

SPECIAL EDUCATION CITIZEN COMPLAINT (SECC) NO. 18-89

PROCEDURAL HISTORY

On October 4, 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 Evergreen School District No. 114 (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 education of the Student.

On October 5, 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 October 26, 2018, OSPI received the District's response to the complaint and forwarded it to the Parent that same day. OSPI invited the Parent to reply with any information she had that was inconsistent with the District's information. The Parent did not reply.

On November 16, 2018, OSPI requested additional information from the District, which the District provided on November 20, 2018, and OSPI forwarded to the Parent on the same day.

OSPI considered all of the 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 time period, which began on October 5, 2017. These references are included to add context to the issues under investigation and are not intended to identify additional issues or potential violations, which occurred prior to the investigation time period.

ISSUE

1. Did the District follow procedures regarding the use and reporting of isolation and/or restraint consistent with the requirements of WAC 392-172A-02110 during the 2018-2019 school year?

LEGAL STANDARDS

Isolation: Isolation as defined in RCW 28A.600.485 means: Restricting the student alone within a room or any other form of enclosure, from which the student may not leave. It does not include a student's voluntary use of a quiet space for self-calming, or temporary removal of a student from his or her regular instructional area to an unlocked area for purposes of carrying out an appropriate positive behavioral intervention plan. WAC 392-172A-01107.

Isolation Conditions: Isolation shall be used only when a student's behavior poses an imminent likelihood of serious harm. The use of isolation as defined by RCW 28A.600.485 is subject to each

of the following conditions: a) the isolation must be discontinued as soon as the likelihood of serious harm has dissipated; b) the isolation enclosure shall be ventilated, lighted, and temperature controlled from inside or outside for purpose of human occupancy; c) the isolation enclosure shall permit continuous visual monitoring of the student from outside the enclosure; d) an adult responsible for supervising the student shall remain in visual or auditory range of the student at all times; e) either the student shall be capable of releasing himself or herself from the enclosure, or the student shall continuously remain within view of an adult responsible for supervising the student; and, f) any staff member or other adults using isolation must be trained and certified by a qualified provider in the use of isolation, or otherwise available in the case of an emergency when trained personnel are not immediately available due to the unforeseeable nature of the emergency. School districts must follow the documentation and reporting requirements for any use of isolation consistent with RCW 28A.600.485. WAC 392-172A-02110.

Restraint: Restraint as defined in RCW 28A.600.485 means: Physical intervention or force used to control a student, including the use of a restraint device to restrict a student's freedom of movement. It does not include appropriate use of a prescribed medical, orthopedic, or therapeutic device when used as intended, such as to achieve proper body position, balance, or alignment, or to permit a student to participate in activities safely. WAC 392-172A-01162.

Restraint Conditions: Restraint shall be used only when a student's behavior poses an imminent likelihood of serious harm. The use of restraint as defined by RCW 28A.600.485 is subject to each of the following conditions: a) the restraint must be discontinued as soon as the likelihood of serious harm has dissipated; b) the restraint shall not interfere with the student's breathing; and c) any staff member or other adults using a restraint must be trained and certified by a qualified provider in the use of such restraints, or otherwise available in the case of an emergency when trained personnel are not immediately available due to the unforeseeable nature of the emergency. School districts must follow the documentation and reporting requirements for any use of restraint consistent with RCW 28A.600.485. WAC 392-172A-02110.

Imminent: Imminent as defined in RCW 70.96B.010 means: the state or condition of being likely to occur at any moment or near at hand, rather than distant or remote. WAC 392-172A-01092.

Likelihood of Serious Harm: Likelihood of serious harm as defined in RCW 70.96B.010 means: 1) a substantial risk that: a) physical harm will be inflicted by a person upon his or her own person, as evidenced by threats or attempts to commit suicide, or inflict physical harm on oneself; b) physical harm will be inflicted by a person upon another, as evidenced by behavior that has caused such harm or that places another person or persons in reasonable fear of sustaining such harm; or c) physical harm will be inflicted by a person upon the property of others, as evidenced by behavior that has caused substantial loss or damage to the property of others; or 2) the person has threatened the physical safety of another and has a history of one or more violent acts. WAC 392-172A-01109.

Follow-up and Reporting Requirements: Following the release of a student from the use of restraint or isolation, the school must implement follow-up procedures. These procedures must include: reviewing the incident with the student and the parent/guardian to address the behavior

that precipitated the restraint or isolation and the appropriateness of the response; and reviewing the incident with the staff member who administered the restraint or isolation to discuss whether proper procedures were followed and what training or support the staff member needs to help the student avoid similar incidents. Any school employee, resource officer, or school security officer who uses isolation or restraint on a student during school-sponsored instruction or activities must inform the building administrator or building administrator's designee as soon as possible, and within two business days submit a written report of the incident to the district office. The written report must include, at minimum, the following information: the date and time of the incident; the name and job title of the individual who administered the restraint or isolation; a description of the activity that led to the restraint or isolation; the type of restraint or isolation used on the student, including the duration; whether the student or staff was physically injured during the restraint or isolation incident and any medical care provided and any recommendations for changing the nature or amount of resources available to the student and staff members to avoid similar incidents. The principal or principal's designee must make a reasonable effort to verbally inform the student's parent or guardian within twenty-four hours of the incident, and must send written notification as soon as practical but postmarked no later than five business days after the restraint or isolation occurred. If the school or school district customarily provides the parent or guardian with school-related information in a language other than English, the written report under this section must be provided to the parent or guardian in that language. RCW 28A.600.485.

FINDINGS OF FACT

Background Facts

1. The Student's most recent reevaluation was completed on November 22, 2016. The November 2016 evaluation report stated that the Student's prior educational placement was a "self-contained class for students with educationally significant behavioral problems" based on the Student's eligibility for special education services under the category of other health impairment. The evaluation report stated that the Student's health history was marked as significant for "[A]ttention deficit hyperactive disorder (ADHD), behavioral disorders of severe mood disorder of conduct anger/rage, sensory impairment and sensory processing as well as significant sleep disorder [...] Parent states health conditions...behavior have become extremely worse within the last three years." Based on the evaluation report, the evaluation group determined the Student continued to be eligible to receive special education services under the category of other health impairment.

Timeline for this Complaint Begins on October 5, 2017

2. On March 28, 2018, the Student's individualized education program (IEP) team developed a behavioral intervention plan (BIP) for the Student and on March 30, 2018, developed the Student's annual IEP.
3. The Student's March 2018 IEP stated that the Student's disability adversely impacted his social/emotional skills and that the Student's "behavior does impede his learning and his

access to the general curriculum at this time;” and included three social/emotional goals. The March 2018 IEP provided the Student with the following specially designed instruction in a *special education setting* from March 30, 2018 through March 29, 2019:

- Social/emotional—750 minutes, 1 time weekly (to be provided by a special education teacher)

The March 2018 IEP also provided the Student with the following specially designed instruction in a *general education setting* from March 30, 2018 through March 29, 2019:

- Social/emotional—90 minutes, 5 time weekly (to be provided by a general education teacher, monitored by a special education teacher)

The March 2018 IEP also provided the Student with the following accommodations for the *general and special education settings* from March 30, 2018 through March 29, 2019:

- Classroom – multiple frequent breaks (daily)
- Adult proximity (daily)
- Allow student to use fidgets at school (as needed)
- Assignments to be completed in alternative locations (as needed)
- Check work frequently to ensure understanding (daily)
- Classroom – Noise buffers – Ear mufflers, white noise, headphones, etc. (daily)
- Classroom – Preferential seating near teacher (daily)
- Frontload teacher with information (prior to new activities and major changes)
- Heavy lifting (Sensory breaks) (during breaks)
- Management system (daily)
- Preparation for new activities and understanding social situations (as needed)
- Present information visually (daily)
- Provide immediate feedback (daily)
- Reinforcement (daily)
- Social scripting and social stories (as needed)

And, the March 2018 IEP included the following supports for school personnel from March 30, 2018 through March 29, 2019:

- Consultation by occupational therapist (twice per trimester)
- Behavioral consultation for staff (routinely and when requested)
- Training and support for staff on behavioral support plan (yearly and when changes are made)

4. The March 2018 BIP stated that the Student’s target behaviors were refusal/protest and taunting peers. The team identified the triggers that led to the refusal/protest behavior as adult directions and transitions. The BIP noted setting events as loud environments, transitioning within school settings, and working on challenging academic tasks.

The team also identified the triggers that led to the taunting behavior as choice time, peer engagement, or no one engaging with the Student, and noted setting events as unstructured leisure time with peers. The BIP included target behaviors; intervention strategies for setting, antecedents, and teaching; consequence strategies; and instructions on data collection for data to be taken weekly by special education staff and reviewed monthly by special education teacher in collaboration with the case manager as data pertains to their respective environments.

5. On June 6, 2018, the Student's IEP team met and amended the Student's BIP to include a behavioral intervention form to be filled out weekly to collect data regarding the Student's behavior. The form included general prevention supports, including providing the Student with a visual schedule, frontload expectations, keep workspace clear with objects out of reach, work presented one item at a time, provide heavy work and sensory breaks, and discuss expectations as well as schedule in preferred activities to do with staff during the day. Interventions included modify expectation of the Student when starting to escalate, switch out staff if the Student is targeting a particular staff member, and directed support staff to clear area without giving the Student attention. The BIP further provided that if the Student started to hit staff, staff would block and move away while keeping body between peers and clearing area. If the staff was unable to keep their body safe, they would use a soft item (bean bag chair) to place in between the Student and staff to minimize contact.
6. On June 6, 2018, per documentation provided by the District, the Parent refused to sign an emergency response protocol (ERP) for the Student.

2018-2019 School Year

7. During the 2018-2019 school year, the Student attended second grade at a District elementary school and was eligible to receive special education services under the category of other health impairment. The District's 2018-2019 school year began on August 28, 2018, and the Student's March 2018 IEP and BIP continued to be in place.
8. On September 11, 2018, the Student's daily behavior chart stated that the Student did everything expected of a second grader and was successful without incident.
9. On September 12, 2018, the Student's daily behavior chart stated that the Student started the day with great participation, but got frustrated in reading because he did not know a word. He talked it out and finished. For the rest of the day, the Student did everything expected of a second grader and was successful without incident.
10. On September 13, 2018, the Student's daily behavior chart stated that the Student did everything expected of a second grader and was successful with only one incident in math where he broke his pencil and tore up his paper.
11. On September 14, 2018, the Student's daily behavior chart stated that the Student started the day feeling upset but "brought it back." During physical education, the Student got frustrated when another student ran away with equipment. And, at recess, the Student got upset about soccer, did well by coming in for a break on his own, but then entered the classroom and knocked over two desks.
12. On September 18, 2018, the Student's daily progress report stated the Student stood up in general education math and yelled "I'm done!" and walked out into the hallway to talk with an adult.

13. On September 21, 2018, the Student's daily behavior chart stated that the Student got frustrated when someone else in the general education classroom was called on, refused to take a break after multiple prompts, but after four minutes, was able to talk out some strategies.
14. On September 24, 2018, the Student's daily behavior chart stated that the Student was frustrated with a story problem in math and picked up a chair to throw it at another student in social skills. The Student's daily progress report from that same day stated the Student lost his third recess for threatening others and had a "near altercation with another student then a separate incident of throwing a chair. Offered energy out [after] recess."
15. On September 25, 2018, the Student's daily behavior chart stated that the Student left reading without showing his break signal, but did take his break in the proper area. The chart stated that during recesses, the Student did not go to his pre-designated break location when frustrated, but afterwards, he did problem solve. The Student's daily progress report from that same day stated that the Student needed more breaks than usual and hit the counselor in the head during work refusal in writing class.
16. On September 27, 2018, the Student's daily progress report stated that the Student was unable to participate in classroom activities all day due to refusal, frustration, and aggression.
17. On October 1, 2018, the Student's daily behavior chart stated that the Student did everything expected of a second grader and was successful with only one incident in the morning where he came in upset. Conversely, the Student's daily progress report stated that the Student did not participate in writing at all, threw a calculator while escalated in math and needed three or more reminders, extra interventions, and was unsafe during the morning.
18. On October 2, 2018, the Student's daily behavior chart stated that the Student was "upset about rain and kicking the soccer ball was unavailable. Threw desk, chairs, objects [and] attempted to punch teacher." The chart also stated that during reading, the Student "needed a break, raised his hand and asked." The Student did well in writing and math. During lunch, he wanted to eat in the classroom with the teacher. Finally, the chart stated that the Student was upset during social skills.

The Student's daily progress report also stated that the Student needed three or more reminders, extra teacher intervention, and was unsafe after lunch and in the morning when he was upset about the rain and refused to listen "for [an] alternative."

19. Also on October 2, 2018, the Student's behavioral intervention aggression form indicated that the Student acted aggressively toward staff twice, starting at 9:18 a.m. until 9:28 a.m. (there was no time/duration for the second act of aggression toward staff). The Student's behavioral intervention form also indicated that the Student acted aggressively toward peers twice that day. The Student's behavioral intervention form stated the Student engaged in seven acts of destruction of property, although no details were provided regarding the act, frequency, or duration of the destruction.

20. After school on October 2, 2018, the Parent emailed the case manager, principal, and social service specialists and stated, “[Student] just got off the bus and he has a red mark about 2 inches long on his neck. All he would tell me is it was his worst day ever. Any idea what happened?” The case manager copied the principal and social service specialists and replied: [Student] had good spots in his day and two long crisis times. He was climbing on furniture, throwing things, desks and chairs, ripping items off the wall, kicking, tearing apart a desk, and yelling. His first incident started at 9:16 am and ended at 9:44 am at a level 2. At 10:25 [am] he got upset but he calmed back down in [his] own within five minutes. At 12:42 [pm] he became upset and that went until 1:47 [pm]. He vacillated between a level 2 and a level 3 during this time.
21. Later, on October 2, 2018, the Parent forwarded the case manager’s email to the principal and stated that she had received an email from the case manager that same day regarding a “2 inch red mark” on the Student’s neck. The Parent’s email stated: [Student] told us about his recess being taken away. He said that made him very mad and he threw his desk. He said he also got mad when [case manager] took a bean bag and shoved him in the quiet room. No mention of my son being placed in the quiet room in her email to me tonight. He said he was put in there twice. [...] In his words ‘[Case manager] took a beanbag and shoved me in.’ So, 1) he was shoved/placed in the isolation room, 2) not one word from his teacher that this was done. I have asked several times that I be notified right away if he goes into the quiet/isolation room. [...] Please respond by the end of the week on how this is going to be corrected.
22. On October 3, 2018, the Student’s daily behavior chart stated that the Student got angry in art, and threw chairs and multiple objects between 11:35 a.m. and 1:35 p.m. During recesses, the Student refused to come inside, threw cones at the principal, and hit the principal and a District specialist.
23. Also on October 3, 2018, the principal emailed the Parent and stated, “I will investigate what happened when the staff arrives this morning and then let you know what I learn.” That same day, the principal and the Parent spoke on the phone regarding the incident.
24. On October 4, 2018, the Student’s daily behavior chart stated that the Student, at first, did not participate in breakfast, reading or writing, but then participated and completed assignments. The Student did not participate in math, electives, or social skills, and during art, he got upset and targeted other students. During recesses, the Student was diverted and reminded several times to address problem behavior.
25. On October 5, 2018, the Student’s daily behavior chart stated that the Student went home early after hitting another student multiple times, in the chest.
26. Also October 5, 2018, the principal emailed the Parent, and stated (in relevant part): As we discussed, this is a summary of our conversation after school on Wednesday. You had raised questions about [Student] possibly being shoved into the quiet room, about [Student] receiving a mark on his neck, and about [Student] possibly having his recess taken away. I investigated each of these concerns and communicated my findings to you in our

phone conversation. As a result of my investigation, it is my finding that no restraint or shoving into the quiet room occurred.

[Student] had become agitated multiple times each day for several days. During these episodes, it has been necessary to have the other students leave the room for safety reasons. [Student] has searched the room for any objects he can throw at the adults in the room, and has also charged at the adults, hitting and kicking at them for extended periods. [Case manager] has been using a beanbag chair in her room to protect herself and [Student] while he has repeatedly lunged at her and punched her. [Case manager] and the same para[educator] had been present for each episode for several days prior to your email. Each of them stated that [Student] had not been shoved into the quiet room, or otherwise shoved at any time. They did give him the consistent message while he was agitated that he needed to calm down and that the quiet room was a safe place to do that if he chose. As he wandered the room throwing objects, the two adults stepped toward him (without pushing him) a bit at a time to shrink the space in an attempt to get him to choose to go into the quiet room and stop throwing objects. Many times he would run past them and they would start over. Eventually, he would say, 'Fine,' and turn and walk into the quiet room on his own. I have been present for some of these episodes, and this account is consistent with what I have directly observed.

As a result of my investigation, it is my finding that the staff did not cause [Student] to have a mark on his neck, and also did not know of an injury to his neck.

Staff did mention that [Student] has been very aggressive toward adults, and speculated that the injury might have been sustained while he was attacking them, or also might have been sustained while he climbed on desks and chairs when agitated. It may have also been sustained on the bus or in another setting.

As a result of my investigation, it is my finding that staff has provided [Student] with at least 3 exercise breaks each day.

On the day in question, [Student] played soccer with one of the para[educator]s during each of these breaks. [Student] has had the option of choosing the activity and also choosing the adult he wants to do the activity with him.

[Case manager] will email home this week's daily reports today, as you have discussed with her. She will also reply to your additional inquiries about [Student] over the weekend to the extent that she has time.

27. Also on October 5, 2018, the Parent responded to the principal's email and stated that she was trying to understand the discrepancies between what the Student was reporting and what staff stated occurred on October 2, 2018. The Parent further requested that the case manager share the evidence-based practices, aligned to [Student's] disability that she is using so that they could also be implemented at home.

28. Later, on October 5, 2018, the director of special services emailed the Parent and stated that an IEP meeting was being set up to discuss the next steps for the Student, as well as to discuss

evidence-based practices. The Parent responded via email and stated that Wednesdays after 2:30 p.m. are best for her schedule for IEP meetings.

29. On October 8, 2018, the District issued a "Notification of isolation". The notification was drafted by the case manager and stated that the behavior instructional coach and the paraeducator had administered the isolation. The description of the activity stated:

Student entered the classroom escalated from conflict over soccer and student on playground. Came in yelling repeatedly. 'He made it unfair!' and 'Don't talk to me!' Student knocked over desks and threw chairs and objects. Staff remained quiet. [Student] continued throwing items at staff. Then he started charging at the door saying he, 'was going to get that kid.' Staff then blocked the doors. He continued throwing objects (chairs, glue, pens, etc.). He got on the teacher's computer wanting a picture. He calmed and staff got picture. [Student] got mad because he had colored the wrong color. Provided new sheet. Colored and became angry, broke and threw pencils, tipped his desk. Ran toward staff yelling he was, 'going to get that kid.' He kicked and punched staff and threw larger, heavier items at staff (chairs, water jugs, padlock). Staff evacuated selves to eliminate further staff injury. Monitored [though] window and cracked door. Staff switched and principal and teacher entered to support [Student].

The report stated that the isolation began at 11:03 a.m. and ended at 11:12 a.m., lasting nine minutes. The report also stated that a general education student had been injured on the playground when the Student repeatedly punched him in the stomach and chest. The Student also injured a staff person, when he punched staff in the jaw and threw an object at the staff's groin. The medical care section of the form stated the general education student received ice packs and went home with his parent, and the staff used ice packs. The report stated that the Parent was notified of the incident at a meeting at 8:15 a.m., on October 10, 2018, and a copy of the report was also sent home that same day. The report also stated that the building administrator was notified on October 8, 2018, and that the District office was notified on October 9, 2018. The report also stated that the incident was reviewed with staff on October 9, 2018. Staff discussed recommendations for changes to avoid similar incidents, which included that staff developed a crisis management plan for the Student and that staff would undergo training on how to implement the crisis management plan.

30. On October 9 and 10, 2018, the Student was absent.
31. On October 11, 2018, the Student's daily behavior chart stated that the Student had difficulty completing self-selected tasks, yelled at a friend, and refused to go in from recess.
32. On October 18, 2018, the District and the Parent agreed to place the Student at a different District school.

CONCLUSIONS

Issue 1: Isolation and/or Restraint – The Parent alleged that the District failed to use restraint and isolation consistent with the requirements of WAC 392-172A-02110 in October 2018, when the Student was allegedly restrained and isolated.

October 2, 2018 Incident

Restraint, as defined in WAC 392-172A-01162 and RCW 28A.600.485, means physical intervention or force used to control a student, including the use of a restraint device, to restrict a student's freedom of movement. Isolation, as defined in WAC 392-172A-01107 and RCW 28A.600.485, means restricting the student alone within a room or any other form of enclosure, from which the student may not leave. A district may only use restraint or isolation when a student's behavior poses an imminent likelihood of serious harm. Imminent means the state or condition of being likely to occur at any moment or near at hand, rather than distant or remote. Likelihood of serious harm, as defined in WAC 392-172A-01109, means that there is substantial risk that the person will inflict physical harm upon him or herself, another person, or the property of others. Once the likelihood of serious harm has dissipated, any use of restraint or isolation must be discontinued.

Based on the Parent's complaint, the Student was flipping desks in the classroom when the teacher used a beanbag chair to forcefully move the Student into an isolation room. According to the documentation provided by the District, the Student was not restrained or isolated. The Student's behavioral intervention form from October 2, 2018 stated the Student had been physically aggressive with staff twice that day and the Student had seven episodes of destruction of property. Based on the principal's investigation, the staff had already cleared the room at the time of the incident due to the Student's behavior, and the teacher was using the beanbag as a shield to protect herself from the Student's physical aggression and to create a barrier between the Student and the cleared students, in accordance with the June 2018 BIP. Documentation provided by the District stated that the two adults in the room stepped toward the Student, to shrink the space available to him in the room, and in an attempt to get him to choose to go into the quiet room and stop throwing objects. This does not constitute a restraint or isolation, as the Student was not alone.

Per the principal's investigation, the Student said, "Fine," on multiple occasions and walked into the quiet room on his own. The documentation in this complaint indicates that the staff used strategies listed in the Student's BIP to attempt to deescalate the Student and encourage him to choose a break in the quiet room. Based on the documentation, the Student chose to go into the quiet room and was not restricted from leaving it, which does not constitute an isolation. The documentation in this complaint does not indicate that the Student was restrained or isolated on October 2, 2018.

Follow-up Procedures: The Parent also alleged that the District failed to follow up with the Parent, in writing, after the October 2, 2018 incident. Following the release of a student from isolation, a school must implement follow-up procedures. These procedures must include reviewing the incident with the student and the parent to address the behavior that precipitated the isolation and the appropriateness of the response. The school must also review the incident with the staff member who administered the isolation to discuss whether proper procedures were followed and what training or support the staff member needs to help the student avoid similar incidents.

Here, OSPI has determined that the incident on October 2, 2018 did not constitute a restraint or isolation. However, the District's documentation shows that it reviewed the incident with the staff

involved and the Parent on October 3, 2018. The District's documentation indicated that on October 5, 2018, the District provided the Parent with a written summary of the investigation and findings involving the October 2, 2018 incident, wherein the District determined that no restraint or isolation had occurred. Based on the documentation provided in this complaint, the District substantiated that it followed up with the Parent and reviewed the behavior incident with the Student and Parent, even though an isolation had not occurred.

Reporting Procedures: Finally, the Parent alleged that the District did not provide a timely written report regarding the October 2, 2018 incident. Any school employee who uses isolation or restraint on a student must inform the building administrator as soon as possible, and submit a written report of the incident to the district office within two business days. Although the October 2, 2018 incident was determined not to constitute a restraint or isolation, the District issued a written summary of its investigation to the Parent within five days of the incident. Again, while not required, OSPI encourages the District to continue this practice of reviewing events with parents and staff following any student's behavior incident in order to maintain clear lines of communication and discuss whether students need more or different behavior supports.

October 8, 2018 Incident

On October 8, 2018, the District stated that the Student was placed in isolation. The case manager notified the building administrator that same day and provided a written report of the incident to the District office on October 9, 2018. The report stated the Parent was notified and provided a copy of the report (within five days of the incident) at a meeting on October 10, 2018. The report stated that the isolation had occurred on October 8, 2018, and stated the names and job titles of the two staff members involved in the isolation. The case manager drafted a thorough description of the Student's activity leading up to the isolation, stating that he was yelling, throwing items at staff, and targeting another student. The report stated that the isolation began at 11:03 a.m. and ended at 11:12 a.m., lasting nine minutes. Further, the report noted the injuries of involved staff and students, and listed the medical care provided. The recommendation for avoiding similar incidents stated that staff would be developing a crisis management plan to use with the Student, going forward. The District substantiated that, unlike on October 2 when the District maintained that no isolation had occurred, when the Student was isolated on October 8, the District followed the proper reporting procedures.

Additionally, RCW 28A.600.485 requires that a school principal make a reasonable effort to verbally inform the student's parents within twenty-four hours of the incident and must send written notification, written notification being the same as the written report, as soon as practical but postmarked no later than five business days after the isolation occurred. The District's documentation does not show that the case manager informed the Parent that the Student had been isolated within twenty-four hours of the October 8, 2018 incident, but the Student went home early that day, so it is likely the Parent was informed at pick up. The case manager prepared and submitted the "Isolation and Restraint Notification to Family" (notification to family) to the Parent within five business days of the incident. Thus, although the District failed to provide documentation showing that it made a reasonable effort to verbally inform the Student's Parent

within twenty-four hours of the incident, the District has substantiated that it did provide the Parent with written notification that met the requirements of RCW 28A.600.485.

CORRECTIVE ACTION

STUDENT SPECIFIC:

None.

DISTRICT SPECIFIC:

None.

Dated this ____ day of November, 2018

Glenna Gallo, M.S., M.B.A.
Assistant Superintendent
Special Education
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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.)