

SPECIAL EDUCATION COMMUNITY COMPLAINT (SECC) NO. 23-01

PROCEDURAL HISTORY

On January 3, 2023, the Office of Superintendent of Public Instruction (OSPI) received a Special Education Community Complaint from the parent (Parent) of a student (Student) attending the Issaquah School District (District). The Parent alleged that the District violated the Individuals with Disabilities Education Act (IDEA), or a regulation implementing the IDEA, regarding the Student's education.

On January 4, 2023, 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 January 20, 2023, OSPI received additional information from the Parent. The information was forwarded to the District on the same day.

On January 20, 2023, OSPI received the District's response to the complaint and forwarded it to the Parent on January 23, 2023. OSPI invited the Parent to reply.

On February 3, 2023, OSPI received the Parent's reply. OSPI forwarded that reply to the District on February 6, 2023.

On February 10, 2023, OSPI requested additional information from the Parent. OSPI received the information on February 14, 2023 and forwarded the information to the District on the same day.

On February 17, 2023, the OSPI complaint investigator conducted interviews with the Student's general education teacher, special education teacher, and school principal.

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 January 4, 2022. 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. Did the District follow transfer procedures according to WAC 392-172A-03105, when the Student was enrolled in the District, including providing comparable services?
2. Did the District conduct an evaluation of the Student according to WAC 392-172A-03070 and 392-172A-03020?

3. Did the District provide the Parent with a copy of the procedural safeguards according to WAC 392-172A-05015?

LEGAL STANDARDS

Transfer Students Who Transfer from an Out-of-State School District: If a student eligible for special education transfers from a school district located in another state to a school district in Washington State and has an individualized education program (IEP) in effect for the current school year, the new school district, in consultation with the student's parents, must provide the student with a free appropriate public education (FAPE) including services comparable to those provided in the IEP from the prior serving district, until the district: conducts an evaluation to determine if the student is eligible for special education services in this state, if the district believes an evaluation is necessary to determine eligibility under Washington state standards; and develops, adopts, and implements a new IEP. 34 CFR §300.323(f); WAC 392-172A-03105(5). If the school district evaluates the student, the evaluation must be in accordance with WACs 392-172A-03005 through 392-172A-03040. "Comparable services" means services that are similar or equivalent to those described in the IEP from the previous district, as determined by the student's new district. Individuals with Disabilities Education Act (IDEA), 71 Fed. Reg. 46,681 (August 14, 2006) (comment to 34 CFR §300.323).

Initial Evaluation – Specific Requirements: The purpose of an initial evaluation is to determine whether a student is eligible for special education. 34 CFR §300.301; WAC 392-172A-03005(1). A school district must assess a student in all areas related to his or her suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor ability. The evaluation must be sufficiently comprehensive to identify all of the student's special education and related services needs, whether or not they are commonly linked to the disability category in which the student has been classified. No single measure or assessment as the sole criterion is used for determining a student's eligibility or determining an appropriate educational program for the student. If a medical statement or assessment is needed as part of a comprehensive evaluation, the district must obtain that statement or assessment at their expense. In conducting the evaluation, the evaluation team must use a variety of assessment tools and strategies to gather relevant functional developmental, and academic information about the student. 34 CFR §300.304(b); WAC 392-172A-03020. When interpreting the evaluation for the purpose of determining eligibility, the district team must document and carefully consider information from a variety of sources. 34 CFR §300.306; WAC 392-172A-03040.

Method for Documenting Severe Discrepancy: (1) For the purposes of applying the severe discrepancy tables, the following scores shall be used: a total or full scale intellectual ability score; an academic achievement test score which can be converted into a standard score with a mean of one hundred and a standard deviation of fifteen; and a severe discrepancy between the student's intellectual ability and academic achievement in one or more of the areas addressed in WAC 392-172A-03055(1) shall be determined by applying the regressed standard score discrepancy method to the obtained intellectual ability and achievement test scores using the tables referenced above. Where the evaluation results do not appear to accurately represent the

student's intellectual ability or where the discrepancy between the student's intellectual ability and academic achievement does not appear to be accurate upon application of the discrepancy tables, the evaluation group, described in WAC 392-172A-03050, may apply professional judgment in order to determine the presence of a specific learning disability. Data obtained from formal assessments, reviewing of existing data, assessments of student progress, observation of the student, and information gathered from all other evaluation processes for students being identified for a specific learning disability must be used when applying professional judgment to determine if a severe discrepancy exists. When applying professional judgment, the group shall document in a written narrative an explanation as to why the student has a severe discrepancy, including a description of all data used to make the determination through the use of professional judgment. WAC 392-172A-03070.

Notice of Procedural Safeguards: The notice of procedural safeguards must provide a full explanation of a student's rights related to: an independent educational evaluation (IEE); prior written notice; parental consent; access to education records; dispute resolution options and procedures; placement during a due process hearing; procedures for placement in an interim alternative setting; requirements for unilateral placement in private schools at public expense; civil actions; and attorneys fees. 34 CFR §300.504(c)w; WAC 392-172A-05015(3).

A copy of the procedural safeguards must be given to parents, at a minimum one time per school year and: the first time the child is referred or the parent requests a special education evaluation; the first time the parent files a community complaint or due process request in a school year; the first time the parent or the district files a due process hearing request during the year; on the date the district decides to make a disciplinary change of placement; or anytime the parent requests a copy. A school district may place a current copy of the procedural safeguards notice on its website if a website exists. 34 CFR §300.504(a); WAC 392-172A-05015(1).

A district must offer the parent a copy of the printed procedural safeguard notice. Providing a link to the district website is sufficient only if the parent declines the printed notice. 71 Fed. Reg. 46,693 (2206).

FINDINGS OF FACT

2021–2022 School Year

1. During the 2021–2022 school year, the Student was a fourth grader who attended an elementary school in an out-of-state district.
2. From October through December 2021, the Student was evaluated in the out-of-state district to determine if the Student was eligible for special education services and required specially designed instruction. The district evaluated the Student in the areas of emotional/behavior, intelligence/adaptive behavior, and academics. In reading, the district evaluated the Student using the "Wechsler Individual Achievement Test, Fourth Edition" (WIAT-4). In reading comprehension, the Student scored a standard score of 84, which was in the 14th percentile compared to other students his age. Using the Student's pattern of strengths and weaknesses

as the criteria to determine eligibility, the Student was found eligible under the category of specific learning disability in the area of reading comprehension. The evaluation noted that the Student’s scores did not indicate “primary academic skill characteristics of dyslexia...”

3. In January 2022, the Student’s out-of-state district team met to develop an initial individualized education program (IEP) for the Student. The IEP provided for annual goals in reading and specially designed instruction for 60 minutes per day in the general education setting that was described as “In Class Support English Lang Arts & Rdg (K-7th).” In addition, the IEP provided the following accommodations to the Student:

Accommodation	Subject				
	ELA	Math	RDG	SCI	SOC. ST.

Adaptations – Deliver during Instruction/Assign/Assess

Check for understanding	X	X	X	X	X
Oral administration of entire assignment/assessment (when oral reading is not tested)	X	X	X	X	X
Restate or say directions a different way to ensure understanding.	X	X	X	X	X
Use chunking or grouping strategies	X	X	X	X	X

Adaptions to Provide with Assign/Assessments

Extra time for completing assignments/assessments up to 1 day	X	X	X		
Graphic Organizers	X		X		
Math Charts		X			

The Student’s IEP also addressed participation in the statewide “State of [state] Assessments of Academic Readiness” (STAAR) assessment. The accommodation for the STAAR included the following for reading and math:

Oral/Signed Admin (administration) for STAAR 3-8, EOG (end of grade) Alg (Algebra) I, Bio (biology) & US History READ ALL Test Questions, Answer Choices, Revising Selections, Revising Test Questions/Answers, required reference materials & designated supports (NO reading or editing selections, or editing test questions/ answers)

4. According to the state STAAR manual for administration the reading and math assessments, the test questions, answer choices, and required reference materials may be read aloud to a student, but reading selections may not be read aloud to a student.¹
5. While the Student attended school in the other state, the Parent stated she worked as a special education secretary and an interpreter for parents in special education meetings. The Parent stated she had no training in administering or interpreting psychological and academic assessments.

¹ https://tea.texas.gov/sites/default/files/5_Oral_Signed_Administration_Tagged.pdf

6. On August 22, 2022, the Parent emailed the District school psychologist 1, requesting to schedule an "ARD" (admission, review, and dismissal) meeting before the start of school and determine if a new evaluation was required, as the Student was transferring into the District.²
7. The District's "Transfer Validation Report," dated August 23, 2022, stated the District did not concur with the prior out-of-state district's evaluation and that a new evaluation would be conducted. The report stated, "...based on the results of this evaluation, [Student] does not meet criteria for Specific Learning Disabilities in the [District], thus, a re-evaluation will be initiated." Regarding the Student's IEP from the out-of-state district, the District also did not concur with the IEP. But the Student's IEP would be implemented "as written," pending the completion of the District's evaluation.
8. On August 29, 2022, according to the District, district psychologist 2 had a phone call with the Parent and talked with the Parent about the transfer report. On the same day, the psychologist emailed the Parent the "transfer validation paperwork" and indicated that the consent for the evaluation would be sent to the Parent during the week.

2022–2023 School Year

9. The District's 2022–2023 school year began on August 30, 2022.
10. At the start of the 2022–2023 school year, the Student was a fifth grader who attended a District elementary school and had been eligible for special education services in his previous out-of-state district under the category of specific learning disability based on the out-of-state evaluation.
11. The District provided the Parent with a prior written notice, dated August 24, 2022, that after the previous evaluation, the Student's eligibility did not meet Washington's criteria for a specific learning disability. The District proposed evaluating the Student. In addition, the notice stated, "the previous IEP will be implemented pending amendments to minutes and pending the upcoming evaluation."
12. On August 30, 2022, the District developed a "transfer IEP amendment" based on the out-of-state IEP. The IEP provided goals in reading comprehension and provided for specially designed instruction in reading for 60 minutes each day in the general education classroom. The IEP identified the following accommodations to be provided to the Student:
 - Check for understanding
 - Oral administration of entire assignment/assessment (when oral reading is not tested)
 - Restate or say directions a different way to ensure understanding
 - Use chunking or grouping strategies
 - Extra time for completing assignments/assessments up to 1 day
 - Graphic organizers
 - Math charts

² The admission, review, and dismissal committee is the team in the other state that meets to determine eligibility based on an evaluation and to develop an IEP for the Student.

13. The Student’s transfer IEP did not address the Student’s participation in state and district-wide assessments, including accommodations for the iReady assessments.

14. According to the District, iReady was used for both District-wide periodic assessments of student progress, diagnostic purposes, and instructional lessons. The District provided the following test procedures in administering the iReady diagnostic assessments:

Mathematics:

- All Mathematics items in Grades K-5 have universally accessible human-voiced support.

Reading:

- All High-Frequency Words, Phonics, and Phonological Awareness items have universally accessible human-voice audio that is required for answering items. In i-Ready, High Frequency Word items are associated with Grades K-2. Phonic items are associated with Grades k–3, and Phonological Awareness items are associated with k–1, although students in higher grades may experience these items if the Diagnostic adapts downward to deliver these items to students.
- For Vocabulary items, there is human-voiced audio support for Grades K and 1. There is human-voiced audio support for a select set of items in Grade 2.
- Reading Comprehension items in Grade K have human-voiced audio support. There is some human-voiced audio support for comprehension items in Grade 1, and no human-voiced audio support in Grade 2 and above.

15. According to the website of Curriculum Associates’, which is the publisher of iReady, the assessment provides for “universal audio support.” Students can click on an audio button to hear the text of a question and/or answer read aloud. The website states, “This feature can be used to support read-aloud accommodations.”³

16. The Parent identified the following services that were allegedly not implemented between August 30 and October 7, 2022. The following table includes the Parent’s statements and allegations and information from District staff interviewed during the complaint investigation:

Service	Parent Statement	District Statement
“Oral administration of assessment items through iReady for Math and Reading as well as other (ungraded) checkpoint assessments”	“Assessment scores comparison + student notification, teacher verbalized this was not provided, Principal said she would check to see if this was a function that iReady has. Per student ‘On iReady, it never read to me, I had to do it myself for math and reading. In [state] it did read things to me even on the Reading STAAR.’”	Staff stated the Student had access to turning on the oral administration option during iReady instruction, but the reading passages could not be read out loud to the Student.
“Oral administration of assignments when oral reading is not tested.”	Student notified of failure to receive. Teacher confirmed and Principal said she would look into functionality but could not provide additional details. Per teacher, some assignments were	Staff disputed making a statement that the Student failed to receive the accommodation. The teacher read the assignments and directions.

³ <https://www.curriculumassociates.com/access-and-equity/committed-to-accessibility>.

	sometimes read but usually students are given work and they have to read and complete on their own. Student never received oral administration of assessments. "Sometimes she read the questions to the whole class but not all of the questions, and not all of the time. On iReady, it never read to me, I had to do it myself."	
"60 minutes of ELA (English language arts) that included check for understanding, chunking, and grouping strategies, and restating directions and ensuring understanding"	"Student notified that all instruction he received was with the entire class. When small groups occurred, he did not have anyone assigned. Previously he has experienced small groups with other students where a para is assigned and reviews discussed items with SPED students and shadows their work as well as provides additional/ separate instruction as needed which constitutes for the 60 minutes of assistance. [Student] said he always had to wait for the teacher to be available to go and ask questions or 'do his best and what he thought was being asked because he did not get the extra help he used to get'."	The Student's teacher stated the Student received specially designed throughout the school day. She pulled the Student aside and provided instruction during different times and when the Student had difficulty. Unlike in the other state, the classroom teacher did not have a paraeducator but did have a student teacher to assist. The teacher stated the special education services were provided as required. Notably, the teacher reported the Student did not demonstrate any significant difficulties with reading or reading comprehension. Teacher showed examples of how chunking or grouping was implemented with the Student.
Graphic Organizers	"Student advised. During Parent Teacher conference, it was confirmed that no outside materials are 'always used' despite accommodation requirement on specified dates."	The teacher disputed the Parent was told graphic organizers were not used. The teacher showed examples of graphic organizers and explained how and when they were used with the Student.
Math Chart	"Student advised. During Parent Teacher conference, it was confirmed that no outside materials were used, including math charts."	The teacher disputed the Parent was told a math chart was not used. The teacher showed the math chart that was placed on the Student's desk.

17. In emails on September 6, October 3, October 7, and December 12, 2022, the school psychologist provided the Parent with a link to the procedural safeguards. The August 24, September 22, October 7, 2022, and January 3, 2023 prior written notices provided the Parent with links to the procedural safeguards. The District listed "Procedural Safeguards" on its website, which was a link to OSPI's "Parent and Student Rights (Procedural Safeguards)" page. The Parent stated the District did not offer a hard copy of the procedural safeguards and she

did not receive one. The Parent also stated she was not aware of the procedural safeguards on the District's website.

18. On September 22, 2022, the special education teacher emailed the Parent the Student's transfer IEP for the October 7, 2022 meeting to review the District's evaluation.
19. On October 3, 2022, school psychologist 2 emailed the Parent a "draft" copy of the evaluation.
20. On October 7, 2022, a group of qualified professionals and the Parent met to review the results of the evaluation. The evaluation included information from the Student's teacher who stated the Student listened well, followed directions, and completed all activities in a timely manner. Regarding the classroom reading assessment, the evaluation stated:
[Student] tested at Grade 4 in the iReady diagnostic and at a Level U in his F & P (Fountas & Pinell) assessment. He had a lower Grade 3 score within the informational reading category; however, this is similar to most of our 5th grade students and will be a primary focus for all in the general education classroom. He has just started iReady reading lessons and did not pass his first one, which is also similar to many 5th grade students at this beginning point. He is taking notes in class and discussing reading well with details and thinking when asked...At this point, [Student] does not seem to be affected in a significant manner with reading comprehension. Rereading, discussion, and note taking strategies are assisting his acquisition and retention of important details and information.

The Student was evaluated in the areas of cognitive, reading, and health/development to determine if the Student was eligible under the category of specific learning disabilities in reading comprehension. The results from the cognitive assessment fell within the average range with a score of 98. In reading, the Student's WIAT-4 scores ranged from extremely high to high average, including reading comprehension which was high average (Standard score – 117, 87%ile). The District also administered the "Kaufman Test of Educational Achievement-Third Edition" (KTEA). The Student's score was in the average range (Standard score – 101, 53%ile).

Based on the lack of a discrepancy between the Student's ability and academic achievement in reading comprehension, the District found the Student ineligible for special education services. The Parent signed the evaluation report. At the time, there was no separate written statement, stating the Parent disagreed with the results of the evaluation.

21. In the Parent's complaint, the Parent stated the District's results of the WIAT-4 assessment were invalid because "he was tested with almost exact material from test less than 10–12 months prior."⁴ As a result, the Parent alleged the Student's test scores were skewed towards ineligibility and did not reflect his classroom achievement. In addition, the complaint stated,

⁴ The professional literature regarding the WIAT states that the WIAT should not be administered more than one or two times per year. Vaughan-Jensen, Jessica; Adame, Cindy; McLean, Lauren. (2011) Test Review: D. Wechsler. Wechsler Individual Achievement Test (3rd ed.). Journal of Psychoeducational Assessment, 06/2011.

"...school personnel did not read results appropriately (103 IQ/84 read comp ((comprehensive)) and used 89 IQ with reading comprehension included in this total."

22. On December 8, 2022, the Parent emailed the Student's special education teacher, requesting an independent educational evaluation (IEE). The email stated, in part:

[Student's] classwork and the findings of the most recent testing that occurred at [school] does not match, and it is skewed greatly from testing he had less than a year ago. I know he mentioned that some of the reading selections were done previously. Also, he used the tools he had recently learned for that type of testing since he did have a State Reading test in [state]; however, in classroom comprehension he shows the same SLD that he did in his [state] SPED eval testing. His most recent testing does not correlate accordingly to his classroom capabilities.

23. On December 13, 2022, the director of elementary education emailed the Parent, authorizing an IEE for the Student.

24. The IEE report, dated December 28, 2022, from a doctor of clinical and school psychology stated the evaluator reviewed the results from the out-of-state school district and the District and addressed the Student's eligibility for special education services under the category of specific learning disability in reading comprehension. The report stated, in part:

Based on the [District's] utilization of the Washington State guidelines that utilize a discrepancy formula, [Student] does not evidence a Specific Learning Disability in reading comprehension. This is based on his FSIQ (full scales intelligence quotient) of 98, which results in a criterion score of 81. [Student's] standard scores on all Reading cluster scores were all above this criterion score of 81.

In conclusion, both the [out-of-state] Special Education Evaluation and the current [District] Re-evaluation were both comprehensive and thorough, however each district used a different set of criterion to determine which students are eligible for special education services, as a result of a Specific Learning Disability.

25. On January 3, 2023, the Parent filed this complaint with OSPI.

26. The Parent indicated to the complaint investigator that after the private psychologist explained the IEE findings and substantiated the District's findings, the Parent no longer disputed the District's eligibility determination. Later, the Parent stated, "From the IEE, I understand where my son's deficit is and I have to complete a neuropsych evaluation for him to be diagnosed appropriately and for it to be a valid diagnosis in WA. So I understand he's not 'currently eligible' with the same diagnosis he had in [state], but he still should be eligible after the appropriate testing is performed to diagnose his clinical condition..."

CONCLUSIONS

Issue One: Transfer Procedures – The complaint alleged the District failed to follow the out-of-state transfer procedures when the Student moved from another state to Washington and implement the IEP. If a student eligible for special education transfers from a school district located in another state to a school district in Washington state and has an IEP in effect for the

current school year, the new school district, in consultation with the student's parents, must provide the student with FAPE, including services comparable to those provided in the IEP from the prior district, until the district conducts an evaluation to determine if the student is eligible for special education services if the district believes an evaluation is necessary to determine eligibility under Washington state standards, and develops, adopts, and implements a new IEP.

Transfer Procedures: Here, the Student's January 2022 out-of-state IEP provided for reading services 60 minutes per day and classroom accommodations that included, in part, oral administration of "entire assignment/assessment," chunking and grouping strategies, extra time, graphic organizers, and math charts. The IEP stated the Student would participate in the state assessment in reading and math. The Student's accommodation in the state assessment was for reading all questions, answer choices, revising selections, revising test questions/answers, required reference material, and designated supports but "no reading or editing selections, or editing test questions/answers."

On August 30, 2022, the District determined comparable services that included an interim or "transfer IEP" that would be implemented based on the January 2022 out-of-state IEP until the evaluation was completed. The requirement for comparable services takes into account the potential differences between IEPs from different states. For example, the Student's out-of-state IEP provided accommodations for the STAAR assessment, which is not administered in Washington state. Here, OSPI finds that generally, the services in the "transfer IEP" were comparable to the Student's previous IEP.

The requirement for determining comparable services, *in consultation with the parent*, helps ensure parent participation, allow for discussion of services that may look different in different states, and ensure that the district would explain any implementation differences between the IEPs. Here, the District did not sufficiently consult with the Parent.

This lack of consultation is illustrated by the considerable confusion regarding the implementation of the comparable accommodation for "oral administration of entire assignment/assessment (when oral reading is not tested)" that included iReady assessment and instruction. The January 2022 out-of-state IEP did not specify when the classroom accommodation would be provided, except it would be provided in each of the Student's classes. Thus, it was not clear whether the accommodation was for *every* assignment/assessment or whether there was some discretion used by the Student's teacher in implementing it. The District included the comparable accommodation 'as-is' in the Student's transition IEP, without consultation with the Parent about its implementation. The Parent assumed the accommodation meant that every assignment/assessment should be read orally to the Student. And the Student reported (to the Parent) that directions and answers were not always provided since he had to read them himself. According to the District, some teacher discretion should have been applied to its implementation since the Student did not show any significant deficit in reading comprehension. Had the District more carefully reviewed the comparable accommodation and consulted with the Parent about the implementation, the confusion over its implementation could have been prevented.

A violation is found based on the District not consulting with the Parent regarding the comparable services, specifically the oral administration accommodation. The District is required to provide written guidance regarding comparable services in consultation with the Parent to the Student's IEP team.

Implementation: Regarding the implementation of the IEP, the Parent stated no reading services were provided and no accommodations were provided during the period from August 30 to October 7, 2022. The Parent did not have first-hand knowledge that services were not provided. The Parent based the complaint on alleged statements from the Student's teacher and the Student. The Student stated that he did not receive his reading instruction and he had to read questions in many instances unlike how he received services in the other state. The Student's special education teacher, general education teacher, and principal explained how the Student received his reading instruction and provided the accommodations, including showing the OSPI investigator the graphic organizers and math chart that the Student used. The general education teacher also disputed that she made statements to the Parent that services were not being provided. Because the District was not required to provide the services exactly like the out-of-state school district did and the District was able to explain how the services were implemented, no violation is found.

Issue Two: Evaluation – The complaint initially alleged the District failed to follow procedures when evaluating the Student for eligibility in Washington state. In conducting an evaluation, a district must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the student, including information provided by the parent, that may assist in determining whether the student is eligible for special education services and the content of the student's IEP, including information related to enabling the student to be involved in and progress in the general education curriculum, or for a preschool child, to participate in appropriate activities. The district must not use any single measure or assessment as the sole criterion for determining a student's eligibility for special education services and for determining an appropriate educational program for the student and will use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors. Each school district must ensure that assessments and other evaluation materials used to assess a student are selected and administered so as not to be discriminatory on a racial or cultural basis are provided and administered in the student's native language or other mode of communication and in the form most likely to yield accurate information on what the student knows and can do academically, developmentally, and functionally, unless it is not feasible to so provide or administer. The evaluation materials are used for the purposes for which the assessments or measures are valid and reliable. If properly validated tests are unavailable, each member of the group shall use professional judgment to determine eligibility based on other evidence of the existence of a disability and need for special education services. The use of professional judgment shall be documented in the evaluation report. When using a severe discrepancy score, the full-scale intellectual ability score and the academic achievement score, converted into a mean of one hundred and a standard deviation of fifteen, shall be used to determine if a severe discrepancy is present between intellectual ability and academic achievement.

Here, the January 2022 out-of-state evaluation found the Student eligible for a specific learning disability in reading comprehension using the patterns of strengths and weaknesses method. When transferring to Washington, the District determined the evaluation method did not meet Washington standards and determined the need to evaluate the Student for eligibility. In October 2022, the District evaluated the Student using multiple assessments for reading comprehension, one of which was used previously in the January 2022 evaluation. According to the District evaluation, the Student did not display a severe discrepancy between cognitive ability and academic achievement. The District considered the results from both reading comprehension tests and found no discrepancy.

The Parent alleged the District used the wrong scores and that the results were invalid because the WIAT reading comprehension test was administered within ten months of the previous WIAT administration. However, the administration guide states that the test should not be administered more than one *or two* times a year. Thus, in this case, the results were valid and consistent with the previous WIAT assessment. The evaluation also used a variety of assessments and did not use any single assessment to determine eligibility. The evaluation used existing data along with conducting the WIAT and KTEA in reading comprehension to assess the Student. The results of the reading comprehension assessments were consistent with the observations of the Student's teacher.

The Parent then requested an IEE, which the District agreed to. The IEE reviewed both evaluations and stated that both evaluations were "comprehensive and thorough" and determined there was no evidence of specific learning disability under the severe discrepancy criteria. However, the IEE did also note that the Student was eligible under the patterns of strengths and weaknesses criteria used in the other state. The Parent then acknowledged the Student was not eligible under Washington rules for a specific learning disability. Based on the documentation that the District followed procedures in evaluating the Student and made a decision that was consistent with the Student's data, no violation is found.

Issue Three: Procedural Safeguards – The complaint alleged the District failed to provide the Parent with a copy of the procedural safeguards. School districts must provide a copy of the procedural safeguards to the parents one time a year, including an initial referral for evaluation. A school district may place a current copy of the procedural safeguards notice on its website if a website exists, but it must still offer a copy of the procedural safeguards notice and guidance from the federal Department of Education is that directing a parent a link to a website is not sufficient to meet the obligation to provide procedural safeguards.

Here, the District provided links on the District website to the procedural safeguards in numerous emails and prior written notices. But the Parent stated she was not offered a copy of the procedural safeguards and did not receive one. The Parent also stated she was not aware of the procedural safeguards notice referred to on the District's website despite the repeated links in the emails and notices to the procedural safeguards and her experience working in special education at the out-of-state district. There was also no indication that the Parent asked for a copy of the procedural safeguards, although there was no requirement for her to ask. The District was obligated to offer a copy of the procedural safeguards and not merely provide a link to its

website. Based on the District's failure to offer the Parent a copy of the procedural safeguards notice, a violation is found. The District is required to provide the IEP team with written guidance regarding the procedural safeguards notice.

CORRECTIVE ACTION

By or before **March 10, 2023** and **March 24, 2023**, the District will provide documentation to OSPI that it has completed the following corrective action.

STUDENT SPECIFIC:

None.

DISTRICT SPECIFIC:

By **March 17, 2023**, the District is required to provide the Student's IEP team with written guidance regarding comparable services and the procedural safeguards notice. By **March 10, 2023**, the District will provide OSPI with a draft of the written guidance. OSPI will provide feedback as necessary and must approve the written guidance. By **March 24, 2023**, the District will provide OSPI with verification that the Student's IEP team received the written guidance.

The District will submit a completed copy of the Corrective Action Plan (CAP) Matrix, documenting the specific actions it has taken to address the violations and will attach any other supporting documents or required information.

Dated this 2nd day of March, 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.)