

Decision of the Colorado Department of Education  
Under the Individuals with Disabilities Education Act (IDEA)

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**State Complaint SC2025-635**  
**Denver Public Schools**

**DECISION**

**INTRODUCTION**

On November 24, 2025, the parent (“Parent”) of a student (“Student”) identified as a child with a disability under the Individuals with Disabilities Education Act (“IDEA”)<sup>1</sup> filed a state complaint (“Complaint”) against Denver Public Schools (“District”). The Colorado Department of Education (“CDE”) determined that the Complaint identified two allegations subject to its jurisdiction for the state-level complaint process under the IDEA and its implementing regulations at 34 C.F.R. §§ 300.151 through 300.153.

On January 23, 2026, the CDE extended the 60-day investigation due to exceptional circumstances, consistent with 34 C.F.R. § 300.152(b)(1).

The CDE’s goal in state complaint investigations is to improve outcomes for students with disabilities and promote positive parent-school partnerships. A final written decision serves to identify areas for professional growth, provide guidance for implementing IDEA requirements, and draw on all available resources to enhance the quality and effectiveness of special education services.

**RELEVANT TIME PERIOD**

The CDE has the authority to investigate alleged noncompliance that occurred no earlier than one year before the date the Complaint was properly filed. 34 C.F.R. § 300.153(c). Accordingly, findings of noncompliance shall be limited to events occurring after November 24, 2024. Information prior to November 24, 2024 may be considered to fully investigate all allegations.

**SUMMARY OF COMPLAINT ALLEGATIONS**

The Complaint raises the following allegations subject to the CDE’s jurisdiction under 34 C.F.R. § 300.153(b)<sup>2</sup> of the IDEA:

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<sup>1</sup> The IDEA is codified at 20 U.S.C. § 1400 *et seq.* The corresponding IDEA regulations are found at 34 C.F.R. § 300.1 *et seq.* The Exceptional Children’s Education Act (“ECEA”) governs IDEA implementation in Colorado.

<sup>2</sup> The CDE’s state complaint investigation determines if the District complied with the IDEA, and if not, whether the noncompliance results in a denial of a free appropriate public education (“FAPE”). 34 C.F.R. §§ 300.17, 300.101, 300.151-300.153.

1. The District did not implement Student’s Individualized Education Program (“IEP”) during the 2025-2026 school year because it:
  - a. Did not make the IEP accessible to teachers or service providers responsible for its implementation, as required by 34 C.F.R. § 300.323(d); and
  - b. Did not provide 270 minutes per day of dedicated adult or paraprofessional support as listed in the IEP, as required by 34 C.F.R. § 300.323(c).
2. The District did not include all required IEP Team members—specifically Parent—at an IEP Team meeting held on November 6, 2025, as required by 34 C.F.R. § 300.321.

### **FINDINGS OF FACT**

After thorough and careful analysis of the entire Record,<sup>3</sup> the CDE makes the following findings of fact (“FF”):

#### **A. Background**

1. Student began the 2025-2026 school year attending third grade at a District elementary school (“School”). *Interview with Special Education Teacher*. In January 2026, Student transferred to another District elementary school. *Id.*
2. Student is twice-exceptional and qualifies for special education and related services under the disability categories of Autism Spectrum Disorders and Speech or Language Impairment. *Exhibit A*, p. 1; *Exhibit A Supplement*, p. 3.
3. Student is inquisitive and has a good sense of humor. *Interview with Special Education Teacher*. He excels at building connections with peers and adults. *Id.* When his workload increases, Student demonstrates more task avoidance and dysregulation. *Id.*

#### **B. Student’s IEP**

4. At the beginning of the 2025-2026 school year, Student’s IEP dated November 15, 2024 (“2024 IEP”) was in effect. *Exhibit A Supplement*, pp. 1-15.
5. The 2024 IEP reviewed Student’s present levels of performance, noting that Student accessed grade-level curriculum in the general education classroom but benefited from support from special education staff with work completion and executive functioning. *Id.* at p. 3. Student had met or made progress on his annual goals in speech and occupational therapy. *Id.* at p. 4.

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<sup>3</sup> The appendix, attached and incorporated by reference, details the entire Record.

6. As noted in the 2024 IEP, Student's disabilities affected his social interactions, language skills, emotional regulation, and sensory processing, which impacted his classroom participation, peer relationships, and work completion. *Id.* at p. 5. He needed dedicated adult support in the areas of "work initiation, work production, sensory processing and self-regulation, social initiation/maintenance, pragmatic language, and classroom engagement." *Id.*
7. The 2024 IEP contained four annual goals in the areas of self-determination, communication, social/emotional wellness, and independent living skills. *Id.* at pp. 6-10.
8. The 2024 IEP included numerous accommodations to support Student's ability to access the general education curriculum, such as modified assignment length, flexible seating, and use of positive peer modeling. *Id.* at p. 10. The accommodations targeted Student's needs for self-regulation, executive functioning, sensory integration/stimulation, and pragmatic language. *Id.*
9. The 2024 IEP required Student to receive the following specialized instruction and related services:
  - Specialized Instruction:
    - 150 minutes per week of direct specialized instruction provided by a special education teacher outside the general education classroom to support Student in the areas of executive functioning, work initiation/production, and engagement.
    - 60 minutes per month of indirect specialized instruction provided by a special education teacher outside the general education classroom.
  - Speech/Language Services:
    - 120 minutes per month of direct speech/language services provided by a speech language pathologist outside the general education classroom.
    - 180 minutes per year of indirect speech/language services provided by a speech language pathologist inside the general education classroom.
  - Psychological Services:
    - 120 minutes per month of direct psychology services provided by a school psychologist outside the general education classroom.
    - 60 minutes per month of indirect psychological services provided by a school psychologist outside the general education classroom.

- Occupational Therapy Services:
  - 60 minutes per month of direct occupational therapy services provided by an occupational therapist outside the general education classroom.
  - 120 minutes per year of indirect occupational therapy services provided by an occupational therapist outside the general education classroom.
- Dedicated Adult Support:
  - 270 minutes per day of dedicated adult support inside the general education classroom.

*Id.* at pp. 12-13.

10. Under the 2024 IEP, Student spent at least 80% of his day in the general education classroom.  
*Id.* at p. 14.

### **C. Dedicated Adult Support**

11. Parent’s Complaint asserts that Student did not receive the dedicated adult support required by his IEP during Fall 2025. *Complaint*, p. 3.
12. At the beginning of the 2025-2026 school year, Special Education Teacher, who served as Student’s case manager, provided paper and electronic copies of Student’s IEP to his teachers. *Interview with Special Education Teacher*. She created a “cheat sheet” of Student’s accommodations with his teachers. *Id.*; *Exhibit E*, pp. 14-15. Special Education Teacher also met with Student’s classroom teacher to review the materials. *Interview with Special Education Teacher*.
13. During the 2024-2025 school year, School staff pushed for Student to receive full-time dedicated adult support, but the request was denied. *Id.* Student began the 2025-2026 school year with 270 minutes per day of dedicated adult support from Paraprofessional 1. *Interviews with Principal and Special Education Teacher*.
14. However, due to Student’s work avoidance and behavior escalation, it quickly became clear to School staff that he needed additional support. *Id.* School staff hoped additional support would increase Student’s ability to access his learning at School. *Interview with Principal*. Principal used extra funds to provide Student with dedicated adult support from the time he arrived at school until he left each day. *Interviews with Principal and Special Education Teacher; Exhibit E*, p. 16.
15. Initially, Paraprofessional 1 provided Student’s additional dedicated adult support; however, after he resigned, Principal and Special Education Teacher created a schedule for Student’s

support that included Paraprofessional 2, Principal, Senior Team Lead, Restorative Practice Coordinator, Social Worker, and Itinerant Gifted/Talented Teacher. *Id.* Student did not have dedicated adult support when he was receiving specialized instruction or related services from Special Education Teacher, School Psychologist, or Occupational Therapist. *Interview with Special Education Teacher.* These staff members supported Student by reminding him of classroom rules and tasks, preparing for upcoming transitions, providing breaks, helping him regulate, and preventing elopement. *Id.; Exhibit E, p. 16.*

16. School staff prioritized providing Student with consistent dedicated adult support; staff worked together to ensure he had coverage even when staff members were absent. *Interviews with Principal and Special Education Teacher.* The support Student received far exceeded the 270 minutes—or 4.5 hours—required by his IEP. *Id.*

#### **D. IEP Team Meetings**

17. Parent’s Complaint also alleges that he was not allowed to attend an IEP Team meeting held on November 6, 2025. *Complaint, p. 2.*
18. On September 29, 2025, the District issued a Notice of Meeting for Student’s annual IEP review scheduled on November 6, 2025. *Exhibit C, p. 1.* Only Student’s mother (“Mother”) received this Notice of Meeting. *Interview with Special Education Teacher.*
19. At that time, Parent had not been in contact with Student’s teachers during the 2025-2026 school year, and the District’s student information system did not include his contact information. *Id.; Response, p. 2.* That system noted that Parent could not have contact with Student or be within 1,000 feet of School based on a protective order. *Response, p. 2.* School staff understood that this protective order prevented Parent from attending IEP Team meetings—either in person or virtually—with Mother. *Interviews with Principal and Special Education Teacher; see Exhibit K, p. 55.* For all these reasons, Special Education Teacher did not include Parent on the Notice of Meeting. *Interview with Special Education Teacher.*
20. The IEP Team did not convene as scheduled on November 6. *Id.* Due to Mother’s medical emergency, the District postponed the IEP Team meeting to November 13. *Id.* Mother attended the meeting on November 13. *Id.* The IEP Team discussed changes to Student’s placement at the meeting but adjourned without making any decisions. *Id.*
21. On November 14, Parent emailed Principal to ask when Student’s next IEP Team meeting would be. *Exhibit K, p. 115.* Based on his request, School staff met with Parent virtually on November 18 to review the discussion at the November 13 meeting and obtain Parent’s input. *Response, p. 2.* Parent also received a draft of Student’s IEP. *Exhibit K, p. 68.*
22. Special Education Teacher contacted Parent on November 20, to schedule an additional IEP Team meeting to discuss Student’s placement. *Id.* Parent, himself, indicated he could not

attend a virtual meeting if Mother was present and, instead, asked School to schedule separate IEP Team meetings. *Id.*

23. On or around November 24, 2025, a court issued an amended protective order clarifying that Parent was allowed to attend IEP Team meetings virtually. *Id.* at p. 3. Once School staff received the amended protective order, Special Education Teacher worked with Parent and Mother to schedule an IEP Team meeting at a mutually agreeable date and time. *Exhibit K*, pp. 65-68, 105. That meeting occurred on December 10, 2025. *Interview with Special Education Teacher*. While Mother attended in person, Parent attended virtually. *Id.* Parent actively participated in the meeting, sharing his goals for Student and discussing Student's programming. *Id.*

### **CONCLUSIONS OF LAW**

Based on the Findings of Fact, the CDE enters the following CONCLUSIONS OF LAW:

**Conclusion to Allegation No. 1: The District ensured that staff had access to and an understanding of responsibilities for implementing Student's IEP, as required by 34 C.F.R. § 300.323(d). Additionally, the District provided Student with the dedicated adult support listed in his IEP, as required by 34 C.F.R. § 300.323(c). The District complied with the IDEA.**

The first allegation in Parent's Complaint concerns implementation of Student's IEP during Fall 2025. Specifically, Parent asserted that the District had not provided Student the dedicated adult support required by his IEP.

#### **A. IEP Implementation: Legal Requirements**

The IDEA seeks to ensure that all children with disabilities receive a FAPE through individually designed special education and related services pursuant to an IEP. 34 C.F.R. § 300.17; ECEA Rule 2.21. The IEP is "the centerpiece of the statute's education delivery system for disabled children . . . [and] the means by which special education and related services are 'tailored to the unique needs' of a particular child." *Andrew F.*, 580 U.S. at 392 (quoting *Honig v. Doe*, 484 U.S. 305, 311 (1988); *Bd. of Ed. v. Rowley*, 458 U.S. 176, 181 (1982)). As soon as possible after an IEP is developed, school districts must implement the IEP by ensuring that: (1) teachers and related service providers responsible for implementation have access to and an understanding of their obligations under the IEP, and (2) special education and related services are made available to the child in accordance with the IEP. 34 C.F.R. §§ 300.324(d), 300.324(c)(2).

#### **B. IEP Accessibility to Teachers and Others**

A school district must ensure that each regular education teacher, special education teacher, related services provider, and any other service provider responsible for implementing an IEP is informed of "his or her specific responsibilities related to implementing the child's IEP," as well

as the “specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.” 34 C.F.R. § 300.323(d).

Here, the Findings of Fact demonstrate that the District fulfilled this duty. Special Education Teacher, in her role as Student’s case manager, provided electronic and paper copies of Student’s IEP to his teachers at the beginning of the 2025-2026 school year. (FF # 12.) She also prepared a “cheat sheet” of Student’s accommodations for his teachers. (*Id.*) Additionally, Special Education Teacher met with Student’s classroom teacher to discuss his needs. (*Id.*) These actions by Special Education Teacher ensured Student’s teachers had access to his IEP and satisfied the District’s obligation under the IDEA.

### **C. IEP Implementation: Dedicated Adult Support**

In implementing an IEP, a school district must provide special education and related services “in conformity with” the IEP. 34 C.F.R. §§ 300.17, 300.324(c)(2); see *Van Duyn ex rel. Van Duyn v. Baker Sch. Dist. 5J*, 502 F.3d 811, 821 (9th Cir. 2007). Not providing special education and related services in conformity with an IEP can result in the denial of FAPE. 34 C.F.R. § 300.17; ECEA Rule 2.21(4). However, “there is no statutory requirement of perfect adherence to the IEP.” *Van Duyn*, 502 F.3d at 821. In other words, not every shortfall in services between those required by an IEP and those provided will result in a denial of FAPE. *Id.*

To result in a denial of FAPE, there must be “more than a minor or technical gap between the [IEP] and reality; *de minimis* shortfalls [that do not themselves deprive a student of the education promise of the IDEA] are not enough.” *L.J. by N.N.J. v. Sch. Bd. of Broward Cnty.*, 927 F.3d 1203, 1211 (11th Cir. 2019); see, e.g., *L.C. and K.C. v. Utah State Bd. of Educ.*, 125 Fed. App’x 252, 260 (10th Cir. 2005) (holding that minor deviations from the IEP’s requirements which did not impact the student’s ability to benefit from the special education program did not amount to a “clear failure” of the IEP); *T.M. v. District of Columbia*, 64 IDELR 197 (D.D.C. 2014) (finding “short gaps” in a child’s services did not amount to a material failure to provide related services). Thus, a “finding that a school district has failed to implement a requirement of a child’s IEP does not end the inquiry.” *In re: Student with a Disability*, 118 LRP 28092 (SEA CO 5/4/18). Instead, “the [CDE] must also determine whether the failure was material.” *Id.*

Material failures to implement an IEP constitute a denial of FAPE and substantive noncompliance with the IDEA. *Van Duyn*, 502 F.3d 811 at 822. “A material failure occurs when there is more than a minor discrepancy between the services a school provides to a disabled child and the services required by the child’s IEP.” *Id.* Courts will consider a case’s individual circumstances to determine if there is a “material failure of implementing the IEP.” *A.P. v. Woodstock Bd. of Educ.*, 370 Fed. App’x 202, 205 (2d Cir. 2010). Material failures include shortfalls in implementing “substantial,” “significant,” or “necessary” IEP provisions. *Id.* at 818. The materiality standard has qualitative and quantitative components: the CDE should “determine *how much* [of a service] was withheld and *how important* the withheld services were in view of the IEP as a whole.” *L.J.*, 927 F.3d at 1214 (emphasis in original). The materiality standard “does not require that the child suffer

demonstrable educational harm in order to prevail. However, the child's educational progress, or lack of it, may be probative of whether there has been more than a minor shortfall in the services provided." *Van Duyn*, 502 F.3d 811 at 822.

Therefore, to assess implementation concerns, the CDE engages in a two-pronged inquiry: (1) was there a shortfall in the provision of services required by the IEP, and (2), if so, did the shortfall amount to a material failure to implement the IEP and thus a denial of FAPE?

1. *Prong 1: Was there a Shortfall in Services?*

The CDE must first determine whether there was a shortfall between the services required by the 2024 IEP versus those made available to Student. 34 C.F.R. § 300.323(c)(2).

Here, as detailed in the Findings of Fact, Student received the dedicated adult support required by his IEP throughout Fall 2025. (FF #s 13-16.) In fact, Student often received much more dedicated adult support than required as School staff worked to find the right support level that would allow Student to access his learning. (*Id.*) When Paraprofessional 1 resigned, School staff created a schedule that provided Student consistent support from a variety of adults at School. (FF # 15.) Nothing in the Record suggests that Student went without his dedicated adult support for a period of time or even for specific days. (*See* FF #s 13-16.) For these reasons, the CDE finds that there was not a shortfall between the services required by the 2024 IEP and those made available to Student. The CDE thus does not need to consider the second prong and finds and concludes that the District implemented the 2024 IEP, as required by 34 C.F.R. § 300.323.

**Conclusion to Allegation No. 2: The District did not convene Student's IEP Team on November 6, 2025. Therefore, the District was not required to comply with 34 C.F.R. § 300.321 on that date.**

The second allegation in Parent's Complaint concerns an IEP Team meeting purportedly held on November 6, 2025. Parent contends the District did not invite him to attend the IEP Team meeting, despite his prior requests to be included.

**A. Required IEP Team Members**

The IDEA specifies that certain individuals, including parents, be included in a child's IEP Team. 34 C.F.R. § 300.321(a). Under the IDEA, an IEP Team must include:

- (1) The parents of the child;
- (2) At least one regular education teacher of the child (if the child is, or may be, participating in the regular education environment);
- (3) At least one special education teacher of the child;

- (4) A representative of the school district who:
  - a. Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;
  - b. Is knowledgeable about the general education curriculum; and
  - c. Is knowledgeable about the availability of resources of the school district;
- (5) An individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in paragraphs (2) through (6);
- (6) At the discretion of the parent or school district, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and
- (7) Whenever appropriate, the child with a disability.

34 C.F.R. § 300.321(a). The IDEA emphasizes the importance of parental participation in the IEP process by establishing requirements for the scheduling and notification of meetings. *Id.* § 300.322. An IEP Team meeting may be conducted without a parent if the school district "is unable to convince the parents that they should attend." *Id.* § 300.322(d). In such case, the district must maintain records demonstrating its attempts to arrange a mutually agreed on time and place, such as records of phone calls, copies of correspondence, and records of visits made to the parent's home or place of employment. *Id.* However, the IDEA offers no guidance to school districts on navigating IEP Team meetings with divorced parents or non-custodial parents or when protective orders affect parents' ability to both participate. *See id.*

Here, Parent asserted the District convened Student's IEP Team on November 6, 2025, without including him. (FF # 17.) However, as detailed in the Findings of Facts, no IEP Team meeting was held that day. (FF # 20.) Though the District scheduled a meeting for that day, it was postponed due to Mother's medical emergency. (*Id.*) Accordingly, the District did not convene an IEP Team meeting without all required IEP Team members on November 6. For this reason, the CDE finds and concludes that the District was not required to comply with 34 C.F.R. § 300.321(a).

Parent's Complaint alleged only that the District did not allow him to attend the November 6 IEP Team meeting; he made no allegations regarding other IEP Team meetings. But, to the extent Parent has concerns about the rescheduled meeting on November 14, 2025, those concerns are also unsupported. Under the then-existing protective order, Parent understood that he was not permitted to attend an IEP Team meeting with Mother present, either in person or virtually. (FF # 22.) Parent shared this understanding with the District. (FF #s 19, 22.) On November 24, 2025, the court issued a new protective order which clarified that Parent could attend virtual IEP Team meetings. (FF # 23.) Only then did Parent realize that he could attend virtually. (FF #s 19, 22, 23.)

It appears Parent expected the District to hold two separate IEP Team meetings—one with him and one with Mother. (FF # 22.) Though this idea seems good in theory, it does not translate effectively into special education practice. For instance, how could the District ensure that participants, including Parent and Mother, received the same information? How would Parent be able to consider feedback offered by Mother and vice-versa? Which meeting would serve as the official IEP Team for purposes of making decisions? Student’s IEP must be developed by a single IEP Team.

The November 6 IEP Team meeting was rescheduled for November 13, and Mother attended that meeting. (FF # 20.) The IEP Team discussed changes to Student’s placement but made no decisions. (*Id.*) School staff met with Parent on November 18, to update him on the IEP Team meeting’s discussions. (FF # 21.) With the clarity provided by the amended protective order, Special Education Teacher scheduled an IEP Team meeting at a time and date mutually agreed upon by Parent and Mother. (FF # 23.) Both attended that meeting on December 10, where Student’s IEP was finalized. (*Id.*) Under the circumstances, the CDE finds and concludes that the District included Parent in discussions regarding Student’s IEP, to the best of its ability, when it was unclear whether the protective order allowed Parent to attend an IEP Team meeting, consistent with 34 C.F.R. § 300.321.


### **REMEDIES**

The CDE concludes that the District complied with the IDEA. Accordingly, no remedies are ordered.

### **CONCLUSION**

The Decision of the CDE is final and is not subject to appeal. *CDE’s State Complaint Procedures*, Section E, ¶ 2. If either party disagrees with this Decision, the filing of a Due Process Complaint is available as a remedy provided that the aggrieved party has the right to file a Due Process Complaint on the issue with which the party disagrees. *Id.*; *see also* 34 C.F.R. § 300.507(a); 71 Fed. Reg. 156, 46607 (August 14, 2006). This Decision shall become final as dated by the signature of the undersigned State Complaints Officer (“SCO”).

Dated this 4th day of February, 2026.



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Ashley E. Schubert  
Senior State Complaints Officer

## APPENDIX

### Complaint, pages 5

### Response, pages 6

- Exhibit A: IEP
- Exhibit A Supplement: IEP
- Exhibit B: BIPs
- Exhibit C: Notices of Meeting
- Exhibit D: Blank
- Exhibit E: Documents related to Student's accommodations and DAS
- Exhibit F: Student's schedule, grades, and attendance
- Exhibit G: Progress report
- Exhibit H: Service logs
- Exhibit I: Calendar
- Exhibit J: District's policies and procedures
- Exhibit K: Email correspondence
- Exhibit L: Witness list

### Telephone Interviews

- Principal: January 20, 2026
- Special Education Teacher: January 20, 2026