

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

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**State Complaint SC2025-650**

**27J Schools**

**DECISION**

**INTRODUCTION**

On December 12, 2025, the parent (“Parent”) of a student (“Student”) not identified as a child with a disability under the Individuals with Disabilities Education Act (“IDEA”)<sup>1</sup> filed a state complaint (“Complaint”) against 27J Schools (“District”). The Colorado Department of Education (“CDE”) determined that the Complaint identified three 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 12, 2024. Information prior to December 12, 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 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. District did not properly evaluate Student in November 2025 because it did not assess Student in all areas related to the suspected disability—specifically physical observations and functional communication—as required by 34 C.F.R. § 300.304(c)(4).
2. District did not properly determine Student’s eligibility and educational need at a meeting in December 2025 because it:
  - a. Did not draw upon information from a variety of sources—specifically Parent and prior early intervention providers—as required by 34 C.F.R. § 300.306(c)(1)(i).
  - b. Did not ensure that information obtained from the variety of sources—specifically Parent and prior early intervention providers—was documented and carefully considered, as required by 34 C.F.R. § 300.306(c)(1)(ii).
3. District did not provide Parent with a copy of the procedural safeguards notice upon initial referral or Parent request for evaluation, in October 2025 as required by 34 C.F.R. § 300.504(a).

### **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 is three years old and resides with her family inside District boundaries. *Exhibit H*, p. 5. Student previously received speech and physical therapy services through early intervention (“EI”) under Part C of the IDEA. *Id.* at p. 6. Those services stopped when she turned three. *Interview with Parent*.
2. Due to diagnosed vision conditions, Student should always wear glasses to “promote equal visual development and good depth perception.” *Exhibit 6*, p. 2. Parent has ongoing concerns about Student’s communication and gross motor skill development. *Exhibit H*, pp. 1-4.

#### **B. Transition from Early Intervention**

3. When students receiving EI services approach age three, they are referred to their district for consideration of eligibility under Part B. *Exhibit B*, p. 1; *Interviews with District’s child find coordinator (“Coordinator”) and District’s early childhood special educator and child find team lead (“Teacher”)*.
4. When Student was referred to District in October 2025, she had not seen a speech therapist in several months, due to scheduling difficulties. *Exhibit H*, p. 2. However, according to her

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

individual family service plan (“IFSP”) from June 2025, she had 25-32% delay in communication. *Exhibit 5*, p. 4. Specifically, at 28 months Student had age-appropriate receptive language with the vocabulary of a 25–27-month-old and the articulation of a 21-month-old. *Id.* at pp. 4-5.

5. Despite this, Student was intelligible to her family 75-85% of the time and to unfamiliar listeners about 50% of the time. *Id.* at p. 4. She also “consistently [got] her basic wants and needs met using words.” *Id.*
6. According to the IFSP, Student also had a less than 25% delay in gross motor skills. *Id.* at p. 5. She was navigating stairs while holding onto a rail and able to catch and throw a ball. *Id.* She needed to work on transitioning over unfamiliar surface changes and “ascending/descending small curbs independently.” *Id.*
7. Student’s early intervention physical therapist (“EI PT”) administered the gross motor subdomains of the Developmental Assessment of Young Children (“DAY-C”) every 60 days while seeing Student. *Interview with EI PT.* She completed it during an October session with Student to develop a transition report (“Transition Report”) for District. *Exhibit B*, pp. 1-2. The Transition Report noted that Student had less than a 25% delay in both fine and gross motor skills. *Id.* Student could not yet hold a pencil between her first two fingers and thumb or hop forward on one foot. *Id.* She could navigate the stairs and walk backwards. *Id.* Per the Transition Report, Student was meeting age-level expectations for social emotional and adaptive skills. *Id.* There was no information about communication. *Id.*
8. EI PT administered the DAY-C again at a session in December. *Interview with EI PT.* At that time, Student showed a 30% delay in gross motor skills. *Id.*; *Exhibit 7*, p. 6. Student’s score tended to vary as her ability to navigate stairs varied from session to session. *Interview with EI PT.* This variation was due in part to whether she was wearing her glasses. *Id.*
9. While Student has gross motor delays, she is mostly able to navigate her environment safely and efficiently, especially once she is familiar with it. *Id.* Student would likely need accommodations to access school, but not direct services. *Id.*
10. Student was assigned a new speech language pathologist in November 2025. *Interview with EI speech therapist (“EI SLP”).* Due to illnesses and other cancellations, they had an intake appointment in November and two sessions in December. *Id.* Student was able to imitate clear speech very well, but during spontaneous communication her intelligibility dropped significantly. *Id.* Parent reported that family members struggled to understand Student. *Id.* Student started speaking in longer phrases in the months between June and November, and it is common for intelligibility to decrease when the length of utterances increases. *Id.*
11. Student had age-appropriate expressive and receptive language skills. *Id.* Articulation or intelligibility was the only concern. *Id.* It took EI SLP about five minutes at the start of each

session to adjust to Student's speech patterns, after which she could understand about 70% of what Student was saying. *Id.* EI SLP did not conduct any formal assessments of Student. *Id.*

12. After more than a year of working together, EI PT was familiar with how Student spoke and could understand much of what she said. *Interview with EI PT.* However, Student was less understandable than other children her age, and EI PT did sometimes have to ask Parent to translate. *Id.*

### **C. Screening Meeting**

13. District's early childhood child find process begins with a screening meeting. *Response*, p. 2; *Exhibit M*, p. 17. At that meeting, an early childhood educator or SLP from District meets with the parent and the child's early intervention service coordinator to go through a screening review to determine if they should move forward with an evaluation. *Interviews with Coordinator and Teacher.*
14. During the meeting District gathers information from the Parent and EI service coordinator and observes the child if they are present. *Interview with Teacher.* District uses that information to determine who to involve in the evaluation if they are proceeding. *Id.* They will always move forward with an evaluation if the parent asks for one. *Id.*
15. On October 14, 2025, District emailed Parent a letter about their child find process, which explained these steps. *Exhibit M*, pp. 16-17. The email also included a copy of the procedural safeguards notice ("PSN"). *Id.* at pp. 16-64. Parent received that email. *Interview with Parent.*
16. On October 15, Teacher met virtually with Parent and Student's EI service coordinator. *Interviews with Parent and Teacher; Exhibit H*, pp. 1-4, 9. During the meeting, Parent shared her concerns about Student's vision, communication and gross motor abilities. *Exhibit H*, pp. 1-8. Specifically, Parent noted that Student did not have glasses because the doctor had recently gotten her prescription wrong. *Id.* at p. 1. Student's motor concerns appeared vision related. *Id.*
17. Parent reported that family could understand Student 75-80% of the time but she "ha[d] her own language" and used lots of noises to communicate. *Id.* Per Parent, her daycare provider had difficulty understanding Student. *Id.* Due to the lapse in services, there was no recent speech information for the screening team to consider. *Id.* at p. 4.
18. Parent also noted that Student sometimes struggled with flooring transitions and her left hip tended to "swing inward with quick stride[s]." *Id.* at pp. 1-2. Teacher also observed Student, who was wobbly on the stairs and "quick to drop to the ground and crawl." *Id.* at p. 3. District also reviewed the Transition Report as part of the screening meeting. *Id.*
19. Ultimately, District decided to move forward with a comprehensive special education evaluation as Parent was "reporting significant concerns." *Id.* at p. 4. An in-person evaluation was scheduled for November 20, with an eligibility determination to follow on December 4.

*Id.* at p. 7. Parent was told to expect three emails: (1) health history forms; (2) a calendar invite for the evaluation; and (3) a calendar invite for the eligibility determination. *Id.*

#### **D. Evaluation**

20. District completes “comprehensive, multidisciplinary, dynamic evaluations” utilizing multiple providers. *Interview with Teacher*. They always use the Transdisciplinary Play-Based Assessment (“TPBA”) and observations, and providers can utilize other formal or informal assessments as needed. *Id.* Evaluations are conducted at District’s child find office. *Id.*
21. Other than reviewing whatever information is provided by the service coordinator, District does not usually talk with EI providers as part of an evaluation. *Interviews with Teacher, District’s speech and language pathologist (“SLP”), District’s physical therapist (“PT”).* Before the evaluation, PT and SLP reviewed the screening notes, Transition Report and Student’s IFSP. *Interviews with PT and SLP.*
22. On November 20, Parent signed consent for an evaluation in the areas of “pre-academic/cognitive skills, emotional & social skills, communication skills, fine and sensory motor skills, gross motor skills, review of health and development screener.” *Interview with Teacher; Exhibit F*, p. 1-3. At that time, she declined the copy of the PSN offered by District. *Interview with Teacher*. SLP, Teacher, an occupational therapist (“OT”), and PT also evaluated Student that day. *Exhibit B*, pp. 3-10. Their observations and assessments were documented in an evaluation report (“Evaluation”). *Id.*
23. During an evaluation, PT’s goal is to gather information from parents and observe a student’s function to determine if the student will be able to functionally access the school environment. *Interview with PT*. PT tries to meet families at the front door so she can observe how the student does on the walk to the evaluation room. *Id.*
24. In this case, Student was very talkative from the start and independently climbed the stairs on the way to the evaluation. *Id.* She was visibly hesitant on the stairs but climbed them without help. *Id; Exhibit B*, p. 8. She was more hesitant going down, sliding her feet to the edge of each step, as if she could not determine exactly where the step ended. *Id.*
25. Parent reported that Student “is very cautious when there is a change in surfaces.” *Exhibit B*, p. 8. However, during the Evaluation, Student had no difficulty transitioning from carpet to tile, over area rugs or outside on the sidewalk. *Interview with PT; Exhibit B*, p. 8. She had some difficulties with balance when navigating around objects or running, but she did not fall. *Id.*
26. At two years and 10 months, a student should be able to go up and down stairs using a reciprocal pattern, meaning one foot on each step. *Interview with PT*. PT was concerned about Student’s hesitance on the stairs. *Id.* It is not uncommon for students to trip or stumble at two years and 10 months. *Id.* If they are not falling to the ground or bumping into objects or people, it is not generally a cause for concern at that age. *Id.*

27. Overall, PT noted that Student presented with some gross motor delays, but it was “difficult to determine how much of her mobility challenges [were] due to her” vision since Student was “currently awaiting corrective lenses.” *Id.* at pp. 7-8. PT determined that Student would “need assistance and accommodations for safety and access.” *Id.* at p. 8. Primarily, Student would need adult supervision on stairs, which is an accommodation. *Interview with PT.*
28. While Student might also benefit from skilled support from a physical therapist, physical therapy is a related service. *Id.* Students do not qualify for special education if they only need a related service. *Id.* With accommodations, Student could access her environment, without skilled intervention. *Interview with PT.*
29. Throughout the evaluation, Student engaged in both structured and unstructured activities with District staff as well as Parent and her brother. *Interview with SLP; Exhibit B*, p. 3. Student had no trouble following directions, even multistep directions. *Id.* She responded to staff questions and did not require any extra time to do so. *Interview with SLP.*
30. Student was able to use “a wide range of early and later developing consonant sounds in spontaneous speech.” *Exhibit B*, p. 4. Student exhibited some articulation errors, but they were “typical for her age.” *Id.*; *Interview with SLP.*
31. District staff had no trouble understanding her. *Interviews with SLP, PT and Teacher; Exhibit B*, p. 4. They also responded quickly, indicating that they easily understood her. *Interview with SLP.* Parent reported that Student is understood by familiar listeners, but others sometimes need Parent to translate, causing Student frustration. *Exhibit B*, pp. 4-5. A record review indicated that Student was “using 4-5 word sentences to communicate.” *Id.*
32. SLP also had the chance to observe Student in spontaneous, back-and-forth conversations with her sibling. *Id.*; *Interview with SLP.* Spontaneous communication is a better indicator of ability. *Id.* Student used longer sentences in her play with her sibling. *Exhibit B*, p. 4.
33. Student exhibited appropriate social communication skills throughout the evaluation process. *Id.* This included using eye contact, engaging in back-and-forth conversations, responding to her name and using language to engage with others. *Id.*
34. At two years and 10 months, a child should be understood by familiar listeners at least 75% of the time and by unfamiliar listeners 50-60% of the time. *Interview with SLP.* Everyone from District understood Student at least 75% of the time. *Id.* Based upon the TPBA, “language sample, parent report, and record review,” SLP concluded that Student’s receptive, expressive and pragmatic language skills and her speech sound production skills were all within typical limits for her age. *Exhibit B*, p. 4. Because she did not have any concerns, SLP did not conduct any other standardized assessments. *Interview with SLP.*
35. Using the TPBA and observations, Teacher assessed Student’s cognitive, pre-academic and social emotional skills. *Exhibit B*, pp. 4-5. Attention and play were strengths for Student and

she displayed age-appropriate cognitive and social skills. *Id.* The Evaluation also considered Student's vision needs, for which she was "under the care of an eye doctor." *Id.*, at pp. 5-6.

36. The OT evaluated Student's fine and sensory motor skills through observation, parent interview and review of records. *Id.* at p. 6. Student demonstrated age-appropriate skills in both areas. *Id.* at pp. 6-7.
37. Parent's concern is that Student's performance during the Evaluation was not representative of her daily communication. *Complaint*, p. 10. Specifically, Parent is concerned that Student frequently resorts to "baby talk" and unfamiliar listeners struggle to understand her. *Id.* In addition, Parent is concerned that the Evaluation did not include appropriate physical observations or records from EI. *Exhibit 9*, p. 3. District did not get consent for or conduct a functional vision assessment, as they do not do so for "students who simply require corrective glasses." *Exhibit F*, p. 1; *Exhibit G*, p. 4.

#### **E. Eligibility Meeting**

38. District schedules both the evaluation and the eligibility determination at the screening meeting if they decide to proceed. *Interviews with Teacher and Coordinator*. The team decides which areas of eligibility to consider based on parent concerns and the results of the evaluation. *Interviews with Coordinator and Teacher*.
39. The evaluation report is generally emailed to parents before the eligibility determination meeting. *Id.* District then reviews each section of the evaluation at the eligibility meeting, before determining the student's eligibility. *Id.* Due to a clerical error, Parent was not sent a copy of the Evaluation before the meeting. *Interview with Teacher, Parent and Coordinator*. Instead, District printed off a copy for her at the meeting. *Interview with Parent and Teacher*.
40. A multidisciplinary team ("MDT") including Parent, Teacher, SLP, OT and PT met on December 4 to consider Student's eligibility. *Exhibit D*, pp. 1, 4-5. Parent was offered another copy of the PSN, which she declined. *Id.* at p. 4; *Interview with Teacher*.
41. During the meeting, each provider reviewed their section of the Evaluation. *Interviews with Teacher, SLP, PT and Parent*. Parent did not have any questions as they went through it. *Id.*
42. Since Parent had raised concerns in several different developmental domains, the MDT decided to consider her eligibility under developmental delay. *Interview with Teacher*. The MDT went through the whole checklist, answering the questions. *Interviews with Teacher, PT, and SLP; Exhibit D*, p. 2.
43. The MDT agreed that the Evaluation was sufficiently comprehensive and that Student's performance was not related to a lack of appropriate instruction or English proficiency. *Exhibit D*, p. 2. The MDT said Student did not have a score "1.5 standard deviations below the mean" in one or more areas of development. *Id.* There was no "[e]mpirical data showing a condition known to be associated with significant delays in development." *Id.* Finally, there

was no body of evidence showing that Student's patterns of learning were significantly different from age expectations. *Id.*

44. Ultimately, the MDT determined that Student was not a student with a disability and she could receive reasonable benefit from general education alone, so she was not eligible for special education. *Id.*; *Exhibit C*, pp. 1-2. The MDT reached that conclusion based on "[p]arent report, dynamic assessment, [TPBA], language sample, review of IFSP, review of hearing and vision screening and review of screening" meeting. *Exhibit C*, p. 1.
45. Parent did not have much to say until the MDT said Student was not eligible. *Interviews with Parent, Teacher, SLP and PT*. At that point, Parent reiterated her concerns about Student and objected to the conclusion that Student did not have a disability and did not require special education. *Id.* District reminded Parent of her options under the PSN and told her that she could ask for a new evaluation in the future if Student regressed or once she had her glasses. *Interview with Parent; Exhibit C*, p. 2.

### **CONCLUSIONS OF LAW**

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

**Conclusion to Allegation No. 1: District evaluated Student in all areas of suspected disability in November 2025, as required by 34 C.F.R. § 300.304(c)(4). District complied with the IDEA.**

Parent's concern is that the Evaluation did not consider EI records, include sufficient physical observations or accurately represent Student's day-to-day communication abilities. (FF # 35.)

#### **A. Evaluation in All Areas Related to Suspected Disability**

The IDEA requires an evaluation to assess students "in all areas related to the suspected disability." 34 C.F.R. § 300.304(c)(4). Evaluations must be sufficiently comprehensive to identify all of the child's special education needs, whether or not commonly linked to the disability category with which the child has been identified. *Id.* § 300.304(c)(6). The evaluation must also gather all relevant information that may assist in determining "the content of the child's IEP, including information related to enabling the child to be involved in and make progress in the general education curriculum." *Id.* § 300.304(b)(1)(ii). As part of an evaluation, school districts must review any existing evaluation data on the child, including (1) evaluations and information provided by the parent of the child, (2) current assessments and classroom observations, and (3) observations by teachers and related service providers. 34 C.F.R. § 300.305(a)(1).

#### **B. Evaluation of Student**

Here, Student was receiving EI services for speech and physical therapy. (FF #s 4-12.) During the screening meeting with District, Parent raised concerns about Student's vision, speech and gross motor skills. (FF # 16.) Student was evaluated in all areas identified in the consent for evaluation. (FF #s 22-36.) Student needed glasses all the time but was not wearing them at the Evaluation

because she did not have the correct prescription at that time. (FF #s 2, 16, 27, 35.) District does not conduct functional vision assessments for students who just require glasses. (FF # 37.)

PT reviewed the Transition Report and observed Student on the stairs, moving from tile to carpet and over area rugs, and while running. (FF #s 21-25.) Student was hesitant on the stairs and lost her balance a few times but did not fall. (FF #s 24-25.) Overall, Student presented with some gross motor delays, which could be addressed through accommodations. (FF #s 26-28.) This was consistent with the IFSP and Transition Report which indicated Student had a less than 25% delay in gross motor skills. (FF #s 6-7.)

SLP reviewed Student's IFSP and observed her communications with evaluators and family. (FF #s 21, 29-32.) Student followed directions and exhibited appropriate receptive language skills. (FF #s 29, 34.) She also exhibited appropriate social communication skills. (FF #s 31-34.) Finally, Student was able to communicate her wants and needs with staff, who understood her at least 75% of the time, despite being unfamiliar, albeit trained, listeners. (FF #s 31, 34.) Student exhibited some articulation errors, but they were within normal limits. (FF # 30.)

Thus, the CDE finds and concludes that District evaluated Student in all areas of suspected need, as required by 34 C.F.R. § 300.304.

**Conclusion to Allegation No. 2: District drew upon information from a variety of sources and ensured that information was documented and carefully considered when making the eligibility determination for Student in December 2025, as required by 34 C.F.R. § 300.306(c)(1). District complied with the IDEA.**

Here, Parents concern is that the MDT did not draw upon or carefully consider information she and Student's EI providers offered. (FF # 35.)

#### **A. Legal Requirements: Eligibility Determinations**

Eligibility for special education and related services under the IDEA requires that (1) a child have one of thirteen qualifying disabilities and, (2) "by reason thereof, need[] special education and related services." 34 C.F.R. § 300.8(a)(1); ECEA Rule 2.08. Thus, even if a child has one of the thirteen qualifying disabilities, the child must also require "specially designed instruction . . . to meet [his or her] unique needs." 34 C.F.R. § 300.39(a)(1); *see, also, In re: Hannover Public Schools*, 43 IDELR 21 (SEA MA 2005) (finding that a student with a mild articulation delay was not a child with a disability where his teacher and peers could understand him and it was not adversely affecting his educational performance). If the child has a qualifying disability "but only needs a related service and not special education, child is not a child with a disability" under the IDEA. 34 C.F.R. § 300.8(a)(2).

The IDEA requires that a multidisciplinary team determine "whether the child is a child with a disability." 34 C.F.R. § 300.306(a)(1). An analysis of the appropriateness of an eligibility determination involves two steps. First, the CDE examines whether the school district followed

relevant standards and procedures in making the determination. *See Questions and Answers on IDEA Part B Dispute Resolution Procedures*, 61 IDELR 232 (OSERS 2013). Second, the CDE determines whether the eligibility decision was consistent with the data in the record. *Id.* As a matter of policy, the CDE cannot declare a student IDEA eligible through a state complaint decision. *Jefferson County School District RE-1*, 118 LRP 28108 (SEA CO 3/22/18).

## **B. Adherence to IDEA Standards and Procedures**

The CDE begins by examining whether District adhered to applicable IDEA standards and procedures regarding how school districts evaluate students and determine eligibility. *See* 34 C.F.R. §§ 300.304-306.

### *i. Drawing Upon Information from a Variety of Sources*

In interpreting evaluation data for the purpose of determining if a child is a child with a disability and the educational needs of the child, an MDT must “[d]raw upon information from a variety of sources, including aptitude and achievement tests, parent input, and teacher recommendations, as well as information about the child’s physical condition, social or cultural background, and adaptive behavior.” 34 C.F.R. § 300.306(c)(1)(i).

Here, District’s Evaluation included a review of records from EI, administration of the TPBA and documentation of Parent concerns and evaluator observations. (FF #s 21-34.) Both the SLP and PT reviewed Student’s EI records before the Evaluation. (FF # 21.) The TPBA was used to evaluate Student’s communication skills. (FF # 34.) SLP and PT also conducted detailed observations of Student in structured and unstructured activities. (FF #s 23-34.) Parent’s concerns were noted in the Evaluation, and her feedback was solicited throughout the eligibility determination process. (FF #s 25, 31, 34, 42-45.) Thus, the CDE finds and concludes that District drew upon information from a variety of sources, as required by 34 C.F.R. § 300.306(c)(1)(i).

### *ii. Documenting and Carefully Considering Information*

The MDT must also ensure that information “is documented and carefully considered.” *Id.* § 300.306(c)(1)(ii). The requirement that an MDT consider parent input in eligibility determinations, however, does not mandate that school districts must agree with a parent’s position or accede to a parent’s requests. *El Paso 20 (Acad.) Sch. Dist.*, 125 LRP 2530 (SEA CO 12/06/24) (finding a district properly considered parent’s input during an IEP meeting despite parent’s disagreement with IEP team’s decision). In reaching this determination, the CDE must, in part, determine whether there was a discussion about the characteristics exhibited by Student that support or refute the identification of a disability, and if so whether there is or continues to be an adverse impact on Student’s education performance. *CDE’s IEP Procedural Guidance*, p. 23.

Again, to qualify as a “child with a disability” under the IDEA, the child must have a qualifying disability and, because of that disability, need special education and related services. 34 C.F.R. § 300.8(a)(1). Thus, after completing a comprehensive evaluation, the MDT must first determine if

a child has one of thirteen qualifying disabilities. *Id.* Then, if the child has one of these thirteen qualifying disabilities, the MDT must move on to determine whether the student needs special education and related services because of the disability. *Id.*

In this case, the MDT acknowledged Parent's concerns about Student's communication and gross motor skills. (FF #s 25, 31, 42-45.) And, based on those concerns, the MDT considered whether Student was eligible as a student with a developmental delay. (FF # 40.)

The MDT considered Student's slight delay in gross motor skills. (FF #s 24-27, 41.) It also considered the extent to which those delays could be attributed to Student not wearing her glasses. (FF # 27, 41.) Ultimately, even with those delays, PT determined that Student would be able to access her educational environment with accommodations and without receiving any specialized instruction. (FF #s 27-28.) The IFSP and Transition Report provided to District similarly indicated a less than 25% delay, and EI PT agreed Student could navigate her school environment with accommodations and did not require direct PT services to do so. (FF #s 6-9.)

The Evaluation and the MDT also considered Parent's concerns about Student's communication skills. (FF #s 31, 39, 42, 44.) The MDT considered Student's IFSP from June 2025 which indicated that Student had a 25-32% delay in communication skills, mostly due to articulation. (FF #s 4, 44.) The IFSP noted that Student was intelligible to family at least 75% of the time and to unfamiliar listeners about 50% of the time. (*Id.*) Ultimately, however, Student did not display any communication delays during the Evaluation and was understood by all members of the child find team. (FF #s 31, 34.) She also demonstrated age-appropriate cognitive and social skills. (FF # 35.) Thus, in reviewing the checklist for a developmental delay, the MDT determined that Student was not a student with a disability. (FF #s 42-44.)

For these reasons, the CDE finds and concludes that the MDT went through the eligibility requirements and considered the ways in which Student could meet the criteria as well as why it determined she did not. Accordingly, the CDE finds and concludes that District complied with 34 C.F.R. § 300.306(c)(1)(ii).

### **C. Consistent with Student-Specific Data**

The CDE next considers whether the eligibility determination was consistent with Student-specific data in the Record. (FF # 4-36.)

According to the IDEA, a child with a developmental delay is one aged three through nine who (a) experiences developmental delays as defined by the State and measured by diagnostic procedures "in one or more of the following areas: Physical development, cognitive development, communication development, social or emotional development, or adaptive development;" and (b) "by reason thereof, needs special education and related services." 34 C.F.R. § 300.8(b); *See, also*, ECEA Rule 2.09(13). To be eligible as a student with a developmental delay, the child must meet one or more of the following criteria:

- (i) A score in the seventh percentile or below on a valid standardized diagnostic instrument, or the technical equivalent in standard scores (77 if the mean is 100 and the standard deviation is 15) or standard deviations (1.5 standard deviations below the mean) in one or more of the following areas of development: physical development, cognitive development, communication development, social or emotional development, or adaptive development as one of the multiple sources of evaluation information;
- (ii) Empirical data showing a condition known to be associated with significant delays in development; or
- (iii) A body of evidence indicating that patterns of learning are significantly different from age expectations across settings and there is written documentation by the evaluation team which includes the parent(s).

ECEA Rule 2.09(13)(a).

Here, the Record reflects that the MDT considered the Evaluation, including observations, assessments and Parent feedback, as well as the Transition Report and IFSP in making its determination that Student was not eligible as a student with a disability. (FF #s 4-45.) While Student had some gross motor delays, and might benefit from physical therapy, a related service, she would not require special education to access her education. (FF #s 9, 27, 28.) Thus, without more, she would not be eligible as a child with a disability. 34 C.F.R. § 300.8(a)(2). Although the IFSP indicated a mild delay in articulation, Student was consistently getting her wants and needs met using words. (FF #s 4-5.) The Evaluation, conducted several months later, found no communication delay and no delay in student's cognitive/pre-academic or social skills. (FF #s 29-36.) Thus, even if Student had a minor delay in articulation, she would not have qualified for specialized instruction as it was not impacting her access to education. *See, In re: Hannover Public Schools*. For these reasons, the CDE finds and concludes that District made the eligibility determination consistent with the IDEA's procedures and the Evaluation and other data in Student's records. *See Questions and Answers on IDEA Part B Dispute Resolution Procedures*, 61 IDELR 232 (OSERS 2013).

**Conclusion to Allegation No. 3: District provided Parent with a copy of the PSN upon initial referral in October 2025, as required by 34 C.F.R. § 300.504(a). District complied with the IDEA.**

**A. Legal Requirements: Procedural Safeguards Notice**

A copy of the procedural safeguards available to the parents of a child with a disability must be given to the parents only one time per school year, except that a copy must also be given to the parents (1) upon initial referral or parent request for an evaluation, (2) upon receipt of the first state or due process complaint in a school year, (3) in accordance with discipline procedures in 34 C.F.R. § 300.151, and (4) upon request of a parent. 34 C.F.R. § 300.504(a).

Here, District provided Parent a copy of the PSN on October 14, 2025, in response to the initial referral to evaluate Student. (FF # 15.) District also offered Parent a copy of the PSN at the evaluation on November 20 and the eligibility meeting on December 4, which she declined. (FF #s 22, 40.) Thus, the CDE finds and concludes that District complied with 34 C.F.R. § 300.504.

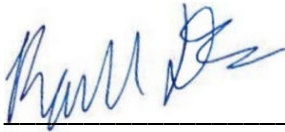
### **REMEDIES**

The CDE concludes that District complied with the requirements of 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.

Dated this 10<sup>th</sup> day of February, 2026.



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Rachel Dore  
Senior State Complaints Officer

## APPENDIX

### Complaint, pages 1-18

- Exhibit 1: Narrative Statement
- Exhibit 2: Correspondence
- Exhibit 3: Evaluations
- Exhibit 4: Narrative Statement
- Exhibit 5: EI Records
- Exhibit 6: Medical Records
- Exhibit 7: Correspondence
- Exhibit 8: Parent Observations
- Exhibit 9: Narrative Statement
- Exhibit 10: None

### Response, pages 1-6

- Exhibit A: None
- Exhibit B: Evaluations
- Exhibit C: PWNs
- Exhibit D: Meeting Documentation
- Exhibit E: None
- Exhibit F: Consent to Evaluate
- Exhibit G: Correspondence
- Exhibit H: Meeting Documentation
- Exhibit K: District Calendar
- Exhibit L: District Policies and Procedures
- Exhibit M: Correspondence
- Exhibit O: Verification of Delivery

### Telephone Interviews

- Parent: January 19, 2026
- Teacher: January 20, 2026
- SLP: January 20, 2026
- PT: January 20, 2026
- Coordinator: January 20, 2026
- District's Director of Special Education: January 20, 2026
- EI PT: January 23, 2026
- EI SLP: January 23, 2026