

Washington Dispute Resolution, Legal & Policy Landscape

Alyssa Fairbanks, Assistant Director Dispute Resolution
Scott Raub, Assistant Director Policy & Community Engagement
(July 31, 2024)



Washington Office of Superintendent of
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Agenda

- Dispute Resolution Numbers & Trends
- Legal & Policy Updates
- Policy Page Preview
- Activity



Dispute Resolution & Policy/Family Engagement Team

Alyssa Fairbanks – Assistant Director, Dispute Resolution

Scott Raub – Assistant Director, Family Engagement & Policy

Complaint Investigators

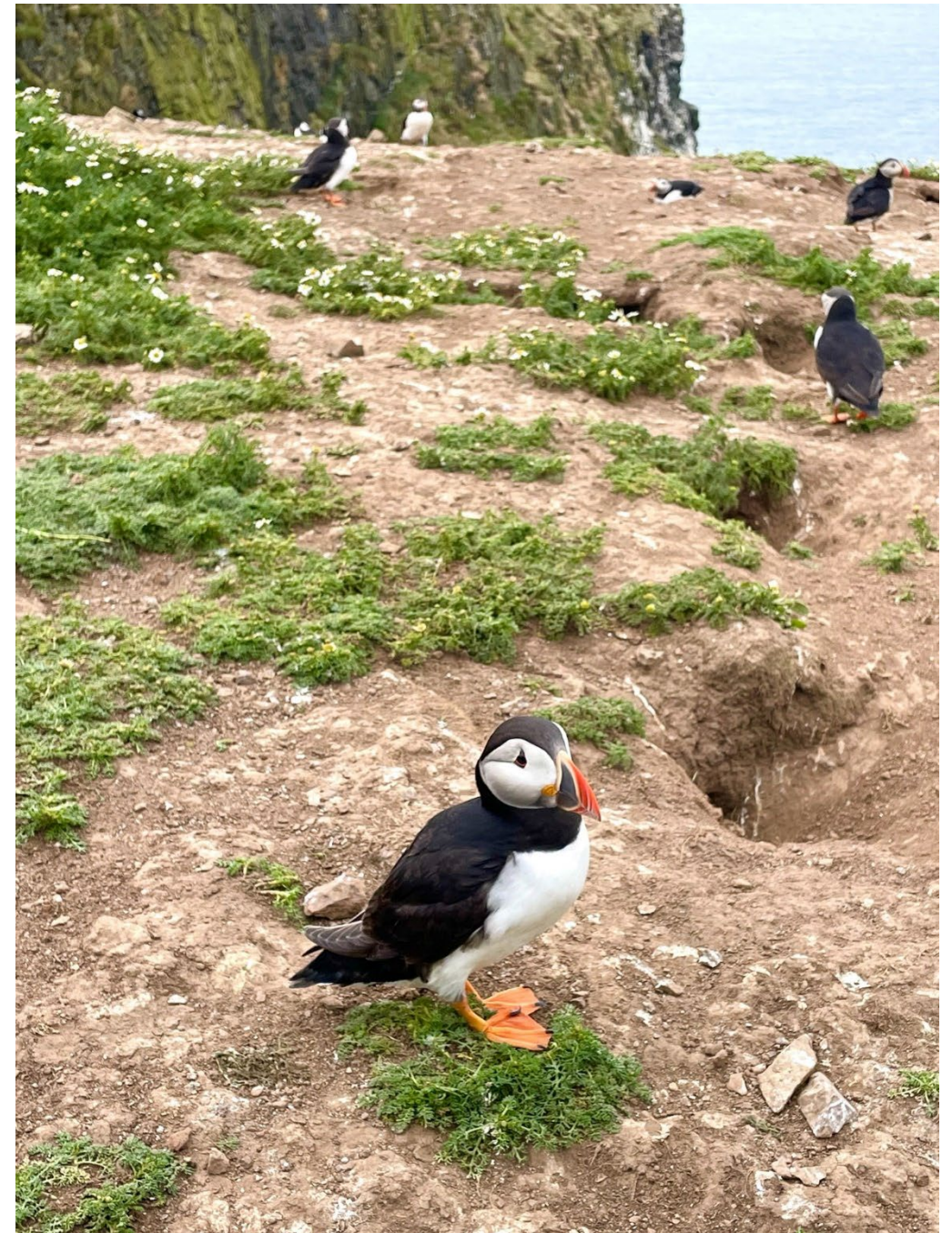
- Andrew Stashefsky
- Bill Elvey
- Michael Santana
- Contract Complaint Investigators – Kelli, Eudora, new RFQ in progress

Thinh Le, Program Specialist

TaReesa Saunders, Family/Community Liaison



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Vision

All students prepared for post-secondary pathways, careers, and civic engagement.

Mission

Transform K–12 education to a system that is centered on closing opportunity gaps and is characterized by high expectations for all students and educators. We achieve this by developing equity-based policies and supports that empower educators, families, and communities.

Values

- Ensuring Equity
- **Collaboration and Service**
- Achieving Excellence through Continuous Improvement
- Focus on the Whole Child



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Goals in Dispute Resolution

**OSPI is Required to
Identify
Noncompliance**

**OSPI is Required to
Ensure
Noncompliance is
Corrected**

**Provided Technical
Assistance to the
District**

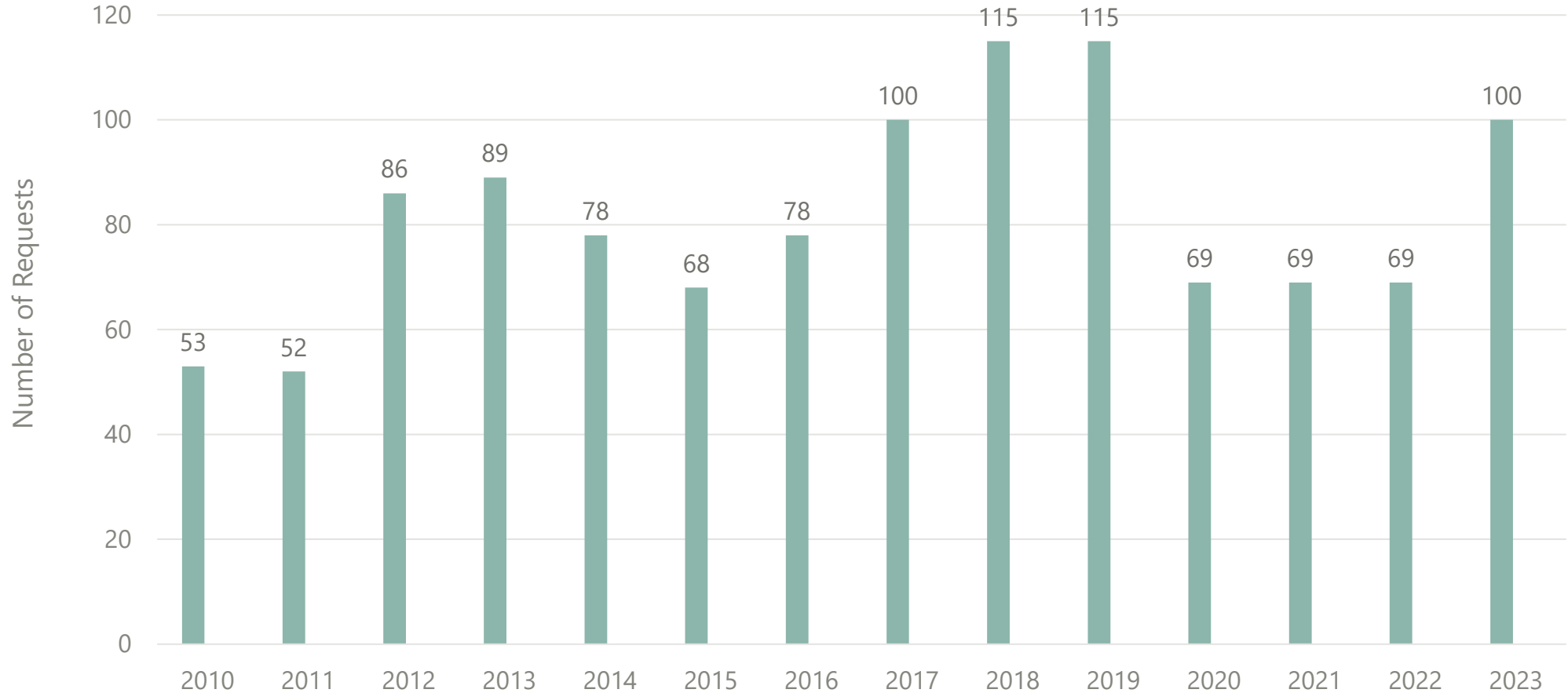
**Provided Technical
Assistance to the
Parent/Complainant**

**Highlight When a
District is Doing
Well!**

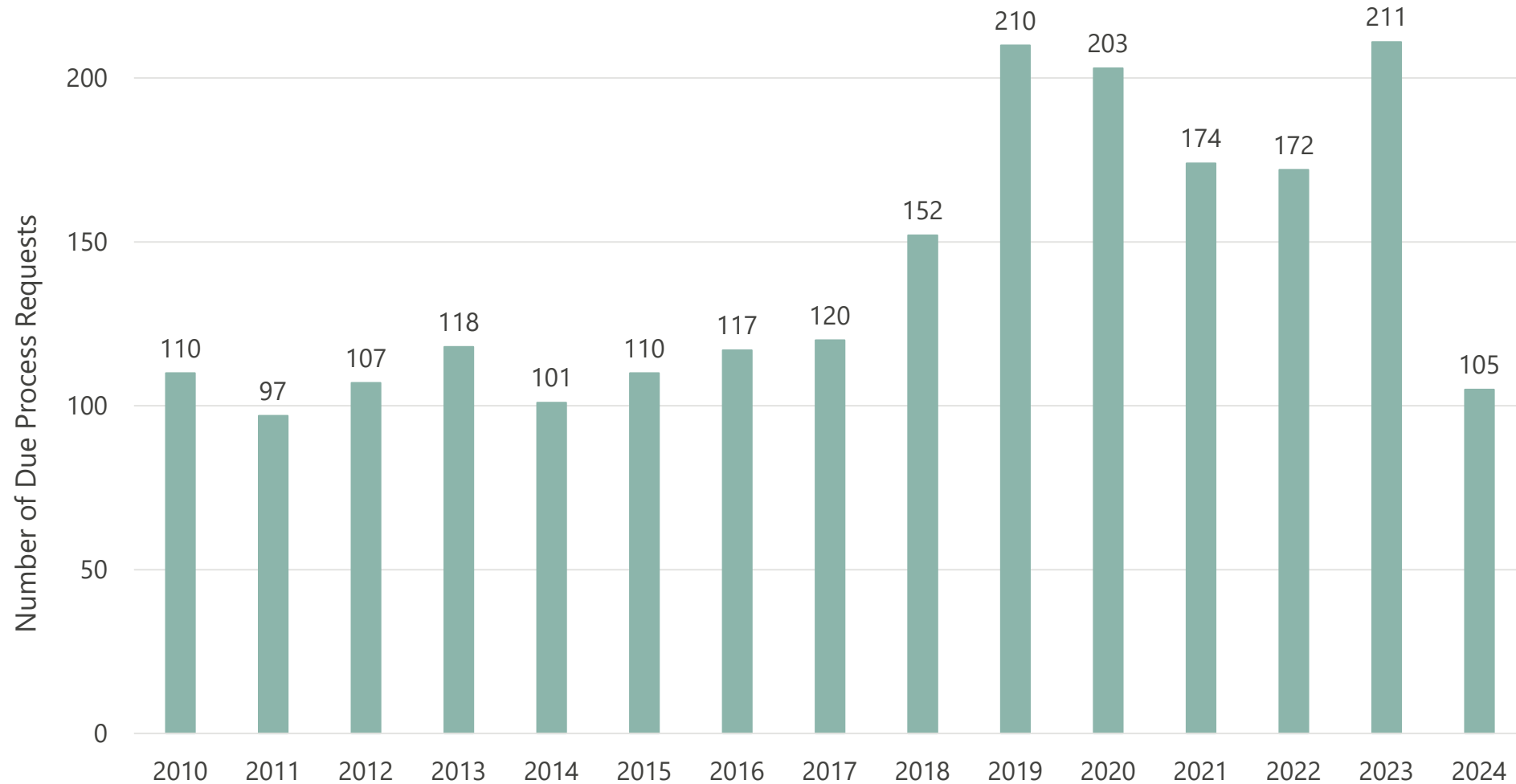
**Create an
Opportunity for
Collaborative
Problem Solving**



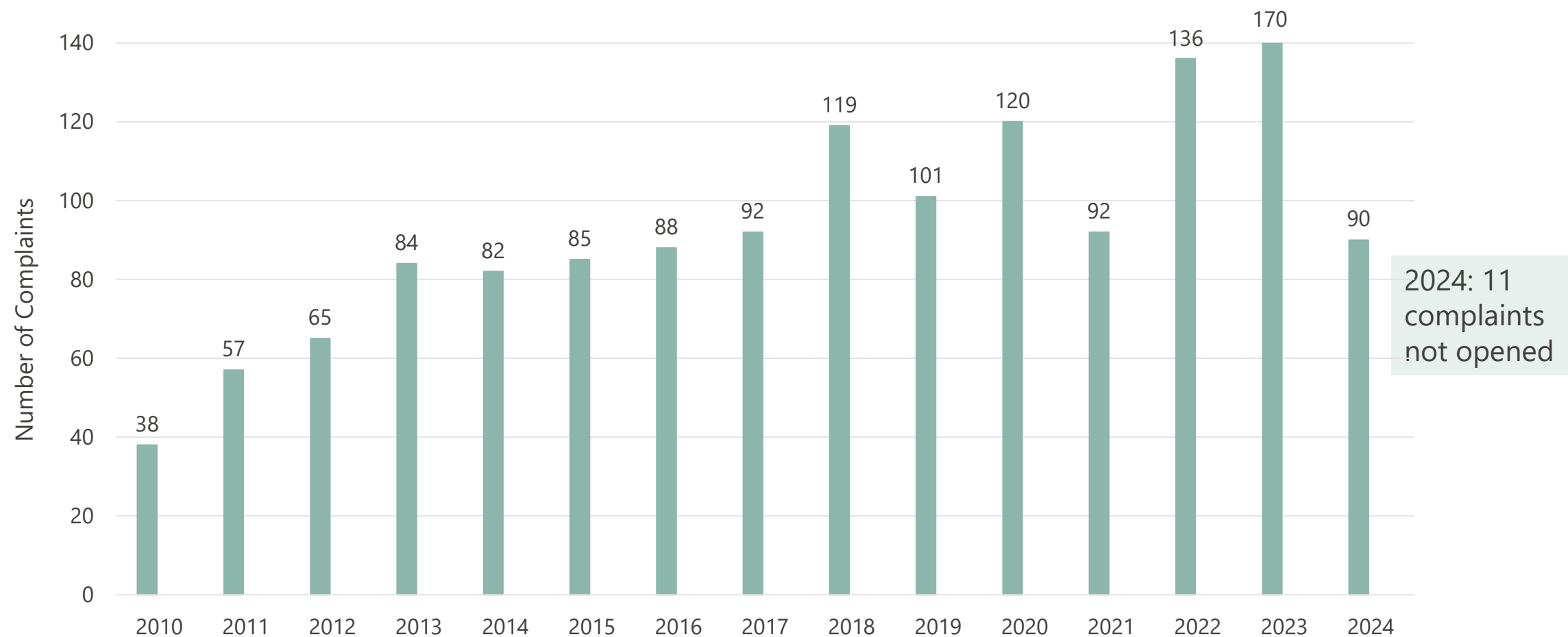
Mediation Trends since 2010



Due Process Trends Since 2010: Due Process Filed



Complaint Trends Since 2010: Investigations Opened



Issue Trends

SECC

- IEP Implementation
- Child find, referral, initial eval
- Behavior, discipline
- IEP development
- Progress reporting, progress monitoring

Mediation

- Program/IEP
- Interpersonal/communication
- Placement
- Staffing
- Compensatory education

Due Process

- Provision of FAPE (IEP Implementation)
- IEP development
- Parent participation
- Behavior, BIP, discipline
- Placement



Issue Trends

Increase in complaint allegations related to:

- Addressing behavior needs
- Discipline regulations,
 - Providing instruction while excluded
 - Informal removal
- Child find, referrals, and initial evaluations.



Decrease in restraint and isolation allegations!



And *bullying*...

Seeing a trend of community complaints and due process including *allegations* related to bullying; so far, we have not seen violations found related to bullying.

For example, due process [2023-SE-0028X](#) (December 2023) included an allegation related to bullying, but no violations were found. The decision stated that no teachers observed any indication the student was being bullied and one HIB complaint was determined to be unfounded.

In community complaints there is some indication that allegations related to bullying are representative of increased needs in the area of behavior – i.e., the student in the complaint and peers are showing the need for behavior supports generally.



Introducing our Policy Page!!!

[Policy Guidance and Resources](https://ospi.k12.wa.us)
[\(ospi.k12.wa.us\)](https://ospi.k12.wa.us)

Full link: <https://ospi.k12.wa.us/student-success/special-education/policy-guidance-and-resources>



Activity: Learning from disputes

1. Reflecting on the trends shared, what are you seeing in your district?
2. What would be a helpful resource – monthly update tip, technical assistance paper, guidance document like a Q&A, other?
3. What questions do you have about these trends?
4. Are you seeing other trends in your district?
5. What is missing on the policy page?



Learning from disputes

Referral

Document the referral!

- Does your district have a process for documenting a referral?
- Are staff clear on what constitutes a referral?
- If staff are unclear whether something is a referral, do staff know who to direct the parent to? What questions to ask? What information to provide?

Behavior, Discipline

What strategies, supports, and services are provided?

- Document what behavior supports, strategies, and services are being provided.
- Does the team need to conduct or update an FBA? Update or develop a BIP?
- Document any refusals – refusal of services by the student and refusals of strategies/supports by the parent.
- Are informal removals being tracked?
- Do you have a process for tracking and analyzing a series of removals? See [SECC 24-43](#) for an analysis on series of removals.

Progress Reporting

More detail!

- Ensure progress reports are sufficiently detailed!
- See the Progress Reporting Tip



Legal Updates: *N.D. v. Reykdal*

In May 2024, the 9th Circuit Court of Appeals issued a ruling relating to a preliminary injunction in *N.D. v. Reykdal*. The 9th Circuit concluded that the availability of adult education programs triggers an obligation under the IDEA to provide special education services to 21-year-old students eligible for special education **through their 22nd birthday**.

You can read the [full opinion on the 9th Circuit Court's website](#).

OSPI will be working with the Legislature to reconcile our state law which, per the 9th Circuit's ruling, is now in conflict with the IDEA.

At the end of the 2023-24 school year district partners should have identified 21-year-old students receiving services and held IEP team meetings to discuss whether the student was on track to graduate with a diploma. If the student was aging out, the IEP team should have discussed whether they believed the student requires additional services over the summer or into the 2024–25 school year, until their 22nd birthday.



Legal Updates: *N.D. v. Reykdal*

Q&A Questions and Answers: Providing Special Education Services Until Age 22



Most common follow up question to the Q&A:

A-2: Do special education services end on the student's 22nd birthday, even if their birthday falls mid-year, or do services continue through the end of the school year in which the student turns 22?

OSPI's authority includes implementation of IDEA through age 21, which means special education services end on the student's 22nd birthday. The 9th Circuit's decision states students eligible for special education services can receive services until their 22nd birthday, even if that birthday falls in the middle of the school year, as long as the student's individualized education program (IEP) team recommends, and the student has not received a high school diploma.

OSPI will work with the Legislature to reconcile our current state law, which, per the 9th Circuit's ruling, now conflicts with the IDEA. The Legislature may determine that services will extend to the end of the school year in which a student turns 22.



Burden of Proof

May 2024 Dispute Resolution Updates

[Click here for this month's Dispute Resolution updates](#) on:

Burden of Proof: Information & Considerations for Due Process Hearings



Are we seeing an impact based on this change?



What Questions Do You Have?





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