



Blueprints to Special Education Sep 2020 Meeting Materials, Links and Q&A

LINKS:

Information about Supported Decision-Making:

<https://www.washingtonlawhelp.org/resource/supported-decision-making-agreements?ref=86ZJy>

Q&A:

Q1: Could the agenda be posted? I am trying to find it from when I registered and cannot. Thanks!

A1: You can find the agenda here:

<https://washingtonautismadvocacy.org/events/special-education/?occurrence=2020-09-26&time=1601110800>

Q2: Question: My child's IEP states that the parent is to stay with the child for the duration of all lessons, field trips and events. We were supposed to start in-person OT and special education one day a week for a total of about 2 hours but the District told me the day before that I was not allowed due to the buildings being closed for Covid. We attempted a zoom class and she was not able to attend and missed the session. Can they legally do this if it's written in the IEP that I must be present with the child?

A2: Much will depend on a few things. First, it will matter what the Department of Health (state) and any local Dept of Health requirements with respect to COVID 19. Second it will depend upon what your child needs to constitute a free appropriate education (FAPE). The school, however, cannot have a blanket policy but rather the determination should be individualized based upon what is needed for FAPE.

Q3: Does the category your child qualifies under, impact the type of service they receive? My child is qualified under "health" but he has related developmental delays, speech impairment, etc.

A3: Technically, the Student only has to qualify in one IDEA eligibility category. Sometimes students could qualify in more than one category in which case the IEP Team is supposed to pick the category that corresponds to the "overarching" disability. A Student's IEP is developed to meet the child's needs in all areas.

Q4: She mentioned that there is no Law saying intervention is required. I have had a school psychologist tell me and a parent that "intervention" was in the law. Is there a reference that parents or advocates cite?

A4: The OSPI has a lot of information posted on its website. I recommend you look there as a shortcut to the Washington Administrative Codes applicable to schools in our state.

Q5: 16 year old, already has an IEP, up for 3 year re-eval (10/20/2020 is when it expires) Re-eval was requested (and delayed since Jan), now, the refuse to evaluate in person (COVID), and I am just filling out forms OR doing the evaluation and sending it back to them. Any thoughts on how to address?

A5: Despite COVID, school districts are not excused from complying with evaluation requirements or other special education requirements. OSPI has said that they expect Districts to comply. They can always ask a parent to waive the time frames but parents do not have to. You may want to get the district's refusal in writing and then file a Citizen's complaint with OSPI.

Q6: Is this evaluation criteria (35 school days, consent form etc..) applicable for the 3 year evaluation renewal too?

A6: The reeval must be completed within 35 school days after the district receives your consent for the reeval.

Q7: Why aren't parents being informed of ALL the services the district has to offer? I'm a parent of color this has been a huge problem. I had to fight, pull teeth in order for my son to receive a simple service as Assistive Technology.

A7: Special education law can be truly complicated. There are non-attorney advocates that can attend meetings with you to help ensure all your questions are asked and addressed. In addition, the OSPI publishes a list of attorneys who practice in the area of special education.

Link to the list of attorneys:

<https://www.k12.wa.us/sites/default/files/public/specialed/disputeresolution/pubdocs/LegalReferralList.pdf>

Few of the attorneys in the OSPI list specialize in Special Education, you can glean that information from their websites.

Q8: Can a district be pushed to do an FBA based on online attendance behaviors? Or can they insist on waiting until school is back in-person again? Short story: we are pushing for a 1:1 aide because my daughter is an eloper and needs constant redirection to attend to her work. Everyone who has ever evaluated her in-person (not district employees) states she will need a 1:1 to be successful in the classroom. But district will not budge on this, and we are concerned for her safety on campus from Day #1 of attendance. Any thoughts on how we can handle this? Thanks!

A8: It somewhat depends on the reasons the District is providing for their refusal. Is it due to a policy that they have during COVID? Based on what they view as the child's individual needs? Does the child need 1:1 now to participate in school remotely? Have you had an IEP meeting to discuss and has the district provided a prior written notice rejecting your request and explaining why?

Q9: My son turns 3 VERY soon. At our first eligibility meeting, the school said that we had time to figure out an agreement on the categories he qualified for SDI and that we only needed to start a conversation before he turns 3. I said I thought the IEP needed to be finalized when he turns three. Should I insist on this?

A9: Yes, I think you want the IEP to be ready to be implemented as of the date he turns three. So keep pushing!

Q10: Question. What is considered a comprehensive evaluation for literacy and math?

A10: Comprehensive refers to evaluating in all areas of suspected disability. Evaluating only in academics - such as literacy and math - would not be "comprehensive" if you also have concerns about behaviors, cognitive processing, etc.

Q11: My son's SLP is offering minutes via Zoom and also part of his minutes are "asynchronous" (videos) - is this legal?

A11: I can't give advice on student-specific questions. In general, students who cannot access or benefit from remote learning are to be given priority for in-person services.

Q12: We were told that we could not get a Functional Behavior Assessment because my son wasn't "throwing chairs" - at what level is it permitted to ask? He has excellent avoidance skills but it's more of a shut down in school (and more explosive at home).

A12: There is not a specific brightline test. It depends on what is happening with the student.

Q13: What if the behaviors are outside of the school directly before and after school due to school avoidance and the student masking their struggle in school?

A13: It would be helpful to request a Functional Behavior Assessment (FBA) to focus on the reasons for school avoidance.

Q14: My child qualified because she was below 2 std dev below the mean for developmental delay. I was told my daughter did not qualify for OT or PT. Evaluations through medical providers say she needs OT and PT. Is the school district responsible for providing these services for her?

A14: There is a difference in standards for qualifying for OT and PT as "medical" services and "educational" services. Your child may easily qualify for medically-based services but not meet the more strict standards of need applicable to school settings.

Q15: If your child initially qualified under developmental delay but other private providers recommend changing the category to better reflect the student to "multiple disabilities" or "other health impaired," can this only be done with a re-evaluation? The school expressed the category does not matter. It seems beneficial to have it changed based on previous remarks by the presenter that DD requires 2 standard deviations but the other categories do not.

A15: The category can matter later in life-particularly if you are seeking to have your child found eligible for services from Washington State's Developmental Disabilities Administration.

Q16: What if during the IEE the evaluator was unable to finish a portion of the IQ test (writing reading etc) due to students avoidance behaviors? So a specific learning disability is suspected but the IEE evaluator didn't test. What can the parent do to get that evaluation completed?

A16: The Parent may need to take the Student to a different evaluator to get this completed.

Q17: Why doesn't anyone from the OSPI return calls? I have climbed the ladder no call back from anyone

A17: I don't know. I recommend that you write to them (old fashioned letter) and send letter to the Assistant Superintendent of Special Education-her name is Glenna Gallo (you may want to fax and mail it certified mail) Explain your issue and your efforts to reach OSPI and the nonresponse. Keep a copy of your letter.

Q18: When school rules out Learning disability, but MD evaluates and finds + reports Learning Disability, what then? PS: child already has an IEP with services, but due to inattention, rather than learning disability. Thanks!!!

A18: I am not sure I fully understand your question. But parents can ask for an IEE (or as Kathy said can get their on IEE-make sure you have a provider who is qualified to do the IEE) and then present to the school district and have an IEP meeting. Although the

district does not have to agree, they need to consider the results of the IEE. If the district does not agree you can file for due process.

Q19: My 2nd grader can't do online school without someone sitting with her. The school is doing evaluations to counter our academic testing she had done this summer which shows significant delays and disabilities like dysgraphia and auditory processing. The school is saying they are not sure they can't trust their findings. We say this shows that online does not work. She can't do it online. We are healthcare workers and have to be physically at work. We are asking for outside placement or in person services. Do they have to provide one of these options?

A19: If your child needs in-person instruction or other services in order to have FAPE, the district must provide it. There cannot be a blanket policy b/c of COVID refusing it. It sounds like there is a disagreement btw you and the District over what is required for FAPE. You may want to request an IEE and if the district still does not agree then file for due process. If it is a blanket policy, then get the denial in writing (in a prior written notice if possible) then file a citizen's complaint with OSPI.

Q20: We have asked they provide this because there is no stay at home order. They are choosing to not provide services for the month of September.

A20: Districts cannot have a blanket policy to refuse in-person instruction. If it is needed for FAPE, they must provide it so long as it does not conflict with the Department of Health's rules

Q21: What are some of the in person services being provided

A21: Kathy is emphasizing that there is no waiver of the IDEA during the COVID-19 closures and school districts are not given a pass from implementing IEPs.

Q22: Has any district provided information on what the differences between compensatory versus recovery services will be and how they will evaluate that?

A22: I am not sure about what Districts have said or how they have defined it but OSPI has sort of merged the two. Compensatory is really a remedy that should not be part of an IEP team decision. Recovery services are intended to address educational loss during COVID 19 that OSPI envisions will be discussed at the IEP team meeting.

Q23: Would you recommend we have the person who did our testing be present at the IEP eligibility meeting? We are worried the school is going to dismiss our concerns as our daughter is smart and at grade level for most areas?

A23: Yes-if you can. That would be likely helpful.

Q24: Thank you. You empower me. :-) I can't believe they would make a decision based on 3 weeks but I'm sure they will try. Maybe I'll write them a letter ahead of time.

A24: Document in writing what you are observing and you might also consider video your child's challenges.

Q25: After requesting via Child Find to assess 1st grader for Autism, to add guidance to support current IEP, the district responds that they cannot diagnose ASD and are rejecting responsibility and are encouraging that we pursue an evaluation from a medical professional and share any diagnosis with the school. Additionally, they suggest using alternate interventions/tools that might indicate whether the student's behaviors are consistent with children with ASD - which would not be a diagnosis nor may not necessarily result in a change in services, but may be an option for the district to better understand the student. Can you comment about this, if this should NOT be the process?

A25: The school district staff may not have the credentials to diagnose autism, but your child does not need to have a diagnosis in order to qualify for an IEP due to his symptoms or characteristics that are reflective of ASD.

Q26: My question is about re-evaluations. Since it seems like only surveys can be done at this point, is it possible that it would be a good idea to defer evaluations until more accurate instruments can be used, especially if a child requires evals in many areas?

A26: OSPI's Sept 2020 guidance says that if a student needs in-person assessments as part of comprehensive evaluation, the team should arrange for the assessments to be completed (following health and safety guidelines). You can find the guidance on OSPI's website. Districts are to prioritize evaluations that were to be done last spring. You might want to point that out to the District. Whether to defer depends on your student's needs.

Q27: I just joined the meeting due to computer issues.....I homeschool my grandson...-he's agoraphic, ADHD, Autistic. How do I set up an IEP for him?? Evaluation...completion. School doesn't help at home as he is not able to attend beyond 14 days....

A27: It sounds like your student is not currently enrolled in special education. If that is the case the first thing to do is to request that the District evaluate him for special education. You should put the request in writing and send it to them (keep a copy of the letter). Once you make the request, they need to respond.
If your child has an IEP already but you're not satisfied with your services you can request an IEP team meeting.

Q28: My daughter has an IEP already. My daughter has had an independent eval by a neuropsych this past spring, during covid, in person, and now has other diagnosis. Can I use this during the IEP reevaluation and will it be accepted from the district as is, or are they going to need to do their own eval to "Prove" it out. Edmonds SD

A28:A parent can provide whatever info that they want to the rest of the IEP team for consideration for developing or revising the IEP. Remember that parents are members of the IEP team. The District is not obligated to agree with outside info. Also, generally districts need to be given the opportunity to do their own evals first and then if you do not agree with the results, you can ask for an IEE

Q29: Is a private evaluation essential if we see a concern in PT and the school district wouldn't feel it's necessary to even evaluate the kid already on an IEP ? Is a deterioration in physical health due to the pandemic not a valid concern?

A29: If a student needs re-evaluation due to change in circumstances-parent can request re-evaluation. Parents should let district know if there has been a change and what that is. If there is documentation showing that change-that is also helpful information to provide. District hopefully will want to re-evaluate as they will hopefully want to make sure that appropriate services are provided to ensure FAPE is provided.

Q30: How can we support our 6th grade son in his middle school GenEd classes since parents have been explicitly told not to join classes or have the computer volume up due to student privacy concerns? My son's IEP is not being followed, and the only way he can keep up with his peers is if he receives 1:1 support. There is an IA in three of his classes but he is on his own in the other three classes. Do you have any suggestions?

A30:It is very helpful to document what you are observing: that your child requires the 1:1 support in order to access education. It is hard to show that your child did not benefit from the online services unless you are documenting what you are observing.

Q31: My child has not been evaluated since kindergarten, he is now due for a 3yr evaluation, his IEP goals underestimate his abilities, my concern is that due to the current situation he will not get the services he needs.Also I do not believe his goals give reflect the general curriculum.

A31:You sound as though you have a great list of questions ready for the school district folks to answer for you. Make sure that if you request services that are denied, that you ask for the school district to issue a Prior Written Notice documenting the denial.

Q32: We transferred into the local school district from a virtual school. Our IEP expires April 6th. The District has agreed to provide services in the IEP and are pushing for a facilitated IEP meeting before the current evaluators have assessed the students needs in the new school setting. Can I refuse the IEP meeting until closer to the IEP expiration date? Can they use that refusal against me in the future and are they legally required to follow the transfer IEP until we agree upon a new one? Can you tell me what the law is surrounding this so I can quote the law in future communications?

A32: The parent can ask the district to work with them to arrange for assessments to be done now respecting health and safety rules. I encourage you to review OSPI's "Reopening Washington Schools 2020: Special Education Guidance" on the OSPI website. The guidance tells Districts to arrange for the needed assessments and if there are needed in-person assessments that are needed as part of the comprehensive evaluation, "the team should arrange for the assessments to be completed while following health and safety guidelines..." Given these requirements, a school district should not refuse to have needed assessments completed

Q33: What is considered comprehensive evaluation for literacy and math for high school students in life skill. School district seems to think that basic math includes coin identification, number identification, etc. The evaluation is not done by reading specialist for high school but done by staff who is haters of phonics

A33: I think this may be similar to an earlier question regarding what a "comprehensive" evaluation consists of. So think of comprehensive as covering ALL areas of suspected disability. All evaluations should be administered by qualified school staff. While a special education teacher may be allowed to administer some testing under the guidance of the school psychologist, typically, it is the school psychologist who conducts evaluations and reevaluations.

Q34: Is a FBA useful for kids that are having challenges learning due to anxiety, adhd or autism and not due to challenging behaviors? My kids keep all their disruptive behavior for home, but their behavior at school is not disruptive.

A34: Yes. Tie the disruptive behaviors to anxiety related to school through help of outside private providers.

Q35: Where can I get help finding an IEP advocate?

A35: The OSPI publishes a list of attorneys willing to represent parents/adult students in disputes over special education services.

Q36: Can I ask for IEP meetings to be recorded?

A36: You can ask, but school districts often resist this.

Q37: I have student in general education and i go into my son's account and join along with him during remote in order to access general education and district is aware that my kiddo can't access class without parent

A37: It is important that you document that your child is unable to access education without 1:1 assistance. You might consider keeping a log that charts how much

assistance you provided and for how long he was able to maintain attention without your assistance.

Q38: Any services that are denied, I would suggest asking for Prior Written Notice so that you can get the response and understand the district.

A38: I might have missed the question you were asking, but yes, asking for a PWN is very helpful.

Q39: my son makes a lot of strange noises all over the house all day and when his father or I tell him to stop he doesn't and even when he gets stood in the corner or sent to his bed for time out it seems like he doesn't learn his lesson. That also includes any punishment we give him. How do I get a punishment to stick with a child with disabilities?

A39: I don't feel qualified to answer this question as it does not involve legal analysis.

Q40: After I requested an FBA be done for my son in December 2019, the district stalled through 2 more requested IEP meetings, both in Jan and in Feb, before they would comply with that request in March. In that time frame my son's behavior changed so much he ended up with 7 head injuries that I know about, 2 were mild concussions. Do I have any recourse for the district ignoring my request and greater injury occurring to my kindergartener?

A40: When we discuss dispute resolution options, that may give you some ideas.

Q41: Is the school required to provide you noted from the IEP meeting. If they are not, is it best to write up your own notes and send them back to the IEP team and ask if they have anything to correct to respond?

A41: Is it always a good idea to take your own notes and request that they be added to your child's special education file. And it is always a good idea to make sure you get copies of any notes the school district is taking at meetings that will become the "official" notes of the meeting.

Q42: If my child is found eligible for special education and we request an IEE because we don't agree with the categories recommended for SDI (we believe he needs SDI in communication, but the school says it can be accommodated by social emotional SDI), if the child turns 3 before the reevaluation can be completed, will the child be able to get special education in the agreed upon categories in the meantime?

A42: If I understand your question, you are asking whether the District will serve your child in the areas the District identified. Yes, if you provide consent for the District to deliver services in the meantime while you request more that should happen.

Q43: I have found huge barriers regarding special design instruction vs related services when it comes to OT/SP in high school. They argued that OT and SP does not need SDI and they are related services. When I have provided what SDI they argue that OT and SP can't be SDI in high school

A43: I am not aware of any law that says OT and speech cannot be delivered as specially designed instruction in high school.

Q44: Question: Can schools choose to disregard a medical diagnosis of a Specific Learning Disability, based on the fact that when the school evaluated the child they found "NOT to be a student with a Specific Learning Disability under IDEA"?

A44: Yes. School districts only have to "consider" the evaluations or private providers that you share with the team.

Q45: In follow up to my first question: my daughter is an incoming kindergartener. This happened in April/March based on outside evaluations because the district could/would not bring my daughter in to be evaluated, and my daughter literally stayed on the computer screen for 30 seconds during the attempt at remote evaluation by the school district. Based on the results we provided, I requested a 1:1. The district's response was that a "1:1 would not even be considered until they had the chance to evaluate her in person." They did not put my request in the PWN, nor did they put the denial in writing. I appreciate your response to my question, I feel like that gives me several things to ask for and bring up in future communications with the district. Thank you!

A45: You are welcome. If you qualify for Northwest Justice Project's services, you can ask for assistance through a clinic appointment.

Q46: Our student's IEP was written from when they were last in school in Feb, March. The IEP is currently a draft and we have a meeting next week. She has regressed significantly since. Should the regression be mentioned in the IEP?

A46: Absolutely! And you should specifically ask that this be documented within the IEP.

Q47: How do we hold the school accountable for actually delivering SDI/following the goals especially during in-person learning? After hearing IAs were not in the class during designated time, I was concerned and requested raw data but there either was no data taken or it was minimal and did not cover all goals or they provided a one sentence anecdote with no data to support the anecdote. Additionally, there was no data analysis taking place. Are they required to review and analyze the data?

A47: Yes, they are required to review and analyze data in order to update present levels of performance. You may have a claim for compensatory educational services.

Q48: Are one on one aids supposed to be at the IEP meeting? If not why? Is it ok to personally invite them to the meetings?

A48: There is no requirement under the IDEA that demands these individuals attend IEP meetings. There may be labor union requirements that would not allow these staff to attend if the meeting is held after hours.

Q49: Question on student's present level of academic achievement and performance in IEP: how is that present level going to be assessed in the IEP document by the school, since my child has been out of school for the past 7 months due to the pandemic? Can we (parents) dictate that?

A49: Typically present levels are based on the evaluation that identified the eligibility category and that outlined the student's needs. Present Levels are measured according to the progress reporting method identified in the IEP. The data collected is reviewed at the annual IEP meeting and used to determine progress or regression and that is used to identify the Present Levels.

Q50: Can we bring representatives from existing service providers (ABA services, early intervention services, etc.) to the IEP meeting?

A50: Yes! And it is a very good idea to do so.

Q51: So a representative of the district is a member who should be in the IEP meeting? Or would a school adm count? I was told that the school admin, not district representative is what was required. Please advise. Thank you!

A51: A school representative is someone who can commit District funds to implement IEP. A school administrator qualifies as a school representative.

Q52: We have never had anyone from the district unless we really send multiple emails. Does the school psychologist count as a district representative?

A52: The school representative is someone who can commit District financial resources. Usually the school psychologist does not have this authority but in smaller school districts I suppose this could be possible.

Q53: Often we hear that they will have to ask the district what is available when we ask for certain services.

A53: Weird! Doesn't sound as though the District is very organized!

Q54: Can the school send a date for the IEP without asking whether the parent can attend?

A54: This is not a good practice since the date selected for the meeting needs to be mutually agreeable. The Parent can always request that the meeting be rescheduled to a time that works better.

Q55: But can I ask them to come? Are they allowed?

A55: Yes.

Q56: Would a principal qualify as a district representative?

A56: Yes.

Q57: How can one argue with district response?

A57: You are educating yourself by attending workshops like this one to prepare you to be an effective advocate for your child. So you are doing all the right things!

Q58: Parents have legal full guardianship and the district is saying that the school district makes all decisions for class choices. I disagree. The school district have attorney argue that law allows the district to make decision.

A58: The school district needs to involve parents in decision making but the school district does not have to allow parents to dictate the classes the student takes.

Q59: SPED Pre-k year 2, IEP updated last spring. First day of pre-school yesterday only 1 hr 1:1 a week...until we can go to small groups (TBD). I am concerned this will not meet her IEP goal and we do not have an amendment for the IEP r/t pandemic. I had to write several emails to SPED director, Superintendent, teacher and principal to even get the 1:1 going. Thoughts on how to move forward? We are not inflexible, but 1 hour a week isn't enough.

A59: Parents who are concerned about the adequacy of their student's IEPs can request an IEP meeting to discuss and request amendments to the IEP. Parents should put their request in writing and save a copy. Also if the reason that number of hours is so low is because of a COVID 19 policy and not based on the individual student's needs, the parent should ask the district to confirm that in writing in a prior written notice or otherwise and then the parent can file a citizen's complaint. Alternatively, if it is a difference of opinion about what the student needs, the parent can ask the school do an evaluation or if the district has already done an eval and you the parent does not agree, the parent can ask for an IEE

Q60: Speech has been listed as a related service in my child's IEP. However we received zero communication from the school's speech therapist since school closed in March. What can I ask for to make up for the lack of services, and for services now till in-person school resumes? How will the school district evaluate what he needs now?

A60: You can ask for compensatory services to make up for services that should have been delivered but were not.

Q61: additionally we are supposed to get resources for the week and Zoom parent check in weekly, but that has not been scheduled yet.

A61: Sounds as though you have a claim for compensatory services to make up for services that should have been delivered but were not.

Q62: Are IEP middle schoolers required to take Social Skill classes in the state of WA? Or are they allowed to pick other extra curricular activities, like band? Thanks!

A62: specially designed instruction in social skills would only be required if the IEP Team decided it was appropriate for that particular student.

Q63: Should we be expecting all transition students to be paid minimum wage starting the first day on the job? Why are first year students enrolled in "internships" and not being paid while 2nd year students, holding the same jobs are.

A63: Different programs. Some students who receive public benefits do not want to also receive wages in case it puts their benefits at risk.

Q64: How often can parents request these "data sheets" if those have never been sent home?

A64: Make a written request for all data that is being used to determine if your child is making progress.

Q65: What are the school data sheets called? I haven't seen these but would like to ask for a copy.

A65: Make a written request for all data being used to chart progress for your child.

Q66: Our school has told us multiple times either a 504 or an IEP. Where can I show them this is not the case.

A66: I am not sure exactly the question but if the question is whether a student can have both-the answer is yes. Students with IEPs can have reasonable modifications/accommodations and special education at the same time. Reasonable modifications and accommodations are incorporated into the IEP so that they become part of it.

Q67: My child was not given an option. When asked, the staff's response was that none of the 1st year students received wages. and 'most' of the 2nd year students did.

A67: Hi-I am sorry I am not sure of the question. If a student was not compensated for labor, you may be able to file a complaint with the Washington State Department of Labor and Industries. You should check their website. Also, you can file a citizens complaint with OSPI.

Q68: Based on the last question of NPA? Is this just outside contracted services? If my child can do general education with an aide or ABA therapist would the school be able to provide this? The school is not telling us what options are available?

A68: A nonpublic agency is a private school approved by the state to provide special education at school district expense. It is not a provider of services in general education.

Q69: Can a school district refuse 1:1 support in a general education setting because there isn't enough para support available? I noticed that my child was not completing her assignments and had random answers on her assignments. This to me is an indication that she needs more guidance than she was receiving.

A69: If a student needs 1:1 support in general education and that is in the IEP, then the district needs to find a way to provide it because they are obligated to provide services agreed upon in the IEP. If they do not provide such services, then a parent can file a citizens complaint or file for due process.

If the service is not in the IEP, but the parent feels it is needed for the student to receive FAPE, the parent can request that the school district evaluate the need. If the district has done that and denied the request, a parent can ask for an IEE. A parent could also file a citizens complaint or due process at that point. However, it is harder to prevail unless there has been an evaluation and/or data to show that without the 1:1 the student cannot obtain FAPE so having an IEE is usually helpful.

If the district does the evaluation and the evaluation reveals that a 1:1 is needed for the student to receive FAPE but the district says no because of lack of resources, the parent can file a complaint or d.p.

Q70: What is an IEE?

A70: An IEE is an independent education evaluation, conducted by an evaluator chosen by the parent, but paid by the school district.

<https://apps.leg.wa.gov/WAC/default.aspx?cite=392-172A-05005>

Q71: Is it a common and acceptable practice after submitting an OSPI complaint for school staff to stop answering parent emails or forward on to administration?

A71: It is unlawful to retaliate against parents for exercising their advocacy rights. This is enforced by the US Dept of Education office of civil rights. That said, there is no right to

have emails answered, in general. Courts in recent years have upheld restrictions on parent communications when deemed excessive.

<https://www2.ed.gov/about/offices/list/ocr/frontpage/pro-students/issues/roi-issue08.html>

Q72: when filing a citizen complaint does the district know that you filed a complaint? is there a form that I would have to use to file a citizen complaint? I know that many parents have filed complaints because of virtual learning programs and the fact that many if not all of our special needs kids can independently learn on this platform. my school district is saying that all my child's hours are being met but I disagree. I am unable to teach my child in this platform.

A72: Yes, OSPI sends the citizen complaint to the school district for a response. So the district would be aware. OSPI has a form on its web site for citizen complaints, which I will post momentarily.

Q73: I need to rephrase. Our IEP doesn't expire until April 6th. It is transferred from another in-state district. Assessments were done last February/March and a new IEP is not due until April 6th. I Do not want to put my daughter through those assessments again and I agree with the transfer IEP and think it should be used as-is by the district but they are attempting to get me to rewrite the IEP now. I believe so they can take out services and supports. Can I refuse the IEP meeting now so the new specialists can have a few months to work with her and give better progress notes for the April IEP meeting?

A73: This sounds like a student-specific question for which I can't give advice. Speaking about the law generally, a school district has to make every effort to get the parent to attend an IEP meeting including scheduling at a mutually acceptable date and time. But if a parent declines to attend, the district can have the IEP meeting without the parent.

Q74: Some school districts did not do any IEP services in September. They are starting in October. Does this qualify as something that would be done through a citizen's complaint?

A74: A citizen complaint to OSPI is one way of seeking recourse for denial of required services.

<https://www.k12.wa.us/student-success/special-education/dispute-resolution>

Q75: In regards to resolution meeting the IEP team does not come as written in the law.

A75: It is correct that a resolution meeting is not an IEP team meeting. The district must have, at the resolution meeting, someone who is authorized to make decisions. Typically it's a special education administrator.

Q76: This is a repeat question that I missed the response to previously. What is the difference between SDI, related service, supplementary aids, and program modifications? How do these designations impact the service the child is able to access or is offered?

A76: Good question. Specially designed instruction is actually teaching a skill. It is adjusting the method, content or delivery of instruction to meet the student's unique needs. Supplementary aids and services are supports to help the student learn from the teacher. So a paraeducator or instructional assistant providing accommodations would be a supplementary aid. Related services are typically by therapists (speech, occupational or physical) and differ from SDI in that they may be indirect (helping teachers address a student's needs).

Q77: If a parent goes to the IEP meeting and does not agree with the new SD removing services and supports from the transfer IEP and the transfer IEP does not expire until many months out does the parent not have any right to refuse their IEP and request that they follow the transfer IEP?

A77: In general parents do not have veto power over IEPs, unfortunately. In Washington state, the only part of an IEP that requires parent consent is an "emergency response protocol" (setting extra conditions for restraint and isolation." When a parent disagrees with an IEP decision, due process is the primary method of trying to overcome the dispute.

Q78: Can the school district ever be required to reimburse parents for their legal fees if the parents won the case?

A78: Yes, but it's rare, and generally only if the case is frivolous.

Q79: What was the title of the document "... settlement trends" sent to School administrators annually?

A79: Sorry I do not know.

Q80: is it unlawful for the district to use intimidating tactics to keep special education parents quiet? Some tactics include placing administrators on social media pages, and using any information against that family. or filing due process hearings when a family requests an IEE and then have the attorney call the parents to let them know that the school is in offense by the IEE request

A80: In general, it is unlawful to retaliate against parents for exercising their rights. The OCR web page on retaliation is posted above. The district has a right to file a due process complaint to avoid an IEE. If a parent has an attorney, the school attorney cannot contact the parent directly and must communicate through the parent's attorney. Otherwise it is permissible for the school attorney to contact the parent.

Q81: In the state of WA, can parents ask to tape record IEP meetings for personal file? Can Districts reject request?

A81: Yes, parents can ask for permission to record IEP meetings. Permission of all attendees is required because of Washington's privacy law, which prohibits recording private conversations without consent. Administrative law judges in Washington have said that IEP meetings are considered "private" for purposes of the consent requirement.

Q82: In general if families hire a lawyer to come to meetings with us. Do we have to notify the district ahead of time?

Are districts more likely to speed up the process with parents who have lawyers?

This is all excellent advice but all very complicated.

A82: Yes, parents should notify the district in advance if they plan to bring an attorney to a meeting, because the district has a right to have its own attorney attend. Notice well in advance reduces the change that the meeting will be delayed to the need to involve the district's attorney. In general, attorneys for both sides - parent and district - must not communicate directly with the other parties without their attorney present.

Q83: can you put the retaliation link in the panelists forum so I can click on it, I can't click on it where it is?

A83:

<https://www2.ed.gov/about/offices/list/ocr/frontpage/pro-students/issues/roi-issue08.html>

Q84: If a lawsuit is won against a school district are the parents legal costs usually covered?

A84: School districts can be required to reimburse the legal costs incurred by parents who prevail in due process. This does not mean all costs are covered - the recovery is based on the extent to which the parents won. Also there are certain exceptions. For example, if the parents declined a settlement offer at least 10 days before the hearing and end up getting less relief from the judge than was offered in settlement, a judge can reduce or deny attorney fee reimbursement.

Q85: What are the principal differences between comp. ed. and the new 'recovery services'?

A85: Compensatory education is provided outside the school day. It is intended to make up for inadequate or missing services. The new "recovery services" are to be provided during the school day, and are part of the IEP. They're not part of the law and many advocates objected to OSPI referring to recovery services as an alternative to compensatory education. That said, basically recovery services are intended to address a student's backsliding or regression due to lack of services during the school closure.

Q86: So for Reevaluation, are they testing present levels, or levels for the past 2 months?

A86: Depends on the test/instrument. Actual performance tests are to determine present levels. Surveys may aim at more historical information.

Q87: Our school district is changing sped time in minutes for my child to gened claiming when the child is on zoom, it is SDI in sped, when the child is off the zoom, it is SDI in gened. I do not agree with the drastic reductions of sped minutes and an increase in gened minutes. The district says it is OSPI guidelines and it is all due to COVID. Is this statement true?

A87: OSPI has issued guidance that Zoom is considered general education because it is where gen-ed students are being educated. I agree this is problematic.