

## **SPECIAL EDUCATION CITIZEN COMPLAINT (SECC) NO. 21-45**

### **PROCEDURAL HISTORY**

On June 2, 2021, the Office of Superintendent of Public Instruction (OSPI) received a Special Education Citizen Complaint from the parent (Parent) of a student (Student) attending the Kennewick 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 June 7, 2021, 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 June 23, 2021, OSPI received the District's response to the complaint and forwarded it to the Parent on June 30, 2021. The Parent requested a translated copy of the District's response.

On July 29, 2021, OSPI provided a translated copy of the District's response to the Parent. OSPI invited the Parent to reply. The Parent did not reply.

On July 29, 2021, OSPI notified the Parent and District that due to exceptional circumstances, the 60-day timeline would be extended to September 3, 2021.

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

### **ISSUE**

1. Did the District appropriately implement transportation services for the Student on April 28 and April 30, 2021?

### **LEGAL STANDARDS**

When investigating an alleged violation, OSPI must identify the legal standard that the District is required to follow and determine whether the District met that legal standard. OSPI reviews the documentation received from a complainant and district to determine whether there was sufficient evidence to support a violation. If there was a violation, there will be corrective action to correct the violation and maintain compliance.

IEP Implementation: Each school district must ensure it provides all services in a student's individualized education program (IEP), consistent with the student's needs as described in that IEP. 34 CFR §300.323; WAC 392-172A-03105.

Special Transportation: The related service of transportation includes transportation to and from school and between schools, as well as travel in and around school buildings. It also includes

specialized equipment, such as special or adapted buses, lifts, and ramps, if required to provide special transportation. 34 CFR 300.34(c)(16); WAC 392-172A-01155(2)(p).

## **FINDINGS OF FACT**

### **Background**

1. According to the Parent's complaint, on April 28, 2021, while at school, the Student missed the bus to go home. The Parent had to come to school to pick up the Student. The Parent indicated there were other times the Student missed the bus and the Parent had to come to school to pick up the Student. On April 30, 2021, the Student was placed on the wrong bus and she was taken to another school instead of home. There, someone found her walking outside school property, took her to the nearby school, and called the Parent.

### **2020–2021 School Year**

2. During the 2020–2021 school year, the Student attended a District kindergarten and was eligible to receive special education services under the category of speech or language impairment.
3. The Student's individualized education program (IEP), effective from November 11, 2020 to November 19, 2021, provided specially designed instruction in the area of communication for 30 minutes per week, provided by the special education staff. The IEP included an accommodation to provide "individualized/small group instruction." The IEP stated the Student did not require special transportation or behavioral supports for transportation.
4. Sometime in fall 2020, according to a June 10, 2021 email from the Student's general education teacher to the school principal, the Student and another student missed the bus to go home because they were standing in a location out of the rain that also blocked their view to the bus. After realizing the Student missed her bus, the school secretary called the Parent to pick up the Student at school.
5. On April 28, 2021, the Student had a substitute teacher. According to the District, the substitute teacher dismissed the students in the class late at the end of the day and the Student's bus had already left the building. The school contacted the Parent, and the Parent came to school and picked up the Student. Later, the District attempted to talk with the Parent about the incident and after several attempts, discussed the incident with the Parent.
6. On April 30, 2021, according to the District, the Student was placed on the wrong bus when going home. The bus transported some students, including the Student, to a different school instead of home. In an email from the District transportation director to the Parent, the director stated "...The student was found in the bus loop by another parent who called the mother and took the student into [school] to wait for her mother." The assistant principal met with the Parent on the same day to address the incident.

7. On May 3, 2021, the assistant principal again met with the Parent to talk about developing a plan to prevent future problems with transportation.
8. On May 10, 2021, the documentation provided in the complaint showed that a representative from the District transportation department met with the Parent and explained they were creating a safe-school module that matched kindergarteners to their parents at the bus stops. The District placed a picture of the Student "on all school routes" and talked with the school's bus drivers about matching the students with their parents. At the meeting, a video of the April 30, 2021 incident was reviewed by the Parent, a representative from Partnership for Action, Voices for Empowerment (PAVE), and the representative from the transportation department.
9. On May 17, 2021, the District developed the following "Plan of Assurance" to address the transportation concerns:
  - A certified teacher will pick up [Student] and will take her to the bus stop.
  - She then will assure that the Student gets on bus route [number].
  - The bus driver will seat the Student behind him.
  - Once the Student is safe on the bus, the teacher will call the office by radio.
  - At around 4 pm, one of the secretaries [secretaries] will call mom to confirm that the Student has arrived safely at home.
10. On June 2, 2021, OSPI received the Parent's complaint.

## **CONCLUSIONS**

**Issue One: Implementation of Transportation** – The Parent alleged the District failed to provide transportation services to the Student. There were two incidents when the Student missed the bus going home from school, and one incident when the Student boarded the wrong bus to go home and was taken to another school.

The Student's November 2020 individualized education program (IEP) stated the Student's special education services were in the area of communication. The IEP stated that the Student received general transportation, not special transportation. In fall 2020 and April 2021, the Student missed the bus to go home. In April 2021, the Student was also placed on the wrong bus and transported to a different school instead of home. The District discussed or met with the Parent to address each incident, and later developed a "Plan of Assurance" that reasonably appeared to address the incidents. There was no documentation provided in the complaint of further incidents with transportation.

While the Parent was understandably concerned about each incident, because transportation was not a part of the Student's special education program, there is no violation of the requirement to implement the services in accordance with the IEP.

Further, there was no indication from the documentation provided that special transportation was required to meet the Student's unique needs related to her disability. But if the Student continues to have problems with getting on the right bus, the District may need to consider evaluating the

Student to determine if the Student has been identified in all areas of suspected disabilities. Overall, OSPI finds no violation of the IDEA with respect to the transportation incidents.

### **CORRECTIVE ACTION**

**STUDENT SPECIFIC:**

None.

**DISTRICT SPECIFIC:**

None.

Dated this \_\_\_ day of September, 2021

Glenna Gallo, M.S., M.B.A.  
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Special Education  
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**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.)