

## **SPECIAL EDUCATION COMMUNITY COMPLAINT (SECC) NO. 22-81**

### **PROCEDURAL HISTORY**

On June 29, 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 Marysville 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 July 1, 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 July 18, 2022, OSPI received the District's response to the complaint and forwarded it to the Parent on July 19, 2022. OSPI invited the Parent to reply. The Parent did not reply.

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

### **ISSUE**

1. Did the District comply with WAC 392-172A-05225 that requires parent consent as indicated on the District's consent to release information form?

### **LEGAL STANDARD**

Disclosure of Student Records: Parental consent must be obtained before student personally identifiable information is disclosed. 34 CFR §300.622; WAC 392-172A-05225.

### **FINDINGS OF FACT**

#### **2021–2022 School Year**

1. At the beginning of the 2021–2022 school year, the Student was a kindergartener who attended a District elementary school. The Student was not eligible for special education at the time.
2. On January 26, 2022, the Parent signed a release of information (ROI) with a private agency to release information about the Student to the District.

The Parent did not raise any concerns regarding this ROI in the complaint.

3. In spring 2022, the District proposed to evaluate the Student in the area of occupational therapy (OT) as part of an initial evaluation. The Parent signed consent for the evaluation on May 16, 2022. As part of the evaluation, the District planned to contact the Student's private OT therapist for information regarding the Student.

4. Regarding the ROI for the Student's private OT therapist, the District described what occurred in having the Parent sign the ROI for the records to be provided by the private agency as follows:

As part of the District's evaluation process, [District OT therapist] asked Parent to sign a District release of information form ("**ROI**") allowing Student's private OT at [private agency] to share any OT related information with [District OT therapist]. [Emphasis in original.] The ROI was left for Parent at the main office of [school] to review and sign. This process of leaving documents for Parent in the school office for signature following virtual team meetings was reportedly customary for Parent to do so with Student and her sibling...[Office manager] was the office manager at School and she told the District that she would not have provided the blank ROI to anyone other than Parent...

At some point apparently between May 19 and May 25, 2022, [District OT therapist] found a signed copy of the ROI in her box at [school].

5. According to the Parent's complaint, later, after receiving a copy of the ROI for the private OT therapist, the Parent noted the signature on the ROI form was not hers.
6. On May 19, 2022, the District OT therapist signed the "Authorization for Mutual Exchange of Medical Information" form.

It was not clear from the documentation when the disputed Parent's signature was added since the signature was not dated.

7. On May 25, 2022, the District OT therapist emailed the ROI to the private OT therapist.
8. On June 13, 2022, the District OT therapist and the private OT therapist exchanged emails about the District not receiving the records it requested.
9. On June 13, 2022, the District conducted an evaluation meeting. Although the District had not received the records from the private OT therapist, the evaluation included the District's own OT evaluation and the team did not recommend OT services for the Student.

10. Later that day, the Parent emailed the District OT therapist. The email stated, in part:  
I recall filling out multiple forms for [Student] and [student (Student's sibling)]. I don't know if I completed all of the necessary documents. I don't remember if I filled out an ROI for [Student]? Could you send me a copy for my records? I usually make one of everything I have completed. I believe I filled out an ROI at [private agency] for both [Student] and [student].

11. Also, on June 13, 2022, the Parent followed up with an email to the principal, stating:  
I wanted to write you about something that concerns me. I have a copy of an ROI (included below) for [Student] that was sent to [private agency] on Friday, June 10, 2022, and another copy today via an email from [District OT therapist]. However, when I looked over this ROI document, I was surprised it was not in my handwriting or my signature.

Are school personnel allowed to fill out documents for the parent/guardian?

I remember a request for a needed ROI to begin the process of looking at eligibility for [Student].

In reviewing my notes, in an email dated February 26, 2022, I stated I had signed an ROI to start looking at possible 504 or IEP processes due to diagnosis, etc. This email was about [Student's] incidents/escalations from the prior two weeks and after haven spoken with [general education teacher], [special education teacher], and [school psychologist]. I don't know who filled the document in question. I don't have an issue with an ROI and sharing information between the entities who need it. I have problems with documents filled out and signed in my name, especially when I am fully capable of doing so in person. Documents I have completed and signed, I might add.

12. On June 16 and 22, 2022, the District held an IEP meeting for the Student's sibling. The prior written notice, dated June 16, 2022, stated that among other issues, the Parent brought up the ROI in dispute. The notice stated that the principal had pulled the last few ROIs and the Parent's signature on the disputed ROI "did not match." The principal was watching videos "to see who came into the office that day." The notice, dated June 23, 2022, stated, "District will void the ROI and give Parent the option to sign a new one."
13. The principal looked into the matter by reviewing the security camera footage. The principal emailed the special education director and stated, "I could not see anything on cameras. The signature is not one of us. When they (an ROI) are left in the office to sign, [office manager] has them with her and when she sees the family she asked them to sign it..."
14. The District interviewed the principal, the school psychologist, and the District OT therapist about the signature on the ROI. Most relevant, the District OT therapist stated:

At the SET meeting in May, [Parent] stated that [Student] went to [private agency], and when asked about talking with them for the evaluation, [Parent] stated that she thought that there was an ROI already signed.<sup>1</sup> [District OT therapist] was told to check the cum (cumulative) file and eval file and did not locate a signed ROI. [District OT therapist] recalls reaching out via phone to [Parent] to say that one was not found on file so that a new ROI would be left at the front desk for signature. [District OT therapist] found the signed ROI left in her staff box at [school] and moved forward with that consent. Upon hearing that the ROI was not signed by [Parent] and that there was some discrepancy about signature, [District OT therapist] reached out to director partner [special education director] to state that no information was used in the eval that would have come from this ROI.
15. The school's office manager was unavailable to be interviewed by the school during its investigation.
16. On June 29, 2022, the Parent filed this complaint with OSPI.

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<sup>1</sup> It was not clear from the documentation what the "SET" meeting was.

17. In a review of other documents provided by the District that the Parent signed, the ROI document does not appear to be substantially different than the Parent's signature on other documents.

## **CONCLUSION**

**Issue One: Release of Information Signature** – The complaint alleged the District failed to get the Parent's written permission to exchange records with a private agency. Specifically, the Parent alleged the signature on the release of information (ROI) was not her signature. Parental consent must be obtained before personally identifiable information is disclosed.

Here, in spring 2022, the District was in the process of evaluating the Student for eligibility for special education. To get records from the Student's private OT therapist, the District OT completed and signed a ROI form on May 19, 2022. Sometime between May 19 and 25, 2022, the Parent's signature on the ROI form was signed. The Parent later stated that the signature on the ROI was not her signature. On May 25, 2022, the District OT therapist emailed the disputed ROI to the private OT therapist. At the June 13, 2022 evaluation meeting, the team, in part, discussed the missing private OT records. The team proceeded with the eligibility meeting with assessment data from the District OT therapist.

In a later exchange of emails on June 13, 2022, the Parent acknowledged she was not sure if she signed the ROI. The Parent then received a copy of the disputed ROI and informed the District that the signature on the ROI form was not hers. The District investigated the issue, including reviewing security videotapes and interviewing staff. According to the District, the signature on the ROI form and the Parent's signature on other documents "did not match." But despite the District's reasonable efforts, the District was unable to determine if someone other than the Parent signed the ROI form. OSPI, while not handwriting experts, reviewed the Parent's signature on other documents and the ROI in dispute, and concluded the signatures were not significantly different. Although the Parent claimed it was not her signature and the District believed the signature on the disputed ROI did not match other signatures, the Parent acknowledged she did not recall if she signed the ROI form and the District's investigation did not show any malfeasance. In addition, no information was shared between the District's OT therapist and the private OT therapist, thus the impact of the disputed signature was minimal. The District subsequently voided the ROI and offered the Parent a new one. Based upon insufficient documentation substantiating the complaint, no violation is found.

## **CORRECTIVE ACTION**

### **STUDENT SPECIFIC:**

None.

### **DISTRICT SPECIFIC:**

None.

## RECOMMENDATION

Although no violation is found, OSPI recommends the District review its process for getting parent signatures on releases of information and other areas where written informed consent is required.

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

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.)