

SPECIAL EDUCATION CITIZEN COMPLAINT (SECC) NO. 18-09

PROCEDURAL HISTORY

On January 24, 2018, the Office of Superintendent of Public Instruction (OSPI) received a Special Education Citizen Complaint from the parent (Parent) of a student (Student) attending the Seattle 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 January 24, 2018, 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 February 15, 2018, OSPI received the District's response to the complaint and forwarded it to the Parent on February 16, 2018. OSPI invited the Parent to reply with any information she had that was inconsistent with the District's information. The Parent did not provide a reply.

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

OVERVIEW

During the 2017-2018 school year, the Student was enrolled in the District and was found eligible to receive special education and related services. In June 2017, the Student's annual individualized educational program (IEP) was developed, which called for special transportation and a dedicated bus monitor. Prior to the start of the school year, the Parent communicated with District special education administrators and the transportation department and attempted to clarify the Student's transportation arrangements. The day before school started, a District bus monitor resigned and the transportation department did not have enough bus monitors to assign one to the Student. Since September 2017, the Student's transportation services were provided first by a local cab company and then by another transportation company. Despite ongoing conversations and attempts to resolve the transportation issues, transportation services under both companies were inconsistent. There were at least fifteen occasions where the Parent had to drive the Student to school or pick the Student up from school because transportation was late, transportation did not arrive, or a bus monitor was not provided. There were also several days where the Parent sent the Student to school without a bus monitor despite her concerns about the Student's safety. In January 2018, the Student's IEP team met, developed the Student's annual IEP, and clarified the need for door-to-door transportation and a dedicated bus monitor. Since February 2018, the District has consistently provided the Student with transportation services and a dedicated bus monitor.

The Parent alleged that the District failed to provide a dedicated, 1:1 bus monitor and transportation consistently, as called for in the Student's IEP. The District admitted all allegations and proposed corrective actions.

ISSUE

1. Did the District provide transportation consistent with the Student's individualized education program (IEP) in place during the 2017-2018 school year?

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 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. 34 CFR §§300.320 through 300.328; WAC 392-172A-03090 through 392-172A-03115. It must also ensure it provides all services in a student's IEP, consistent with the student's needs as described in that IEP. The initial IEP must be implemented as soon as possible after it is developed. 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.

IEP Definition: An IEP must contain a statement of: (a) the student's present levels of academic achievement and functional performance; (b) measurable annual academic and functional goals designed to meet the student's needs resulting from their disability; (c) how the district will measure and report the student's progress toward their annual IEP goals; (d) the special education services, related services, and supplementary aids to be provided to the student; (e) the extent to which the student will not participate with nondisabled students in the general education classroom and extracurricular or nonacademic activities; (f) any individual modifications necessary to measure the student's academic achievement and functional performance on state or district-wide assessments; (g) Extended School Year (ESY) services, if necessary for the student to receive a free and appropriate public education (FAPE); (h) behavioral intervention plan, if necessary for the student to receive FAPE; (i) emergency response protocols, if necessary for the student to receive FAPE and the parent provides consent as defined in WAC 392-172A-01040; (j) the projected date when the services and program modifications will begin, and the anticipated frequency, location, and duration of those services and modifications; (k) beginning no later than the first IEP to be in effect when the student turns 16, appropriate, measurable postsecondary goals related to training, education, employment, and independent living skills; and transition services including courses of study needed to assist the student in reaching those goals; (l) beginning no later than one year before the student reaches the age of majority (18), a statement that the student has been informed of the rights which will transfer to him or her on reaching the age of majority; and (m) the district's procedures for notifying a parent regarding the use of isolation, restraint, or a restraint device as required by RCW 28A.155.210. 34 CFR §300.320; WAC 392-172A-03090.

Related Services: Related services means transportation and such developmental, corrective, and other supportive services as are required to assist a student eligible for special education to benefit from special education, and includes speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation,

including therapeutic recreation, early identification and assessment of disabilities in students, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. Related services also include school health services and school nurse services, social work services in schools, and parent counseling and training. 34 CFR §300.34(a); WAC 392-172A-01155(1).

Specialized Transportation as a Component in the IEP: In determining whether to include transportation in a student's IEP, and whether the student needs to receive transportation as a related service, the IEP team must consider how the student's impairments affect the student's need for transportation. Included in this consideration is whether the student's impairments prevent the student from using the same transportation provided to nondisabled students, or from getting to school in the same manner as nondisabled students. If transportation is included in the student's IEP as a related service, a school district must ensure that the transportation is provided at public expense and at no cost to the parents, and that the student's IEP describes the transportation arrangement. Individuals with Disabilities Education Act (IDEA), 64 Fed. Reg. 12,475, 12,479 (March 12, 1999) (Appendix A to 34 CFR Part 300, Question 33); *Yakima School District*, 36 IDELR 289 (WA SEA 2002). The term "transportation" is defined as: travel to and from school and between schools; travel in and around school buildings; and specialized equipment, such as special or adapted buses, lifts, and ramps, if required to provide special transportation for students eligible to receive special education services. 34 CFR §300.34(c)(16); WAC 392-172A-01155(3)(p).

FINDINGS OF FACT

Background Facts

1. Before the fall of 2017, the Student was homeschooled in another district in Washington. The Student had previously been evaluated and found eligible for special education and related services under the category of multiple disabilities.
2. In April 2016, the other school district conducted a reevaluation of the Student and the evaluation group determined that the Student continued to be eligible for special education services under the category of multiple disabilities due to her significant medical needs. The evaluation group found that the Student's medical conditions and multiple disabilities significantly impact her daily living skills. The reevaluation report recommended that the Student receive specially designed instruction in the area of adaptive/life skills, related services for physical therapy (PT), and consultative services in the areas of PT, occupational therapy (OT), vision, and speech-language pathology (SLP).
3. Also in April 2016, the Student's individualized education program (IEP) team, from the other district, developed an IEP for the Student.

Summer 2017

4. On June 22, 2017, in anticipation of the Student attending school in the District for the 2017-2018 school year, the Student's District IEP team met, with the Parent participating via

conference call, to develop a new IEP for the Student, because her April 2016 IEP from the other district had lapsed. The June 2017 IEP stated that the Student used a wheelchair, qualified for a full time 1:1 instructional assistant, and would spend her lunch period and attend some non-academic functions, such as school assemblies with general education peers (9.59% percent of her school week in a general education setting). The IEP provided for special transportation and provided for a 1:1 bus monitor to ride with the Student to and from school due to the possibility the Student could have seizures, as well as engage in self-injurious behaviors.

5. On August 9, 2017, the Parent emailed the Student's special education teacher and stated that the Student would be late on the first day of school and that she would not need transportation services that morning. The Parent stated that she wanted the Student to ride the bus home on the first day of school.
6. On August 16, 2017, the Parent emailed the District's special education program specialist (program specialist) and stated that the District transportation department had told her the Student would be riding a city bus. The Parent asked for clarification and whether there was a bus monitor lined up to ride with the Student. The Parent also reiterated that she would be driving the Student in the morning on the first day of school, but that she wanted the Student to ride the bus home. The Parent also called and left a voicemail for the District's special education program supervisor (program supervisor) regarding her questions about the Student's transportation.
7. Later on August 16, 2017, the program specialist forwarded the Parent's August 16 email to one of the District's team lead intervention and transportation staff (transportation staff 1) and stated, "Please set up for drop off only on the first day of school and on September 7, pick up and drop off."
8. Also on August 16, 2017, the program specialist responded to the Parent's email and stated that she had submitted the request and emailed the transportation department that day. The program specialist told the Parent that the transportation department should be calling the Parent to confirm.
9. On August 17, 2017, the District completed a "Transportation Service Request" that stated: "student needs door to door and needs a bus monitor to ride with her to monitor her medical needs...Will need to be in place for first day of school."
10. Also on August 17, 2017, the program supervisor emailed the Parent and stated that she received the Parent's voicemail and that everything was set up for the Student to receive door-to-door transportation. In response, the Parent asked questions about whether the Student would be on a city bus, whether there would be a wheelchair ramp, what the pickup and drop-off times would be, and whether there was a bus monitor lined up to ride with the Student. The program supervisor responded that the Student was set up for door-to-door transportation, not the city bus, and that she had emailed the transportation department about the bus monitor.

11. Later on August 17, 2017, in response to the program supervisor's email from earlier that day, transportation staff 1 emailed the program supervisor and cc'd the program specialist, and stated that she "routed [the Student] and requested a monitor. [Transportation Field Operations] has asked for a copy of the part of the IEP that includes need for monitor for Transportation records." In response, the program specialist emailed the transportation department a copy of the Student's April 2016 evaluation and expired April 2016 IEP from her previous school district. The program specialist later sent another email and provided a copy of the Student's June 2017 IEP after a transportation field operations staff person (field operations staff) responded and stated that she needed the current IEP.
12. On August 29, 2017, the Parent emailed the program supervisor and asked if a bus monitor had been assigned for the Student.
13. On August 29 and September 1, 2017, the program supervisor emailed transportation staff 1 and asked for an update on the Student's bus monitor assignment.
14. On September 5, 2017, the Parent emailed the program supervisor and again asked if there was a bus monitor to ride with the Student.
15. On September 5, 2017, the Parent also emailed the program specialist, stating:

I have emailed with [the program supervisor] weeks ago a couple times and spoke with transportation and I have gotten no help as far as making sure there is a bus aid riding on [the Student's] bus with her. Can you please get me a definite answer as to what to expect the rest of this week? My job depends on me being on time but if we don't have all this in place I need to prepare. Also the bus sent out for practice last week didn't have a wheelchair ramp. Can you please verify they are sending out a wheelchair bus? I'll be bringing [the Student] in tomorrow late and was going to have her ride the bus home provided an aid and wheelchair ramp are in place.

In response, the program supervisor stated that she was "looking into it."

16. Later on September 5, 2017, the program supervisor emailed transportation staff 1 and asked whether there was a bus monitor for the Student and reminded transportation staff 1 that a monitor was called for in the Student's June 2017 IEP.
17. Also on September 5, 2017, the Parent emailed the Student's special education teacher and requested his help to get confirmation on the details of the Student's transportation arrangements. Specifically, the Parent wrote that the practice bus did not have a wheelchair ramp and that she "wanted to make sure they realized [the Student] was in her wheelchair." The Parent also wrote, "I also haven't been able to make sure there is an aid ready to ride home with her tomorrow and forward. No one seems to know."
18. Also on September 5, 2017, a District bus monitor resigned. As a result, the transportation department no longer had enough bus monitors to assign one to the Student.

2017-2018 School Year

19. The District's 2017-2018 school year started on September 6, 2017. At that time, the Student began attending a District high school and her June 2017 IEP was in place.
20. On September 6, 2017, the Parent transported the Student to school as previously planned, and also transported the Student home from school because the District could not locate a replacement bus monitor.
21. From September 6, 2017 through November 1, 2017, the Student's transportation to and from school was to be provided by a local cab company (transportation service 1). The change in the mode of transportation from a school bus to a taxi cab, did not change the IEP provision for the Student to have an aide (bus monitor) ride to and from school with her.
22. On Thursday, September 7, 2017, the Parent transported the Student to school because the cab that arrived to pick the Student up did not have a wheelchair ramp and no bus monitor was provided. The Parent then emailed the program supervisor and the transportation department and stated that she had "asked about a wheelchair ramp on the bus last week and never got a response back...I had made contact with [the program specialist] over the summer a couple times and now she is not responding either." The Parent asked whether these issues would be fixed by the next day.
23. The program supervisor responded, apologizing, and stating that she had spoken with the transportation department. The program supervisor wrote that the transportation department would send a "lift cab" to pick up the Student and that one of the assistant principals at the Student's school (assistant principal 1) had agreed that an instructional assistant from the high school could act as the bus monitor for the Student. The program supervisor also wrote, "as far as I know everything will be in place for [the Student] tomorrow. I will check in with transportation again to confirm." The program supervisor later sent a second email, stating that she had not yet heard back from assistant principal 1 or the instructional assistant (IA), confirming that the IA would act as a bus monitor for the Student.
24. Later on September 7, 2017, transportation staff 1 emailed the Parent and confirmed that a lift van would transport the Student, but that the route information was entered too late in the day and the route would not start until Monday, September 11, 2017.
25. On Friday, September 8, 2017, the Student was provided transportation in the morning, although without a bus monitor, and the Parent drove the Student home in the afternoon.
26. Also on September 8, 2017, the Parent responded to transportation staff 1's September 7 email, thanking her for the information. The Parent stated that a cab had arrived that morning anyway and that the Parent was unprepared for its arrival, because the September 7 email stated that the route would not start until September 11, 2017. The Parent wrote, "I did load [the Student] into her chair and sent her to school without an aid against my better

judgment.” The Parent stated that she did not feel like she had a choice because she could not be late to work again.

27. Later on September 8, 2017, the program supervisor emailed transportation staff 1 and asked whether a bus monitor had been arranged for the Student and stated that the Parent expected “things to [be] settled by Monday.”
28. On September 11, 2017, transportation was not provided for the Student and the Parent drove the Student to school. According to documentation provided by the District in response to this complaint, the lift van was dispatched, but the driver made an error and thought the trip had been canceled.
29. On September 12, 2017, according to documentation provided by the District, the cab arrived at 5:15 p.m. to pick the Student up from school. The cab was scheduled to pick the Student up at 3:55 p.m.¹
30. Also on September 12, 2017, the program supervisor emailed transportation staff 1, “Is there a bus monitor for [the Student] at [the school] yet? This is becoming a crisis for parent in having to transport.” The program supervisor also emailed the Parent and stated that she was working with the transportation department to solve the transportation and bus monitor issues.
31. On September 13, 2017, the Student was provided with transportation to school in the morning, but no bus monitor rode with her. According to documentation provided by the District in response to this complaint, the substitute teacher in the Student’s class (substitute monitor) rode with the Student in the afternoon home from school.
32. On September 13, 2017, one of the District’s directors of special education (director 1) emailed the program supervisor and stated that she and the transportation manager were working on getting a bus monitor for the Student.
33. According to documentation provided by the District, because the District did not yet have a dedicated bus monitor arranged to ride with the Student, the substitute monitor agreed to ride with the Student on September 14 and September 15, 2017.
34. On Friday, September 15, 2017, the other assistant principal at the Student’s high school (assistant principal 2) emailed the Student’s special education teacher and stated that she was trying to get someone to fill in as the Student’s bus monitor for the following week on Monday, Tuesday, and Wednesday (September 18-20), but that the person had not responded. Assistant principal 2 stated that the substitute monitor would ride with the Student on Thursday and Friday (September 21-22). Assistant principal 2 ended the email

¹ The Student’s attendance profile shows that the Student had an excused absence from school on September 12, 2017. It is unclear why transportation services were not canceled if the Student was absent.

with “it is vital that the transportation issue for [the Student] is resolved before Monday because she cannot ride solo.”

35. On Sunday, September 17, 2017, the Student’s special education teacher emailed transportation staff 1 and stated that the Student still did not have a bus monitor arranged.
36. On September 19, 2017, the substitute monitor emailed both assistant principals at the Student’s school and stated that she rode with the Student that day and planned to act as the Student’s bus monitor all week.
37. On September 21, 2017, the Student’s afternoon transportation picked her up approximately forty-five minutes late at 4:37 p.m. Later that evening, the Parent emailed the program supervisor, transportation staff 1, assistant principal 1, and the Student’s special education teacher and stated that the Student should have been picked up at 3:45 p.m. and that this was the second time that week that the Student’s cab had either not shown up or had been late by more than ten minutes.² The Parent wrote that she “truly appreciated the cab and aid but almost an hour late to get [the Student] home is ridiculous!” The Parent asked for a dedicated driver in the morning and afternoon, set pick up times, and if there was any other option for transportation services. The Parent also wrote that the Student would not be at school the next day (Friday, September 22, 2017) and would not need transportation until the following Monday morning, September 25, 2017.
38. On September 22, 2017, in response to the Parent’s September 21 email, assistant principal 1 forwarded the email to assistant principal 2. And, assistant principal 2 forwarded the Parent’s email to a second District transportation staff person (transportation staff 2) and stated:

Please read the concern from the parent relative to the transportation issue her child is experiencing. Because of the student’s medical condition, the monitor (who is doing a great job and also a service for us) has to continuously keep the student moving until the bus arrives. Yesterday, as the parent indicated, the monitor did this for nearly an hour prior because of the delayed transportation pickup. We need your help and support. I have spoken with the cab service on three occasions but to no avail. Will you please intervene for us?
39. On September 26, 2017, the Parent emailed District, school, and transportation staff and stated that she still had not heard from anyone from the District about whether there was a plan in place for transportation. The Parent wrote, “It has been almost a week now with nothing solidified as to how this issue is being solved. Can someone please help coordinate [the Student] getting one person who will be picking up and dropping her off at a set time?” In response, assistant principal 2 emailed the Parent and asked if there were still issues with

² It is not clear what the Parent is referring to when she says that this was the second time that week that the cab failed to show up or was late. There was no documentation provided of a second transportation issue the week of September 18, 2017, although the previous week, on September 11, 2017, transportation was not provided. And, on September 12, 2017, transportation was late, although it is not clear whether the Student attended school on September 12, 2017.

the pickup and return times. The Parent emailed back and stated that “there have been issues every week since school has started.” The Parent also stated that she was hoping that the pickup and drop off times could be within a ten-minute window instead of a twenty-five minute window. The Parent wrote that, “25 minutes is too long for [the Student] to be sitting out in the rain, the cold, or in a soiled diaper which is what happened the day she had to sit outside waiting for the cab for a whole hour.”

40. On September 27, 2017, in response to the Parent’s September 26 email, the Student’s special education teacher reminded school and transportation staff that the Student still did not have a dedicated bus monitor and that the Student was relying on the substitute monitor.
41. On September 28, 2017, the Student was not provided transportation, which according to documentation provided by the District, was erroneously canceled.
42. Also on September 28, 2017, the Student’s special education teacher emailed both assistant principals, the program supervisor, and transportation staff 1 and asked if the Student could be switched to a different transportation company.
43. On September 29, 2017, there was no bus monitor available to ride with the Student in the morning and the Parent picked the Student up from school in the afternoon.
44. Also on September 29, 2017, the Student’s special education teacher emailed transportation staff 2 and asked again if the Student could be switched to a more reliable transportation company. The teacher again stated that the Student needed a bus monitor as called for in her IEP. Finally, the teacher asked about the liability issues that this situation posed.
45. On October 6 and October 9, 2017, the Student’s transportation services were canceled by the Parent because the Student was absent. Transportation services were set to resume on October 10, 2017.
46. On October 9, 2017, the Student’s special education teacher emailed transportation staff 2 and asked about the status of the bus monitor. The teacher wrote that the substitute monitor would be absent the following day, October 10, 2017. The teacher also asked if he was,
Allowed to send [the Student] home from school, in her taxi, without a bus monitor?
Mother reluctantly sends her to school in the taxi without a bus monitor. This does not seem very safe to me but I assume that mother would be liable if something went wrong on the way to school since she is making the decision to put her on the cab without a monitor. Who is liable if she goes home from school without a bus monitor??

In response, the program supervisor stated that a bus monitor needed to be hired and that it was not safe for the Student to ride without a monitor. The program supervisor asked what could be put in place until that happened.

47. Also on October 9, 2017, the Parent emailed the program supervisor, assistant principals, transportation staff 1, and the Student’s teacher to express her frustration that transportation issues had been occurring for over a month. She stated that transportation

and a bus monitor were required in the Student's IEP. The Parent stated that she was ready to hire an attorney. The Parent asked for a response to her concerns and questions by the next day, October 10, 2017.

48. On October 10, 2017, a bus monitor who was filling in for the substitute monitor did not arrive at the Student's home at the scheduled transportation pickup time. As a result, the Parent drove the Student to school and picked the Student up from school because there was no bus monitor.
49. On October 11, 2017, the Parent emailed assistant principal 2 and asked for the name of the director in charge of transportation. The Parent stated that it had been two days with no reply to her October 9 email and questions regarding the ongoing transportation issues.
50. On October 12, 2017, the substitute monitor returned and resumed riding with the Student.
51. On October 12, 2017, the District completed a "Transportation Service Request" that stated that the "Student needs a bus monitor because of seizures, student in a wheelchair." The required completion date for the request was listed as October 17, 2017.
52. On October 16, 2017, the substitute monitor emailed the assistant principals and transportation staff 1 and stated that she had accepted another position that began October 19, 2017, and would no longer be able to act as the Student's bus monitor. Assistant principal 1 emailed in response and asked the transportation department to ensure that the Student had a monitor on October 19, 2017. Assistant principal 1 wrote, "This parent has missed numerous work days due to this issue and cannot afford to miss more. Please have a monitor in place for the student's pickup and drop off."
53. Later on October 16, 2017, the District's transportation manager stated, in an email, that hiring a monitor was approximately two weeks out.
54. Also on October 16, 2017, the program supervisor emailed director 1, the transportation manager, and the transportation director of logistics that this situation had been ongoing since the first day of school and asked for help because the District could not "continue to ask this parent to transport her daughter to school because we do not have a monitor."
55. On October 17, 2017, transportation was not provided and the Parent drove the Student to and from school.
56. On October 17, 2017, the Parent emailed transportation staff 2 regarding her frustration with the lack of assistance and communication from the District. The Parent reminded him that the Student's IEP called for door-to-door transportation and a dedicated bus monitor. The Parent then repeated questions from her October 9 email about hiring a bus monitor. The Parent also wrote that she had contacted OSPI and was filing a complaint. The Parent asked for a response back immediately to resolve the issues. Transportation staff 2 responded and stated, "I want you to know that we are desperately trying to get a permanent monitor for

[the Student]. We currently have up to two people who maybe [sic] hired as monitors.” He also wrote that he would call the Parent as soon as he received more information.

57. Also on October 17, 2017, transportation staff 2 emailed field operations and stated that the transportation department needed to find a monitor for the Student because the substitute monitor would be moving to a new job.
58. On October 18, 2017, the cab did not arrive at the scheduled time to pick up the Student and the Parent drove the Student and the substitute monitor to school.
59. Also on October 18, 2017, the Parent emailed the Student’s special education teacher, program supervisor, transportation staff 1, field operations, and the transportation manager and stated that she had not heard back from the District even though she was told there would be communication. The Parent stated that she also called and emailed transportation 2. The Parent asked if there was a bus monitor arranged for the following morning and stated that she had filed a special education citizen complaint with OSPI and the District superintendent. The program supervisor responded and stated that she shared the Parent’s concerns and frustration, and that she would connect with the transportation department and try to get answers.
60. Also on October 18, 2017, the program supervisor emailed director 1, transportation 2, operations staff, and the transportation manager and asked for the status of the monitor for the Student. The transportation manager responded and stated that he was in the process of hiring three monitors. The transportation manager also stated that this had been communicated the week before and earlier that same week, and that the next monitor to come on board would be assigned to the Student.
61. On October 18, 2017, a permanent bus monitor (monitor 2) was hired and began riding with the Student the next day, October 19, 2017.
62. On October 20, 2017, OSPI received the Parent’s request for a special education citizen complaint (SECC) and opened SECC 17-74.
63. On October 25, 2017, the contracted cab broke down at the time of the morning pick up and no substitute transportation was provided. The Parent transported the Student to school. The Parent again requested, in an email, that the District provide a more reliable transportation arrangement for the Student.
64. According to the documentation provided by the District, on October 25, 2017, the transportation department staff and school staff corresponded via email to work on a solution to the ongoing transportation issues. Assistant principal 2 suggested using a bus with a lift, because the “buses are seldom, if ever, late for pick up or drop off.”

65. On October 26, 2017, transportation staff 1 emailed and stated that they did not have an available lift bus for the high school's time schedule, but that a lift bus would "always be [her] first choice."
66. On Friday, October 27, 2017, the Parent and the Student's father picked the Student up from school. The Parent notified assistant principal 2 and monitor 2 about the change.
67. On October 30, 2017, transportation services were not provided and the Parent took the Student to school. According to the transportation investigation log, there was a miscommunication regarding whether or not the route had been canceled.
68. Also on October 30, 2017, the program supervisor emailed District, school, and transportation department staff and stated, "This problem has gone on too long. Mom is going to lose her job. Please switch her to [another transportation company], ASAP, so she can have reliable transportation with a monitor every day." In response, transportation staff 1 emailed that she had an inquiry in with the other transportation company (transportation service 2) regarding the transportation arrangements for the Student.
69. On October 31, 2017, transportation staff 2 updated the District and school staff via email that the lift vehicle was not yet in place and that she had inquired about routes with a consistent driver to improve timeliness for the Student.
70. On November 1, 2017, District, school, and transportation staff corresponded via email and discussed adding a second student to the Student's current cab route. They also discussed the ongoing attempt to switch to transportation service 2. Transportation service 2 was set to start on November 2, 2017, as soon as the company received all of the contact information for the Student. Transportation staff 1 wrote that this service "would improve AM timeliness greatly. The monitor has been advised, will meet at [the Student's] address am, and PM at [the school], then will need to be returned back to her vehicle after the runs."
71. On November 1, 2017, the Parent received a phone call from a staff person at transportation service 2 who stated that the Student would have a designated driver and van picking her up starting the next day, November 2, 2017.
72. Also on November 1, 2017, director 1 emailed the Parent and stated that she wanted to schedule a time to discuss all of the Parent's concerns about transportation that school year. Director 1 also stated that she would be checking in with the Parent. The Parent emailed back with her phone number and stated that she would love to talk.
73. Between November 2, 2017 and January 24, 2018, transportation service 2 provided transportation to the Student and a second student on the same route.
74. On November 2, 2017, transportation service 2 was forty-five (45) minutes late picking up the Student due to heavy traffic.

75. Also on November 2, 2017, the Parent emailed District, school, and transportation staff and stated that she did not receive a call to let her know that transportation would be late and that she was late to work again. The Parent wrote:
- Why is it so hard to get someone who can be here when they say they are coming or at least give me a call so I can prepare her transportation myself to school? I load her in her chair, sit outside in the freezing cold for 20 mins [sic] only to have to track someone down and pray they come. Take her back inside because it's too [sic] cold, then do it all over again...I'm beyond frustrated.
76. On November 3, 2017, transportation 1 emailed staff at transportation service 2 and stated that someone from the District's transportation office would be checking in Monday morning, November 6, 2017, to ensure that the driver picked the Student up on time.
77. On November 6, 2017, director 1 emailed the Parent and wrote, "I am glad to hear that there is a solid plan for consistent and appropriate transportation for your daughter moving forward. Again- I do want to extend my sincere apologies for such the difficult and frustrating start to the school year." The director also confirmed that the District and the Parent had a meeting scheduled on November 17, 2017 to discuss additional remedies, including compensatory education for missed school due to transportation issues.
78. According to the documentation provided by the District in response to this complaint, the Student received consistent transportation to and from school between November 3, 2017 and December 11, 2017, when the Student attended school.³
79. On November 8, 2017, the Parent emailed director 1 and stated that transportation was on time that morning. The Parent also raised a concern that bus monitor 2 would be going on maternity leave soon and wanted to know what the plan was for filling this position. The director emailed the Parent back and stated that the District was working to resolve the bus monitor issue.
80. On November 15, 2017, director 1 emailed the transportation director of logistics and asked if there was a plan for when bus monitor 2 went on maternity leave. The transportation director of logistics responded that she did not know about the maternity leave, but that the transportation department would work to have someone ready to step in when needed.
81. On November 16, 2017, the Parent withdrew SECC 17-74.
82. On November 17, 2017, the director emailed the Parent to check in and wrote, "I have drafted an internal process for escalations between transportation and special education – ensuring that this issue does not occur again for [the Student] or any other student."
83. On December 4, 2017, a District committee was formed and met to review and improve special education transportation. The "Project Statement" stated:

³ According to the attendance log, the Student had excused absences on November 6, November 7, and November 22, 2017.

Our current process for providing SPED transportation is not effectively serving student needs. In September 2017, there were multiple instances of students not receiving their services as planned (transportation or other, if they were unable to be transported to school). The district received multiple complaints from parents about these disruptions. It appears some students who were receiving transportation the previous June had these services interrupted in September. We want to examine this to ensure uninterrupted services in September 2018. We also want to identify other opportunities to improve the overall process.

84. On December 12, 2017, director 1 emailed the Parent to check in regarding transportation. The Parent responded that transportation service 2 had been “amazing so far”. The Parent also asked about whether someone had been hired to cover when bus monitor 2 went on maternity leave.
85. Later on December 12, 2017, transportation service 2 did not pick up the Student in the afternoon. The Student was stuck at school and the Parent ultimately had a caregiver pick the Student up because the Parent was at an appointment. According to the transportation investigation log, the second student on the route cancelled and due to a miscommunication, the entire route was canceled.
86. The District was on break December 18, 2017 – January 1, 2018.
87. On January 2, 2018, bus monitor 2 went on maternity leave and an intervention associate (bus monitor 3) began riding with the Student until a permanent replacement could be assigned.
88. On January 12, 2018, a substitute bus monitor (bus monitor 4) began riding with the Student.
89. Also on January 12, 2018, the Student’s special education teacher emailed assistant principal 2 and a second special education director (director 2) about concerns that the bus monitor was told she was not allowed to touch the Student even if the Student was self-harming or having a seizure.
90. On January 16, 2018, bus monitor 4 was not there when transportation service 2 picked the Student up in the morning. The Parent sent the Student to school without the monitor. According to the documentation provided by the District, bus monitor 4’s pickup and drop off location changed and that change resulted in the driver being unable to pick up the monitor.
91. Also on January 16, 2018, the Parent emailed District, school, and transportation staff regarding the fact that there was no bus monitor to ride with the Student that morning, the fact that no one from the District alerted the Parent that no bus monitor was available, and the Parent’s concerns that the bus monitor was not allowed to touch the Student. The Parent wrote, “Having a bus monitor is supposed to be for when she is choking, seizing, or hitting herself. The monitor can ask the driver to please pull over so she can be helped appropriately. How is someone supposed to help her in any of these situations if they are told to not touch her?!” The Parent also stated that she was concerned that the bus monitor was not sitting in

close proximity to the Student. The Parent stated that she expected these issues to be dealt with or at least a plan communicated, or she would be making another complaint to OSPI.

92. On January 17, 2018, the transportation manager and school team met and discussed the Student's transportation and the Parent's concerns. The team agreed that the bus monitor would sit closer to the Student and could intervene with touch when the Student was self-harming. In a follow-up email memorializing the meeting, the Student's teacher also raised concerns that the Student was not being safely loaded into the vehicle and that the driver told the bus monitor that bus monitors could not touch students. Assistant principal 2 emailed back and stated that she would discuss the concerns about the driver with the transportation department. The transportation manager then responded and stated that he would follow up with transportation service 2 because the driver is responsible for securing the Student's wheelchair. The transportation manager also clarified that they had not agreed that the monitor would make a habit of touching the Student, and that if the Student needed more special attention, she may need to be reevaluated to determine if she needed a nurse to ride along with her.
93. Also on January 17, 2018, the transportation manager called and then emailed staff at transportation service 2, stating that the driver was responsible for securing the Student's wheelchair and that the driver should not have conversations with school staff about how the Student should be handled. The staff at transportation service 2 responded and stated that they would look into the concerns immediately.
94. On January 18, 2018, transportation service 2 sent a staff person to observe the Student being picked up. The staff person reported that all protocol was being followed, but that there was some disagreement between the bus monitor and the driver about how the situation should be handled.
95. On January 19, 2018, the District transportation manager observed the Student's afternoon pickup to ensure that all protocols were being followed and that the Student was safely loaded into the van. The transportation manager also emailed the two special education directors regarding his observations. He included a plan for who was responsible for securing the Student, who was responsible for receiving and sending the Student to and from the van, the role of the monitor, and that any monitor absences would be communicated with the Parent as necessary. The transportation manager also wrote that the transportation department had communicated regularly with the Parent and would continue to do so when needed.
96. On January 19, 2018, the Parent emailed District, school, and transportation staff and stated that she never received a response to her January 16 email, in which she asked for someone to communicate with her about the plan moving forward. The Parent also expressed additional concerns about the Student being improperly secured in the van. The Parent asked that a written plan be put in place regarding transportation and that the bus monitor be properly trained. According to documentation provided by the District in response to this complaint, director 2 called the Parent in response to the Parent's email.

97. On January 23 and 24, 2018, the Student's special education teacher circulated draft IEP language regarding the Student's transportation and bus monitor to the transportation department, school nurse, and special education department.
98. On January 24, 2018, the Parent filed this complaint, which OSPI opened as SECC 18-09.
99. On January 26, 2018, the Student's special education teacher provided the Parent with a draft copy of the IEP.
100. On January 29, 2018, the Student's IEP team met and developed the Student's annual IEP. At the meeting, the Parent noted concerns about the Student's safety during transportation to and from school. The IEP noted that the Student needed "a transportation monitor who can call 911 in case of a seizure, to reposition her in case of reflux/choking, apply [gentle] pressure to her arm in the case that she is frequently biting or hitting herself while in transport." The IEP noted that the Student would have a dedicated, 1:1 bus monitor to and from school. The team also agreed that a bus monitor with appropriate training could perform these responsibilities.
101. Later on January 29, 2018, the Parent emailed the IEP team and District administrators with follow up questions regarding the Student's bus monitor and the plan for training a bus monitor.
102. On January 31, 2018, director 1 emailed the Parent, school team, district administrators, and transportation administrators and confirmed that there was an instructional assistant (bus monitor 5) who would be trained to serve the Student's needs and that a formal transportation plan would be recorded.
103. On February 5, 2018, bus monitor 5, who had experience working with medically fragile students, took over as the Student's bus monitor after receiving training from the Student's special education teacher.
104. According to the District's response, since February 16, 2018, transportation has been consistent.
105. The district was on break February 19-23, 2018.
106. According to the District's response, a backup bus monitor was trained prior to or on February 28, 2018.

CONCLUSIONS

The Parent alleged that the District failed to provide transportation consistent with the Student's individualized education program (IEP) during the 2017-2018 school year. At the beginning of each school year, a district must have in effect an IEP for every student within its jurisdiction who is eligible to receive special education services. It must also ensure that it provides all services in a student's IEP, consistent with the student's needs as described in the IEP. In determining

whether a student requires transportation as a related service, the IEP team must consider how the student's impairments impact the student's need for transportation. If transportation is included in the student's IEP as a related service, the district must ensure that transportation is provided as the student's IEP describes the transportation arrangement.

The Student's June 2017 IEP called for door-to-door transportation and a 1:1 bus monitor. However, between September 2017 and January 2018, there were at least fifteen (15) days where issues occurred in transporting the Student to and/or from school. These transportation issues included: not initially providing a cab with a wheelchair lift, not consistently providing a bus monitor, not clarifying the role and responsibilities of the bus monitor, transportation arriving late, and transportation not arriving at all.

The District admitted that transportation, as called for in the Student's IEP, was not provided consistently throughout the 2017-2018 school year. OSPI agrees that the District failed to provide transportation as called for in the Student's IEP. The inconsistent transportation seems to be based largely on District staffing shortages, a lack of communication or miscommunications between District departments, and a lack of clearly defined lines of communication between the Parent and District. The District has already taken some corrective actions, which include (1) holding an IEP meeting to clarify the Student's transportation needs and determine the appropriate level of support moving forward; (2) training a dedicated bus monitor to ensure that she fully understands the Student's needs; (3) designating and training a backup bus monitor to ensure continuity of services; (4) creating a committee to review and improve special education transportation; and, (5) implementing weekly meetings between special education and transportation to identify and address transportation challenges.

The District also proposed additional corrective actions, which OSPI accepts with the addition of the specific reporting dates below.

CORRECTIVE ACTIONS

By or before **April 20, 2018, June 6, 2018, June 15, 2018, July 6, 2018, September 14, 2018, and October 30, 2018**, the District will provide documentation to OSPI that it has completed the following corrective actions.

STUDENT SPECIFIC:

1. By or before **April 20, 2018**, the District must provide OSPI with documentation that it has reimbursed the Parent for mileage related to any missed transportation services during the period between September 2017 and February 2018. The District must reimburse the Parent for round trip mileage at the District's privately owned vehicle rate.
2. By of before **April 13, 2018**, the District will meet with the Parent to determine the number of hours of compensatory services required to compensate the Student for any missed instruction due to inconsistent transportation and develop a schedule for those services. Services will occur in a one-on-one setting and be provided by a certificated special education teacher. The instruction will occur outside of the District's school day and may be accessed

over the summer of 2018. If the District's provider is unable to attend a scheduled session, the session must be rescheduled. If the Student is absent, or otherwise does not attend a session without providing the District with at least 24 hours' notice of the absence, the District does not need to reschedule. The services must be completed no later than **October 23, 2018**. The District will provide OSPI with documentation of the meeting and the schedule for services by or before **April 20, 2018**.

The District must provide OSPI with documentation by **June 15, 2018** and **September 14, 2018**, of the compensatory services provided to the Student. This documentation must include the dates, times, and length of each session, and state whether any of the sessions were rescheduled by the District or missed by the Student. By or before **October 30, 2018**, the District must provide OSPI with documentation that it has completed compensatory services for the Student.

The District either must provide transportation necessary for the Student to access these services, or reimburse the Parent for the cost of providing transportation for these services. If the District reimburses the Parent for transportation, the District must reimburse the Parent for round trip mileage at the District's privately owned vehicle rate. The District must provide OSPI with documentation by **October 30, 2018**.

3. By or before **April 20, 2018**, the District must provide OSPI with documentation that it has communicated with the Parent regarding the proposed points of contact with the District should any concerns or issues regarding the Student's transportation arise.

DISTRICT SPECIFIC:

1. By or before **June 29, 2018**, the District will provide training to all bus monitors serving students receiving special education on their roles and responsibilities as bus monitors. This training will be provided jointly by the District special education and transportation departments. By **April 20, 2018**, the District will provide OSPI with the names of the individuals providing the training and a copy of the draft training materials. OSPI will approve the draft training materials or provide comments by May 4, 2018, and provide additional dates for review if needed.

By **July 6, 2018**, the District will provide OSPI with documentation that all bus monitors have attended the training. The documentation will include a roster of all staff members who were required to attend the training, so OSPI can cross-reference the list with the actual attendees.

2. The District will develop written guidance to be provided to all District special education staff, which will address IEP development and specialized transportation as a component in the IEP. By **April 20, 2018**, the District will provide OSPI with a copy of the draft guidance. OSPI will approve the written guidance or provide comments by May 14, 2018, and provide additional dates for review if needed.

By **May 30, 2018**, the District will provide all special education staff, including educational associates (ESA), with the written guidance. ESAs include school psychologists, physical

therapists, occupational therapists, speech language pathologists, school counselors, school nurses, and other service providers. By **June 6, 2018**, the District will provide OSPI with documentation that all required staff have reviewed the written guidance. The documentation will include a roster of all staff members who were required to receive the written guidance, so OSPI can cross-reference the list with the actual recipient.

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 ____ day of March, 2018

Glenna Gallo, M.S., M.B.A.
Assistant Superintendent
Special Education
PO BOX 47200
Olympia, WA 98504-7200

THIS WRITTEN DECISION CONCLUDES OSPI'S INVESTIGATION OF THIS COMPLAINT

IDEA provides mechanisms for resolution of disputes affecting the rights of special education students. This decision may not be appealed. However, parents (or adult students) and school districts may raise any matter addressed in this decision that pertains to the identification, evaluation, placement, or provision of FAPE to a student in a due process hearing. Decisions issued in due process hearings may be appealed. Statutes of limitations apply to due process hearings. Parties should consult legal counsel for more information about filing a due process hearing. Parents (or adult students) and districts may also use the mediation process to resolve disputes. The state regulations addressing mediation and due process hearings are found at WAC 392-172A-05060 through 05075 (mediation) and WAC 392-172A-05080 through 05125 (due process hearings.)