists are required to administer additional assessments/subtests to ensure a comprehensive evaluation is completed that addresses all areas of suspected need. This is detailed in the WACs (attached).
4. Standardized assessments are not necessarily administered based on grade level. Some use the student's grade level as the suggested starting point, but even that varies depending on the assessment's administration guidelines. Administration standardization requires we reverse start points (sometimes that's based on grade level) depending on how the student is performing. We cannot promise to meet this ask without breaking standardization and invalidating the results.
5. All available records at the time of assessment, including previous evaluation reports, are utilized. I have reviewed previous evaluation reports and see no indication of a break in standardization or best practice interpreting results and available outside information.
6. Mental health is always taken into consideration for all students. This does not jeopardize standardization, but impacts interpretation and validity, which we include in all reports.

...

Having a parent in the room breaks standardization protocol and invalidates results. We will need to determine what areas will be included in this assessment revision before moving forward. Assessments used during [the Student]'s evaluation last month cannot be used again for at least a calendar year (rating scales are an exception), so we'll need to use different instruments. This is a requirement of the test publishers. Administering the same assessments within a year invalidates the results.

You also noted an assessment for Autism Spectrum Disorder will be taking place. I would recommend the team wait until that report has been finalized and provided to the family & school team so the information can 1) be included in the evaluation and 2) ensure assessments are not repeated. Again, using the same instruments within a calendar year invalidates the results.

At 11:44 am, the Parent responded:

Thank you for the explanation! As I mentioned in my previous emails, anxiety and ADHD were uplifted with no mention of her other diagnoses, including intellectual disability as diagnosed by her Neurodevelopment team. It is our request that [the Student] have all diagnoses taken into consideration and documented alongside the aforementioned conditions. I am also in agreement that the [autism] testing report be considered when doing this process; our appointment is for later this afternoon, I believe you have an active [release of information] on file, if not, I'll sign another one. One further question: is it standard practice for school psychologists to make a diagnosis of anxiety in subjects that they have limited time with? And is it appropriate to move forward with new school evaluations but not new home evaluations if information has changed? The only reason I ask is reiterating a decline in function within the home setting as documented with WISE services and ED visit. Again, I look forward to working with the team on this and will give you an update with [children's hospital report] as soon as it is available!

At 12:39 pm, school psychologist 2 emailed the Parent, in part, as follows:

I can certainly review the available records to include what has been provided. We cannot include diagnoses/information that we do not have at the time of the assessment ...Children's does not have a physician named. They will not send records if that is not provided to us by the parent. They're very particular about using their forms and ... I do not know what you mean by 'home assessment.' Could you please clarify? We do not come to students' homes. It looks like three rating scales were provided to and....

26. On November 28, 2022, the Parent emailed the District as follows:

Yes, I meant the rating scales for us to fill out, we would like to redo these with current information.

...

We completed the ADOS this afternoon and it was decided that [the Student] does not have ASD, but severe cognitive disabilities that affect her reasoning, decision-making, language...

The therapist stated that she will have the report ready in a week, I'll send to you once completed. On a side note, it was also reiterated by the therapist that school psychologists do not have adequate time to make a diagnosis of mental illness during limited time frames, I would appreciate if you refrain from adding words/ opinions about anxiety unless you have made a full psychological evaluation, due to her cognitive issues, making distinguishing between the two and how they are associated, impossible in the limited time you will spend with her. I know that this sounds demanding but at the end of the day, this is for [the Student's] benefit. It was truly disheartening that during the IEP meeting she did not qualify for behavioral issues when clearly, she does. I'm also still confused about how she is not intellectually delayed but has a below average IQ with cognitive delays and still reads at a 3rd grade level, it seems like a contradiction.

27. On November 29, 2022, at 10:23 am, school psychologist 2 emailed the Parent, in part, as follows:

School Psychologists complete school-based psychoeducational evaluations for special educations eligibility.

...

- Cognitive ability: delays and below average cognitive functioning does not always equal intellectual disability in special education...
- Home Assessment: thank you for clarifying you were not denied the opportunity to provide input on student functioning at home.

I look forward to reviewing records when available so we can discuss what areas need to be addressed during an assessment revision.

At 12:01 pm, the Parent emailed the District, "I understand that [the Student] qualified in her assessment, however, that was NOT reflected in her proposed IEP, hence, the new evaluation request...Again, I will send everything when available!"

28. On November 30, 2022, the parties reconvened for the IEP meeting that was started on November 17, 2022. The IEP provided the Student SDI and related services as follows:

- Math: 59 minutes/5 times per week (provided by special education teacher, in a special education setting)
- Reading: 59 minutes/5 times per week (provided by special education teacher, in a special education setting)
- Written Expression: 59 minutes/5 times per week (provided by special education teacher, in a special education setting)
- Behavior: 55 minutes/5 times per week (provided by special education teacher, in a special education setting)
- Social/Emotional Skills: 58 minutes/5 times per week (provided by special education teacher, in a special education setting)
- Adaptive: 59 minutes/5 times per week (provided by special education teacher, in a special education setting)

The Student's percent of time in a general setting was 17.61% and LRE placement in general education classes was 0–39%. Transportation was marked as "special" in the IEP and the IEP included a 1:1 aide to be delivered in general education settings for 55 minutes/5 times weekly as a supplementary aide and service.

The PWN stated:

The IEP team and the parent discussed [the Student's] current on-task behavior and academic progress. The team decided and the parent approved that [the Student] will participate in-person for all 6 periods each day. [The Student] will continue to have 1:1 support in her general education class as well as support to and from the bus and transitions between classes including lunch.

29. On December 5, 2022, OSPI received the current complaint from the Parent. The Parent alleged:

- Beginning in the spring of 2022, the Parent learned that the Student's IEP was not being implemented in that the Student's special education transportation was discontinued,



technology plan was not being followed, and the Student was not receiving paraeducator support in general education classes.

- The District did not obtain the relevant records to appropriately conduct the Student's evaluation.
- The District did not take into consideration the Student's private psychologist's recommendations in conducting the evaluation.

30. On December 6, 2022, school psychologist 2 emailed the Parent, in part, as follows:

The evaluation and IEP processes are different. [The Student] qualified for behavior through the evaluation. Any concerns with this being left off of the IEP should be directed to her IEP case manager. Different rating scales may be used if the team determines an assessment revision is the appropriate next step. I was under the impression we agreed that we'd wait until the evaluation report from [the Student's] [autism] evaluation was available so it could be reviewed and included in our discussion about next steps. I believe you said it would take about a week, which we are now at. Once that is available, we can schedule an evaluation team meeting to review next steps, which may include consent for an assessment revision. If that is the route the team agrees to take, we will discuss areas of evaluation that are missing or incomplete and address them through that process. Some things for the team to keep in mind and consider in the meantime:

- The purpose of school-based psychoeducational evaluations is to determine eligibility for special education services under Washington state law. If eligible, the evaluation also determines areas of specially designed instruction and related services needed. Supplemental aids and services may be discussed, but those are ultimately an IEP team decision.
  - If there is no reason to suspect change of category or areas of service, or to suspect the evaluation is incomplete or invalid, the details of services is determined through the IEP team process.
- Criteria for medical diagnoses/impressions are not the same as those in Washington state special education law, which may result in differences between medical records and special education eligibility. For example, intellectual disability as a diagnosis may not meet special education eligibility criteria under the law. I look forward to reviewing the additional evaluation report and scheduling an evaluation team meeting to further discuss next steps.

31. On December 12, 2022, the District emailed the Parent as follows:

On behalf of the [District], we received your request on 12/6/22, requesting, "*I would like the school district to pay for an outside psychologist to do her evaluation that has no ties to [District]; someone that can be unbiased and can take the entirety of her medical information into consideration...*" This communication appears to be a request for an Independent Educational Evaluation (IEE). (Emphasis in original)

32. On December 14, 2022, an internal District email was sent that stated, in part, "During the 21-22 school year, unless the para was absent, there was a para educator going to gen ed to support [the Student] and the other special needs students in that class."

33. On December 28, 2022, the Parents confirmed on the record at a due process prehearing conference that they were not seeking an IEE from the District at this time and that they had

not made any request for an IEE of the District beyond a general statement of relief in a special education community complaint filed with OSPI.

## CONCLUSIONS

**Issue One: IEP Implementation** – The Parent alleged that during the 2021–2022 school year, the Student’s IEP was not implemented properly because: (1) The Student’s special education transportation was discontinued; (2) The Student’s technology plan was not being followed; and (3) The Student was not receiving paraeducator support in general education classes.

At the beginning of each school year, each district must have in effect an IEP for every student within its jurisdiction served through enrollment who is eligible to receive special education services. When a school district does not perform exactly as called for by the IEP, the district does not violate the IDEA unless it is shown to have materially failed to implement the child's IEP. A material failure occurs when there is more than a minor discrepancy between the services provided to a disabled child and those required by the IEP.

Transportation: The Parent alleged that the Student was not provided special education transportation despite being provided special education transportation in the past. On June 2, 2021, the IEP team met to amend the Student’s IEP. The PWN stated, “District updated service matrix to reflect change in minutes for attending middle school.” On this IEP, transportation was marked as “regular.” This was the IEP in effect at the beginning of 2021–2022 school year and on December 6, 2021, when this investigation started.<sup>1</sup>

On August 24, 2021, the Parent emailed the District’s transportation office to inquire about special education transportation. When the Parent followed up with the District’s transportation office, the Parent was told that the Student was no longer eligible for special education transportation, but was not given a reason. No information has been provided that demonstrates that the Student’s IEP team was notified of the Parent’s communication with the District’s transportation office, nor did the Parent request an IEP meeting to discuss her concern.

On December 13, 2021, the Student’s IEP team met and developed the Student’s annual IEP. On this IEP, transportation was marked as “regular.” There is no indication that the Parent disagreed with this decision or requested special education transportation at the December 13, 2021 IEP meeting. It was not until May 24, 2022 that the Parent emailed the District, in part, as follows, “We have decided to keep [the Student] home until SPED bus services are implemented and in place.” Following this email, on May 25, 2022, the Student’s IEP was amended to include special education transportation. Subsequent IEPs (May 2022, September 2022, and November 2022) all included

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<sup>1</sup> Under the SECC process, the time period under investigation begins on December 6, 2021, as OSPI may investigate only those issues occurring during a one-year period prior to the complaint’s filing with OSPI. While this decision references events that occurred prior to the investigation period, which began on December 6, 2021, 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 period.

special education transportation and the Student has been provided special education transportation since May 2022.

Based on the facts just above, the District's actions regarding the Student's special education transportation have been consistent with their responsibilities under the applicable IEPs since December 6, 2021. The Student was not provided special education transportation between December 6, 2021 and the end of May 2022, because the IEPs in effect during this time period did not provide for special education transportation. The Student has received special education transportation from May 2022 to the present, because the IEPs in effect during this time period do provide for special education transportation. Thus, there is no violation as to the Student's special education transportation. To avoid problems such as this one, OSPI recommends that the District put in place a procedure in which the IEP case manager is automatically notified about any questions regarding any special education transportation that go to the District's transportation department or a similar procedure to ensure questions/concerns are communicated to the special education department.

Technology Plan: The Student's June 2, 2021 IEP that was in place on December 6, 2021 makes no mention of a technology plan. A PWN from December 13, 2021 stated:

[Parent] has requested to the IEP team that [the Student] doesn't have access to the internet...The reasons we rejected those options were: The IEP team has decided that [the Student] needs to have access through her assigned Chromebook because all classrooms use either Google Classroom or Canvas to assign student work.

On May 5, 2022, the parties exchanged emails regarding the Student's use of technology and the Parent requested that the Student not be allowed to use technology at school. On May 13, 2022, the school administration (not the IEP team) created a technology plan for the Student. After May 13, 2022, the Student's IEP was amended or renewed in 2022 in May (twice), September, and November. None of these IEPs incorporated the May 13, 2022 technology plan.

Based on the fact that the Student's technology plan was never incorporated into the Student's IEP despite numerous opportunities for that to happen, the District has not failed to implement the Student's IEP regarding technology. Thus, there is no special education violation regarding the Student's technology plan. Regardless, OSPI recommends that the Student's IEP team consider whether the technology plan needs to be incorporated into the Student's IEP and/or concerns around technology addressed with special education supports.

Paraeducator Support: The June 2, 2021 IEP, which was in place on December 6, 2021, makes no mention of a 1:1 paraeducator in general education classes. Furthermore, there was no mention of a 1:1 paraeducator in general education classes for the December 13, 2021, May 25, May 31, and September 1, 2022 IEPs.

The first mention in an IEP of a 1:1 paraeducator for the Student appeared in the November 2022 IEP. An internal email from the District that refers to a paraeducator attending general education classes with the Student indicates that during the 2021–2022 school year, a paraeducator accompanied all the students from the Student's special education class to general education

classes. This paraeducator was not specifically assigned to the Student; however, during the 2021–2022 school year, there was no paraeducator support included in the Student’s IEP. This means that if a paraeducator did not attend a general education class with the Student prior to late November 2022, it would not have been a violation of the Student’s IEP. Once the 1:1 paraeducator was added to the Student’s IEP in November 2022, the documentation supports that the Student received 1:1 paraeducator support. Thus, regarding the Student’s paraeducator support, there is no violation.

**Issues Two and Three: Reevaluation and Parent Participation** – The Parent’s complaint alleged that the District did not obtain the relevant records to appropriately conduct the Student’s evaluation, and the District ignored the Parent’s requests in conducting the evaluation. OSPI notes that initially, these issues were opened as separate issues, but upon investigation, they are inherently intertwined and therefore will be analyzed together.

As part of a reevaluation, the IEP team and other qualified professionals must review existing data on the student. Existing data includes previous evaluations, independent evaluations or other information provided by the parents, current classroom-based assessments, observations by teachers or service providers, and any other data relevant to the evaluation of the student. If the student’s IEP team and other qualified professionals, as appropriate, determine that no additional data is needed to determine whether the student continues to be eligible for special education services, and/or to determine the student’s educational needs, the school district must notify the parents of that determination, the reasons for the determination, and the parents’ right to request an assessment to determine whether the student continues to be eligible for special education and/or determine the student’s educational needs.

The parents of a student eligible for special education services must be afforded an opportunity to participate in meetings with respect to the identification, evaluation, educational placement, and the provision of a FAPE to the student. IEP teams must consider the parents’ concerns and the information that parents provide regarding their child in developing and reviewing their child’s IEP. A school district is ultimately responsible for providing a student with a disability an education it considers appropriate, even if the educational program is different from a program sought by the parents.

On October 25, 2022, the Student’s team met to review the Student’s recently completed evaluation. That evaluation was conducted early at the Parent’s request.

The evaluation procedures are set out in WAC 392-172A-03020 and accordingly, the District selected a group of qualified professionals that included a special education teacher, general education teacher, school nurse, SLP, licensed OT, and a school psychologist who was nationally certified and trained to conduct special education evaluations. These professionals used a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the Student, including information provided by the Parent. The Parent raised concerns with the assessments in emails from November 18 and November 21, 2022 (see below). A review of those concerns and the entire record does not show that the District administered the assessments incorrectly despite the Parent’s concerns. According to the District staff, the

instruments used to conduct the assessments were technically sound. The assessments and evaluation materials were selected and administered so as not to be discriminatory on a racial or cultural basis. The assessments were administered in the Student's primary language of English. The school nurse reviewed information from Parent, and health records and medical records from sources outside the school district.

The Student's evaluation appears to have been sufficiently comprehensive to identify all of the Student's special education and related service needs, and the Student was assessed in all areas related to the suspected disability. Data was collected through individually administered assessments, District assessments, parent/teacher input, standardized rating scales, record reviews, and observations.

On October 26, 2022, the Parent emailed the District a list of questions and requests. The District responded in an email that the Parent's questions, except question two, pertained to the IEP, not the evaluation. Regarding question two, the District explained why the Student's eligibility category was changed to "Other Health Impairment" and informed the Parent that she could "write a letter of dissent that will attach to the evaluation as well."

On November 18, 2022, the Parent sent the District an email with eight questions regarding the evaluation and stated she felt like the evaluation was biased and not standardized. On November 21, 2022, the District responded in an email, "We can make arrangements to have another school psychologist, not assigned to Nelsen to complete assessments, to incorporate into [the Student's] evaluation." That evening, the Parent replied with a list of six requests and stated, "If all of the above requirements are not able to be met, we demand that she not be tested without a parent present."

The next day, the District sent an email that stated in part that the assessments in an evaluation must be conducted in a standardized manner and reiterated that the Parent could provide a dissenting opinion if she disagreed with the evaluation. The Parent responded, "[We] discussed the reevaluation this evening and we have decided to proceed." On November 28, 2022, the District responded in an email to the Parent's November 21, 2022 requests point by point, explaining how the Parent's requests were not allowable, and on December 6, 2022, District employee 2 emailed the Parent in part as follows:

The evaluation and IEP processes are different. [The Student] qualified for behavior through the evaluation. Any concerns with this being left off of the IEP should be directed to her IEP case manager...Criteria for medical diagnoses/impressions are not the same as those in Washington state special education law, which may result in differences between medical records and special education eligibility.

Overall, the record shows that the District's evaluation was conducted by trained professionals. That evaluation was performed in a thorough manner and did not use any single measure or assessment as the sole criterion for determining the Student's eligibility for special education services and for determining the appropriate educational program for the Student. The evaluation was performed in a non-discriminatory fashion in the Student's primary language. The District was responsive to the Parent's questions and concerns, and based on the facts, it appears the District's

November 21, 2022 offer to have a second school psychologist complete the Student's assessment was made in response to the Parent's objections about some of the wording used in the evaluation and not because the District had concerns about how the first school psychologist conducted the evaluation.

The record shows that the Parent participated fully in the Student's evaluation and IEP process. The Parent requested an early evaluation, which the District complied with, and the Parent expressed her questions, concerns, objections, and agreements with the process through numerous emails and the District responded in a thorough manner to each of those emails.

Overall, OSPI finds the District's reevaluation was sufficient and that the Parent participated. Thus, OSPI finds no violation regarding the evaluation.

### **CORRECTIVE ACTION**

#### **STUDENT SPECIFIC:**

None.

#### **DISTRICT SPECIFIC:**

None.

Dated this 31st day of January, 2023

Dr. Tania May  
Assistant Superintendent of 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.)