

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

State Complaint SC2025-639
Littleton Public Schools

DECISION

INTRODUCTION

On December 2, 2025, the parent (“Parent”) of a student (“Student”) identified as a child with a disability under the Individuals with Disabilities Education Act (“IDEA”)¹ filed a state complaint (“Complaint”) against Littleton 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.

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 December 2, 2024. Information prior to December 2, 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)² of the IDEA:

1. District did not implement Student’s Individualized Education Program (“IEP”) from August 2025 through September 2025 because it:

¹ 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.

² The CDE’s state complaint investigation determines if 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.

- 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 the paraprofessional support listed in the IEP, as required by 34 C.F.R. § 300.323(c).
2. District did not develop, review, and revise an IEP in Fall 2025 that ensured the least restrictive environment included in the IEP educated Student, to the maximum extent appropriate, with children who are nondisabled, as required by 34 C.F.R. §§ 300.114(a)(2), 300.116(a)(2) and 300.320(a)(5).

FINDINGS OF FACT

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

A. Background

1. Student is fourteen years old and attended a District middle school (“School 2”) to begin the 2025-2026 school year after transferring from another District middle school (“School 1”). *Response*, p. 4. He is eligible for special education services as a child with Other Health Impairment (“OHI”) and Specific Learning Disability (“SLD”) in the areas of basic reading, fluency, comprehension, written expression, and math problem solving. *Exhibit E*, pp. 4-7.
2. Student is “great at sports,” “very artistic,” and plays the piano, guitar, and trumpet. *Interview with Parents*. He is a “charismatic and kind young man.” *Interview with School 1’s Special Education Coordinator (“Special Education Coordinator”)*. Academically, Student struggles in reading, writing, and math, but “wants to learn.” *Interview with School 1’s case manager (“Case Manager”)*.
3. This investigation involves the implementation of an IEP developed on August 22, 2025 (“August IEP”), specifically regarding paraprofessional support. *Complaint*, p. 4; *Exhibit A*, p.1. It also involves the development, review, and revision of an IEP dated October 29, 2025 (“October IEP”). *Complaint*, p. 6; *Exhibit A*, p. 47.

B. District’s Policies, Practices, and Procedures

4. District’s Director of Special Education (“Director”) and Assistant Director of Special Education (“Assistant Director”) properly described District’s responsibilities under the IDEA to ensure all teachers and service providers are aware of a student’s IEP and that the IEP is implemented with fidelity. *Interviews with Director and Assistant Director*. Within District schools, case managers are responsible for ensuring IEPs and behavior intervention plans (“BIPs”) are

³ The appendix, attached and incorporated by reference, details the entire Record.

distributed to all general education teachers and service providers. *Interview with Assistant Director*. To assist case managers, District has a beginning of the year checklist which includes making sure students' IEP "snapshots" are delivered to their general education teachers and other service providers. *Interview with Director*. District uses an online platform to maintain all students' IEPs. *Id.* All special education teachers have access to this platform throughout the year. *Id.* Oftentimes, District schools also hold meetings at the beginning of a school year to review IEPs with teachers and providers. *Id.*

5. Director also described District's duty to ensure students are making progress in light of their individual needs in the least restrictive environment ("LRE"). *Interview with Director*. Director explained that District considers a body of evidence and information from families when determining LRE. *Id.*
6. District has written procedures related to ensuring students are educated in their LRE. *Exhibit J*, pp. 1-5. Their procedures emphasize District's obligation to educate students in their LRE and that placement decisions are always made through the IEP process. *Id.* at p. 1. District's procedures detail what the IEP team needs to do when considering a more restrictive setting. *Id.* This includes ensuring the current IEP is being followed with fidelity, collecting quantitative and qualitative data covering six to eight weeks, and reviewing and updating a student's Functional Behavior Assessment ("FBA") and Behavior Intervention Plan ("BIP"). *Id.* The procedures also require that a special education coordinator must be involved when considering a more restrictive setting. *Id.*
7. District provides a thorough professional development and training program which includes an initial administrator induction training, an annual training before each school year, monthly department chair trainings, and annual file reviews to encourage continuous learning. *Interview with Director*.

C. Parents' Disagreement with LRE

8. At the start of the 2025-2026 school year, Student's then-current IEP developed on May 16, 2025 at School 1 following a triennial evaluation ("Spring 2025 Reevaluation") was in effect ("May IEP"). *Exhibit A*, pp. 24-46; *Exhibit N*, pp. 81-108.
9. Prior to May IEP, Student's LRE was general education class 40% to 79% of the time. *Id.* at p. 24.
10. The May IEP team determined Student required a separate school placement, due to low academic skills and a need for "very individualized support." *Id.* at pp. 44. This separate school placement is located on a middle school campus within District ("Separate School"). *Id.* In July 2025, Parents communicated with District that they disagreed with the separate school placement from the May IEP. *Exhibit E*, p. 38; *Interviews with District's Special Education Special Education Coordinator and Assistant Director*; *Exhibit E*, p. 24.

11. Over the summer, District conducted a review of records and met with Parents numerous times to discuss their concerns. *Interviews with Special Education Coordinator, Assistant Director, and Parents*. Parents' main concern was around the social and emotional aspects of the Spring 2025 Reevaluation, and ultimately, Student's placement. *Id.*
12. District determined it would conduct a reevaluation to assess Student's social-emotional needs, to include a review of existing evaluation data and records. *Exhibit D*, p. 1.
13. Prior written notice and consent for reevaluation was shared with Parents on August 6, 2025. *Id.* at pp. 1-6. Parents signed the consent on August 8, 2025. *Id.* at p. 4.
14. District also determined it would review Student's May IEP. *Exhibit C*, p. 2. On August 19 and 22, a properly convened IEP Team met to review and, as necessary, revise the May IEP, specifically Student's present levels of academic achievement and functional performance, needs, goals, and develop a plan to provide special education and related services. *Id.*

D. August IEP

15. During the August 19 and 22 meetings, District reviewed and revised the May IEP, resulting in the August IEP. *Exhibit A*, pp. 1-23.
16. The August IEP included the same strengths, preferences, and interests as the May IEP, as no new data in this area had been collected. *Exhibit A*, pp. 3-5. Student is "generally a happy student who loves to learn." *Id.* at p. 3. He learns best in a fun environment where games are incorporated. *Id.* Student wishes he had PE and band every day. *Id.*
17. The August IEP also incorporated the present levels of educational performance from May IEP, including teacher feedback, results from state and district assessments, progress on goals, and the results from Spring 2025 Reevaluation. *Id.* at p. 3-8.
18. For teacher feedback the August IEP noted that, in math, Student had a paraprofessional who would sit with him to complete work and Student would sometimes receive modified assignments to better match his skills. *Id.* at p. 3. In language arts, it was noted that all academic skills need to improve, as well as his learning behaviors and social-emotional skills. *Id.* at p. 4. In science, Student's strengths include partner discussions when on task, while he needed to work on listening and following directions. *Id.* at p. 5.
19. For the District and state assessments, the August IEP detailed iReady and Colorado Measure of Academic Success ("CMAS") scores. *Id.* at pp. 5-6. The iReady provides a comprehensive insight into learning across K-12 skills. *Id.* at p. 5. Student's iReady Reading and Math scores had remained at the kindergarten and first grade levels throughout three testing dates in 2024. *Id.* The CMAS measures whether students are on track to be successful in college and careers. *Id.* In 2023-2024, Student scored in the Level 1 category for both Math and Language Arts, meaning he did not yet meet expectations. *Id.*

20. The August IEP incorporated Spring 2025 Reevaluation results including his cognitive, communication, social-emotional, and physical motor/occupational therapy (“OT”) assessments. *Id.* at pp. 6-8. Student’s cognitive scores decreased over time, from an average to high average functioning across domains in 2019, to the low average range in 2022, and to the extremely low range and borderline range in 2025. *Id.* at p. 6. However, from 2022 to 2025, Student showed his overall language scores increasing significantly. *Id.*
21. In social-emotional assessments, teacher ratings on the Behavior Assessment for Children, 3rd Edition (“BASC-3”) indicate clinically significant concerns across multiple domains, particularly in externalizing behaviors, hyperactivity, aggression, and conduct problems. *Id.*; *Exhibit N*, p. 120. The Behavior Rating Inventory of Executive Function – Second Edition (“BRIEF-2”) results show clinically elevated scores across all domains. *Exhibit A*, p. 6; *Exhibit N*, p. 124. The Conners-4th Edition (“Conners-4”) results show clinically elevated scores in all domains, as well as the DSM aligned scales indicating significant behavioral regulation deficits and difficulties. *Exhibit A*, p. 6; *Exhibit N*, p. 123. Results of the Emotional Disturbance Decision Tree (“EDDT”) indicate that all assessed scales fall in the High Clinical range, with the total score falling in the Very High Clinical range, suggesting that the behaviors observed and reported significantly interfere with Student’s social and academic progress. *Exhibit A*, at p. 7; *Exhibit N*, p. 96.
22. The August IEP reviewed Student’s progress on his 2024-2025 annual goals. *Id.* at p. 6. Student had made progress on two of his math goals. *Id.* Student had made minimal progress in his reading goal and met his articulation goal. *Id.* The May IEP recommended that the articulation goal be discontinued and a focus placed on receptive, expressive, and pragmatic language. *Id.* Student made progress on his perspective-taking and conflict resolution goal, and on his social behaviors in the classroom goal. *Id.* at p. 7. For his social behavior in the classroom it was noted there was a noticeable increase in inappropriate behaviors in the second semester of the 2024-2025 school year. *Id.*
23. The August IEP’s Student Needs and Impact of Disability section notes Student’s SLD in the areas of reading and math impacts his ability to access grade level curriculum without significant accommodations. *Id.* at p. 9. Specifically, Student’s decoding prevents him from being able to read grade level content independently. *Id.* Student’s basic skills deficits in math impacts his ability to solve math computation problems. *Id.* Student also has a disability classification of OHI due to an educational diagnosis of ADHD. *Id.*
24. Student exhibits behavior that requires a BIP. *Id.* at p. 10. The May BIP remained unchanged. *Exhibit B*, pp. 1-23.
25. The August IEP includes seven goals, one in math, two in reading, one in writing, one in physical motor, one in social/emotional wellness, and one in communication. *Exhibit A*, pp. 10-14. These were updated to reflect Student’s progress and changed needs. *Id.* at pp. 10-11, 34-39; *Exhibit E*, p. 25.

26. The August IEP lists 36 accommodations, but it does not include paraprofessional support. *Id.* at pp. 15-16. A Prior Written Notice (“August PWN”) embedded in the IEP notes that the IEP team considered including paraprofessional support in general education classes but rejected this due to previous experiences with paraprofessional support not being successful and the current services providing direct pull-out support in literacy and mathematics. *Id.* It was recommended this be monitored and adjustments be made as needed. *Id.*

27. The service delivery statement includes that Student will receive the following:

- a. Speech Language: 120 monthly minutes of direct services outside the general education classroom and 120 monthly minutes of indirect services inside the general education classroom;
- b. Academic: 310 weekly minutes of direct specialized academic instruction in math outside the general education classroom, and 310 weekly minutes of direct specialized academic instruction in literacy outside the general education classroom; and 30 weekly minutes of indirect specialized academic instruction inside the general education classroom;
- c. Physical Motor: 120 monthly minutes of direct physical motor services and 30 monthly minutes of indirect physical motor services inside the general education classroom;
- d. Social-Emotional: 30 weekly minutes of direct social emotional services outside the general education classroom; and 75 weekly minutes of direct social emotional services outside the general education classroom to support the check-in and check-out needs of Student’s IEP.

Id. at pp. 18-19.

28. Student’s LRE is general education 64% of the time. *Id.* at p. 22. The August IEP discusses the advantages and disadvantages of four different placement settings: (1) General education class at least 80% of the time, (2) General education class 40% to 79% of the time with a combination of push in/pull out services, (3) General education class 40% to 79% of the time with pullout classes *or* core content classes and two blocks at the center based classroom for affective needs, and (4) separate school placement. *Id.* at p. 21.

29. The IEP team chose option 2, which includes advantages such as: allowing for specialized designed instruction at Student’s own pace with peers; putting Student next to his peers; giving Student the opportunity to be a 7th grader and still transition from class to class; and allowing for flexibility regarding related service providers. *Id.* at p. 20. The disadvantage includes that it leads “to large chunks of time that are unsupported for [Student].” *Id.* at pp. 20-21.

30. The August IEP reflects that the May IEP recommended placement at Separate School. *Id.* at p. 21. This placement option had advantages such as social emotional supported being embedded into the schedule; Student learning alongside peers with similar support needs; flexibility and staff to allow for breaks as needed; paraprofessionals assigned throughout the day to support students with range of needs; and a group setting to work on skills. *Id.* Disadvantages include that Student “may have exposure to new negative behaviors,” and that he is “very empathetic and can often take on other peoples problems.” *Id.* at p. 21-22.

E. August BIP

31. The May 2025 BIP was reviewed and revised (“August BIP”) at the same time as the August IEP based on Student, Parent, and teacher interviews, rating scales, observations, a record review, environmental review, missing social skills inventory, social and medical history, and reinforcement inventory. *Exhibit B*, pp. 1-11. The August BIP considered information from a Functional Behavior Assessment (“FBA”) completed in Fall 2024. *Id.* at p. 1. It noted that Student’s strength included sharing his interests through conversation and that Math and PE are his favorite classes. *Id.*

32. The August BIP identified target behaviors as verbal outbursts, breaking social boundaries, making aggressive comments/gestures to others, elopement, and physical aggression. *Id.* at p. 2. The August BIP hypothesized that when Student was in a general education class, he may engage in verbal outbursts to gain attention from peers or adults and/or to avoid a non-preferred task due to skill deficits in the areas of social skills and academic skills. *Id.* Additionally, he may engage in refusal behavior to escape, avoid, or delay the task because of skill deficits in academics, self-advocacy, and classroom learning behaviors. *Id.* at p. 3.

33. Student may break social boundaries to gain attention from peers and/or adults because of social skill and social communication deficits. *Id.* When transitioning, denied access to an activity, or presented with a non-preferred activity, Student may engage in elopement behavior because of skills deficits in the areas of self-advocacy and social communication. *Id.* When Student experiences a peer conflict, transitions from one location to another, presented with a demand, or is denied access to an item/activity, Student may respond with aggressive comments or gestures because of social communication skill deficits like perspective-taking and a deficit in maintaining personal relationships. *Id.*

34. The August BIP included five setting event strategies. *Id.* at pp. 6-7. Staff was to communicate major behavior incidents that occur within the school day that may impact Student’s engagement at home, and Parents were to communicate with the school any changes in family routines. *Id.* at p. 6. School 2 was to maintain an instructional environment free from distractions as much as possible. *Id.* A daily visual schedule should be used which includes Student’s classes, class times, designated break times, free/choice times, and any changes to the schedule. *Id.* A staff member should check-in with Student at the beginning of his school day and at the end of the school day. *Id.* Structured settings and activities should be provided to facilitate positive peer interactions. *Id.*

35. It also included six antecedent strategies to decrease the likelihood that target behaviors would occur. *Id.* at pp. 6-7. These included movement breaks; alternative activities; declarative language, such as saying “are you starting with this question or that question” rather than “do your work”; using “First, Then” language; using a task checklist; and delivering prompts for behavior expectations using a neutral tone and affect. *Id.*
36. It included behavior teaching strategies to teach Student appropriate replacement behaviors. *Id.* at p. 6 First, in place of vocal outbursts and refusal behaviors, Student will be taught to ask for an alternative activity, assistance, or a shorter assignment. *Id.* Second, in place of breaking social boundaries, Student will be taught social skills such as recognizing personal space, and socially appropriate greetings for peers and adults. *Id.* Third, Student will be taught to self-advocate to staff by communicating where he is heading and by saying “I don’t like that,” “I disagree,” or “may I have something different.” *Id.*
37. To reinforce desired behaviors, staff will honor Student’s request for an alternative activity, break, or assistance in place of verbal outbursts and refusals. *Id.* Staff will provide verbal praise and recognize Student’s efforts through points on his daily point sheet when he greets peers appropriately or recognizes others’ personal space. *Id.* Student will earn points on his daily point sheet for “using a replacement behavior, maintaining safe interactions with others, and engaging in his learning tasks.” *Id.* at p. 7. His points can be exchanged for access to computer time, twice per day. *Id.*
38. The August BIP also included a crisis plan. *Id.* at p. 9. If Student exhibits accelerating behaviors such as increased jerky movements, moving up and down from his seat for more frequent breaks, increased voice volume, or not engaging in academic tasks after repeated attempts to support and redirect, staff will remain calm, using a neutral tone and expression, provide alternate activities or choices, provide access to a snack, or provide an extended break from the academic setting to engage in a craft project, a walk, or playing a game with a staff member. *Id.* If Student exhibits severe or crisis behaviors, such as posturing towards peers or adults, engaging in physical aggression towards adults or peers, or leaving line of sight supervision of staff, then staff will stay calm, “using a firm tone to communicate clear directions without judgment,” calmly following or walking to maintain line of sight supervision, and “utilizing crisis prevention intervention verbal deescalation strategies and physical intervention as a last resort”. *Id.*
39. Data would be collected daily to monitor the effectiveness of the August BIP. *Id.* at pp. 3-6.
40. The August BIP notes that the resources needed to implement these interventions include consistent paraprofessional support limited to 2-3 staff members in rotation. *Id.* at p. 10.

F. Implementation of Student’s August IEP

41. Parents' concern is that District did not provide the paraprofessional support accommodation required by the August IEP from August 2025 through September 2025. *Complaint*, p. 4; *Interviews with Parents, Special Education Coordinator, and Case Manager*.
42. The at-issue August IEP, unlike the May IEP, did not require any paraprofessional support. *Exhibit A*, pp. 15-16. Parents were under the impression that the one-on-one paraprofessional support would be included in the August 2025 IEP. *Interview with Parents; Exhibit A*, p. 39. The August BIP required "consistent paraprofessional support limited to 2-3 staff members in rotation." *Exhibit B*, p. 10.
43. Parent withheld Student from School 2 from August 12 until August 25 following the completion of the August IEP. *Interviews with Parents, Special Education Coordinator, Assistant Director, and Case Manager*.
44. On Friday, August 22, the same day as the final IEP meeting regarding the August IEP, Case Manager informed Student's teachers that they would be receiving a new student on the following Monday who had an IEP and that further information would be coming. *Interviews with Case Manager and Special Education Coordinator*.
45. On Monday, August 25, Case Manager distributed the August BIP to all his teachers. *Exhibit K*, p. 50. She also placed a snapshot of Student's August IEP in their School mailboxes. *Id.*; *Interviews with Case Manager and Special Education Coordinator*.
46. On that same day, Case Manager met with Student's teachers during their planning period to ensure they received a copy of the August BIP and snapshot of the August IEP. *Interview with Case Manager*. Additionally, the team had meetings every Tuesday to review how Student was doing. *Id.*
47. Each of Student's classes had paraprofessionals present in the classroom who were assigned to support Student and other students (not assigned to Student specifically). *Interview with Special Education Coordinator*. These paraprofessionals were briefed on the August BIP to ensure Student had access to the supports and reinforcements it outlined. *Id.* The assignment of paraprofessionals was limited to two to three consistent staff members. *Id.*
48. District had a check-in meeting with Parents on September 12 to determine if any additional adjustments needed to be made for Student's services. *Interviews with Special Education Coordinator and Assistant Director; Exhibit E*, pp. 22-23.
49. During this conversation, Parent expressed she wanted one-on-one paraprofessional support for Student in each class. *Interviews with Parent, Special Education Coordinator, and Assistant Director; Exhibit E*, pp. 22-23. District agreed to begin providing one-on-one paraprofessional support. *Interviews with Parents, Special Education Coordinator, and Assistant Director*. This was a verbal agreement and was not included in the August IEP or August BIP. *Id.*

50. Beginning on September 16, Student began receiving one-on-one paraprofessional support in each of his classes, to include Science, Social Studies, Math Fundamentals, Language Arts Fundamentals, P.E., and Band. *Interviews with Special Education Coordinator, Parents, Assistant Director, and Case Manager; Exhibit A*, pp. 55-56.
51. Based on these facts, the CDE finds that District delivered the paraprofessional support required by the August BIP from August 2025 through September 2025.

G. Reevaluation

52. Throughout Fall 2025, District conducted a reevaluation which was completed by October 29, 2025 and compiled into a report (“Reevaluation”). *Exhibit N*, pp. 109-138.

Academic Assessments

53. Case Manager conducted a review of records from the Spring 2025 Reevaluation, to include the Wechsler Individual Achievement Test – Fourth Edition (“WIAT-4”), CMAS, and iReady. *Id.* at pp. 109-119.
54. The WIAT-4 measures the academic achievement of students. *Id.* at p. 109. Student’s math and reading composite scores were in the extremely low range, specifically scoring in the 2nd percentile in mathematics. *Id.* at pp. 109-110. In written expression, Student scored in the extremely low range for sentence composition but could not be assessed for a composite score because he did not write enough for the essay composition. *Id.* at p. 10.
55. His CMAS scores were reviewed from his sixth-grade year. *Id.* at p. 113. His math and language arts score were in the Level 1 category: “Did Not Yet Meet Expectations.” *Id.* Specifically, he scored in the 5th percentile in language arts and the 4th percentile in math. *Id.*
56. Case Manager conducted a record review of Student’s iReady scores. *Id.* at pp. 113-114. The scores most closely correlate with a grade level. *Id.* at p. 114. He scored in the 1st percentile in both iReady Reading and Math. *Id.* This correlates with a kindergarten grade level in every domain tested, including phonics, vocabulary, comprehension of literature and informational text, numbers and operations, algebra and algebraic thinking, measurement and data, and geometry. *Id.* He performed at the same grade level as when tested in 2024. *Id.*
57. The Reevaluation included Student’s grades as of October 15, 2025: a 1.5 in Language Arts Fundamentals, Science, and Social Studies, a 2 in Band and Math fundamentals, and a 3 in P.E. *Id.* at pp. 114-115. The grades correspond as follows: 1 (does not meet proficiency), 2 (approaching grade proficiency), 3 (meets grade proficiency), and 4 (exceeds grade proficiency). *Exhibit F*, p. 3.

Progress on Academic Goals

58. The Reevaluation reviewed Student's progress on his August IEP annual goals, intended to be met by August 2026. *Exhibit N*, pp. 115-116. Student had made progress in three of his four academic goals. *Id.* He had not made progress in his writing goal. *Id.*
59. Student's math goal was to, "over the course of the IEP, given visual supports, [Student] will solve single- and beginning double-digit multiplication problems (up to 12 x 12) and apply multiplication skills to solve real-world problems with multiplication (ex. Equal groups, arrays) with 80% accuracy (4/5 problems correct) across 3 consecutive data collection sessions, as measured by performance on given multiplication word problems." Student's baseline was 10% accuracy on these problems. *Id.* By the end of the Reevaluation, Student had made progress on this goal and was answering questions with 30% accuracy. *Id.* He was able to answer some multiplication word problems that included numbers less than 4. He added the groups of numbers together and did not perceive the problems as multiplication facts. *Id.*
60. One of Student's reading goals was to read short functional text passages (2-3 sentences) containing high-frequency words with 90% accuracy (untimed) over 3 consecutive attempts. Student began the school year at 10% accuracy as his baseline. *Id.* By October 29, Student had made progress and was at 55% accuracy. *Id.* Specifically, in three separate passages, Student read 25/40 correct words, 20/42 correct words, and 21/38 correct words for passages at a 4th grade reading level. *Id.*
61. Student's second reading goal was, given the accommodation of having the text read aloud or listen to a text, he will be able to correctly identify (verbally re-state) the main idea and highlight or verbally re-state at least two supporting details in a passage at his comprehension level in 3/4 trials. *Id.* at pp. 115-116. Student's baseline was 25% on this goal. *Id.* By October 29, Student had made progress and was then scoring at 45% accuracy. *Id.*
62. Student's writing goal was, given sentence starters and a list of transition words, Student will provide a narrative or write a simple paragraph of at least 3 related sentences on a familiar or functional topic (e.g. daily routine, favorite activity, school event) in at least 3 consecutive opportunities as measured by speech language pathologist and teacher-collected writing samples. *Id.* at p. 116. Student had not made progress on this goal. *Id.* Student had one written paragraph by October 29 due to lack of willingness to participate or work completion. *Id.*

Teacher Feedback

63. The Reevaluation included teacher feedback from each of his classes. *Id.* at pp. 116-117. His Advisement, Science, Social Studies, PE, and Band classes are taught by a general education teacher and contain over 20 students. *Id.* at p. 116. His Math Fundamentals and Language Arts Fundamentals classes are taught by special education teachers and contain seven students and eight students, respectively. *Id.* at p. 117. Teacher feedback notes that Student needs one-on-one support in each of his classes. *Id.* at pp. 116-117.

64. Student's Science teacher notes that he requires one-on-one support from his paraprofessional on most all academic assignments to read the content and write his responses. *Id.* at p. 116. He has expressed he has a hard time recalling previous information learned. *Id.* He showed the most engagement in a hands-on, partner activity. *Id.* Student's Social Studies teacher notes he will raise his hand to participate, but he has not produced any written work (with accommodations and supports put in place). *Id.* In P.E., he is active and participates at times but continuously struggles to follow directions or respect peers' personal space. *Id.* In Band, behaviors have kept him from accessing the content and much of class has been spent redirecting Student to focus and use instruments appropriately. *Id.*
65. Student's Math Fundamentals teacher noted that Student loves to contribute to the conversation around the content, he requires one to one support to stay focused, and is starting to grasp the content (Order of Operations). *Id.* at p. 117. Student's Language Arts Fundamentals teacher reports Student tries hard when he is motivated and focused. *Id.* He has many great ideas to write and share but struggles with writing processes even with supports in place. *Id.* Student struggles to stay focused when teacher reads aloud and is consistently scoring a 1 when reviewing comprehension questions. *Id.*
66. Case Manager conducted a classroom observation in his Language Arts Fundamentals class, during which Student engaged in multiple behaviors to distract himself and peers from academic instruction. *Id.* at pp. 118-119. For example, Student tried to grab a peer who walked by his desk before being redirected by his paraprofessional, and during individual work time, Student began playing with his pencil and dropping it until the teacher began helping him. *Id.* at p. 119. When peers shared about their weekend, Student said he went to two Halloween parties: one at one in the morning and the other at five in the morning. *Id.* Student participated in a group activity identifying and sounding out letters, he asked an appropriate question, and a few times said his unrelated thoughts out loud. *Id.* Student participated as the class practiced reading through words. *Id.*

Social Emotional Assessments

67. School 2's Psychologist ("Psychologist") conducted a review of Student's assessments from the Spring 2025 Reevaluation, including the BASC-3, BRIEF-2, Conners-3, and the Beck Youth Inventories – Second Edition ("BYI-II"). *Id.* at pp. 98, 119-120.
68. Teacher ratings on the BASC-3 indicated clinically significant concerns across multiple domains, particularly externalizing behaviors, hyperactivity, aggression, and conduct problems. *Id.* at p. 119. Student's adaptive skills are significantly impaired, affecting his classroom functioning and social interactions. *Id.* Parents' ratings indicate the only concern is attention problems, which fall in the clinically significant range. *Id.*
69. The BRIEF-2 results showed clinically significant scores across all domains, with Student's Global Executive Composite indicating significant executive dysfunction. *Id.* Particularly challenging are his difficulties with emotional regulation, shifting between tasks, and

behavioral regulation, which align with classroom observations of work avoidance, elopement, and disruptive behaviors. *Id.*

70. The Conners 4 indicate clinically elevated scores in all domains, as well as the DSM aligned scales indicating significant behavioral regulation deficits and difficulties. *Id.* Student's self-report here shows he acknowledges difficulties with learning problems, defiance/aggression, and conduct disorder symptoms. *Id.* at p. 120.
71. The BYI-II measures Student's perception of his functioning. *Id.* at p. 98. Student's self-report on the BYI-II indicates much lower than average self-concept. *Id.* at p. 120.
72. Psychologist re-administered the BASC-3 to Student's social studies teacher ("Social Studies Teacher"), science teacher ("Science Teacher"), and Student. *Id.* at pp. 120-123. The BASC-3 is designed to facilitate the differential diagnosis and classification of a variety of emotional and behavioral disorders of children and to aid in treatment plans. *Id.* at p. 120. Scores in the clinically significant range suggest a high level of maladjustment suggesting the need for an intervention. *Id.* Scores in the at-risk range may identify a significant problem that may not be severe enough to require formal treatment or may identify the potential of developing a problem that needs careful monitoring. *Id.*
73. Social Studies Teacher indicated Student was in the clinically significant range for hyperactivity, attention problems, learning problems, school problems, atypicality, behavioral index, social skills, functional communication and adaptive skills. *Id.* at pp. 120-123. Social Studies Teacher indicated Student was at-risk for aggression, conduct problems, externalizing problems, depression, somatization, adaptability, leadership, and study skills. *Id.* Science Teacher indicated Student was in the clinically significant range for attention problems, learning problems, school problems, and study skills. *Id.* Science Teacher indicated he was at-risk for atypicality, behavioral symptoms index, social skills, leadership, functional communication, and adaptive skills. *Id.* Student rated himself in the clinically significant range for attitude to school, somatization, attention problems, hyperactivity, inattention, and relations with parents. *Id.* He rated himself in the at-risk range for attitude to teachers, school problems, atypicality, interpersonal relations and personal adjustment. *Id.*
74. Parent and math teacher ("Math Teacher") assessed Student for the Conners, 4th Edition ("Conners 4"). The Conners 4 provides information to assess the likelihood of whether a child has Attention-Deficit/Hyperactivity Disorder ("ADHD") and/or related problems or disorders. *Id.* at p. 123. Math Teacher scored Student in the very elevated range for hyperactivity, impulsivity, peer interactions, ADHD hyperactive/impulsive symptoms, and total ADHD symptoms. *Id.* Parent reported no elevated scores. *Id.*
75. Psychologist re-administered the BRIEF-2 to assess Student's current level of executive functioning. *Id.* at pp. 124-126. Parent reported Student in the Average range in the overall global executive composite. *Id.* at p. 125. Student's language arts teacher ("Language Arts Teacher") indicated clinically elevated scores for inhibit, behavioral regulation index, shift,

emotional control, emotional regulation index, working memory, and his global composite. *Id.*; *Interview with Case Manager.*

76. Psychologist noted Student was offered social-emotional support sessions weekly and daily check-ins as part of August IEP. *Exhibit N*, p. 123. Student attended five of the eight weekly sessions. *Id.* Student struggled taking accountability when reflecting on his point sheet and recent conflicts. *Id.* at pp. 124-125.

Motor Assessments

77. District's occupational therapist ("Occupational Therapist") conducted a review of records to gather information on Student's OT needs. *Id.* at pp. 126-128. In September 2022, Student began receiving OT services in the school setting to address fine motor, visual motor, visual-perceptual skills, and sensory needs. *Id.* at p. 126.
78. Occupational Therapist reviewed the Spring 2025 Reevaluation assessments. *Id.* On the Beery VMI, Student scored in the low range on the visual motor integration subtest, the average range for the visual perceptual subtest, and the low range for the motor coordination subtest. *Id.* These results showed growth in visual perception and no change or regression in Student's visual motor integration and motor coordinator since 2022. *Id.*
79. Student demonstrated functioning gross motor skills, including navigating the school environment and participating in recess and PE. *Id.* at p. 127. Writing samples and in class observations suggest difficulties with producing written output with functional speed and legibility in the school environment when not using technology tools to support writing. *Id.*
80. A Sensory Processing Measure School Form was completed in September 2025 and scores suggested some challenges in social participation, vision, touch, body awareness, balance and motion, and planning and ideas. *Id.* For example, Student frequently becomes distracted by visual stimuli, he is frequently distressed by accidental touch of peers and may lash out, he frequently moves his chair roughly and frequently slams doors shut or opens doors with excessive force, and he always rocks and fidgets when seated in a chair. *Id.* School staff frequently provide Student tools and strategies to minimize disruptions to the learning environment in the classroom. *Id.* This form showed typical responses in all areas. *Id.*
81. Occupational Therapist's review notes that Student benefits from opportunities to take a break in a quiet space with adult supervision. *Id.* He had access to the OT Sensory Room at School 2. *Id.*

Other Assessments

82. The Reevaluation included a review of data School 2 staff had collected since August 25, 2025. *Id.* at 128. These daily reports assessed Student's ability to model responsible decision-making behaviors in terms of physical safety, psychological safety towards self, and

psychological peer safety. *Id.* They were completed by each of Student's teachers every school day from August 25 through December 15. *Id.* at pp. 2-73.

83. Regarding physical safety to himself, Student eloped from P.E. class one time during this data collection and his PE teacher has otherwise reported Student as being a "safety concern" to himself due to not following directions. *Id.* at p. 128. Additionally, Student's lack of physical awareness and control has threatened peer safety, as the data shows Student using objects such as pencils, yoga mats, bean bags, and hand sanitizer, inappropriately. *Id.* This has included spraying peers with hand sanitizer, shoving another student's instrument to the floor over a disagreement, hitting a peer in the throat and placing the peer in a chokehold, and kicking in a bathroom stall while another student was inside. *Id.* at pp. 128-129; *Exhibit M*, p. 1.
84. The daily reports tracked Student's psychological safety towards himself. *Exhibit N*, p. 128. This addresses Student's self-talk and self-care. *Id.* Student has advocated for breaks, such as going on a walk or using the OT Sensory Room. *Id.* Student has referred to himself with names that could be considered demeaning, though these situations appear to be for peer attention. *Id.*
85. The daily reports tracked Student's psychological peer safety which refers to student conflict and/or bullying. *Id.* He has called peers names, including four reports of teachers witnessing name calling that included derogatory or hateful slurs. *Id.* Peers have also reported this. *Id.*
86. Between September 27 and October 29, there were fifteen reports of Student using materials inappropriately and 35 instances of Student being redirected and not responding to the redirections. *Id.* at p. 130.

H. October IEP

87. A properly formed IEP Team convened on October 29, 2025 to review the Reevaluation and revise, as necessary, the August IEP, resulting in the October IEP. *Exhibit A*, p. 47-48. The team included Parents, Case Manager, Special Education Coordinator, Occupational Therapist, Psychologist, Social Studies Teacher, Principal, and Speech Language Pathologist ("SLP"). *Id.* at pp. 48, 74.
88. The October IEP documents Student's strengths and interests are being energetic and curious, working with his hands, building things, and playing basketball. *Id.* at p. 49.
89. Student's then-present levels of educational performance include Student's areas of growth as foundational reading and math skills, awareness of body and voice, accepting redirection, staying on task, and social awareness with peers and adults. *Id.* at pp. 49-50.
90. The October IEP incorporated data from the Reevaluation, including the academic, motor, and social emotional assessments, teacher feedback, current grades, accommodations, progress on academic goals, and classroom observation. *Id.* at pp. 50-60.

91. The needs and impact of his disability include improving his reading, writing, and math skills, improving fine-motor and visual-motor skills, monitoring and providing sensory regulation strategies, improving social emotional functioning, and emotional regulation. *Id.* at p. 60.
92. From August through the end of October, Student had not progressed on his communication goal, due to his regulation fluctuating from day to day. *Id.* at p. 59. When regulated, Student does better on his communication goals and is friendly and nice towards teachers and peers. *Id.* During the same time, Student had not yet made progress on his social emotional goal due to minimal attendance and refusal of meeting for social emotional services. *Id.* at p. 60. Parent noted that she is pleased to see progress in Student's math and reading goals. *Id.*
93. The October IEP noted that Student has an accompanying BIP, which was identical to August BIP, and he needs assistive technology devices or services of text to speech and speech to text. *Id.* at p. 61.
94. The October IEP includes eight annual goals, including two each in physical motor and social-emotional, and one each in communication, reading, writing, and math. *Id.* at pp. 61-67. These goals were updated from Student's August IEP goals. *Id.* at pp. 10-15.
95. The October IEP includes 37 accommodations, with some specifically for communication and social skills, and for self-regulation, attention, behavior, and executive function supports. *Id.* at pp. 67-68.
96. The service delivery statement includes that Student will receive the following:
 - a. Academic: 1,990 weekly minutes of direct specialized academic instruction from a special education teacher outside of the general education classroom;
 - b. Physical Motor: 120 monthly minutes of direct physical motor services from an occupational therapist outside the general education classroom and 30 monthly minutes of indirect services for physical motor services inside the general education classroom from an occupational therapist;
 - c. Social Emotional: 120 monthly minutes of direct social emotional services outside the general education classroom provided by a school psychologist, and 75 weekly minutes of direct social emotional services outside the general education classroom; and
 - d. Speech Language: 60 monthly minutes of direct speech language services outside the general education classroom and 15 monthly minutes of indirect speech language services inside the general education classroom.

Id. at pp. 70-71.

97. The recommended LRE is zero percent of the time in general education at Separate School. *Id.* at p. 72. The advantages of this placement are described as:

- “[Student] would have access to the individualized social/emotional and academic support necessary for him to stay regulated and access his education through the day”;
- “[Student] would have instruction in a smaller group setting with a lower student to teacher/adult ratio”;
- “Specialized instruction would be provided throughout his day in all content areas including electives and core content areas.”

Id.

98. The October IEP describes the disadvantages of this placement as:

- “[Student] is separated from his general education peers all day”;
- “[Student] would have no opportunities to interact with age/grade typical peers throughout the school day; and
- [Student] would have to transition to a new school setting.

Id.

99. The embedded PWN (“October PWN”) notes that “the team considered keeping [Student] within his current setting or placing him within an affective needs center program at [School 2] but rejected these options due to [Student’s] need for increased social, emotional, and academic support throughout his day and that he requires a more fluid approach to supporting his needs.” *Id.* at p. 73. It also notes that the “team considered the family’s preference to not have [Student] attend the [District] run separate school, however this was rejected due to the ability to meet his needs within the school and the ability to have him start on December 1, 2025.” *Id.*

I. The Separate School Placement Decision

100. During the October 29 IEP meeting, IEP Team members each went through the respective Reevaluation assessments they administered. *Interview with Special Education Coordinator.*

101. Psychologist reviewed the social and emotional assessments, noting that there were significant concerns at school across many domains, including emotional regulation, executive functioning, behavior regulation, attention and hyperactivity, and conduct problems. *Exhibit E, p. 20.*

102. Case Manager reviewed the daily behavior data collected. *Id.*; *Interview with Case Manager*. There had been 35 instances from September 27 through October 27 where Student was redirected and did not respond to the redirection. *Exhibit E*, p. 20, 27. Student repeatedly needed to be redirected even with supports in place such as one-to-one paraprofessional support, ability to leave the room, to access the OT room, to talk to Psychologist, etc. *Exhibit E*, p. 20. Student is misusing materials and spaces and being physically and verbally inappropriate with peers. *Id.*
103. When discussing Student's annual goals, it was noted that, though Student is making progress in some, he is struggling to demonstrate grade-level proficiency. *Exhibit A*, p. 74; *Interviews with Case Manager and Special Education Coordinator*. He selects when he uses his supports, and when there are more adults and fewer peers around, he uses them. *Id.*
104. The IEP Team noted that time out of the classroom due to behavior concerns may add to Student struggling to demonstrate grade-level proficiency. *Exhibit E*, p. 18. Additionally, School 2 observed an increase in behaviors when Student was in the general education and less structured settings, such as electives and lunch. *Interview with Special Education Coordinator and Case Manager*; *Exhibit N*, pp. 2-75. These are important considerations when determining if a more restrictive setting is necessary. *Consultation with CDE Specialist*.
105. The IEP Team's recommended separate school placement was determined by considering the totality of the information provided and Student's then-present needs. *Interviews with Special Education Coordinator, Case Manager, Assistant Director, and Parents*; *Exhibit E*, p. 20. Student is significantly behind his general education peers and does a lot to compensate for that discrepancy, which manifests in behaviors such as refusal, disengagement, engaging with peers in a negative ways, exhibiting increased behaviors, and increased issues with staff and peers. *Id.* The IEP Team, excluding Parents, determined Student would benefit from a setting with social-emotional support embedded into the day to make more progress on IEP and BIP goals. *Interview with Assistant Director*. Student had the most success when he was in those separate smaller classes and there was more social-emotional support. *Id.* Parents disagreed with the placement decision. *Exhibit E*, p. 20.
106. Parents withheld Student from School beginning on December 1. *Interview with Parents*. On January 13, 2026, Parents enrolled Student in a different school district. *Id.*

CONCLUSIONS OF LAW

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

Conclusion to Allegation No. 1: District ensured that staff had access to and an understanding of responsibilities for implementing Student's August 2025 IEP, as required by 34 C.F.R. § 300.323(d). District also implemented Student's August 2025 IEP, as required by 34 C.F.R. § 300.323(c). District complied with the IDEA.

Parents' concern is that Student did not receive the one-on-one paraprofessional support required by his IEP from August through September 2025 (FF # 41). The August IEP and August BIP were active during this time period. (FF #s 15, 31, 42-43).

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, Case Manager was responsible for the distribution of Student’s August IEP and August BIP. (FF # 44). On the first day of school following development of the August IEP, Case Manager notified Student’s general education teachers of the new IEP and BIP and ensured that those teachers received IEP snapshots. (FF #s 45-46). Every one of Student’s teachers reported data on a daily behavior log, indicating their understanding of August BIP supports. (FF #s 47, 82). For these reasons, the CDE finds and concludes that District complied with 34 C.F.R. § 300.323(d).

C. IEP Implementation: Paraprofessional 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. Appx. 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. Appx. 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. v. N.J.J v. Sch. Bd. of Broward Cnty.*, 927 F.3d 1203, 1214 (11th Cir. 2019). 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 and accommodations required by the August IEP and August BIP versus those made available to Student. 34 C.F.R § 300.323(c)(2).

Here, the August IEP, unlike the May IEP, did not require paraprofessional support. (FF #s 26). The August BIP, incorporated into the August IEP, required "consistent paraprofessional support limited to 2-3 staff members in rotation." (FF #s 24, 40). Notably, Parents withheld Student from School from August 12 until August 25, after the August IEP was developed. (FF # 43). A parent who, through their own actions, prevents a school district from complying with a specific IDEA requirement cannot later claim that the school district did not meet that requirement. See *Boulder Valley School District RE-2*, 124 LRP 34351, (CO SEA 2023) (concluding that a parent whose actions prevented a district's ability to fully implement an IEP cannot complain that the IEP has not been implemented as written). Nevertheless, within each of Student's general education classes from August through September, a paraprofessional was present when he

attended. (FF # 47). These paraprofessionals, limited to 2-3 staff members, were informed of the August BIP and specifically helped Student use breaks as provided for in August BIP. (*Id.*).

The August PWN embedded in the August IEP stated the team would reconvene to discuss the decision to not include one-to-one paraprofessional support in August IEP. (FF # 26). The IEP Team reconvened to discuss one-to-one paraprofessional support on September 12. (FF # 48). At this time, the team decided to begin providing one-to-one paraprofessional support in each of Student's classes. (FF # 49). This one-to-one support began on September 16, though it was not required by the August IEP. (FF # 50).

For these reasons, the CDE finds that there was not a shortfall between the services and accommodations required by the August IEP and the August BIP and those made available to Student. The CDE thus does not need to consider the second prong and finds and concludes that District implemented the August IEP and the August BIP, as required by 34 C.F.R § 300.323(c)(2).

Conclusion to Allegation No. 2: District ensured that Student was educated with children who are nondisabled to the maximum extent appropriate in Fall 2025, as required by 34 C.F.R. §§ 300.114(a)(2), 300.116(a)(2) and 300.320(a)(5). District complied with the law.

Parent's concern is that District did not review and revise an IEP in Fall 2025 that ensured Student was educated with children who are nondisabled to the maximum extent appropriate. (FF # 3). Specifically, Parent is concerned with a placement at Separate School. (FF # 10-11, 105).

A. Legal Requirements

I. IEP Review and Revision

The IDEA requires a school to offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances. *Endrew F. ex rel. Joseph F. v. Douglas Cty. Sch. Dist. RE-1*, 580 U.S. 386, 399 (2017). The IDEA does not promise a particular educational or functional outcome for a student with a disability, but it does provide a process for reviewing an IEP to assess achievement and revising the program and services, as necessary, to address a lack of expected progress or changed needs. *Id.* at 400. To that end, school districts have an affirmative duty to review and revise a student's IEP at least annually. 34 C.F.R. § 300.324(b).

However, the IDEA contemplates that a student's IEP may need to be reviewed and revised more frequently to address any lack of expected progress toward the annual goals, the results of any reevaluation, "[i]nformation about the child provided to, or by, the parents," "[t]he child's anticipated needs," or other matters. 34 C.F.R. § 300.324(b); *see Endrew F.*, 580 U.S. at 400. The U.S. Department of Education confirmed that an "IEP Team also may meet periodically throughout the course of the school year, if circumstances warrant it." *Questions and Answers on Endrew F.*, 71 IDELR 68 (EDU 2017). This includes with respect to placement as "it is essential to make individualized determinations about what constitutes appropriate instruction and

services for each child with a disability and the placement in which that instruction and those services can be provided to the child.” *Id.* This is because there “is no ‘one-size-fits-all’ approach to educating children with disabilities. Rather, placement decisions must be individualized and made consistent with a child’s IEP.” *Id.*

II. Placement in the Least Restrictive Environment

The IDEA details how a student’s educational placement must be determined but does not define what constitutes an “educational placement.” 34 C.F.R. § 300.116. In Colorado, the terms “placement” or “educational placement” are “used interchangeably and mean the provision of special education and related services and do not mean a specific place, such as a specific classroom or specific school.” ECEA Rule 4.03(8)(a). Court decisions also provide guidance on the scope of the phrase. Educational placement encompasses a student’s educational program, as well as the environment in which the student receives that program. *See, e.g., A.W. ex rel. Wilson v. Fairfax Cty. Sch. Bd.*, 372 F.3d 674, 682 (4th Cir.2004) (finding “educational placement” means “the environment in which educational services are provided”); *White ex rel. White v. Ascension Parish Sch. Bd.*, 343 F.3d 373, 379 (5th Cir. 2003) (concluding that “educational placement” refers to a student’s “educational program—not the particular institution where the program is implemented”). It does not refer to a specific location, such as an identified classroom or building. *D.K. v. D.C.*, 983 F. Supp 2d 138 (D.D.C. 2013); *see also White*, 343 F. 3d at 682. A student’s placement must be determined by the IEP Team, including parents, and must be individualized. 34 C.F.R. § 300.116; ECEA Rule 4.03(8)(a); *Questions and Answers on Andrew F. v. Douglas Cty. Sch. Dist.*, 71 IDELR 68 (EDU 12/07/17).

An IEP must include an explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described at 34 C.F.R. § 300.320 (a)(4). 34 C.F.R. § 300.320(a)(5). Under the IDEA, children with disabilities must be educated in the general education setting with typical peers to the maximum extent appropriate and must attend the school they would if not disabled. *Id.* Students with disabilities should only be removed from the regular educational environment “if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.” 34 C.F.R. § 300.114(a)(2)(ii). “Educating children in the least restrictive environment in which they can receive an appropriate education is one of the IDEA’s most important substantive requirements.” *L.B. ex rel. K.B. v. Nebo Sch. Dist.*, 379 F.3d 966, 976 (10th Cir. 2004). If a more restrictive program is likely to provide a child with a meaningful benefit while a less restrictive program does not, the child is entitled to be placed in the more restrictive setting. *P. v. Newington Bd. of Educ.*, 51 IDELR 2 (2d Cir. 2008). A child need not fail in the general education environment before moving to a more restrictive program; however, more restrictive settings should only be considered after the IEP Team contemplates placement in general education, including the supplemental aids and services required to make that setting successful. *Letter to Cohen*, 25 IDELR 516 (OSEP 1996). Indeed, “placement in regular classes may not be the least restrictive placement for every child with a disability.” *Questions and Answers on Andrew F.*, 71 IDELR 68 (EDU 2017). The IDEA requires that school districts “ensure that a continuum of

alternative placements (including instruction in regular classes, special classes, special schools, home instruction, placement in private schools, and instruction in hospitals and institutions) is available to meet the needs of children with disabilities for special education and related services.” *Id.*

B. Student’s Least Restrictive Environment

I. August IEP

Here, Student was new to School 2 to start the 2025-2026 school year. (FF # 1). At the time, the May IEP, developed at School 1, was in effect. (FF # 8). The May IEP had determined, following Spring 2025 Reevaluation, that placement at Separate School was appropriate so Student could be provided more individualized support. (FF #s 8, 10).

Prior to the 2025-2026 school year (over the summer), Parents raised concerns regarding the May IEP’s placement at Separate School. (FF # 11). Parents were concerned the May IEP was developed based on the Spring 2025 Reevaluation, which they said lacked social-emotional data and Parent input. (*Id.*). As a result, District conducted a review of records and met with Parents numerous times to discuss their concerns. (*Id.*). District determined it would conduct the Reevaluation to assess Student’s social-emotional needs, including a review of existing evaluation and data. (FF # 12). District provided Parents prior written notice and consent for the reevaluation on August 6. (FF # 13). In the interim, District convened an IEP Team to review and, as necessary, revise the May IEP. (FF #s 14-15). This resulted in the August IEP, which indicated that Student would spend 64% of his school day in the general education environment. (FF # 28). This placement provided him access to nondisabled peers, while ensuring he had specially designed instruction at his own pace. (FF # 29). This allowed School 2 to conduct the Reevaluation to gain input from Parents and additional social-emotional data before revisiting Student’s placement. (FF #s 12, 15). Additionally, it allowed School 2 to implement Student’s August BIP and observe and collect daily behavioral data. (FF #s 31-40, 82-86). He received consistent paraprofessional support in general education classes during this time. (FF #s 47-50). He also attended recess, lunch, electives, Social Studies, and Science with nondisabled peers. (FF #s 27, 29, 63).

For these reasons, the CDE finds and concludes that District reviewed and, as necessary, revised Student’s August IEP to ensure he was educated to the maximum extent appropriate with nondisabled peers, as required by 34 C.F.R. §§ 300.114(a)(2), 300.116(a)(2) 300.320(a)(5), and 300.324(b).

II. The Reevaluation

District completed the Reevaluation by October 29 to inform its review and revision of the August IEP, including Student’s placement. (FF # 52). Academic testing showed Student performing in the extremely low range across multiple assessments, including the WIAT-4, CMAS over multiple years, and iReady scores. (FF #s 54-59). Student consistently scored in the 1st to 4th percentiles across assessments, effectively performing at a kindergarten or first grade level. (*Id.*). Student’s annual goals reflected this level of ability, such as reading text passages of 2-3 sentences in length

or writing a paragraph of 3 related sentences. (FF #s 58-62). While Student had made progress on some of these annual goals, he still performed academically at the kindergarten or first grade level. (*Id.*).

Teacher feedback showed that Student required one-on-one support in every class and specifically needed one-on-one support to read and write any content in his general education classrooms. (FF #s 63-66). The most positive teacher feedback was from Student's Math Fundamentals teacher where Student was in a small class, with one-on-one support. (FF # 65) There, he was beginning to grasp the content. (*Id.*).

Social-emotional data reflected clinically significant concerns from numerous teacher ratings and Student ratings, across multiple assessments, including the BASC-3, BRIEF-2, Conners-4, and BYI-II. (FF #s 68-75). Daily data collection also showed Student's target behaviors were not improving, and were arguably increasing, especially in unstructured general education settings. (FF #s 82-86). In addition to considering the Reevaluation in determining Student's placement, District also considered Student's interim performance in the general education environment with supplemental aids and services. (FF #s 57-86).

III. Student's Time in General Education with Supplementary Aids and Services

As noted above, Students with disabilities should only be removed from the regular educational environment "if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily." 34 C.F.R. § 300.114(a)(2)(ii). A child need not fail in the general education environment before moving to a more restrictive program; however, more restrictive settings should only be considered after the IEP Team contemplates placement in general education, including the supplemental aids and services required to make that setting successful. *Letter to Cohen*, 25 IDELR 516 (OSEP 1996).

Throughout Fall 2025, Student was provided many supplementary aids and services, to include 36 accommodations, push-in and pull-out services, as well as behavioral interventions as determined by August BIP. (FF #s 26-27, 31-40). He was provided a daily visual schedule, daily check-ins and check-outs, and rewards for doing well on his daily point sheet. (FF #s 27, 34, 76). Student had access to movement breaks, alternative activities, a quiet space, and the OT sensory room (FF #s 37-38, 47, 81). Lastly, Student was provided one-on-one paraprofessional support following Parents' September 12 request, despite this specific accommodation not being listed in August IEP (FF #s 49-50).

Despite these supports, Student's time in general education during Fall 2025 was marked with concerns regarding physical and psychological safety for himself and peers. (FF # 82). Student eloped from P.E. class and was otherwise reported as a physical safety concern to himself for not following direction. (FF #83). This included putting peers' safety in danger by using objects such as pencils, yoga mats, bean bags, and hand sanitizers inappropriately; as well as hitting a peer in the throat, placing a peer in a chokehold, and kicking a bathroom stall in while a peer was inside. (*Id.*). Over the course of a month, Student used materials inappropriately fifteen times and did

not respond to redirections to focus on work from staff 35 times. (*Id.*) Student used demeaning names to refer to himself and called peers names, including derogatory or hateful slurs. (FF # 84). Overall, this impacted Student's classroom functioning and social interactions during this interim period. (FF #s 102-105).

IV. The October IEP

Again, "educating children in the least restrictive environment in which they can receive an appropriate education is one of the IDEA's most important substantive requirements." *L.B. ex rel. K.B. v. Nebo Sch. Dist.*, 379 F.3d 966, 976 (10th Cir. 2004). If a more restrictive program is likely to provide a child with a meaningful benefit while a less restrictive program does not, the child is entitled to be placed in the more restrictive setting. *P. v. Newington Bd. of Educ.*, 51 IDELR 2 (2d Cir. 2008).

In consideration of the Reevaluation and Student's individualized needs, an IEP team reviewed and revised the August IEP at a properly convened IEP team meeting on October 29, 2025, resulting in the October IEP. (FF # 87). The October IEP incorporated the academic, behavioral, and functional information gathered from Reevaluation. (FF # 90). It contained updated annual goals to address Student's academic needs, a statement of services to be provided, a description of Student's academic and functional performance, and the impact of his disability on his ability to access the general education classroom. (FF #s 89-96). The IEP team meaningfully considered Parents' concerns, both through the Reevaluation and at the meeting with respect to reconsidering the May IEP placement decision. (FF #s 10-14, 87, 99).

Ultimately, the IEP team determined that Student's LRE is 0% of time in general education with a separate school placement. (FF # 97). The data collected showed Student has significant academic needs, as he was consistently scoring in the extremely low range in assessments and performing at a kindergarten or first grade level as a seventh grader. (FF #s 53-56). For instance, he needed constant one-to-one support to read the content and write responses in the general education classrooms. (FF # 64). Though Student had made progress on some of annual goals, he had not progressed on his communication or social-emotional goals, largely due to his regulation fluctuating and refusal to engage in services. (FF #s 58-62, 92). Student also exhibited behavior, social-emotional, and attention challenges that specifically increased in unstructured general education settings. (FF #s 102, 104). These included hitting peers, placing them in chokeholds, kicking in bathroom stalls, and consistently not responding to redirections. (FF #s 83-86).

Collectively, the general education setting was not providing Student a meaningful benefit as these challenges impacted his ability to engage in learning. (FF #s 104-105). For instance, Student was already being pulled from general education classes for a significant period for direct support, and while in the general education classes, he needed significant support to engage. (FF # 104). A more restrictive environment would not only allow for more direct academic support, but it would also provide social-emotional and behavioral supports embedded throughout the entire day, which data determined would be beneficial for Student. (FF #s 97, 99, 105). This

environment would also provide smaller group settings, which is consistent with behavioral data reflected in the August BIP and elsewhere as beneficial for Student. (FF #s 32, 97, 105). Ultimately, the nature or severity of Student’s disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. (FF #s 99, 105). Thus, the IEP team reasonably determined a separate school placement would provide Student with a meaningful benefit. (FF # 105).

For these reasons, the CDE finds and concludes that District reviewed and, as necessary, revised Student’s IEP to ensure he was educated to the maximum extent appropriate with nondisabled peers, as required by 34 C.F.R. §§ 300.114(a)(2), 300.116(a)(2) 300.320(a)(5), and 300.324(b).

REMEDIES

The CDE concludes that District complied with the requirements of 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 30th day of January, 2026.



Tara Carone
State Complaints Officer

APPENDIX

Complaint, pages 1-8

Response, pages 1-12

- Exhibit A: IEPs
- Exhibit B: BIPs
- Exhibit C: Notices of Meetings
- Exhibit D: Prior Written Notices
- Exhibit E: Documentation from IEP Meetings
- Exhibit F: Schedule, Grades, Attendance
- Exhibit H: Service Logs
- Exhibit I: District's Calendar
- Exhibit J: Policies and Procedures
- Exhibit K: Correspondence
- Exhibit M: Disciplinary History
- Exhibit N: Evaluations
- Exhibit P: Verification of Delivery

Reply, pages 1-4

- Exhibit 1: Daily Progress Sheets
- Exhibit 2: Pediatrician Letter
- Exhibit 3: Emails from Parents to School
- Exhibit 4: Emails from Parents to Prior School
- Exhibit 5: First Contact with Special Education Coordinator
- Exhibit 6: Copies of TRO

Telephone Interviews

- Special Education Coordinator: January 6, 2026
- Assistant Director: January 7, 2026
- Case Manager: January 8, 2026
- Director: January 9, 2026
- Parents: January 8, 2026